



LAW ON NON-BANK FINANCIAL ACTIVITIES

(Amended version as of 18 May 2017)

INTERNATIONAL COOPERATION DEPARTMENT

JUNE 2020



LAW ON NON-BANK FINANCIAL ACTIVITIES

12 December, 2002.

Ulaanbaatar city.

CHAPTER ONE. GENERAL PROVISIONS

Article 1. Purpose of this law

- 1.1. The purpose of this law is to set legal grounds for non-banking financial activities and to regulate relations concerning the establishment of structures for management, organization and monitoring of non-bank financial institutions and granting, suspension or revocation of their licenses.

Article 2. Legislation on non-bank financial activities

- 2.1. The legislation on non-banking financial activities is comprised of the Civil Code, Company Law, the Law on the Legal Status of the Financial Regulatory Commission, Law on Licensing of Business Activities, Law on State Registration of Legal Entities, this Law and all other relevant legislative acts issued in conformity therewith.
- 2.2. If an international treaty to which Mongolia is a party specifies otherwise, then the provisions of the international treaty shall prevail.

Article 3. Scope of this law

- 3.1. This law shall regulate relations concerning the activities stated in Paragraph 7.1 of this law by the entity which has obtained a license from the Financial Regulatory Commission.
- 3.2. Banking, insurance, security companies, pension funds, savings and credit cooperative, pawnshops, financial leasing service and project units, from Government's special purpose funds shall be regulated by other related laws.

Article 4. Definitions

- 4.1. In this law, the following terms shall have the following meanings:
 - 4.1.1. '*Non-bank financial activities*' shall mean the services specified in Section 7.1 of this law by the business entity, which has obtained a license from the Financial Regulatory Commission.
 - 4.1.2. '*Factoring*' shall mean sale (transfer) by creditor of his/her 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 on certain conditions, for a certain term and remuneration property which was manufactured by the lessor or purchased from a sales person or supplier in the lessor's name upon order or selection by the lessee;
 - 4.1.4. '*Issuing a guarantee*' shall have the meaning described in Article 457 of the Civil Code;
 - 4.1.5. '*Electronic payment and remittance service*' shall mean wire transferring other's cash through one's own corresponding account in the bank, or settlement of payments using

*Translated by the Cooperation Department,
with to June 2020*

- the 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, loans, 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 a maturity of up to one year on the basis of a mutually agreed contract;
- 4.1.9. 'An entity engaging in non-bank financial activities' shall mean a person stated in Paragraph 6.1 of this Law;
- 4.1.10 'Assets, liabilities and equity of the non-bank financial institution' shall have the meaning in the accounting regulations approved by the Financial Regulatory Commission in conformity with international standards.

CHAPTER TWO. ENGAGING IN NON-BANK FINANCIAL ACTIVITIES

Article 5. Incorporation of an entity engaging in non-bank financial activities

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

Article 6. Conducting the non-bank financial activities

- 6.1 Non-bank financial activities shall be conducted by Mongolian and foreign legal entities in accordance with the license issued by the Financial Regulatory Commission.
- 6.2 A legal person financed from the state budget, a religious, or political, or nongovernmental organization shall be prohibited from engaging in non-bank financial activities stated in Paragraph 36.2 of the Civil Code.

Article 7. Non-bank financial activities

- 7.1 Non-bank 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 negotiable 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.
 - 7.1.11 financial intermediation activities related to real estate collateral.

Article 8. Application documents

- 8.1 A person requesting to engage in activities specified in Paragraph 7.1 of this Law, shall submit the following documents specified in Paragraph 11.1 of the Law on Licensing of Business Activities to the Financial Regulatory Commission:
- 8.1.1 charter of the entity engaging in non-bank financial activities and incorporation documents;
 - 8.1.2 business plan;
 - 8.1.3 proof of compliance with the minimum capital determined by the Financial Regulatory Commission;
 - 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 non-bank financial activities;
 - 8.1.8 charter, shareholder registration, the last three years of financial reports and conclusions of an audit institution of a legal person which owns more than 10 percent of the total shares of the entity engaging in non-bank financial activities.
- 8.2. If the Financial Regulatory Commission deems the application documents filed in accordance with Paragraph 8.1 of this law as incomplete or unclear, it can pursue inquiries with relevant organization on issues related to the founders, shareholder and management of non-bank financial institutions.

