PRAKAS
ON
THE LICENSING OF COMMERCIAL BANKS

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As amended by the following Prakas: B7-06-207 dated September 13, 2006 on Amendment to Prakas on Licensing of Commercial Banks, B7-04-205 dated December 29, 2004 on License Fees for Banks and Financial Institutions, B7-01-187 dated November 08, 2001 on Transfer of Shares of Banks, and B7-01-136 dated October 15, 2001 on Bank’s Capital Guarantee.

Chapter I

General Provisions

Article 1

Banks as defined in Chapter I of the Law on Banking and Financial Institutions (LBFI) and in accordance with Article 14 of this law must obtain a license from the National Bank of Cambodia (NBC) before starting business.

Article 2

An applicant for a bank’s banking license shall take one of the legal forms provided for in Chapter III of the Law on Banking and Financial Institutions.

Article 3

Before obtaining a license, an applicant must show a minimum registered capital at least equal to a sum fixed by the relevant Prakas issued by the National Bank of Cambodia.

Chapter II

Procedure for Submitting a License Application

Article 4

The application for a license\(^1\) shall be drawn up by a duly authorized individual (manager or person expressly empowered to such effect) and shall indicate the following:

(a) Name or business name of the institution.
(b) Address of the headquarters, or of the branch in Cambodia in the case of a

\(^1\) A letter of application for obtaining a license (Article 14 of the LBFI) for notification purposes (Article 23 of the LBFI) or to obtain prior authorization (Article 24 of the LBFI), in compliance with the model letter provided in Annex I, must be submitted.
foreign company.
(c) Legal form and the articles of association or other founding instrument.
(d) Type of securities representing the capital: connection between the holding of such securities and the exercise of voting rights.
(e) Amount of existing or planned capital or amount of capital endowment in the case of branches of foreign companies. This amount must be at least equal to the sum referred to in Article 3 of this Prakas.
(f) Distribution of shares and voting rights: possible agreements between shareholders acting in concert with a view to directing the policy of the bank.
(g) Contributors of capital which will hold 5 percent or more of the voting rights must provide the information listed in Article 5 of this Prakas.
(h) Identity of at least two persons responsible for the effective direction of the bank's business. These designated managers must provide the information listed in Article 6 of this Prakas and furnish a copy of their police records. For managers of foreign nationality who have been resident in Cambodia for less than 3 years, the above-mentioned police record shall be replaced by a document issued by the competent home country authorities certifying that the person concerned is not prohibited from managing a financial institution under the terms of that country's regulations. The managers of Cambodian branches of foreign banks must be appointed by the competent authorities at headquarters.
(i) Identity of the members of the decision-making body. This information must be supplemented by a curriculum vitae and a questionnaire as provided for in Annex IV and a statement certifying that none of the individuals concerned is subject to the prohibitions set forth in Article 18 of the Law on Banking and Financial Institutions; the members of the decision-making body should have at least three years of credit experience, which must be evidenced by the curriculum vitae of the member concerned.
(j) If the legal entity for which the application is made has already been founded, provide a description of its business and certified copies of its last three audited balance sheets.
(k) Description of the planned activity over the next three years:
- Nature and volume of the different types of lending liable to appear on or off the balance sheet (for loans: nature, form, purpose, main terms and conditions, annual volume and amount outstanding).
- Nature and volume of other services offered to customers (savings accounts, provision of means of payment, asset management, etc...).
- Type of clients (private individuals, companies, international organizations, institutional investors) that the bank intends to seek.
- Nature of planned financial resources: own funds, shareholder advances, negotiable debt instruments or bonds, deposits from the general public, borrowings on the interbank market, etc.
- Likely number of employees over the next three years and corresponding payroll, broken down by category of staff.
- Planned organization and resources, especially as regards attracting clients (possible creation of branches) and as well as accounting procedures and computer system.
- Balance sheet and profit and loss account forecasts for the next three accounting periods. Forecast level of main prudential ratios (as defined by the NBC) at the end of the next three accounting periods.
(l) Internal audit:
- Planned internal audit organization for application of provisions of Article 43 of the Law on Banking and Financial Institutions.
- Methods for setting internal limits on the various types of exposure and planned procedures for ensuring compliance.
- Planned procedures for ensuring compliance with ethical standards, particularly as regards financial transactions with clients, and for taking part in the fight against money laundering.
- Composition and duties of the audit committee.

