

LAW OF MONGOLIA
ON THE LEGAL STATUS OF
THE COMMITTEE ON FINANCIAL REGULATIONS

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(Turiin medeelel #46, 2005)

CHAPTER ONE
GENERAL PROVISIONS

Article 1. Purpose of the Law

1.1. The purpose of this law is to define the structure of the Committee on Financial Regulations, legal grounds for its activities, and govern relations arising from regulation and monitoring financial services other than banking activities.

Article 2. Legislation on the Legal Status of the Committee on Financial Regulations

2.1. The legislation on the Legal Status of the Committee on Financial Regulation is comprised of the Constitution of Mongolia, the Civil Code, the Law on Non-bank Financial Activities, Law on the Securities' Market, Law on Insurance, Law on the Professional Insurance Intermediaries, Law on Cooperatives, this Law, and other relevant legislative acts issued in conformity with these laws.

2.2. If an international treaty to which Mongolia is a party is inconsistent with this law, then the provisions of international treaty shall prevail.

Article 3. Scope of the Law

3.1 The financial services stated in this Law shall include the following:

3.1.1. the activities of non-bank financial organizations stated in the Law on Non-bank Financial Activities;

3.1.2. the activities of professionals participated in the securities' market stated in the Law on Securities;

3.1.3. the activities of insurers stated in the Law on Insurance;

3.1.4 the activities of insurance intermediaries, insurance brokers, and assessors evaluating damage and loss stated in the Law on Professional Insurance Intermediaries;

3.1.5. the activities of deposits and loan cooperatives stated in the Law on Cooperatives;

3.1.6. other financial activities defined in this Law.

3.2. The relevant relations related to banking activities shall be regulated by the legislations on banking.

CHAPTER TWO

COMMITTEE ON FINANCIAL REGULATIONS, ITS POWERS AND RELATIONS TO OTHER ORGANIZATIONS

Article 4. Committee on Financial Regulations

4.1. The Committee on Financial Regulations (hereinafter referred as to “Committee”) is a government organization to ensure the stability of the financial market, regulate financial services, monitor implementation of relevant legislation, and protect the rights of investors and clients of the financial market.

4.2. The charter of the Committee shall be approved by the State Ikh Khural.

4.3. The Committee may have its own symbol representing the characteristics of the activities responsible for and shall use the seal, stamp, and official letterhead.

Article 5. Principles of the Committee Activities

5.1. The Committee activities shall be based on the principles of independence, transparency, and impartiality, preserving the stability of financial market, and protection of public rights and legal interests.

Article 6. Powers of the Committee

6.1. The Committee shall exercise the following powers:

6.1.1. to organize and undertake compliance with legislation related to financial services;

6.1.2. to approve rules, procedures, and guidance within its authority, monitor their implementation, and define necessary criteria and other standards to support the stability of financial market;

6.1.3. to grant licenses for carrying out financial services (hereinafter referred as to “license”), suspend, revoke, terminate it, and monitor the implementation of license requirements;

6.1.4. to monitor the activities of a license holder;

6.1.5. to set the fees for regulatory services to be imposed on the license holder;

6.1.6. to solve disputes among the license holders and/or between license holder and client within its powers;

6.1.7. to approve the ethical rules of the Committee’s employees and monitor the compliance with it.

6.2. In addition to the general powers stated in the paragraph 1 of Article 6 of this law, the Committee shall exercise additional powers stipulated in the laws below:

6.2.1. on non-bank financial activities defined in the Law on Non-bank Financial Activities;

6.2.2. on activities related to the participants of the securities’ market defined in the Law on Securities’ market;

6.2.3. on insurance activities defined in the Law on Insurance;

6.2.4. on activities related to the professionals in insurance defined in the Law on Professional Insurance Intermediaries;

6.2.5 on deposits and loan activities defined in the Law on Cooperatives.

Article 7. The Committee's Meetings

7.1. The principal form of work of the Committee shall be its meetings.

7.2. The meeting of the Committee shall be convened at least once a month and set the procedures of meeting .

7.3. The Chairman of the Committee may call extraordinary meeting at the written request of not less than two members of the Committee.

