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- Entry Regulations for Derivative related Business in Cambodia

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Introduction

The securities market in Cambodia officially started operating at the beginning of 2010, with the Cambodia Securities Exchange (CSX) managing the trading platform, clearing and settlement operations, and securities depository facilities.

I- Contract for Difference (CFD) as a derivative instrument

With reference to Prakas No. 004/15, SECC/PK dated July 2, 2015 on the licensing and the supervision of derivative instrument trading, a derivative instrument refers to a contract between two parties in which the contract's value is determined by the fluctuation in value of an underlying asset, such as equity securities, debt securities, currencies and commodities, including crude oil, gold, natural gas, as well as principal protected notes (PPN).

This kind of securities instrument allows sophisticated investors to hedge their positions as well as to, trade, on fluctuations in exchange, interest, or price of specific or other underlying assets.

II- Licensing on derivative instrument related business and activities

A License or letter of authorization is required for any person conducting a derivative instrument related business, such as Central Counterparty (CCP), Derivate Broker and Derivative Representative.

a. Central Counterparty (CCP)

A central counterparty clearinghouse (CCP) is a corporate entity that reduces counterparty, operational, settlement, market, legal and default risks for traders.

A CCP becomes the counterparty to the buyer and the seller, and guarantees the terms of a trade, even



if one party defaults on the agreement.

The Director General of SECC reviews and grants one-year renewable licenses, to applicant companies fulfilling legal requirements.

At the same time, licensed securities firms are able to apply for authorization from the Director General of the SECC, if they wish to conduct additional business, such as that of a CCP. They are, however, required to implement additional measures, such as the erection of a Chinese wall, between their securities trading and the CCP business

CCP licensing requirements include:

- a minimum registered capital of at least 20 billion Khmer Riels (approximately 5 million USD)
- 10 per cent of the capital must be used exclusively for derivatives trading
- 15 per cent of the capital must be deposited in the SECC's account at the National Bank of Cambodia,
- The persons in key management positions, such as director, chief executive officer, operation manager and head of section, must be suitably qualified
- All other required documents and policies.

Fees:

- license application fee: 4 million KHR (± \$1,000 USD)
- Annual license fee: 40 million KHR (± \$10,000 USD)

Securities firms applying for authorization to conduct the CCP business in addition to their securities business license:

- license application fee: 2 million KHR (± \$500 USD)
- Annual license fee : 20 million KHR (± \$5,000USD)

A CCP must abide with leverage, lot, maximum/minimum trade size, spread, pip, initial margin, margin calls and liquidated margins as determined by the SECC.

b. Derivative Broker

A Derivative Broker is a company that conducts a derivative brokerage business.

ABOUT US

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We differentiate ourselves by coupling a deep understanding of the local business environment with international professionalism and integrity.

We facilitate business, investment and trade between Cambodia, Myanmar, and the rest of the world through innovative and cost-effective legal services.

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CAMBODIAN LAW BLOG

cambodianlaw.wordpress.com

BNG Legal believes expanding access to legal information is crucial to rule of law. To that end, several of our legal professionals write a blog discussing recent developments in the legal landscape.

LEGAL DATABASE

The laws and regulations in our database are based upon the Official Gazettes, law compendiums and other collections from the ministries and institutions of the Royal Government of Cambodia. These are available to the public through our partner site, www.bnqlaw.net.

The Director General of SECC reviews applications and grants licenses only to those companies fulfilling all the legal requirements.

However, licensed securities can apply for authorization from the Director General of SECC, if they wish to conduct an additional business as that of Derivative Broker, by properly respecting additional requirements, such as erecting a Chinese wall, between the securities business and the derivative brokerage business.

Derivative Broker licensing requirements include:

- A minimum registered capital of at least 1 billion KHR (± 250,000 USD)
- 10 per cent of the capital must be exclusively used for derivatives trading,
- 15 per cent of the capital must be deposited in the SECC's account, at the National Bank of Cambodia,
- The assignment to key management positions such as director/partner, chief executive officer, derivative representative, of qualified and skilled personnel,
- All other required documents and policies.

Fees :

- License application fee: 2 million KHR (±\$ 500 USD)
- Annual license fee: 10 million KHR (± \$2,500 USD)

Securities Firms applying for authorization to conduct derivative brokerage business in addition to their securities business license:

- License application fee: 1 million KHR (± \$250 USD)
- 5 million KHR (± \$1,250 USD)

c. Derivative Representative

A Derivative Representative is a natural person, licensed by SECC, and authorized to open and manage client accounts, and provide other services, in the name of a Derivative Broker.

Anyone wishing to become a Derivative Representative, is required to have gained an adequate level of education and business experience, participated in applicable training courses, and have passed the relevant exams organized by SECC.

Any person applying for derivative representative license must submit an acceptance letter, from a Derivative Broker.

The Director General of SECC reviews and grant licenses only to those persons fulfilling all the requirements set out in the relevant laws and regulations.

Fees :

- License application fee: 200,000 KHR (± \$50 USD)
- Annual license fee : 500,000 KHR (± \$125 USD)

Legal Update

Inter-ministerial Prakas N°173 on General procurement of healthcare payment

The Prakas aims to manage and disseminate procedures to multiple institutes under Ministry contracts, concerning healthcare fees and patient treatment in view of citizen's well-being. Procedures are divided into two fee charges: payment per case method and payment for service type method.

The Payment per case method shall charge a flat fee (See in annex 1); whereas payment for service type method shall charge services on each special case (See in annex 2). The method defined in this Prakas shall be used within NSSF scope of authority and local government healthcare agencies. NSSF shall pay a fee to local healthcare units or compensate the victim (as defined in annex 1 and annex 2) so that they can get to the nearest hospital as soon as possible.

Payment for delivering a hospital patient, an injured person, someone seriously ill or a body shall only apply to those who have used the local hospital ambulance services, or any other means of transport, with proper proven documents. Any local hospital which has a MOU with the NSSF shall use the payment procedures issued by the Ministry of Labor and Vocational Training or the Ministry of Health.