(m) External audit:
- Identity of proposed auditors, who must obtain the prior authorization of NBC.
- Nature of auditors’ assignments.

(n) Headquarters or parent company control (for branches or subsidiaries of foreign banks).
- Description of procedures for parent company control of foreign branches or subsidiaries.
- Description of supervision of foreign branches or subsidiaries by the competent home country authorities.

**Article 5**

Capital contributors holding 5 percent or more of the applicant’s capital or the voting rights must provide the following information:

(a) Identity of the capital contributor:

In the case of a legal entity, indicate the business name, legal form, address of the headquarters and furnish the Articles of Association.

In the case of an individual, state his or her full name, date and place of birth, nationality (dual where appropriate) and domicile. Indicate whether this person is to be appointed one of the managers of the bank. State whether the capital contributor is to be represented on the bank’s board of directors; if so, ensure that this representative is not subject to the prohibitions laid down in Article 18 of the Law on Banking and Financial Institutions. For all these purposes each individual concerned must fill in the curriculum vitae and questionnaire appended in Annex IV.

(b) Indicate the amount and percentage of the proposed participation and its equivalent in voting rights. Describe in detail the legal and financial arrangements for the acquisition of the securities. If the contributor is an individual, indicate precisely the origin of invested funds.

State whether the transaction is subject to particular formalities in respect of regulations such as those applicable to foreign direct investment in Cambodia and whether such formalities have been complied with.
(c) Indicate the distribution of share capital of the capital contributor. If need be, state the distribution of the share capital of the parent company and of intermediate holding companies (give percentages in terms of shareholdings and voting rights). List the main managers of the capital contributor.

(d) Describe the activities of the capital contributor: If the capital contributor is part of a group, provide a description of the main entities of said group together with an organization chart. Indicate whether the capital contributor has significant equity holdings in other credit institutions. Indicate whether the group to which the capital contributor itself belongs has significant equity holdings in credit institutions. If so, list such interests.

(e) State whether the capital contributor and the companies possibly associated with it carry on a financial activity. If so, indicate the regulations and the authorities to which they are subject in this respect.

(f) Indicate the internal and external audit procedures of the capital contributor.

(g) Indicate whether, over the preceding ten years the capital contributor has been the subject, in Cambodia or abroad, of an investigation or of a professional, administrative, or judicial proceeding of a material nature. State whether any penalty was imposed as a result of the investigation or proceeding. Also indicate if the contributor is or is expected to be, in Cambodia or abroad, the subject of an administrative, judicial or amicable proceeding likely to have a material effect on its financial condition.

(h) State the capital contributor’s objectives for the acquisition of an equity holding in the bank applying for a license. Give all relevant information.

(i) Indicate whether there is significant business between the capital contributor and the applicant and how these relations are likely to develop in the future.

(j) Indicate the main banking relations of the capital contributor in Cambodia and how long these relations have existed.

(k) Provide the accounts of the capital contributor or its parent company for the last three years and a forecast for the current year (including consolidated information where applicable). If the capital contributor is a financial institution, furnish information on the main prudential ratios.

**Article 6**

Each of the two persons expected to be appointed to a managerial position, that is, to be responsible for the effective direction of the bank’s business, must provide the following information\(^2\) by filling in the curriculum vitae and questionnaire appended in Annex IV.

(a) Manager’s identity:

- Full name,
- Date and place of birth,
- Nationality,
- Personal address (give planned place of residence after taking up the appointment, if different: managers should have their residence close to the main place of business, namely inside Cambodia).

(b) Qualifications and experience:

\(^2\) The National Bank of Cambodia must have, with regard to the appointment of managers, all information necessary to assess the good repute, fairness, and worthiness of the person concerned.
- Academic degrees as well as date and place where diplomas were awarded,

(c) Work experience over the past ten years, including the name, place of business and activity of the employer(s), the type of experience gained and the level of responsibility.

