



**Securities and Exchange
Commission of Cambodia**



(Unofficial Translation)

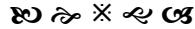
**KINGDOM OF CAMBODIA
NATIONAL RELIGION KING**

PRAKAS
on
ACCREDITATION OF BONDHOLDERS REPRESENTATIVE
2017

PRAKAS

On

ACCREDITATION OF BONDHOLDERS REPRESENTATIVE



Minister of Economy and Finance

and the Chairman of the Securities and Exchange Commission of Cambodia

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen the Preah Reach Kret No. NS/RKT/0913/903 on 24 September 2013 on the Appointment of the Royal Government of the Kingdom of Cambodia;
- Having seen Preah Reach Kret No. NS/RKT/1213/1393 on 21 December 2013 on the amendment and adding the composition of the government of the Kingdom of Cambodia;
- Having seen Preah Reach Kret No. NS/RKT/0416/368 on 04 April 2016 on the amendment and adding the composition of the government of the Kingdom of Cambodia;
- Having seen the Preah Reach Kram No. 02/NS/94 on 20 July 1994 promulgating the Law on the Organizing and Functioning of the Council of Ministers;
- Having seen the Preah Reach Kram No. NS/RKM/0196/18 on 24 January 1996 promulgating the Law on the Establishment of the Ministry of Economy and Finance;
- Having seen the Preah Reach Kram No. NS/RKM/1007/028 on 19 October 2007 promulgating the Law on the Issuance and Trading of Non-Government Securities;
- Having seen the Anukret No. 97/ANKR/BK on 23 July 2008 on the Conduct and Organization of the Securities and Exchange Commission of Cambodia;
- Having seen the Anukret No. 54/ANKR/BK on 08 April 2009 on the Implementation of the Law on the Issuance and Trading of Non-Government Securities;
- Having seen Prakas No. 009/17 SECC on 17 August 2017 on the Public Offering of Debt Securities;
- Having seen the approval by the Securities and Exchange Commission of Cambodia in plenary meeting on 01 August 2017;

CHAPTER I

GENERAL PROVISIONS

Article 1- Purpose

The purpose of this Prakas is to prescribe the requirements and procedures for accreditation of the person who intends to be a bondholders representative, and the obligations of bondholders representative, pursuant to the law on Issuance and Trading of Non-Government Securities, the Anukret on the Implementation of the law on Issuance and Trading of Non-Government Securities, and other related regulations.

Article 2- Definition

Unless the context requires otherwise, technical terms used in this Prakas have the meaning defined in this article or in the glossary of the Annexes of the Law on the Issuance and Trading of Non-Government Securities and Anukret on the Implementation of the Law on the Issuance and Trading of Non-Government Securities:

1. Default refers to any events that cause the issuer to be unable to fulfill the debt payment obligation including principle and/or interest as prescribed in the terms and conditions of the debt securities.
2. Bondholders Representative Agreement refers to the agreement made between issuer and the bondholders representative as prescribed in article 10 of Prakas on Public Offering of Debt Securities.
3. Collateral refers to asset that the issuer lodges to guarantee the public offering of the debt securities.
4. Bondholders Representative refers to an entity that is accredited by the SECC to be the bondholders representative in accordance with the existing regulations.
5. Anukret refers to Anukret on the Implementation of the Law on the Issuance and Trading of Non-Government Securities.

CHAPTER II

REQUIREMENTS AND PROCEDURE FOR ACCREDITATION

Article 3- Eligible Entities Applying for Accreditation

An Applicant for accreditation from the SECC to be a bondholders representative shall be:

1. A Commercial bank;
2. A Securities firm;
3. A Securities registrar, Securities transfer agent, and Paying agent; or
4. A Custodian bank.

