

LAW OF MONGOLIA
ON NON-BANK FINANCIAL ACTIVITIES

December 12, 2002
Ulaanbaatar city

(Turiin medeel #48, 2002)

CHAPTER ONE
GENERAL PROVISIONS

Article 1. Purpose of the law

1.1. The purpose of this Law is to set legal grounds for non banking financial activities and to regulate relations concerning to the establishment of structure 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 Committee on Financial Regulations, Law on Licensing, this Law and all other relevant legislative acts issued in conformity therewith.

2.2. If an international treaty to which Mongolia is a party specified otherwise, then the provisions of the international treaty shall prevail.

Article 3. Scope of the Law

3.1. This Law shall regulate relations concerning to carrying out activities stated in article 7.1 of this Law by the entity which has obtained a license from the Committee on Financial Regulations.

3.2. Banking, insurance, security companies, pension funds and cooperatives loan and saving activities, pawnshops, project units, Government's special purpose funds loan activities 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. "Non-bank financial activities" shall mean services stated in Article 7.1 of the current Law from supplier by the business entity, which has obtained the license from the Committee on Financial Regulations;

4.1.2. "Factoring service " shall mean sale (transfer) by creditor of his/her right to demand monetary payment to a third party who thereafter will exercise this right and be liable for any consequences occurred;

4.1.3. "Financial leasing" shall means leasing on certain conditions, for a certain term and remuneration property, which was manufactured by the lessor or purchased from salesman or supplier on 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 Civil Code;

4.1.5. "Electronic payment and remittance service" shall mean wire transferring other's cash through own corresponding account in the 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 non-bank financial activities" shall mean a person stated in Article 6.1 of this Law;

4.1.10 "Assets, liabilities and paid in capital of the non-bank financial institution" shall have the meaning in the accounting regulations approved by the Committee on Financial Regulations 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 a legal person of Mongolia or a foreign legal person authorized by an intergovernmental agreement in accordance with the license issued by the Committee on Financial Regulations.

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 Article 36.2 of Civil code.

Article 7. The non-bank financial activities

7.1 The 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.

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 and send to the Committee on Financial Regulations:

8.1.1 Charter of the entity engaging in non-bank financial activities and incorporation documents;

8.1.2 Business plan;

8.1.3 Documents confirming availability of the minimum share capital determined by the Committee on Financial Regulations; /This subparagraph was amended by the Law of November 17, 2005/

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 3 years the financial reports 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 non-bank financial activities.

8.2. If the Committee on Financial Regulations 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 non-bank financial activities from relevant organizations.

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

9.1 The Committee on Financial Regulations shall examine 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 Committee on Financial Regulations;

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 Articles 13.5 and 13.6 of this Law;

9.1.4. Equipment of non-bank financial institution satisfies safety operation requirements.

9.2. If it is necessary to inspect the filed documents in a more detailed manner, the Committee on Financial Regulations 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 non-bank financial activities to engage in.

9.4 Entity engaging in non-bank financial activities shall be established its branch, representative office or other units with the permission of the Committee on Financial Regulations.

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

10.1 Charter of the entity engaging in non-bank financial activities shall include items stated in Article 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 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. Changes or amendments to the charter of the entity engaging in non-bank financial activities shall be registered with the Committee on Financial Regulations within 10 working days after the decision of such change or amendment has been made.

Article 11. Name of the non-bank financial institution

11.1 Name of 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 Article 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 Committee on Financial Regulations.

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 cheque, card, or promissory note;

12.1.5 To 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 non-bank financial institution shall not disclose or use any information which is considered by the non-bank 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 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 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, 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 non-bank financial institution or a person stated in Article 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. 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 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 the repayment of the loan for more than six months since 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 Committee on Financial Regulations.

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 non-bank financial institution.

13.6. The executive management of the non-bank financial institution shall have professional degree 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 paid in capital. The paid in capital shall be calculated according to accounting regulations approved by the Committee on Financial Regulations.

14.2 The share capital shall consist of cash funds of shareholders of the non-bank financial institution and the minimum amount of the capital shall be determined by the Committee on Financial Regulations upon consideration of the national economic situation, inflation rate, liquidity and specifics of the type of the activities of the non-bank financial institution.

14.3 The non-bank financial institution shall increase or decrease an amount of paid in capital by profit or loss, or excess or deficiency of the loan loss provisioning.

14.4 The shareholders of the non-bank financial institution shall bear financial liability to the extent of their invested contribution to the share capital of the non-bank financial institution.

14.5 The non-bank financial institution shall inform the Committee on Financial Regulations of any changes in the amount and structure of the share capital or composition of the shareholders and receive a permission from the Committee on Financial Regulations.