(d) Indicate whether, in carrying out your duties, you will act in concert with or in accordance with the instructions of another individual or legal entity other than the applicant. In either case, give all relevant information.

(e) Describe the managerial tasks for which you will be directly responsible.

(f) Indicate whether you are or in the past ten years have been a significant shareholder (namely holding directly or indirectly at least 10 percent of the share capital or voting rights) of a company other than the applicant. If so, state the name and activities of such company or companies and the amount of your shareholding or interest in same.

(g) Indicate, to the best of your knowledge, which of the companies in which you have held or hold a position of responsibility, or in which you have been or are a significant shareholder, have or might soon have significant business relations with the applicant.

(h) Indicate whether in Cambodia or abroad you have been the subject of a professional, administrative, or judicial proceeding resulting in a penalty. Give all relevant details, as appropriate.

(i) Indicate whether you currently have, or intend to have, an amicable arrangement with creditors or any other judicial or extra judicial arrangement, in Cambodia or abroad, for the purpose of settling debts that you have been unable to honor in accordance with your initial commitments. State whether you are aware of any such proceedings involving companies in which you have held or hold positions of responsibility, or of which you are or have been a significant shareholder. Give all relevant details.

(j) Indicate whether you have been the subject of disciplinary or dismissal proceedings by any of your employers. If so, give all relevant details.

(k) Indicate whether you are a capital contributor to the applicant and whether you intend to carry out, either directly or through an intermediary, personal or professional transactions with the applicant.

(l) Provide all additional information that would appear likely to inform the NBC.

(m) All the answers to the above-mentioned questions should be submitted through the curriculum vitae and questionnaire appended in Annex IV, together with a letter in compliance with the model letter provided in Annex II.

Article 7

A capital contributor which will directly or indirectly hold at least 20 percent of the capital or voting rights shall be considered as an influential shareholder in accordance with the provisions of Article 26 of the Law on Banking and Financial Institutions. Influential shareholders can be enjoined by the National Bank of Cambodia to increase the net worth of the bank under the conditions described in Article 27 of the Law on Banking and Financial Institutions. For that purpose, a letter in accordance with the model letter set forth in Annex III must be sent to the Governor of the National Bank of Cambodia. Such a provision will only be removed when a reliable deposit insurance scheme is set up in Cambodia.
Chapter III
Approval and Related Fee

Article 8

The National Bank of Cambodia shall provide written notification of its decision within six months from the receipt of application including all relevant documents. Where appropriate, the approval shall set out the specific conditions laid down by the National Bank of Cambodia for its entry into force and the timetable for the project. If the project has not been completed upon expiry of the deadline and if no extension has been requested, the approval becomes void.

Article 9: [As amended by Prakas B7-06-207 dated September 13, 2006]

An indefinite license shall be provided by the National Bank of Cambodia to all commercial banks operating in the Kingdom of Cambodia.

Article 10

A bank shall pay a fee of KHR 3.5 million upon submission of the application for a license.

Article 11

The annual license fees shall be paid before 15 of January as follows:

- [partly repealed by Prakas B7-04-205 dated December 29, 2004, that established new license fees]

For banks established during year, the license fee shall be calculated on a pro rata basis for the period remaining to year’s end. In the event of late payment of the license fee, the bank concerned shall be fined by paying interest on the overdue payment at the prevailing refinancing interest rate for a period up to thirty days.

Bank, which would remain not compliant beyond this period, would be subject to a more serious penalty, which could go up to the revocation of their license.

Chapter IV

Other Provisions

Article 12: [Repealed by Prakas B7-01-136 dated October 15, 2001].

Article 13 & 14: [Repealed by Prakas B7-01-187 dated November 08, 2001].

