

# **LAW ON DEPOSITS, LOANS AND BANKING TRANSACTIONS**

## **Chapter One**

### **General Provisions**

#### **Article 1. Purpose of the Law**

The purpose of this law is to regulate relations with respect to the depositing of funds with banks by citizens and legal persons, the carrying out of transactions through the agency of banks and operations with respect to the granting and repayment of bank loans.

#### **Article 2. Legislation on deposits, loans and banking transactions**

1. The legislation on deposits, loans and banking transactions is comprised of the Constitution of Mongolia, the Civil Law, the Banking Law, this law, and other laws and regulations which are consistent with them.
2. If the provisions of the international treaties to which Mongolia is a signatory are inconsistent with them, then the provisions of the international treaties shall prevail.

## **Chapter Two**

### **Deposits**

#### **Article 3. Deposits**

1. A deposit of funds (hereinafter referred to as a “deposit”) means Mongolian and foreign currency deposited with a bank (hereinafter referred to as “repositories”) by citizens and legal persons of Mongolia and foreign countries, and by stateless persons (hereinafter referred to as “depositors”) on deposit agreement grounds.
2. A repository shall provide accurate information to the depositors on its operations at the time it enters a deposit agreement with depositors.
3. A repository shall disclose to the public the interests rates terms for which deposits shall be accepted and shall receive deposits from a depositor if a depositor accepts the conditions in the deposit agreement.
4. This law shall regulate the operations of banks with respect to deposits.

#### **Article 4. Deposit agreements**

1. In accordance with the provisions of article 364 of the Civil Law, a bank shall pursuant to a deposit agreement have a duty to safeguard and pay out deposits and interest to depositors or to a person duly authorised by the depositor.
2. The term of the deposit, the calculation of balances and interest on deposits, the cancellation of the deposit agreement and the responsibilities of the parties to the agreement in the case of non-compliance with its conditions shall be set out in the deposit agreement.
3. Deposit agreements shall be made in written form and may be included in the form of the safe deposit book or account certificate in accordance with article 364 of the Civil Law of Mongolia.

## **Article 5. Terms of the deposit agreement**

1. Deposit agreements may be established for a definite or an indefinite period of time in accordance with article 365 of the Civil Law.
2. Deposits for a definite period of time shall be called fixed term deposits and deposits for an indefinite period of time shall be called non-fixed term deposits.
3. If a deposit agreement has been established for a non-fixed term, the depository has a duty to pay out deposits and interest at the request of the depositor.
4. If a deposit agreement is established for a fixed term, the depository has a duty on the expiration of the term to pay out the deposit and interest at the request of the depositor.
5. If a depositor does not withdraw a fixed term deposit once the term has expired as provided in the deposit agreement or has not requested an extension of the term, the deposit shall be deemed a non-fixed term deposit and interest shall be payable at the interest rate for non-fixed term deposits. A deposit agreement may be extended for a specific period of time after the expiration of a fixed term if permitted by the original deposit agreement.
6. The depository shall not have the right to unilaterally change or revoke a fixed term deposit before the term has expired.
7. The term of a deposit agreement shall commence on the day the deposit is entered into the books of a bank and shall terminate on the day upon which the deposit shall be paid out.
8. If a fixed term deposit agreement is cancelled at the request of the depositor prior to the expiration of the fixed term, the interest payable on the deposit may be reduced from the rate stipulated in the deposit agreement, depending upon the amount of time for which the deposit has been held.
9. In the event the depository fails to fulfil its duties as provided in paragraphs 3, 4 and 6 of this article thereby causing loss to a depositor, a depositor shall have the right to compensation in accordance with the deposit agreement.

## **Article 6. Interest on deposits**

1. Deposits shall be interest bearing.
2. The rate of interest payable on a fixed term deposit shall remain the same as agreed until expiration of the term in the deposit agreement.
3. If the interest rate set out in the deposit agreement is fixed, interest on funds added to the term deposit shall be at the fixed rate. If additional funds are deposited following a change to the interest rate, a new deposit agreement shall be entered into.
4. If the interest rate payable on a non-fixed term deposit is changed by the depository, the interest rate set out in the deposit agreement for a non-fixed term deposit shall be deemed to be changed and interest at the new rate shall be payable one month following public disclosure of the new interest rate. In case of disagreement with the aforesaid condition a depositor may cancel the agreement.
5. The Mongolbank shall approve the methodology for the calculation of the interest rate on deposits.