14.6 The Committee on Financial Regulations shall issue a regulation concerning to 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 consist of balance sheet, profit and loss statement, cash flow statement, footnotes and clarifications.

15.2 Indicators of the financial statements of the non-bank financial institution shall conform to the accounting standards set by the Committee on Financial Regulations in accordance with the international standards.

15.3 The non-bank financial institution shall submit its annual and quarterly financial statements to the Committee on Financial Regulations. The Committee on Financial Regulations reserves a 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 Committee on Financial Regulations shall require from 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 Committee on Financial Regulations

17.1. The auditing institution /auditor/ shall submit the original copy of its final conclusions to the audited non-bank financial institution and the Committee on Financial Regulations.

17.2. The auditing institution /auditor/ shall immediately inform the Committee on Financial Regulations 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 a staff of the non-bank financial institution has engaged in unfair or illegal operations, which have had negatively impacted the financial situation of the non-bank financial institution.

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

18.1. The meeting of the shareholders may decide to dissolve or restructure the non-bank financial institution upon approval by the Committee on Financial Regulations.

18.2. The following documents shall be submitted to the Committee on Financial Regulations in order to receive permission to dissolve or restructure the non-bank financial institution.

18.2.1 decision of the shareholder meeting to restructure or dissolve the non-bank 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 non-bank financial institution and the startup balance sheet of the restructured non-bank financial institution.

18.3. The Committee on Financial Regulations 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 Committee on Financial Regulations may decline the application if the decision by the meeting of shareholders to dissolve or restructure the non-bank 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 Committee on Financial Regulations.

CHAPTER FIVE

SUPERVISION OF THE NON-BANK FINANCIAL ACTIVITIES

Article 19. Supervision of the non-bank financial activities

19.1 The Committee on Financial Regulations shall supervise the entity engaging in non-bank financial activities according to the current Law and other legislation.

19.2 If a breach by a non-bank financial institution of the current Law or other legislation has been identified in the course of the supervision, the Committee on Financial Regulations 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 non-bank 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 Committee on Financial Regulations 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 non-bank 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 Committee on Financial Regulations:

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

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

20.1.3. Failure to comply with the legislation on non-bank financial activities and the decisions of the Committee on Financial Regulations designed to implement the legislation - a fine of tugrugs equal to 5-10 amounts of monthly minimum salary shall be imposed on employee or an officer of the non-bank financial institution or equal to 20-40 amounts of monthly minimum salary shall be imposed on the non-bank financial institution;

20.1.4. Intentional impediment to supervisory actions - a fine of tugrugs equal to 2-5 amounts of monthly minimum salary shall be imposed on individuals or 5-10 amounts of monthly minimum salary shall be imposed on an employee or an officer of a non-bank financial institution;

20.1.5. Covering up of payment settlement documents or delaying transactions - a fine of tugrugs equal to 5-10 amounts of monthly minimum salary shall be imposed on an employee or an officer of a non-bank financial institution or 20-40 amounts of monthly minimum salary imposed on the non-bank financial institution;

20.1.6. Failure to submit reports, balance sheets and other documents to the Committee on Financial Regulations in accordance with the relevant regulations or to publicly disclose the balance sheets according to Article 15 of this Law without valid reasons a fine by tugrugs equal to 20-40 amounts of monthly minimum salary shall be imposed on the non-bank financial institution or a fine in tugrugs equal to 5-10 amounts of monthly minimum salary shall be imposed on an employee or an officer of a non-bank financial institution by;

20.1.7. Failure to comply with requirements described in Article 13 of the current Law - a fine of tugrugs equal to 20-40 amounts of monthly minimum salary shall be imposed on a non-bank financial institution;

20.1.8. If a publicly disclosed report contained untrue or false information, the non-bank financial institution or its executive director who worked at the time of the disclosure shall be fined for tugrugs 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 tugrugs equal to 20-40 amounts of monthly minimum salary shall be imposed on the non-bank financial institution or 5-10 amounts of monthly minimum salary shall be imposed on the

executive director of the non-bank 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 non-bank financial institutions and a fine of tugrugs equal to 30-40 amounts of monthly minimum salary for the non-bank financial institution, or 15-20 amounts of monthly minimum salary shall be imposed on a non-bank financial institution employee or an officer or 10-15 amounts of monthly minimum salary shall be imposed on a person who released confidential information about the non-bank 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 non-bank 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 come into force on February 1, 2003.

CHAIRMAN OF THE
STATE IKH KHURAL

S.TUMUR-OCHIR