



THE BANK OF MONGOLIA

CHAPTER ONE

General Provisions

Article 1. Purpose of the law

1.1. The purpose of this Law is to establish legal foundations for nonbank financial activities and to regulate relations concerning management, organization, licensing and suspension or revocation of licenses of entities conducting nonbank financial activities.

Article 2. Legislation on nonbank financial activities

2.1. The legislation on nonbank financial activities is comprised of the Civil Code, Company Law, Banking Law, Law on Licensing, the current Law and all other relevant legislative acts.

2.2. If an international treaty which Mongolia has joined stipulates otherwise, then the provisions of the international treaty shall prevail.

Article 3. Scope of the Law

3.1. This Law shall regulate relations concerning the activities stated in article 7.1 of this Law by the entity which has obtained a license from the Bank of Mongolia.

3.2. Banking, insurance, security business, pension funds, saving and loan cooperatives, pawnshops, [foreign] project unit, Government's special purpose fund shall be regulated by other related laws.

Article 4. Definition of the terms

4.1. In this Law, the following terms shall have the following meanings:

4.1.1. "Nonbank financial activities" shall mean services stated in Article 7.1 of the current Law by the business entity, which has obtained the license from the Bank of Mongolia;

4.1.2. "Factoring" shall mean sale (transfer) by creditor of its right to monetary payment to a third party who thereafter becomes liable for exercise of the right to the payment and for any consequences; 4.1.3. "Financial leasing" shall mean leasing of an equipment, manufactured or purchased in the lessor's or supplier's name upon order or selection by the lessee, on certain conditions, for a certain term and remuneration;

4.1.4. "Issuing a guarantee" shall have the meaning described in Article 457 of Civil Code;

4.1.5. "Electronic payment and remittance service" shall mean wire transferring other's cash through own current account with a bank, or settlement of payments using Internet, automatic equipment or electronic payment means;

4.1.6. "Foreign currency transactions" shall mean sale or purchase of a foreign currency, or issuance of a loan or a guarantee in a foreign currency;

4.1.7. "Trust service" shall mean an arrangement whereby a trustee temporarily controls, uses and manages assets (cash, loan, other assets) of a beneficiary on the basis of an agreement with the beneficiary with the purpose of preserving the value of the assets and earning a profit;

4.1.8. "Investment into short-term financial instruments" shall mean conversion of the funds of an individual or a legal person into investment securities or similar financial instruments with maturity of up to 1 year on the basis of a mutually agreed contract;

4.1.9. "An entity engaging in nonbank financial activities" shall mean a person stated in Article 6.1 of the current Law;

4.1.10 "Assets, liabilities and capital of the nonbank financial institution" shall have the meaning in the accounting regulations approved by the Bank of Mongolia in conformity with international standards.

CHAPTER TWO

Engaging in nonbank financial activities

Article 5. Incorporation of an entity engaging in nonbank financial activities

5.1 An entity engaging in nonbank financial activities shall be incorporated according to the Company Law.

Article 6. Conducting the nonbank financial activities

6.1 Nonbank financial activities shall be conducted by a legal person of Mongolia or a foreign legal person authorized by an intergovernmental agreement in accordance with the license issued by the Bank of Mongolia.

6.2 A legal person financed from the state budget, a religious, or political, or nongovernmental organization shall be prohibited from engaging in nonbank financial activities stated in Article 36.2 of Civil code.

Article 7. The nonbank financial activities

7.1 The nonbank financial activities shall include the following:

- 7.1.1 Lending;
- 7.1.2 Factoring;
- 7.1.3 Financial lease;
- 7.1.4 Issuing a guarantee;
- 7.1.5 Issuing payment instruments;
- 7.1.6 Electronic payment, remittance service;
- 7.1.7 Foreign currency exchange;
- 7.1.8 Trust service;
- 7.1.9 Investment into short-term financial instruments;
- 7.1.10 Provision of investment and financial consultancy and/or information services.

Article 8. Application documents

8.1 Person applying for the license to engage in the activities stated in article 7.1 of current law, shall file documents stated in Article 11.1 of Law on Licensing as well as the following additional documents:

- 8.1.1 Charter of the entity engaging in nonbank financial activities and incorporation documents;
- 8.1.2 Business plan;
- 8.1.3 Documents confirming availability of the minimum capital determined by the Bank of Mongolia;
- 8.1.4 Audited financial statements;
- 8.1.5 Information about personnel, equipment and job descriptions;
- 8.1.6 Registration of shareholders, number of shares owned [by each shareholder];
- 8.1.7 Income statement and information about the origin of funds of a shareholder who owns more than 10 percent of the total shares of the entity engaging in nonbank financial activities;
- 8.1.8 Charter, shareholder registration, the financial documents of the last 3 years and conclusion of an audit institution of a legal person which owns more than 10 percent of the total shares of the entity engaging in nonbank financial activities.