## **Article 7. Rights and duties of depositors and repository**

Depositors and repositories shall have the following rights and duties as provided in the deposit agreement in accordance with the requirements of article 367 of the Civil Law of

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Mongolia and article 8 of the Banking Law of Mongolia: */This paragraph was amended by the Law of February 2, 2001/*

1. A depositor:
  - 1) may choose the manner in which it wishes to spend its deposits;
  - 2) shall receive interest on its deposits;
  - 3) may check account activity and balances;
  - 4) shall not withdraw fixed term deposits during the fixed term as specified in the deposit agreement or if the depositor must in unavoidable circumstances make a withdrawal, the depositor shall request the withdrawal of a fixed term deposit in writing and shall agree with the bank to any changes to the deposit agreement;
  - 5) may own deposits jointly with the bank and make the bank trustee of the deposit;
  - 6) may gift deposits and make deposits testamentary property;
  - 7) may bring a claim for compensation for loss suffered as a result of the failure of a bank to fulfill its duties properly; and
  - 8) shall exercise any other rights and duties agreed upon by the parties.
2. A bank:
  - 1) shall open accounts in the name of depositors and provide a certificate as security;
  - 2) shall withdraw deposits at the demand and consent of the depositors only;
  - 3) shall pay out deposits at the request of the depositor and pay interest in accordance with the deposit agreement;
  - 4) shall calculate correctly and pay interest on deposits;
  - 5) shall keep the details of the accounts of depositors confidential;
  - 6) shall pay compensation for loss to depositors suffered as a result of its failure to perform its duties; and
  - 7) shall exercise any other rights and duties agreed upon by the parties
4. The bank shall guarantee the entire amount of deposits placed in circulation for its own purposes.

#### **Article 8. Types of deposit accounts**

1. A bank shall establish deposit accounts for all citizens and legal persons who make deposits. No account may be open without a depositor receiving a certificate as security.
2. Unless otherwise provided by law or in the deposit agreement, a bank shall, in safeguarding deposits, establish a bank account, make payments at the demand of depositors and pay interest on the balance of that account.

#### **Article 9. Safety of deposits**

In the event of the insolvency or closure of a bank, the repayment of deposits and interest shall be done in accordance with the order provided by the article 31.5 of the Civil Code and article 45 of the Banking Law. */This paragraph was re-edited by the Law of February 2, 2001/*

#### **Article 10. Withdrawals by trustees**

1. Trustees as agents may make deposits and withdrawals on behalf of depositors.
2. Banks shall pay out deposits withdrawn by a trustee on the basis of a power of attorney, the civil passport of the trustee and any other documents provided in article 61 of the Civil Law of Mongolia.

### **Article 11. Withdrawal of deposits for inheritance and legacy**

1. When a depositor dies and the death has been publicly announced, a bank shall provide deposits to beneficiaries fully empowered to inherit by law or pursuant to a valid will or shall renew the deposit agreement in the names of the beneficiaries.
2. When a bank transfers deposits in accordance with paragraph 1 of this article, proof of the right to inherit and the passport of the beneficiary or other similar documents shall be required.
3. If no transfer to the beneficiary is made, withdrawals of deposits which constitute testamentary property shall be prohibited.

## **Chapter Three**

### **Transactions**

### **Article 12. The opening and closing of accounts**

1. Citizens and legal persons shall have the right in accordance with the regulations to open accounts at banks and to have transactions carried out on their behalf. To open an account legal persons shall provide the following documents:
  - 1) an application;
  - 2) a certified copy of certificates registered in the State Registry of Mongolia;
  - 3) the names of the officers who shall administer and expend funds and examples of the signatures for the execution of transaction documents. The examples of the signatures shall be certified by a notary, and
  - 4) a seal and a stamp.
2. The citizen shall bring the following documents in order to open an account:
  - 1) an application; and
  - 2) a statement as to who shall administer and expend funds and an example of the signature for the execution of transaction documents. The example of the signature shall be certified by a notary.
3. When the bank has received the abovementioned documents, it shall open an account within 10 days or if there are concerns about the documents set out in paragraphs 1 and 2 of this article, shall decline to open an account.
4. The bank can close the account in the following cases:
  - 1) written request of the customer to close his/her account;
  - 2) terms provided in the contract made with the customer are accomplished;
  - 3) other basis provided in the legislation. */The paragraph 4 was added by the Law of February 2, 2001/*

### **Article 13. Types of transactions**

1. Monetary deposits, account deposits, withdrawals and loans made through the agency of banks may be in cash and non-cash forms.
2. Cash deposits and withdrawals of Mongolian and foreign currency through the agency of banks shall be considered as cash transactions. Deposits and withdrawals through transaction documents shall be considered as non-cash transactions.
3. The Mongolbank shall establish forms for transaction documents.