Article 4- Requirements

An applicant for a bondholders representative accreditation shall satisfy the following requirements:

1. Registered with the Ministry of Commerce in the Kingdom of Cambodia;
2. Having license granted by related authorities for their business classification;
3. Having directors and senior officers who have good character as prescribed in the Anukret;
4. Having officers who possess adequate knowledge, capacity and experience to ensure the effectiveness of the business operation;
5. Having compliance officers;
6. Having good corporate governance with a clear management structure;
7. Having business plan for 1 (one) year;
8. Having management structure and the internal control system separately from securities business or other kind of business to prevent any activities that lead to conflict of interest;

In the case of firms or agents who have already received license or accreditation from the SECC, they can be a bondholders representative by submitting to the SECC the bondholders representative application form determined by the SECC only.

Article 5- Application for Accreditation

An applicant for a bondholders representative accreditation shall submit an application in the form determined by the SECC and attach with the following documents:

1. A certified copy of company registration certificate;
2. A certified copy of tax registration;
3. A certified copy of patent tax (current year);
4. A certified copy of the article of association;
5. A certified copy of license granted by related authorities;
6. Organizational chart, a list and curriculum vitae of directors and senior officers of the applicant;
7. Internal control rule on the activities conducted as bondholders representative;
8. A business plan for 1 (one) year;
9. Power of attorney;
10. Other documents required by the Director General of SECC.

Article 6- Rejection of the Application

The Director General of the SECC may reject the application base on any of the following grounds:

1. The applicant fails to comply with the requirements as prescribed in this Prakas, or any guidelines under this Prakas, or other relevant regulations;
2. Information or documents that submitted by the applicant to the SECC is false or misleading;
3. The applicant is in the course of being wound up or otherwise dissolved;
4. The execution against the applicant in respect of a judgment debt has been returned unsatisfied in whole or in part;
5. The applicant, or any of its directors, or any of its relevant senior officers:
 - a. Has conducted the business with fraud, in deceitful way or in improper way;
 - b. Has contravened any law and regulation which are to be enacted for protecting the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of the companies;

- c. Has engaged in or has been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgment;
 - d. May not be able to act in the best interest for their clients having regard to their reputation, character, financial integrity and reliability;
 - e. May not be able to efficiently, loyally and fairly conduct their business in accordance with all the requirements of the accreditation.
6. The Applicant, or any of its controlling shareholders has been a subject to bankruptcy decision pronounced by the court whether within or outside Cambodia, within the latest five (05) years as of the date of submitting the application;
7. There are other circumstances which are likely to:
- a. Lead to the improper conduct of business by the applicant, or any of its directors, or any of its relevant senior officers, or any of its controlling shareholders;
 - b. Reflect discredit on the manner of conducting the business of the Applicant.
8. The Applicant engages or has engaged in money-laundering or the grant of accreditation to the applicant may negatively affect the public interest.

The Director General of the SECC shall not reject an application for accreditation without providing the reasons in writing.

Article 7- Notification of Accreditation to Applicant

The Director General of the SECC shall notify bondholders representative applicant whether it has been accredited or has not been accredited within 45 (forty five) working days after receiving the complete documents.

Article 8- Validity of Accreditation

The validity of accreditation of a bondholders representative shall be 03 (three) years. At least 45 (forty five) days before the accreditation expires, a bondholders representative that aims to continue to provide professional services shall apply for renewal of accreditation using the form determined by the SECC. Any application for renewal of the accreditation to the SECC after the expiry date of the accreditation of the bondholders representative, shall be considered as a new accreditation application.

CHAPTER III

DUTIES OF THE ACCREDITED BONDHOLDERS REPRESENTATIVE

Article 9- Monitoring the Issuer

A Bondholders representative shall fulfill its roles and duties as follow:

1. Protecting the interest of the bondholders;
2. Monitoring collateral which used for the debt securities issuance in accordance with the provisions of the bondholders representative agreement and shall not use the collateral to gain profit;
3. Monitoring the solvency level of the issuer set out in the terms and conditions of the debt securities issued;
4. Monitoring the compliance with the terms and conditions of the debt securities issued and the bondholders representative agreement;
5. Carrying out such acts as necessary for the protection of the bondholders and resolve the grievances of the bondholders;
6. Ensuring that the debt securities have converted or redeemed in accordance with the terms and conditions of the debt securities issued;
7. Reporting to the bondholders at least once every 6 (six) months about the compliance of the terms and conditions of the debt securities issued;
8. Calling or requesting for a meeting between the issuer and the bondholders in the following cases:
 - a). There is any requisition in writing signed by at least one-tenth of the amount of the outstanding debt securities;
 - b). There is any event of default or which in the opinion of the bondholders representative affects the interest of the bondholders.