8.2. If the Bank of Mongolia deems the application documents filed in accordance with the Article 8.1 of the current Law as incomplete or unclear, it can obtain a reference about a founder, a shareholder or management of the entity engaging in nonbank financial activities from relevant organizations.

Article 9. The license to engage in nonbank financial activities

9.1 The Bank of Mongolia shall examine the application documents for the license to engage in nonbank financial activities within 30 working days and shall grant the license to engage in nonbank financial activities if each of the following requirements has been met:

9.1.1 Capital of the entity engaging in nonbank financial activities has reached the minimum amount of the capital determined by the Bank of Mongolia;

9.1.2 Strategies and other contributing factors to conduct the nonbank financial activities have been sufficiently stated in the business plan;

9.1.3 Management of the entity engaging in nonbank financial activities has satisfied the criteria stated in Articles 13.5 and 13.6 of the current Law;

9.1.4. Equipment of nonbank financial institution satisfies a safety operation requirements.

9.2. If it is necessary to inspect the filed documents in a more detailed manner, the Bank of Mongolia may prolong the period stated in Article 9.1 of the current Law by 14 days.

9.3 Certificate of the license shall explicitly indicate a type and duration of the nonbank financial activities to engage in.

9.4 Branch, representative office or other units of the entity engaging in nonbank financial activities shall be established with the permission of the Bank of Mongolia

Article 10. Charter of the entity engaging in nonbank financial activities

10.1 Charter of the entity engaging in nonbank financial activities shall include items stated in Article 16.2 of the Company Laws well as the following additional items:

10.1.1 amount of the owner's equity (capital);

10.1.2 management and organizational structure of the entity engaging in nonbank financial activities;

10.1.3 regulation for holding a meeting of shareholders and the Board of Directors.

10.1.4 regulation on internal audit.

10.2. Changes or amendments to the charter of the entity engaging in nonbank financial activities shall be registered with the Bank of Mongolia within 10 working days after the decision of such change or amendment has been made.

Article 11. Name of the nonbank financial institution

11.1 Name of nonbank financial institution shall consist of its own name and the word "The nonbank financial institution" or the abbreviation "????".

11.2 It shall be prohibited for any legal person other than the one with the license to conduct the activities stated in Article 7.1 of the current Law to use the word "The nonbank financial institution" or the abbreviation "????".

11.3 The nonbank financial institution shall change its name and location with the permission by the Bank of Mongolia.

CHAPTER THREE

Prohibitions and requirements for the entity engaging in nonbank financial activities

Article 12. Prohibitions for the entity engaging in nonbank financial activities

12.1 The following activities shall be prohibited for the entity engaging in nonbank financial activities:

12.1.1 Conduct activities other than those stated in the license;

12.1.2 Make false or misleading advertisements or statements related to its activities;

12.1.3 Accept deposits or open deposit accounts of individuals and legal persons;

12.1.4 Accept deposits by issuance of payment instruments such as cheque, card, or promissory note;

12.1.5 Use sources of funding that are not reflected in the balance sheets.

12.2. Article 12.1.1 of Current law shall not apply to temporary possession and sale of assets taken as a collateral for purposes of recovering a loan.

12.3 The shareholder, the chairman and members of the Board of Directors, executive director and officers of the nonbank financial institution shall not disclose or use any information which is considered by the nonbank financial institution, its customers, and/or third parties as confidential except in the cases stated in Article 7.2 of the Banking law.

Article 13. Requirements for nonbank financial activities

13.1 The total amount of loans, assets equivalent to a loan, and guarantees issued to one borrower and related parties by the nonbank financial institution shall not exceed 30 percent of nonbank financial institution's capital.

13.2 The total amount of guarantees issued by the nonbank financial institution shall not exceed 70 percent of the nonbank financial institution's capital.

13.3 The maximum amount of loans, assets equivalent to a loan, and guarantees issued to one shareholder, the chairman or a member of the Board of Directors, or the executive director, an officer of the nonbank financial institution or a person stated in Article of 3.2.1 of the Banking law shall not exceed 10 percent of the nonbank financial institution's capital and their aggregate sum shall not exceed 25 percent of nonbank financial institution's capital. In addition the provision of the loans, or assets equivalent of loans or guarantees to the above persons shall meet the following requirements:

13.3.1 The loan shall not be collateralized by of the paid capital of the nonblank financial institution;

13.3.2 An individual shall not be permitted to take part in management activities of the nonbank financial institution in any form if the repayment of the loan made by the bank to that person becomes overdue for more than six months.

