

**KINGDOM OF CAMBODIA**

**NATION RELIGION KING**

**Unofficial Translation**

**ROYAL GOVERNMENT OF THE  
KINGDOM OF CAMBODIA**

**No. 114 ANKR.BK**

**ANUKRET**

**On**

**TRUST REGISTRATION**

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**ROYAL GOVERNMENT OF CAMBODIA**

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen Preah Reach Kret No. NS/RKT/0918/925, dated 6 September 2018, on the Appointment of the Royal Government of the Kingdom of Cambodia;
- Having seen Preah Reach Kram No. NS/RKM/0618/012, dated 28 June 2018, promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Having seen Preah Reach Kram No. NS/RKM/0196/18, dated 24 January 1996, promulgating the Law on the Establishment of the Ministry of Economy and Finance;
- Having seen Preah Reach Kram No. NS/RKM/1199/13, dated 18 November 1999, promulgating the Law on The Bank and The Financial Institution;
- Having seen Preah Reach Kram No. NS/RKM/0107/028, dated 19 October 2007, promulgating the Law on the Issuance and Trading of Non-Government Securities;
- Having seen Preah Reach Kram No. NS/RKM/0508/016, dated 13 May 2008, promulgating the Law on Public Financial System;
- Having seen Preah Reach Kram No. NS/RKM/1212/010, dated 26 December 2012, promulgating the Law on Financial Management for 2013;
- Having seen Preah Reach Kram No. NS/RKM/0119/002, dated 2 January 2019, promulgating the Law on Trust;
- Having seen Anukret No. 54 ANKR.BK, dated 8 April 2009, on The Implementation of the Law on the Issuance and Trading of Non-Government Securities;
- Having seen Anukret No. 476 ANKR.BK, dated 26 August 2013, on The Financial Trust

- Having seen Anukret No. 488 ANKR.BK, dated 16 October 2013, on the Organization and Functioning of The Ministry of Economy and Finance;
- Having seen Anukret No. 75 ANKR.BK, dated 25 May 2017, on The Amendment to Anukret No. 488, Dated 16 October 2013, on The Organization and Functioning of The Ministry of Economy and Finance;
- Having seen the proposal of the Minister of Ministry of Economy and Finance;

## **HEREBY DECIDE**

### **CHAPTER 1**

#### **GENERAL PROVISIONS**

##### **Article 1 ..**

The purpose of this Anukret is to supervise the trust registration having been established in the Kingdom of Cambodia.

##### **Article 2 ..**

The goal of this Anukret is to determine the rules and procedures for trust registration.

##### **Article 3 ..**

This Anukret shall cover the scope of implementation for the trust to be established in the Kingdom of Cambodia.

##### **Article 4 ..**

The Ministry of Economy and Finance has the authorization as the trust authority whose duties are following;

- To determine the rules and the procedures for establishment, registration, administration and supervision of trust;
- To determine the standard of the financial statements for trust;
- To register, safeguard and manage the trust list;
- To record every change related to trust into the trust list;
- To manage and supervise due diligence of trust deed;

- To determine the sanctions, penalties, and administrative sanctions for breaching relevant trust regulations;
- To take legal action against any person managing trust funds without registration;
- To take legal action in order to withdraw the trust funds to be under the administrative work of the Government or of the appointed substitute trustee with the cooperation with related authorities;
- To terminate the trust as requested by trustor;
- To mediate and make decision on dispute related to trust;
- To do other necessary tasks for supervision and development of trust sector.

**Article 5 .-**

The organization and functioning of trust as prescribed in Article 14 of the Law on Trust that is not stipulated by relevant authorities shall be determined by the Ministry of Economy and Finance.

**CHAPTER 2**

**TRUST DEED**

**Article 6 .-**

Trust shall be created by trust deed in written form based on the following basic criteria;

- Name and address of trustee, beneficiaries and trustor and/or substitute trustor and/or contributor of trust fund;
- Purpose of trust;
- Legal letter of trust fund consists of:
  - Source of trust fund
  - Total amount and/or balance of trust fund;
- Duration of trust;
- Rights and obligations of trustee, beneficiaries and trustor and/or substitute trustor and/or contributor of trust fund;
- Terms and conditions of trust termination;

- Trust fund management when trust ends;
- Terms and conditions of change of trust;
- The goal of investment and/or use of trust property;
- List of trust funds as the subject of the trust;
- Other conditions based on the purpose of trustor and/or substitute trustor and/or contributor of trust fund;
- Determination of trustee's fee is upon the professional qualification and working experiences.

Trust deed is available as the sample in Annex 1 of the Anukret.

### **Chapter 3**

#### **Trust Registration**

##### **Article 7 .-**

Trustee shall have the obligation to register the trust at Ministry of Economy and Finance. Anyway, financial trust as prescribed in point 1 of Article 11 of the Law on Trust shall implement by compliance with Anukret No. 476 ANKR.BK, dated on 26 August 2013 on Financial Trust.

The application forms for trust registration shall be stipulated in Annex 2 of this Anukret.