Article 10- Notification to Bondholders

In case the issuer fails to comply with the terms and conditions of the debt securities, the bondholders representative shall notify the bondholders whose name are on the list of bondholders.

In case there is a bondholders meeting, the bondholders representative shall notify the bondholders within 7 (seven) working days prior to the meeting date by stating the date, time, location, and the objective of the meeting.

Article 11- Mechanisms and Procedures for Fulfilling its Duties

A bondholders representative shall establish mechanisms, procedures and necessary rules in order to fulfill its duties as prescribed in CHAPTER III.

CHAPTER IV

OBLIGATIONS OF ACCREDITED BONDHOLDERS REPRESENTATIVE

Article 12- Restriction on Providing Service in Term of Conflict of Interest

A bondholders representative is not allowed to act as bondholders representative in the following conditions:

1. The bondholders representative is a shareholder who own at least 5 (five) percent of the issuer's voting shares;
2. The bondholders representative is a guarantor of the issuer;
3. The issuer is a shareholder who own at least 5 (five) percent of the bondholders representative's total voting shares;
4. The bondholders representative has material financial relationship with the issuer beside bondholders representative service fee;
5. The bondholders representative is an associate of the issuer;
6. The bondholders representative has any other relationships which the Director General of the SECC considers as having conflict of interest with the issuer.

Article 13- Code of Conduct for Bondholders Representative

A bondholders representative shall establish code of conduct which has minimum contents as follow:

1. Rule to control all the work, consisting of proper risk management and internal management system;
2. Rule to protect the interest of bondholders;

3. Rule to prevent conflict of interest;
4. Confidentiality rule;
5. Rule, procedure and guideline for timely disclosure of information.

The bondholders representative shall apply the established code of conduct which comply with the above paragraph and the code of conduct required by any competent authorities if any.

Article 14- Minimum Content of the Bondholders Representative Agreement

A bondholders representative shall comply with the bondholders representative agreement. This agreement shall have the minimum contents as follow:

1. Partner's identity;
2. The appointment of bondholders representative;
3. The powers, duties and responsibilities of bondholders representative;
4. Fee for the bondholders representative;
5. Indemnification;
6. Amendment of agreement;
7. Termination of agreement;
8. Obligation of bondholders representative after termination of agreement;
9. Claim and responsibility for liabilities.

The bondholders representative shall have the mechanism and procedure to ensure their compliance with obligation as stated in the bondholders representative agreement.

Article 15- Reporting Obligation

A bondholders representative shall immediately report to SECC in the following cases:

1. The issuer breaches the bondholders representative agreement or any other existing regulations;
2. The issuer doesn't pay or delay payment of the interest to bondholders according to the terms and conditions of the debt securities;
3. There are any adverse changes in the solvency level as stated in the terms and conditions of the debt securities issued;
4. There is any grievance against the issuer and/or bondholders representative;
5. The issuer is in the business rescue, liquidation, winding up or bankrupt status;

6. There is resignation, dismissal or cessation of providing bondholders representative service;
7. The license or accreditation granted by the competent authority is suspended or cancelled;
8. There are any changes of directors, senior officers and/or compliance officers of the bondholders representative;
9. Any other cases that the Director General of the SECC considers necessary and affecting the public interest.

Article 16- Annual Report

Within 90 (ninety) days after the end of financial year or any time which allowed by the Director General of the SECC, A bondholders representative shall submit an annual report and audited financial statement.

Article 17- Inspection by the SECC

A bondholders representative may be inspected by the officials of the SECC on the condition and the effectiveness of its operation.

The bondholders representative shall offer good cooperation with the inspection officials of the SECC to ensure work effectiveness.