7.4. A meeting shall be considered as effective when the majority of the members are present.

7.5. The meeting of the Committee may be attended by professionals or experts by invitation.

7.6. The meeting of a Committee shall be evidenced by the minutes which shall be taken and signed by the all members present at the meeting.

7.7. If a family member or relative of a Committee member works at a legal entity which has matters that are discussed at the meeting of the Committee, the Committee member shall inform the other members about the situation prior to the meeting date and exclude him/herself from discussion and decision making of the matters.

Article 8. Decisions of the Committee

8.1. The Committee shall pass decisions by a majority of the votes cast and the decision shall be signed by the Chairman of the Committee.

8.2. Within its powers, the Committee's decision shall be in the form of a resolution.

8.3. In case of a tie vote, the Chairman shall make the final decision.

8.4. In issuing a publicly enforceable decision, the Committee may place the draft of the decision on its website or publish it in daily papers, provide explanations to and receive opinions about it.

Article 9. Relations of the Committee with the State Ikh Khural

9.1. The Committee shall report to the State Ikh Khural on the implementation of the law, including the financial and organizational activities.

9.2. The State Ikh Khural shall monitor through relevant organization whether the activities of the Committee are consistent with legislation.

Article 10. Relations of the Committee with the Mongol Bank and the Government

10.1. The Committee shall conclude a trilateral memorandum of understanding (hereinafter referred to as "memorandum") with the Mongol Bank and the state administrative central organization in charge of financial issues in order to

undertake effective collaborative activities toward ensuring the stability of financial market, developing, regulating, and monitoring financial market.

10.2. The memorandum shall state obligations of the Mongol Bank, the state administrative central organization in charge of financial issues, and the Committee to ensure the stability of financial market, information to exchange, and other issues related to it.

10.3. Relations of the Committee with the Mongol Bank and the state administrative central organization in charge of financial issues shall be regulated in accordance with the provisions of the memorandum stipulated in paragraph 1 of Article 10 of this Law.

10.4. Chairman of the Committee may participate in an advisory capacity at the Cabinet meetings on issues related to financial services.

10.5. The Committee shall submit its annual activity report to the Cabinet and Mongol Bank respectively.

CHAPTER THREE

COMPOSITION OF THE COMMITTEE AND ITS OFFICE

Article 11. Appointment of the Chairman and Member of the Committee

11.1. The Committee shall be comprised of a Chairman and six members.

11.2. The Chairman of State Ikh Khural shall nominate a person for the post of the Chairman of the Committee. The Standing Committee on Economics shall nominate two members, and the Standing Committees on Budget and Justice, the Governor of the Mongol Bank, and Cabinet member in charge of the financial issues each shall nominate one member. The Chairman and six members of the Committee shall then be appointed by the State Ikh Khural.

11.3. The Chairman and members proposed by the Standing Committees on Economics and Justice shall be full time members; and the remaining four members shall be part time members of the Committee.

11.4. A candidate proposed by the Standing Committee may be represent the private sector.

11.5. The following officials shall not be proposed as candidates:

11.5.1. state political official;

11.5.2. political party senior official;

11.5.3. a member of the Constitutional Tsets(court), judge and prosecutor of any instance;

11.5.4. an individual currently employed at legal entity that renders financial services;

11.5.5. a holder of controlling block of common shares in a legal entity that provides financial services.

11.6. Chairman and member of the Committee shall be a citizen of Mongolia, with higher education in economics, banking, finance, securities, or in law, with experience of not less than five years, and with no criminal.

11.7. If the State Ikh Khural denies appoint a candidate to the Committee, the authorized person stipulated in paragraph 2 of Article 11 shall propose another candidate within 14 working days.

11.8. The Chairman and members of the Committee shall be the public servant of special category.

Article 12. Term of Mandate of Chairman and Members of the Committee

12.1. The term of office for the Chairman and members of the Committee shall be five years and may be extended only for one period.

Article 13. Release of the Chairman and Members of the Committee

13.1. The State Ikh Khural shall release the Chairman and any member under the following circumstances:

13.1.1. termination of the term of office;

13.1.2. inability to perform his/her official duties due to health or other serious reasons;

13.1.3. at his/her own request for resigning;

13.1.4. if he/she is appointed or elected to posts stipulated in paragraph 5 of Article 11 of this Law.