Article 15

In the event of the appointment of new managers (namely the two persons responsible for the effective direction of the bank’s business) the following information must be furnished to the National Bank of Cambodia:
the new manager must send a letter conforming to the model set forth in Annex II informing the Governor of the National Bank of Cambodia of his appointment as manager and indicating his position;
- a document providing proof of such appointment (board meeting minutes for example);
- the information referred to in Article 6 above.
- All these documents must be furnished at least one month before the person concerned takes up his position.

**Article 16**

Other changes in the legal or financial status of a bank must be submitted to the National Bank of Cambodia for approval. Application materials should be accompanied by a description of the reasons for the planned operation and, as applicable, by the following information:

- extension or redefinition of activity: the information referred to in paragraph k of Article 4 of this Prakas must be furnished;
- capital reduction: description of terms and conditions, namely legal and accounting arrangements and indication of the new amount of own funds with possible effects on future business and prudential ratios;
- change in legal form: draft amendments to the Articles of Association and information concerning management bodies;
- change in business name: draft amendment to the Articles of Association.
- All these changes must be submitted to the National Bank of Cambodia at months before their enforcement.

Banks shall pay a fee of KHR 1 million for a change of one page of the Association. Banks must pay a fee 1% of capital decrease.

**Article 17**

All provisions contrary to those of this Prakas are hereby repealed

**Article 18**

The General Director, the General Secretariat, the General Cashier, the General Inspection, all Departments of the NBC and all Banking and Financial Institutions under the NBC’s supervisory authority shall strictly implement this Prakas.

Phnom Penh, 10 January 2000

The Governor

Signed and Sealed: Chea Chanto
MODEL LETTER OF APPLICATION FOR OBTAINING A LICENSE (1) OR FOR NOTIFICATION (2) OR FOR AUTHORISATION (3)
To be sent to the Governor of the National Bank of Cambodia

Dear Sir,

In my capacity as ....................................... (4)

I would like to apply to the National Bank of Cambodia for:

- obtaining or renewing a license for (company name) in the context of chapter IV of the Law on Banking and Financial Institutions.
- notification of change in shareholding distribution in the context of Article 23 of the Law on Banking and Financial Institutions.

To this end, please find herewith an application set out in accordance with the provisions of Prakas No.............

Very truly yours,

Signature

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(1) in the case of requests for a license or for renewal of such a license.
(2) in the case of changes in the shareholding distribution referred to in Article 23 of the Law on Banking and Financial Institutions.
(3) in the case of changes in the shareholding distribution referred to in Article 24 of the Law on Banking and Financial Institutions.
(4) indicate the status of the signatory: chairman, manager, other corporate officer, expressly empowered agent (attach documentary proof of said capacity)
MODEL LETTER

To be sent to the Governor of the National Bank of Cambodia

Dear Sir,

With a view to my appointment as a manager of (name of bank) where I will hold the position of (...........) please find herewith the information (including curriculum vitae and questionnaire provided for in Annex IV) requested under Article 6 of Prakas No...

I hereby certify that the information is complete and accurate and that, to the best of my knowledge there are no other material facts of which the National Bank of Cambodia should be informed. In particular, I certify that I am not subject to the prohibitions listed in Article 18 of the Law on Banking and Financial Institutions.

I undertake to inform the National Bank of Cambodia immediately of any change which would significantly alter the information provided.

I further undertake to ensure that the institution of which I am a manager will provide the National Bank of Cambodia with all regulatory information concerning its administrative and accounting organization, its financial condition, particularly regarding the quality of its loan portfolio, and the financial condition of its shareholders.

Very truly yours,

Signature
MODEL LETTER

To be sent to the Governor of the National Bank of Cambodia by Capital Contributors Who Directly or Indirectly Hold 20 percent or more of the Capital or Voting Rights of a Bank.

Dear Sir,

In my capacity as (indicate the status of the signatory), please find herewith the information requested by the National Bank of Cambodia (Prakas No) with regard to the equity holding that (contributor’s name) has taken or intends to take in (name of bank).

I hereby certify that this information is complete and accurate and that, to the best of my knowledge, there are no other material facts of which the National Bank of Cambodia should be informed.

I undertake to inform the National Bank of Cambodia immediately of any change which could significantly alter the information provided.