CHAPTER V FEES AND CHARGES

Article 18– Application Fee

A bondholders representative shall pay for application fee for accreditation and documents processing of 2,000,000 (two million) Riels in cash on the date of application. In cases firms or agents who already licensed or accredited by the SECC, the firms or the agents shall pay the application fee for accreditation and documents processing of 1,000,000 (one million) Riels in cash on the date of application.

A bondholders representative shall pay renewal application fee for the accreditation and document processing of 1,000,000 (one million) Riels in cash on the date of application.

The payment for the application fee for accreditation and document processing are not refundable even if the accreditation is rejected.

Article 19- Annual Accreditation Fee for Bondholders Representative

A bondholders representative shall pay the annual accreditation fee to the SECC of 2,000,000 (two million) Riels in cash, on the date of accreditation. For firms or agents who already licensed or accredited by the SECC, the firms or the agents shall pay the annual accreditation fee of 1,000,000 (one million) Riels in cash, on the date of accreditation. For the following years, the accredited bondholders representative shall pay the annual accreditation fee no later than 30 (thirty) days before the accredited day of the following year.

CHAPTER VI SUSPENSION AND CANCELLATION OF ACCREDITATION

Article 20- Suspension

The Director General of the SECC may suspend the accreditation of the bondholders representative in the following cases:

1. The bondholders representative does not comply with the obligations as prescribed in Chapter IV of this Prakas;
2. License or accreditation granted by the related authorities is suspended;
3. The bondholders representative fails to pay fee to the SECC;
4. There is any grievance against the bondholders representative;
5. The SECC detects that information in application form and attached documents are untruthful or misleading;
6. The bondholders representative commits mistake(s) or neglect which caused by carelessness, or any other unacceptable acts and the bondholders representative does not solve the problems as have been advised by the SECC within 30 (thirty) days from the date of detection of the problems the bondholders representative committed.

Article 21- Cancellation of Accreditation

The director general of the SECC may cancel the accreditation of bondholders representative in the following cases:

1. Company registration certificate or license issued by relevant authorities have been cancelled;
2. upon the expiry of the suspension duration as prescribed in Article 20 of this Prakas, if the bondholders representative still fails to handle the faults which lead to the suspension;
3. The bondholders representative contravenes the obligations prescribed in Chapter IV of this Prakas.

Article 22- Impermissible Business Activities During Suspension and Cancellation of Accreditation

A bondholders representative that request to cease or whose accreditation has been canceled as prescribed in Article 21 of this Prakas shall continue serving as a bondholders representative for the issuer until the new bondholders representative is appointed.

In case the SECC suspends or cancels the accreditation, the bondholders representative shall not enter into agreement with any new issuer. The bondholders representative whose business have been suspended may resume the business after receiving a written notice from the General Director of the SECC.

CHAPTER VIII

PENALTIES

Article 23 – Administrative Sanctions

The Bondholders representative who contravenes any provisions of this Prakas shall receive the following administrative sanctions:

- 1- A warning;
- 2- A correction order;
- 3- Suspension or cancellation of accreditation.

Article 24 – Transactional Fine

Not including other sanctions defined in the laws and regulations in The Kingdom of Cambodia, a bondholders representative who violate this Prakas shall be fined by the SECC in cash ranging from 20,000,000 (twenty million) Riels to 50,000,000 (fifty million) Riels.

In the case of an accredited Bondholders representative applies for renewal of accreditation to the SECC later than 45 (forty five) days before the validity of accreditation expires, the Bondholders representative shall be liable for a cash penalty for late application of 200,000 (two hundred thousand) Riels per day.

CHAPTER IX FINAL PROVISIONS

Article 25– Adoption of Guidelines

The SECC may adopt guidelines to facilitate the understating and compliance with the requirements of this Prakas to related parties, securities market participants and the public.

Article 26 – Abrogate

All provisions contrary to this Prakas are hereby abrogated.

Article 27– Application

The Director General, the Deputy-Directors general of the SECC, Securities Issuance Supervision Department, Legal Affair Department, other Departments, other units of the SECC and relevant parties shall effectively carry out this Prakas after the date of signing on.

Phnom Penh, August 17, 2017

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- Ministry of Commerce
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