13.2. The Chairman and/or member of the Committee shall be released from their posts under the circumstances specified in Article 13.1 upon the proposal of the person or entity originally nominated that member.

Article 14. Grounds for Removal of the Chairman or Member

14.1. The Chairman and/or member of the Committee shall be removed under the following circumstances:

14.1.1. in case of non-performance or unsatisfactory performance of duty, serious or repeated violation of duty;

14.1.2. if an authorized organization has suspended or revoked the right of rendering professional activities;

14.1.3. if he/she is convicted of a criminal offence by a court and judgment has come into effect;

14.1.4. if violation of the paragraph 5 of Article 11 of this Law was discovered after his/her appointment.

14.2. The State Ikh Khural shall remove the Chairman or member upon the proposal of person or entity that nominated that member for the reasons specified in the subparagraphs 1 and 4 of paragraph of Article 14 of this Law and on decisions of organizations stipulated in the subparagraphs 2 and 3 of paragraph 1 of Article 14.

Article 15. Appointment to Unexpired Terms of the Chairman and Member of the Committee

15.1. In case the term of Chairman or member has been terminated before the legally established period, the authorized organization specified in paragraph 2 of Article 11 shall nominate another candidate to the State Ikh Khural.

15.2. The term of office for the newly appointed candidate shall be equal to the remaining term of the previous member.

Article 16. Powers of the Chairman of the Committee

16.1. The Chairman of the Committee shall exercise the following powers:

16.1.1. to represent the Committee in domestic and external relations;

16.1.2. to represent the position of the Committee within its authority at the State Ikh Khural, the Cabinet, and other relevant organizations with whom it has relations, and at the general session of the State Ikh Khural, the Standing Committees, and at the meeting of the Cabinet;

16.1.3. to convene, preside over the Committee meeting, and define the agenda of the meeting;

16.1.4. to assign duties and responsibilities to a member of the Committee and monitor their performance;

16.1.5. and other powers specified in the Law.

16.2. During temporary absence of Chairman of the Committee, the member appointed by the Chairman shall have the full authority of the Chairman.

16.3. In case of death, removal, or release of the Chairman according to Articles 13 and 14 of this Law, his/her duty shall be performed by the full time member who has the longest period of professional experience in sfinancial sector.

Article 17. Guarantees for the Chairman and Member

17.1. It is prohibited to remove, release the Chairman or member of the Committee except under these circumstances stipulated in Articles 13 and 14 of this Law.

17.2. The State Ikh Khural shall determine the salary of the Chairman and the members. The procedure for determining remuneration for the non-staff members shall be regulated by the charter of the Committee.

Article 18. The Committee Office

18.1. The Committee shall have its office to assist the members to perform their duties, provide conditions for carrying out routine operations of the Committee, and to inform clients with relevant information.

18.2. The activities of the office shall be regulated by the charter of the Committee.

18.3. The Chairman of the office shall be the Committee's general manager with the duty to manage the daily activities of the office and ensure the fulfillment of the duties given by the Committee.

18.4. The governing and executive officers' posts of the Committee Office shall belong to the category of public administrative officials.

Article 19. Confidentiality of Internal Information

19.1. It is prohibited for the members and office staff to distribute, share with others, or use for their own purpose information that is defined by the

Committee as for internal use only, except as described in paragraph 3 of Article 19 of this Law.

19.2. The Committee member and its office staff may provide internal information to others as defined in paragraph 1 of Article 19 according to the Committee procedure in the following cases:

19.2.1. if this Law, other relevant legislation, and international treaty to which Mongolia is a party allows give out confidential information;

19.2.2. if the Mongol Bank requests;

19.2.3. if the state administrative central organization in charge of financial issues requests;

19.2.4. if the court, prosecutor's office, police department, or the court decision enforcement agency requests the information in writing due to their work requirements.

CHAPTER FOUR

FINANCING AND ACCOUNTING OF THE COMMITTEE

Article 20. Financing the Committee

20.1. The Committee finance sources shall be the following:

20.1.1. assets allocated from the state budget;

20.1.2. regulatory service fees generated from the license holders

20.1.3. and other income from activities carried out in compliance with the Law.

Article 21. Accounting and Auditing

21.1. The Committee shall maintain accounting records, and prepare financial reports, and the year end report shall be certified by an auditor according to the relevant laws.