13.4. Prudential ratios on reserve fund, liquidity, capital adequacy, loan loss provisioning, foreign currency exposure and other criteria shall comply with requirements set by the Bank of Mongolia.

13.5 The chairman, members of the Board of Directors and the executive director shall meet the following criteria:

13.5.1 No overdue obligations under a loan or guarantee contract;

13.5.2 No criminal records;

13.5.3 Ethical and business reputation shall not adversely affect the management of the nonbank financial institution.

13.6. The executive management of the nonbank financial institution shall have education and work experience in the field of banking and finance.

CHAPTER FOUR

Capital and financial statements

Article 14 Capital of the nonbank financial institution

14.1 The nonbank financial institution shall have own capital. The capital shall be calculated according to accounting regulations approved by the Bank of Mongolia.

14.2 The capital shall consist of cash funds of shareholders of the nonbank financial institution and the minimum amount of the capital shall be determined by the Bank of Mongolia upon consideration of the national economic situation, inflation rate, liquidity and specifics of the type of the activities of the nonbank financial institution.

14.3 The nonbank financial institution shall increase or decrease an amount of capital by profit or loss, or excess or deficiency of the loan loss provisioning.

14.4 The shareholders of the nonbank financial institution shall bear financial liability to the extent of their invested contribution to the capital of the nonbank financial institution.

14.5 The nonbank financial institution shall inform the Bank of Mongolia of any changes in the amount and structure of the capital or composition of the shareholders and receive a permission from the Bank of Mongolia.

14.6 The Bank of Mongolia shall issue a regulation concerning an increase or decrease of the capital, issuance of new shares, sale or transfer of shares.

Article 15. Financial statements and its disclosure to the public

15.1 Financial statements of a nonblank financial institution shall consist of balance sheet, profit and loss statement, cash flow statement, footnotes and clarifications.

15.2 Indicators of the financial statements of the nonbank financial institution shall conform to the accounting standards set by the Bank of Mongolia in accordance with the international standards.

15.3 The nonbank financial institution shall submit its annual and quarterly financial statements to the Bank of Mongolia. The Bank of Mongolia reserves a right to request any additional documents related to the financial statements of the nonbank financial institution.

15.4 The nonbank financial institution shall disclose to the public through the media, the audited financial statements of the previous financial year within the first quarter of the next year.

15.5 The Bank of Mongolia shall require from the nonbank financial institution to correct the financial statements or information which has been disclosed to the public if it was not made in accordance with the relevant regulations, or was incorrect or false.

Article 16. Auditing of the financial statements

16.1. The nonbank financial institution shall have its financial statements, other required documents and information audited by an auditing institution /auditor/ at least once a year.

16.2 The auditing institution /auditor/ shall submit its auditing conclusions on the financial statements and other documents to the Board of Directors and Board of Auditors of the nonbank financial institution.

Article 17 Submission of the auditor's conclusions to the Bank of Mongolia

17.1. The auditing institution /auditor/ shall submit the original copy of its final conclusions to the audited nonbank financial institution and the Bank of Mongolia.

17.2. The auditing institution /auditor/ shall immediately inform the Bank of Mongolia of its conclusions when the following conclusions are made on the basis of the documents provided by the nonbank financial institution:

17.2.1 If the nonbank financial institution has become insolvent or may experience an exceptionally difficult financial situation in the near future due to possible insolvency;

17.2.2 If it has been considered that a staff of the nonbank financial institution has engaged in unfair or illegal operations, which have had negatively impacted the financial situation of the nonbank financial institution.

Article 18. Conditions for restructuring and/or dissolution of the nonbank financial institution by the decision of the shareholder meeting

18.1. The meeting of the shareholders may decide to dissolve or restructure the nonbank financial institution upon approval by the Bank of Mongolia.

18.2. The following documents shall be submitted to the Bank of Mongolia in order to dissolve or restructure the nonbank financial institution:

18.2.1 decision of the shareholder meeting to restructure or dissolve the nonbank financial institution;

18.2.2 documents describing needs, forms, conditions, and schedule of the restructuring or dissolution, restructuring measures, their schedule and stages, relevant financial statements prepared by an auditor and discussed by the shareholders at the meeting and any other necessary information;

18.2.3 financial forecast of the restructuring of the nonbank financial institution and the startup balance sheet of the restructured nonbank financial institution.

18.3. The Bank of Mongolia shall consider and decide on the application for approval of the dissolution or restructuring of the nonbank financial institution within 30 days after receiving the documents and announce the decision to the public.