Article 9. The license to engage in non-bank financial activities

- 9.1 The Financial Regulatory Commission shall review the application documents for the license to engage in non-bank financial activities within 30 working days and shall grant the license to engage in non-bank financial activities if each of the following requirements has been met:
- 9.1.1 share capital of the entity engaging in non-bank financial activities has reached the minimum amount determined by the Financial Regulatory Commission;
 - 9.1.2 strategies and other contributing factors to conduct the non-bank financial activities have been sufficiently stated in the business plan;
 - 9.1.3 management of the entity engaging in non-bank financial activities has satisfied the criteria stated in Paragraphs 13.5 and 13.6 of this Law;
 - 9.1.4. equipment of non-bank financial institutions satisfies safety operation requirements.
- 9.2. If it is necessary to verify the submitted documents in a more detailed manner, the Financial Regulatory Commission may prolong the period specified in Paragraph 9.1 of this law by 14 days.
- 9.3 Certificates of the license shall explicitly indicate the type and duration of the non-bank financial activities engaged in.
- 9.4 Entities engaging in non-bank financial activities shall establish its branch, representative office or other units with the permission of the Financial Regulatory Commission.

Article 10. Charter of the entity engaging in non-bank financial activities

- 10.1 The Charter of the entity engaging in non-bank financial activities shall include items stated in Paragraph 16.2 of the Company Laws as 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 the non-bank 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. Amendments to the Charter of the entity engaging in non-bank financial activities shall be registered with the Financial Regulatory Commission and the State administrative body in charge of state registration within 10 working days of amendments being made.

Article 11. Name of the non-bank financial institution

- 11.1 Name of the non-bank financial institution shall consist of its own name and the word '*The non-bank financial institution*' or the abbreviation '*NBFI*'.
- 11.2 It shall be prohibited for any legal person other than the one with the license to engage in the activities stated in Paragraph 7.1 of the current law to use the word '*the non-bank financial institution*' or the abbreviation '*NBFI*'.
- 11.3 The non-bank financial institution shall change its name and location with the permission of the Financial Regulatory Commission.

CHAPTER THREE. PROHIBITIONS AND REQUIREMENTS FOR THE ENTITY ENGAGING IN

NON- BANK FINANCIAL ACTIVITIES

Article 12. Prohibitions for the entity engaging in non-bank financial activities

- 12.1 The following activities shall be prohibited for the entity engaging in non-bank financial activities:
- 12.1.1 to engage in activities other than those stated in the license;
 - 12.1.2 to make false or misleading advertisements or statements related to its activities;
 - 12.1.3 to accept deposits or open deposit accounts of individuals and legal persons;
 - 12.1.4 to accept deposits by issuance of negotiable instruments such as cheques, cards, or promissory notes;
 - 12.1.5 to use sources of funding that are not reflected in the balance sheets.
- 12.2. Section 12.1.1 of current law shall not apply to temporary possession and sale of assets taken as collateral for the purposes of recovering a loan.
- 12.3 A shareholder, chairman and members of the Board of Directors, executive director and officers of the non-bank financial institution shall be prohibited to disclose or use any information which is considered as confidential by the non-bank financial institution, its customers, and/or third parties except in the cases stated in Paragraph 7.2 of the Banking Law.

Article 13. Requirements for non-bank 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 non-bank financial institution shall not exceed 30 percent of the non-bank financial institution's paid in capital.
- 13.2 The total amount of guarantees issued by the non-bank financial institution shall not exceed 70 percent of the non-bank financial institution's paid in capital.
- 13.3 The maximum amount of loans, other equivalent assets, and guarantees to be issued to shareholders, chairman or a member of the Board of Directors, or the executive director, other employees of a non-bank financial institution and to persons specified in Section of 3.2.1 of the Banking Law shall not exceed 10 percent of the non-bank financial institution's paid in capital and their aggregate sum shall not exceed 25 percent of non-bank financial institution's paid in capital. The following requirements shall apply to such issuance:
- 13.3.1 the loan shall not be collateralized by the share capital of the non- bank financial institution;
 - 13.3.2 an individual shall not be permitted to take part in management activities of the non-bank financial institution in any form if he/she failed to make the repayment of the loan for more than six months after it becomes due.
- 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 Financial Regulatory Commission.
- 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 record;
 - 13.5.3 ethical and business reputation shall not adversely affect the management of the non-bank financial institution.
- 13.6. The executive management of the non-bank financial institution shall have professional degrees and work experience in the field of banking and finance.

CHAPTER FOUR. PAID IN CAPITAL AND FINANCIAL STATEMENTS

Article 14 Paid in capital of the non-bank financial institution

- 14.1 The non-bank financial institution shall have its own paid in capital. The capital shall be calculated according to accounting regulations approved by the Financial Regulatory Commission.