CHAPTER FIVE

LICENSING OF RENDERING FINANCIAL SERVICES

Article 22. Granting License

22.1. The Committee shall issue a license for rendering the financial services stipulated in paragraph 1 of Article 3 of this Law.

22.2. In issuing a license to a subsidiary of a company that has under its structure a bank, the opinion of the Mongol Bank shall be considered.

22.3. If a license was issued to a legal entity stipulated in paragraph 2 of Article 22 of this Law, the monitoring of the activities shall be conducted in cooperation with the Mongol Bank.

22.4. The Committee may require and study charter, financial and activity reports of the headquarter company of an entity that is applying for a license.

22.5. The procedures for issuing licenses to conduct financial services that are not regulated by this Law shall be governed by the Law on Licensing, Articles 8 and 9 of the Law on Non-bank Financial Activities, Article 20 of the Law on the Securities, Articles 18, 19, 20, 69, and 70 of the Law on Insurance, and Articles 8, 9, 10, 11, 12, 38, and 39 of the Law on Professional Insurance Intermediaries.

Article 23. Records

23.1. The Committee shall keep a record of licenses and authorizations issued by the Committee.

23.2. The Committee shall endorse a procedure for keeping the records of licenses stipulated in paragraph 1 of Article 23 of this Law.

23.3. A license holder shall notify the Committee in written form about the cease to perform the activities within five working days.

CHAPTER SIX

MONITORING ACTIVITIES OF THE COMMITTEE

Article 24. Monitoring the Activities of License Holder

24.1. The Committee shall monitor and control license holder's activities to ensure compliance with this Law, relevant legislation, rules, and procedures issued in conformity therewith.

24.2. The monitoring and control defined in the paragraph 1 of Article 24 shall be conducted by an inspector appointed by the Chairman of the Committee.

24.3. The Committee inspector shall have the right of a state inspector.

24.4. If the Committee believes that a license holder is violating the Law, relevant legislation, rules and procedures that are in conformity with them, the inspection may be conducted at any time.

24.5. The Committee inspector shall exercise control within his/her power stipulated in this Law, in the paragraphs 1, 2 and 3 of Article 19 of the Law on non-bank activities, in the paragraphs 1 and 2 of Article 37 of the Law on Securities' Market, in the provisions of Articles 61, 62, 63, 64, and 65 of the Law on Insurance, and in the provisions of Articles 30, 31, 32, 33, and 34 of the Law on Professional Insurance Intermediaries.

Article 25. Powers of the Inspector

25.1. An inspector shall exercise the following powers:

25.1.1. to enter an office or any premises where the license holder conducts his/ her activities during working time;

25.1.2. to request free of charge any necessary reports, explanations, and other documents from the relevant organization and authority;

25.1.3. to review relevant documents and have the copies;

25.1.4. to question any matter related to the inspection and get answers on it

25.1.5. to impose duties to eliminate violations found during the inspection and to ensure its fulfillment;

25.1.6. to suspend temporarily in whole or in part the activity of a license holder until the violation is fixed;

25.1.7. to impose administrative sanctions in compliance with the relevant legislation;

25.1.8. to submit a proposal to the Committee to revoke license if a license holder who has seriously and/or repeatedly violated the legislation;

25.1.9. to transfer the relevant documents to authority if violations that were revealed during inspection are criminal offences;

25.1.10. and other powers stipulated in legislation.

25.2. An inspector shall conduct the inspection based on the Committee's directions, and shall inform a license holder about it prior to the conducting the inspection.

25.3. The inspection shall be conducted within the period of time stated by the Committee in a way that does not hinder the daily activity of the license holder.

Article 26. Inspection Report

26.1. Report of inspection shall have the following:

26.1.1. a conclusion on license holder management, organization, and monitoring of activity, and other issues deemed necessary;

26.1.2. issues that require responses from license holder or accentuated issues in case if responses are not required from license holder.

26.2. The Committee shall deliver the results of inspection to the license holder within 45 working days after the completion of the inspection.

26.3. If a license holder has to respond to the report of the inspection, he/she is obliged to respond to it within 14 working days from receipt of the report, or within the time defined by the Committee.

Article 27. The Committee Power to Request Information

27.1. The Committee or authorized person of the Committee may request in writing certain or specific types of information, financial and other documents from a license holder.