18.4. The Bank of Mongolia may decline the application if the decision by the meeting of shareholders to dissolve or restructure the nonbank financial institution is inconsistent with legislation or is likely to negatively affect its customers.

18.5. The dissolution shall be conducted in accordance with legislation upon the approval of the Bank of Mongolia.

CHAPTER FIVE

Supervision of the nonbank financial activities

Article 19. Supervision of the nonbank financial activities

19.1 The Bank of Mongolia shall supervise the entity engaging in nonbank financial activities according to the current Law and other legislation.

19.2 If a breach by a nonbank financial institution of the current Law or other legislation has been identified in the course of the supervision, the Bank of Mongolia shall take the following sanctions:

19.2.1 Issue admonition in writing and order remedy;

19.2.2 Suspend the license;

19.2.3 Submit a proposal to the Board of Directors of the nonbank financial institution to dismiss the executive director or hold him or her liable;

19.2.4 Revoke the license.

19.3 While undertaking the sanctions mentioned in Article 19.2 of the current Law, the Bank of Mongolia shall follow the principle of application of the same sanction for similar violations and shall issue a regulation on application of the sanctions.

CHAPTER SIX

Liability

Article 20. Liability imposed for the violation of the legislation

20.1. If a breach of the legislation on the nonbank financial activities does not constitute a criminal offence, the following administrative liability shall be imposed on the guilty person by a supervisor appointed by the Bank of Mongolia:

20.1.1. Opening of a branch of a nonbank financial institution without a license - confiscation of the illegally earned proceeds and a fine of togrogs equal to 20-40 amounts of monthly minimum salary;

20.1.2. Engagement in nonbank financial activities by an entity other than a nonbank financial institution - confiscation of the illegally earned proceeds and a fine of togrogs equal to 20-40 amounts of monthly minimum salary;

20.1.3. Failure to comply with the legislation on nonbank financial activities and the decisions of the Bank of Mongolia designed to implement the legislation - a fine of togrogs equal to 5-10 amounts of monthly minimum salary against an employee or an officer of the nonbank financial institution or equal to 20-40 amounts of monthly minimum salary against the nonbank financial institution;

20.1.4. Intentional impediment to supervisory actions - a fine of togrogs equal to 2-5 amounts of monthly minimum salary against individuals or 5-10 amounts of monthly minimum salary against an employee or an officer of a nonbank financial institution;

20.1.5. Covering up of payment settlement documents or delaying transactions - a fine of togrogs equal to 5-10 amounts of monthly minimum salary against an employee or an officer of a nonbank financial institution or 20-40 amounts of monthly minimum salary against the nonbank financial institution;

20.1.6. Failure to submit reports, balance sheets and other documents to the Bank of Mongolia in accordance with the relevant regulations or to publicly disclose the balance sheets according to Article 15 of this Law without valid reasons, the nonbank financial institution shall be fined by togrogs equal to 20-40 amounts of monthly minimum salary f or an employee or an officer of a nonbank financial institution by a fine in togrogs equal to 5-10 amounts of monthly minimum salary;

20.1.7. Failure to comply with requirements described in Article 13 of the current Law - a fine of togrogs equal to 20-40 amounts of monthly minimum salary against a nonbank financial institution;

20.1.8. If a publicly disclosed report contained untrue or false information, the nonbank financial institution or its executive director who worked at the time of the disclosure shall be fined for togrogs equal to 5-10 amounts of monthly minimum salary.

20.1.9. Disclosure of untrue or false information or advertisement in violation of Article 12.1.2 of the current law - a fine of togrogs equal to 20-40 amounts of monthly minimum salary against the nonbank financial institution or 5-10 amounts of monthly minimum salary against the executive director of the nonbank financial institution who worked at the time of disclosing this information.

20.1.10. Engagement in activities prohibited by this law or activities other than those specified in the license - confiscation of the illegally earned proceeds of the nonbank financial institutions and a fine of togrogs equal to 30-40 amounts of monthly minimum salary for the nonbank financial institution, or 15-20 amounts of monthly minimum salary against a nonbank financial institution employee or an officer or 10-15 amounts of monthly minimum salary against a person who released confidential information about the nonbank financial institution or its customers unless such release has been allowed or consented to.

20.2. The fines shall be paid to the State budget.

20.3. Losses and damages resulting from a breach of the legislation on nonbank financial activities shall be compensated in accordance with the Civil Code.

20.4. If the fines imposed in accordance with Article 20 of this Law are considered to be unfair, an appeal may be lodged with Courts.

Article 21. Entering into force

21.1. This law shall become effective on the February 1st, 2003.