I have taken note of the provisions of Article 27 of the Law on Banking and Financial Institutions, pursuant to which the National Bank of Cambodia may, where the situation requires, enjoin the influential shareholders of a bank to provide such bank with the support it needs.

Very truly yours,

Signature
CURRICULUM VITAE

and

Questionnaire for individuals who are, or who propose to become,
Directors, Shareholders or Managers of a Bank

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1. Family name: ...........................................................................................................

2. Given name(s): ...........................................................................................................

3. Other name(s) by which you are or have been known: ...........................................

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4.1. Please state in what capacity you are completing this form, i.e. as a current or prospective director, shareholder or manager or any combination thereof.

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4.2. Please describe the particular duties and responsibilities attaching to the position(s).

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4.3. In carrying out your duties, will you act in concert with or in accordance with the instructions of another individual or legal entity other than the applicant? In either event, give all relevant information.

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4.4. Indicate if you are a capital contributor to the applicant and if you intend to carry out, directly or through an intermediary, personal or professional transactions with the applicant.

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5. Your private address: ...................................................................................................

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6. Your previous private address(es) during the last 5 years:


7. Your date (day/month/year) and place of birth (including district, town or city).


8. Your nationality and how it was acquired (birth, naturalization, marriage).


9. Name(s) and address(es) of your bankers within the last 5 years.


10. Your academic degrees and/or professional qualifications and the place and year they were obtained.


11.1 Your current occupation and employment and over the past 10 years, including the name and address of the employer in each case, the nature of the business, the position held and relevant dates.


11.2 Indicate whether you are or in the past ten years have been a significant shareholder (namely holding directly or indirectly at least 10 percent of the share capital or voting rights) in a company other than the applicant. If so, state the name and activities of such companies and the amount of your shareholding or interest in them.


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11.3. Indicate, to the best of your knowledge, which of the companies in which you have held or hold a position of responsibility, or in which you have been or are a significant shareholder, has or might soon have significant business relations with the applicant.

12. Have you or any entity with which you are associated as a director, shareholder, or manager ever held or applied for a license or to carry on any business activity in any country? If so, if any such application was refused or withdrawn after it was made or if any authorization was revoked, give particulars.

13. Have you, or any entity with which you have been involved in the conduct of its affairs, been disciplined, and warned as to future conduct, publicly criticized, or the subject of an investigation by any regulatory authority or any professional body? If so, give particulars.

14. Have you, in any country, been dismissed from any office or employment by your employer or barred from entry to any professional or occupation? If so, give particulars.

15. Have you failed to satisfy any debt adjudged due and payable by you under an order of a court, or have you been declared bankrupt by a court in any country or has a bankruptcy petition ever been served on you? If so, give particulars.

16. Have you, in connection with the management of any entity been adjudged by a court, in any country, to be legally liable for any fraud, or other misconduct by you toward such an entity or any of its members? If so, give particulars.
17. Are you now, or do you other than in a professional capacity, expect to be, engaged in any litigation in any country? If so, give particulars.

18. Please supply an audited statement of personal net worth providing a breakdown of your assets and liabilities.

19. Indicate the names, addresses, telephone numbers and positions of three individuals of good standing who would be able to provide a reference on your personal and professional integrity. The referees must not be related to you, and should have known you for at least five years.

20. Is there any additional information which you consider to be relevant for the consideration of your suitability for the position(s) listed in Question 4.1? The omission of material facts may constitute the provision of misleading information (see declaration below).

N.B. The information provided in response to this questionnaire shall be kept fully confidential by the supervisory authority, the National Bank of Cambodia, except in cases provided for by law.

DECLARATION

I am aware that it is an offense to knowingly or recklessly provide any false or misleading information in connection with an application for a banking license or a renewal of a banking license.

I certify that the information provided in response to the above questions are complete and accurate to the best of my knowledge, and that there are no other facts relevant to this application of which the supervisory authority should be aware.

I undertake to inform the supervisory authority of any changes material to the application which arises while the supervisory authority is considering the application.

Name .................................................................
Position held ............................................................
Signed .................................................................Date / /