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**Article 14. Cash transactions**

1. Parties involved in banking transactions shall mutually regulate operations for the purposes of cash transactions through the agency of banks.
2. Parties involved in banking transactions may carry out operations to collect cash from the banks based upon mutual agreement.

**Article 15. Non-cash transactions**

1. Non-cash transactions involving citizens and legal persons shall be performed through the agency of banks.
2. Non-cash transactions shall be performed through payment orders, demands for payment, letters of credit, cheques, promissory notes, credit cards and other transaction documents.
3. The payer and the payee shall choose whether to perform a cash or non-cash transaction. Non-cash transactions in the form of a demand shall only be actioned when the party receiving the payment has given consent.

**Article 16. Parties involved in transactions**

The party receiving payment (the “payee”) and the party making the payment (the “payer”) shall be involved in transactions made through the agency of banks.

**Article 17. The performance of transactions through the agency of banks**

1. Banks, in performing transactions in which citizens and legal persons are involved, shall verify the form of the transaction documents.
2. Figures and numbers, including the year, month and day the original document is written, the account numbers of the payee and the payer, their names, the names of the banks serving the payee and payer, the purpose of the activity, and the amount of money involved shall be entered on the transaction document form. It shall be signed and the signature must be certified and in the case of a legal person, the seal or stamp shall be affixed.
3. The bank shall perform transactions in the order in which transactions are made.
4. The bank shall effect the transaction on the same day the payer makes payment. The bank shall pay penalties for its failure to observe or fulfil these requirements, and the requirements set out in article 180 of the Civil Law of Mongolia.
5. At the request of the account holder, a bank statement shall be provided by the bank to the account holder.

**Article 18. The payee**

The payee shall demand payment pursuant to documents which record the value of goods or services provided and shall use the correct standard transaction form.

**Article 19. The payer**

The payer, if in agreement to pay for the value of goods or services provided, shall have an obligation to make payment in accordance with the correct standard transaction form.

## **Chapter Four**

### **Bank Loan Operations**

#### **Article 20. Bank loans**

When a bank (hereinafter referred to as a “creditor”) grants a portion of its own funds, or the funds of depositors to other persons (hereinafter referred to as a “debtor”) for a particular purpose, on specified terms such as the rate of interest, the term of the loan, a guarantee to repay the loan, this shall be called a bank loan (hereinafter referred to as a “loan”).

#### **Article 21. Loan operations**

1. The creditor shall establish and publicly disclose the conditions on which loans shall be granted such as the purposes for which credit shall be granted, the interest rate, and the term of the loan.
2. The creditor shall open a credit account for the debtor and provide a loan on the basis of a credit contract which stipulates the conditions of the loan such as the interest rate on the loan, the term of the loan and the type of credit provided.
3. The creditor and the debtor shall agree to the type of credit provided in a loan agreement.
4. When the debtor withdraws the loan from the credit account, the loan shall be considered taken out.
5. The creditor, in deciding whether to grant a loan, shall have the right to obtain information from the relevant organisations as to the financial circumstances of the debtor and any information on any other bank loans the debtor has in its name.

#### **Article 22. The loan agreement**

1. In accordance with article 368 of the Civil Law of Mongolia, the bank, pursuant to a loan agreement, shall have the right to control, use and administer its own property or where there is a basis set out in law or any regulations, the property of the debtor (citizens, legal persons, and the State). Pursuant to article 88 of the Civil Law of Mongolia, the creditor shall have the obligation to transfer funds for a given time to the debtor and the debtor has a duty to repay the principal and interest within a specified time. The loan agreement shall be in writing.
2. Specified in the loan agreement shall be the addresses of the principal places of residence of the debtor and the creditor, the loan bank account numbers, the purpose of the loan, the amount of the loan, the term of the loan, the interest rate on the loan, rights of enforcement of the obligations set out in the loan agreement and conditions for amendment to the terms of the loan agreement or its cancellation.
3. Expiration of the term of the loan agreement shall provide no basis for releasing the debtor from its obligations to pay the loan, its interest and supplementary interest if its obligations under the loan agreement have not been performed within the specified time.  
*/This paragraph was re-edited by the Law of January 15, 1998/*
4. Creditors may raise capital for loans to finance projects. An agreement shall be signed by the creditors for this purpose.
5. Loans obtained by the Government of Mongolia from foreign countries and international organisations shall be regulated by all applicable legislation other than this law.