- 14.2 The regulatory capital shall consist of cash contributed by shareholders of a non-bank financial institution and its amount shall be determined by the Financial Regulatory Commission, taking into account the state of the economy, changes in the exchange rate, solvency and specifics of the non-bank financial institutions.
- 14.3 A non-bank financial institution shall increase or decrease the amount of paid in capital by profit or loss, or excess or deficiency of the loan/loss provisioning.
- 14.4 Shareholders of a non-bank financial institution shall be financially liable and shall cover losses in the amount of its share capital.
- 14.5 A non-bank institution shall notify to the Financial Regulatory Commission of any changes in the size, structure and composition of its shareholders, and obtain permission.
- 14.6 The Financial Regulatory Commission shall issue a regulation concerning an increase or decrease of the share 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 have the composition specified in Paragraph 8.1 of the Law on Accounting.
- 15.2 Indicators of the financial statements of the non-bank financial institution shall conform to the accounting standards set by the Financial Regulatory Commission in accordance with international standards.
- 15.3 The non-bank financial institution shall submit its annual and quarterly financial statements to the Financial Regulatory Commission. The Financial Regulatory Commission reserves the right to request any additional documents related to the financial statements of the non-bank financial institution.
- 15.4 The non-bank 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 Financial Regulatory Commission shall require the non- bank 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 non-bank 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 non-bank financial institution.

Article 17. Submission of the auditor's conclusions to the Financial Regulatory Commission

- 17.1. The auditing institution (auditor) shall submit the original copy of its final conclusions to the audited non-bank financial institution and the Financial Regulatory Commission.
- 17.2. The auditing institution (auditor) shall immediately inform the Financial Regulatory Commission of its conclusions when the following conclusions are made on the basis of the documents provided by the non-bank financial institution.
 - 17.2.1 If the non-bank 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 staff of the non-bank financial institution have engaged in unfair or illegal operations, which have had negatively impacted the financial situation of the non-bank financial institution.

Article 18. Conditions for reorganization and liquidation of a non-bank financial institution by decision of the shareholders meeting

- 18.1. A non-bank financial institution may be reorganized and liquidated by decision of the shareholders meeting based on the approval of the Financial Regulatory Commission.

- 18.2. The following documents shall be submitted to the Financial Regulatory Commission upon obtaining permission to reorganize or liquidate a non-bank financial institutions:
 - 18.2.1 decision of the shareholder meeting to reorganize or liquidate the non-bank financial institution
 - 18.2.2 documents specifying the requirements, forms, conditions and terms of reorganization and liquidation of a non-bank financial institution, measures to be taken by the non-bank financial institution in connection with the termination of its activities, their terms, stages and financial statements approved by the auditing organization and any other required information;
 - 18.2.3 financial forecasts of the restructuring of the non-bank financial institution and the start-up balance sheet of the restructured non-bank financial institution.
- 18.3. The Financial Regulatory Commission shall consider and decide on the application for approval of the dissolution or restructuring of the nonblank financial institution within 30 days after receiving the documents and publicize the decision.
- 18.4. The Financial Regulatory Commission shall reject the issue of permission if the decision of the shareholders meeting to reorganize or liquidate a non-bank financial institution violates the legislation and adversely affects the interests of customers.
- 18.5. A non-bank financial institutions shall be liquidated in accordance with the procedures specified in the legislation based on the approval of the Financial Regulatory Commission to liquidate a non-bank financial institution.

CHAPTER FIVE. SUPERVISION OF THE NON-BANK FINANCIAL ACTIVITIES

Article 19. Supervision of non-bank financial activities

- 19.1 The Financial Regulatory Commission shall supervise the entity engaging in non-bank financial activities according to the current law and other legislation.
- 19.2 If a non-bank financial institution violates the requirements set forth in this law and other legislation during the supervision and there are no signs of a crime or violation the Financial Regulatory Commission shall take the following measures:
 - 19.2.1 issue an 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 non-bank financial institution to dismiss the executive director or hold him/her liable;
 - 19.2.4 revoke the license.
- 19.3 The principle of taking the same measure for the same violation shall be followed in taking the measures specified in Paragraph 19.2 of this law, and the procedure for implementing these measures shall be approved by the Financial Regulatory Commission.

CHAPTER SIX. LIABILITY

Article 20. Liability imposed for the violation of the legislation

- 20.1. If the actions of an official violating this law are not of a criminal nature, he/she shall be subject to liability specified in the Civil Service Law.
- 20.2. A person or legal entity that violates this law shall be subject to liability specified in the Criminal Code or the Law on Infringement.

Article 21. Entry into force

- 21.1. This law shall come into force on 1 February, 2003.

S. Tumur-Ochir

Chairman, State Great Khural