27.2. If a license holder is member of any business corporation, the Committee may require the financial report of the corporation, or any other entity that is under this corporation.

27.3. A license holder shall provide requested information from the Committee within a period that in compliance with paragraphs 1 and 2 of Articles 27 of this Law.

CHAPTER SEVEN SUPERVISING BOARD

Article 28. Supervising Board

28.1. The Supervising Board is part time body of the Committee (hereinafter referred as to "Supervising Board") that shall monitor the activities of the Committee, and shall respond to any complaints about the decisions made by the Committee.

28.2. The procedure of the Supervising Board shall be endorsed by the State Ikh Khural.

28.3. Supervising Board shall report its activities to the State Ikh Khural within the first quarter of the next year.

Article 29. Member of Supervising Board

29.1. The Supervising Board shall consist of the Chairman and four members.

29.2. The Chairman and members of the Supervising Board shall be appointed for the term of three years by the State Ikh Khural, and they shall be released by decision of the State Ikh Khural.

29.3. The Chairman shall be appointed at the proposal of the Standing Committee of the State Ikh Khural. The Standing committees on Economics and Justice of the State Ikh Khural each shall nominate two candidates for membership of the Supervising Board.

29.4. A citizen of Mongolia with higher education and experience in economics, banking, finance, securities and law may be appointed to chairman or member of the Supervising Board.

29.5. It is prohibited for political officials, political party senior officers, member of the Constitutional Tsets, judges and prosecutors of all instances, chairman of the Committee, its member, or governing and executive officers to be appointed as the Chairman and/or member of the Supervising Board.

29.6. The Chairman of the Supervising Board and members shall be released prior to expiry of the term of office in the following circumstances:

29.6.1. incapability to perform official duty due to health and other good cause, or at his/her own request;

29.6.2. non-satisfactory performance of official duty;

29.6.3. arisen the conflict of interest.

29.7. It is prohibited to release the chairman and/or member of the Supervising Board prior to term of office except as provided in Article 29.6 of this Law.

Article 30. Office of the Supervising Board

30.1 Office of the Supervising Board shall be responsible for ensuring the preparation of the Committee meeting, assisting members to perform their official duties, and ensuring enforcement of decisions issued from the meetings.

Article 31. Remuneration of Chairman and Member of the Supervising Board

31.1. The remuneration of the Chairman and members shall be regulated by the procedure stipulated in paragraph 2 of Article 28 of this Law.

Article 32. Decision of Supervising Board

32.1. Until the decision of the Supervising Board is issued, the enforcement of the Committee decision may be suspended.

32.2. The Committee is obliged to follow decisions of the Supervising Board that are in conformity with the law.

32.3. Decision of the Supervising Board shall be in the form of a resolution.

32.4. If a person does not agree with a decision made by the Supervising Board within its powers, he/she may submit an appeal to court.

CHAPTER EIGHT DISPUTE RESOLUTION

Article 33. Dispute Resolution

33.1. Within the scope of its powers, the Committee shall preliminary decide disputes between license holders or between a license holder and a client.

33.2. If a license holder or a client disagrees with the decision of the Committee, he/she may submit an appeal to a court.

CHAPTER NINE MISCELLANEOUS

Article 34. Informing About Suspicion Transactions

34.1. A financial service provider shall immediately inform the Committee about any financial transactions that it deems related to money laundering and financing terrorism.

34.2. The Committee shall investigate the information related to paragraph 1 of Article 34 and take necessary measures for the further investigation by respective legal organizations.

Article 35. Combating Money Laundering and Financing Terrorism

35.1. The Committee may set a procedure on requirements and limitations for a policy or measures on combating money laundering and financing terrorism.

Article 36. Combating against money laundering and financial supporting of terrorism

36.1. The holder of the license for special financial service shall be obliged to adhere laws on combating against money laundering and financial supporting of terrorism.

Article 37. Liability for Breach of the Law on the Legal Status of the Committee on Financial Regulations

37.1. Any person who breaches the Law on the Legal Status of the Committee of the Financial Regulation shall be liable to sanctions stipulated in respective legislation.

CHAIRMAN OF THE
STATE IKH KHURAL

S.NYAMDORJ