

**UNOFFICIAL TRANSLATION**

**TEMPORARY REGULATION ON ISSUE  
OF GUARANTEES BY BANKS**

One. General provisions

1.1. This regulation shall be followed in issuing payment guarantees by banks for third party persons in accordance with Article 6 of the Law of Banking.

1.2. Banks may issue different types of guarantees used internationally, depending on specifics of their operation, including tender guarantees, performance guarantees and guarantees for repayment of advance payments, etc. Banks shall approve their procedures on types and forms of guarantees and have these procedures registered with the Bank of Mongolia.

1.3. The following terms and definitions shall be used in this Regulation:

1.3.1. 'Agreement of guarantee' means an agreement whereby the guarantor guarantees that the payer is able to meet its obligations fully or partially and takes the obligation to meet the obligation of the payee in case the payee does not meet its obligations.

1.3.2. 'Guarantor' means a bank that makes an agreement of guarantee with the obligor based on application for guarantee.

1.3.3. 'Payer' means a business entity, organization or individual that obliges to pay the bank for obligations met or payments made by the bank after a certain period of time, in accordance with the agreement of guarantee.

1.3.4. 'Payee' means a person that has the right to claim payments or meet obligations from the payer in accordance with a contract.

1.4. An agreement of guarantee shall be made in writing. Agreements of guarantee made with foreign banks or financial institutions shall be made in Mongolian language and a corresponding foreign language, and the original signed copy shall be legally effective.

1.5. The following issues must be covered in the agreement of guarantee:

- 1) The number of guarantee
- 2) The amount of guarantee
- 3) Time of validity of guarantee
- 4) Name, address, address of correspondent bank, account number and signatures of the guarantor and the payer.
- 5) Name, address, name of correspondent bank, account number of the payee.
- 6) Date of issue of guarantee.
- 7) The purpose of guarantee, sequence of payments, other duties and obligations of the payer and the payee.

Two. Licensing Banks to Issue Guarantees and Revocation of Licenses

2.1. Banks may issue guarantees to its customer legal or natural persons in accordance with a license given by the Bank of Mongolia.

2.2. Licenses to issue guarantees shall be given to banks that meet requirements of provision 6.1. of the Regulation on Licensing of Banks and Bank Branches approved by Order No. 375 of the Governor of the Bank of Mongolia, August 7, 2000.

2.3. The license may be revoked or suspended in accordance with provision 6.7 of the same regulation.

### Three. Requirements on Bank's Guarantees

3.1. The total amount of loans and guarantees issued to one borrower or a related group of borrowers may not exceed 20 percent of the bank's capital.

3.2. The total amount of guarantees issued by a bank may not exceed the bank's capital.

3.3. Loans and guarantees issued to a bank's shareholder, member or chair of the Board of Directors, the Executive director, or an employee of the bank or their related persons may not exceed 5 percent of the bank's capital. The total amount of loans and guarantees to the above may not exceed 20% of the bank's capital.

3.4. The bank shall, upon failure of the payer to meet its contract obligations in time, meet these obligations in accordance with the agreement of guarantee and shall claim and obtain payment of the same amount from the payer.

3.5. Banks may, upon issuing guarantees, accept securities from the payer as a collateral. The total amount of securities accepted as collateral or purchased from non-financial institutions may not exceed 20 percent of the banks' capital and 5 percent of all shares issued by the issuer.

### Four. Issuing Guarantees

4.1. Bank shall study the following and discuss and decide through their credit committees when issuing guarantees:

4.1.1. Analysis of operations and creditworthiness of legal or natural persons that applied for a guarantee;

4.1.2. Amount and maturity of obligations of the payer for the payee; negative effects on creditworthiness and prudential standing of the bank in case this obligation is met on behalf of the payer.

4.1.3. Agreements of guarantee shall be made on the basis of assessment of potential risks to the bank and ability to eliminate this risks, in accordance with the Civil Code of Mongolia.

4.1.4. Banks shall, when issuing guarantees of internationally used forms, ensure that terms of payment are conformant with international agreements and other documents, depending on the type and form of such guarantee.

### Five. Recording of Guarantees and Reporting

5.1. Banks issuing guarantees shall prepare guarantee agreements in two copies and shall record the amount of the bank's obligation on each guarantee in sub accounts of off-balance sheet account No.9901 (Guarantees). Each party shall keep one copy of the agreement.

5.2. The bank shall have each guarantee agreement recorded with the Accounting Department of the Bank of Mongolia, based on its date and number within one working day after establishment of such agreement.

5.3. Banks shall provide monthly reports on guarantees to the Supervision Department of the Bank of Mongolia before 10<sup>th</sup> of each month, in accordance with the Prudential Regulation.

5.4. Upon expiration of guarantee agreement, the bank shall notify the Bank of Mongolia when the payment was made to the bank fully or partially or whether the payment will have been rescheduled, within one working after expiration date.

5.5. The Bank of Mongolia shall, based on this information, delete the guarantee agreement from its records or note its rescheduling.

5.6. The Accounting Department of the Bank of Mongolia shall notify the Supervision Department on the total amount of recorded guarantees on each bank at the end of each month.

5.7. Banks shall provide information of guarantees to the Credit Information Bureau of the Bank of Mongolia, in accordance with the Regulation on Credit Information.

#### Six. Control and monitoring

6.1. Internal control units of banks shall monitor banks' guarantee operations and shall report its findings to the Board of Directors and the annual meeting of shareholders annually.

6.2. The Bank of Mongolia shall monitor guarantees issued by banks on the basis of information supplied by banks.

6.3. Examinations of guarantee agreements and related reports by the Supervision Department of the Bank of Mongolia and banks' Internal Audit units may be full or partial and may be conducted based on information received from correspondent banks and customers.

#### Seven. Responsibility

7.1. Guarantors shall be held responsible in accordance with the related laws and regulations, if Bank of Mongolia examinations reveal cases of failure to report to the Accounting Department on new issued, repayment or rescheduling of guarantees, deficiencies in the reports on guarantee submitted to the Supervision Department or failure to meet any other requirements related to guarantees.

7.2. Any disputes related to bank guarantees shall be resolved by the court as specified in the laws of Mongolia.

THE BANK OF MONGOLIA