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6. The credit relationship with respect to foreign capital authorised by the Government or loans made with the capital of international organisations shall be regulated by an agreement between the debtor, the Government and the bank carrying out the transaction.
  7. Conditions for the repayment of a loan in lump sum or in instalments may be set out in the loan agreement.

### **Article 23. Files on loans**

1. The creditors shall establish and maintain a file in the name of each debtor.
2. The file shall consist of the following forms:
  - 1) a loan application;
  - 2) a loan agreement;
  - 3) a statement of assets and their value to be offered as security for the loan, together with legal documents certifying the right of ownership of the assets or registration documents and an analysis of the guarantor of the loan and the guarantee documentation;
  - 4) plans for the project to be financed, and reviews and confirmations of such plans by the appropriate authorities, any amendments made to those plans, any associated documentation, progress reports, contracts, and profitability forecasts;
  - 5) a report of an independent auditor and subscriber;
  - 6) financial statements;
  - 7) documents verifying the use of the loan; and
  - 8) a report on any other bank loans held in the name of the debtor.
3. A summary of information regarding the purpose of the loan, the amount of the loan, and the term of the loan shall be recorded in the loan application. The loan application shall be signed and in the case of a legal person sealed.
4. Officials of the creditor bank shall visit the site, and make a complete evaluation of the assets offered as security by the debtor. The valuations made by officials shall be included in the statement of assets. The statement of assets shall be used as a basis for completing full descriptions of the assets, their value and quality, etc., on the document verifying the assets as security.
5. The registration documents of the guarantor of the loan shall include the name and address of the guarantor, the name of the bank holding any accounts of the guarantor and the numbers of those bank accounts. As in the case of the debtor, there shall be an investigation of the financial capacity and industrial activities of the guarantor.
6. The documents which verify the use of the loan shall include details of figures and estimates as to whether or not the loan has been used effectively according to its purpose.
7. The debtor shall be prohibited from requiring documents other than those set out in paragraph 2 of this article from the debtor.

### **Article 24. Interest on loans**

1. The cost of repayment of the loan by the debtor calculated at the rate set out in the deposit agreement for the period of time the loan is used shall be the loan interest.
2. Loan interest shall be calculated for the period set in the loan agreement.
3. If the loan is not paid within the specified time, basic interest, until the fulfillment of loan agreement requirements, and supplementary interest, if the loan agreement provides, shall be payable according to article 368 of the Civil Law of Mongolia. The rate of

supplementary interest shall not exceed 20 percent of the basic interest. */This paragraph was re-edited by the Law of January 15, 1998/*

4. The Mongolbank shall determine methods for the calculation of loan interest.

#### **Article 25. Default on loans**

1. Loans which are not paid within the specified time in the loan agreement and interest on those loans shall be entered into a special register for defaults on loans.
2. The loan agreement shall include the rate of interest for defaults on loans which shall not exceed the rates set out article 2(3) of this law.

#### **Article 26. Utilisation of loans**

1. Loans shall be used for the purposes specified in the loan agreement. If it becomes apparent to the creditor that the loan will not be repaid as a result of its assessment of the use of the loan, the creditor shall have the right to call in the loan and to demand early repayment of the loan.

#### **Article 27. Classification of loans**

1. The creditor, on analysis of the loans it has granted, shall classify loan balances in accordance with instructions confirmed by the Mongolbank.
2. */This paragraph was annulled by the Law of January 15, 1998/*

#### **Article 28. Loan guarantees**

1. A guarantee shall provide security to the creditor for the inability of a debtor to repay the loan and its interest within the specified time in the loan agreement. If a debtor is unable to pay, a third party, the guarantor, shall take up the obligation on behalf of the debtor to repay the loan in whole or in part.
2. The debtor shall make an agreement with the guarantor in accordance with the requirements set out in article 184 of the Civil Law of Mongolia.
3. The guarantor shall carry out its obligations in accordance with the law and the loan agreement and shall bear the same responsibilities as the debtor.
4. The guarantor shall be a person with fixed and floating assets who is financially capable of repaying the loan. The bank serving the guarantor and other organisations registered by the State may issue a statement on the financial capacity of the guarantor.
5. The guarantee shall terminate in the event that the debtor fulfils its obligations as set out in the loan agreement or in the event of the guarantor fulfilling these obligations on behalf of the debtor.

#### **Article 29. Security for the loan**

1. If the debtor is unable to fulfil its obligations as set out in the loan agreement within the specified time, the assets provided as security by the debtor shall guarantee fulfilment of the obligations of the debtor.

If the bank considers it reliable, the business income and revenue of the debtor might be taken as a loan collateral based on the contract and guarantee. Procedure on taking the business income and revenue of the debtor as a loan collateral shall be described by the Bank of Mongolia. */The second paragraph was added by the Law of February 2, 2001/*

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2. The value of the assets to be provided as security for the loan shall be established at the time the loan agreement is made.
  3. Assets taken as loan security may comprise of places of residence, fixed assets, goods and other materials which may be realised within a short period of time, other valuable commodities and securities and any assets approved by the creditor which form part of the personal capital of the debtor and which are not prohibited by law.
  4. If the debtor does not fulfil its obligations under the loan agreement in the specified time, the creditor shall have the right to sell the assets provided as security for the loan from the day the loan agreement is terminated. Arrangements with respect to the storage, protection and transfer of ownership of assets provided as security for a loan shall be regulated in accordance with the law and the loan agreement.
  5. The Courts shall determine disputes which arise in the event that assets provided as security for a loan are damaged or destroyed.

### **Article 30. The repayment of loans**

1. The debtor shall have an obligation to repay the loan in accordance with the terms set out in the loan agreement.
2. Unless otherwise provided in the loan agreement, the repayment of loans shall be made without dispute from the accounts of the debtor and/or the guarantor at the time the payment of the loan and its interest on the loan becomes due.
3. If there are insufficient funds in the account of the debtor and/or the guarantor to repay the loan and its interest the assets provided as security shall be sold in accordance article 29(4) of this law in order to pay the loan. */The paragraphs 2 and 3 were amended by the Law of January 15, 1998/*

## **Chapter Five**

### **Other Provisions**

### **Article 31. Liability for breach**

1. Person in breach of the Law on Deposits, Loans, and Banking Transactions shall bear criminal and administrative responsibility depending upon culpability, the nature of the offence and the amount of damage caused as a result of the breach.
2. The Ministry of Finance, the auditor of the Mongolbank and of the commercial banks, shall together impose the following penalties within the scope of their full powers upon offending person whose infringement of the provisions of the legislation on deposits, loans and banking transactions held not to constitute a criminal offence:
  - 1) for breaches of articles 5(3), 5(4), 5(6), article 6(2) and articles 10 and 11 of this law causing damage to depositors, the damage shall be repaid and a fine of 5,000 to 20,000 togrogs shall be imposed on employees and officials of the bank and 30,000 to 150,000 togrogs on the custodian of the account;
  - 2) for breaches of articles 7(2)(2), 7(2)(4), 7(2)(5), 7(2)(6) and 7(2)(7) of this law causing damage to depositors, compensation for the damage shall be paid, and a fine of 10,000 to 30,000 togrogs shall be imposed on employees and officials of the bank and 50,000 to 200,000 togrogs on the custodian of the account;
  - 3) for breaches of article 15(3) and articles 17(1), (2) and (3) of this law and where there are incomplete transaction records for account activities or the transaction records have been cancelled or an account activity is impeded in some way, a fine of

10,000 to 50,000 togrogs shall be imposed on employees and officials of the bank, and a fine of 100,000 to 250,000 togrogs shall be imposed on banks;

- 4) if the guarantee documentation as provided for in articles 28 and 29 of this law has been completed fraudulently, the loan shall be called in and a fine of 10,000 to 20,000 togrogs shall be imposed on citizens, 20,000 to 30,000 togrogs on officials, and 50,000 to 200,000 togrogs on economic entities and organisations.

Chairman of the State Ih Hural of Mongolia

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