##### **Article 8 .-**

In case of any requirements required by relevant authorities, trustee may apply for prior approval in principle from the Ministry of Economy and Finance. Requirements for requesting a prior approval in principle are as follows:

- Letter of appointment of a legal representative to apply for a trust registration or trust deed;
- Degree or certificate of education equivalent to bachelor's degree for a legal representative in order to apply for trust registration;
- The draft of Memorandum and Articles of Association to be established for legal entities;
- Certified documents of shareholder identification: passport or photocopy of ID card (for individual shareholders), name, legal form and Head Office address (for shareholders as legal entities)

- Other documents required by the Ministry of Economy and Finance.

After reviewing and evaluating the required documents above, the Ministry of Economy and Finance has the right to issue approval in principle or denial within 60 (sixty) working days from the date of receiving the required application.

#### **Article 9 .-**

Trustee receiving prior approval in principle or license as operator from the relevant authorities and/or have completed the procedures required by the Ministry of Economy and Finance shall apply for trust registration with the relevant documents as below:

##### **a. In case trustee as an individual or a group of individual**

- Trust deed
- Certified letter of trust fund balance from financial institution;
- Certified education certificate (minimum to bachelor's degree);
- Curriculum Vitae (CV) as seen as the sample in Annex 3 of this Anukret;
- A certified copy of the criminal record of trustee;
- Insurance contract on trust fund from insurance company;
- Insurance contract on professional indemnity of trustee and;
- Other documents required by the Ministry of Economy and Finance.

In case of obtaining approval in principle or license from relevant authorities, trustee shall enclose a copy of the documents as aforementioned,

##### **b. In case trustee as a legal entity, group of legal entities, or a joint group between individual and legal entity**

Trustee as a legal entity, group of legal entities, or a joint group between individual and legal entity shall complete the documents as stated in point A of Article 9 and add more documents as following:

- Letters and Memorandum and Articles of Association registering at Ministry of Commerce, Ministry of Interior, Ministry of Justice, and/or the relevant competent authorities and
- A copy of the prior approval in principle or license from the relevant authorities

**Article 10 .-**

Trustee shall consist of more than 1 (one) person who is an individual or a representative of a legal entity, except individual trust that may have only 1 (one) trustee as an individual. Each legal entity has the right to appoint only 1 (one) individual to participate in the composition of trustee.

For trustee as a group, decision for trust administration shall be made by an absolute majority vote.

In case trustee as a sole legal entity, trust shall be administered by the management of that legal entity.

**Article 11 .-**

Individual who can be appointed as trustee shall receive the professional training as trustee determined by the authorities in trust sector.

**Article 12 .-**

Trustee shall sign in person in front of official in charge of trust registration of the Ministry of Economy and Finance to ensure and be responsible for the accuracy of the application for trust registration.

**Article 13 .-**

The Ministry of Economy and Finance decides to register or refuse to register trust within 90 (ninety) working days after receiving all the required documents for trust registration. In case of need, it shall be reported to the Minister of Ministry of Economy and Finance and notify to the applicant of the trust registration.

In case the application for registration does not meet the requirements for trust registration, the Ministry of Economy and Finance shall notify to the trustee, an applicant, within 30 working days, and the applicant shall make changes of the documents to be compliance with the requirements and submit to the Ministry of Economy and Finance no later than 15 (fifteen) working days from the date of notification. After this deadline, the application for trust registration shall be deemed invalid.

After approval of trust registration, the Ministry of Economy and Finance shall provide a certificate of trust registration to trustee who is the request's owner.

## **Chapter 4**

### **Certificate of Trust Registration and Request for Any Change Related to Trust Deed**

#### **Article 14 ..**

Certificate of trust registration is valid for the period specified in trust deed or as determined by authorities in trust sector.

Trustee shall apply for renewal of certificate of trust registration for at least 60 (sixty) days before the certificate expires in writing and complete the relevant documents required by the Ministry of Economy and Finance.

#### **Article 15 ..**

Any changes related to trust deed, trustee shall request in writing to the Ministry of Economy and Finance in advance, attaching with relevant documents for recording the change, except for the change of purpose as prescribed in Article 15 of the Law on Trust.

#### **Article 16 ..**

The Ministry of Economy and Finance has the right to reject the trustee's request as stated in Article 14 and Article 15, of this Anukret, stating the reasons clearly in writing to the requesting applicant.

The Ministry of Economy and Finance has the right to request additional documents and/or invite relevant individual to explain and respond to the request for changes if necessary.

In case the document of change is not sufficient and complied, the Ministry of Economy and Finance shall allow 15 (fifteen) working days from the date of notification to the applicant. After this deadline, this request shall be deemed invalid.

## **Chapter 5**

### **Supervision and Termination of Trust**

#### **Article 17 ..**

Trustee shall have the obligations to provide the trust records, financial statement and other information determined by the trust authorities as prescribed in Article 31 of the Law on Trust.

## **Article 18 ..**

The Ministry of Economy and Finance decide to revoke the certificate of registered trust in one of the following cases:

- Trustee provides false, unclear and hidden information or doesn't disclose true information in the application form for trust registration or renewing the certificate.
- Trustee uses the trust operation in the purpose of money laundering and/or terrorism financing or crime.
- Trust funds are used for different purpose rather than the stated purposes and/or the trust registration certificate is expired.
- Trust funds have the negative balance.
- Trustee fails to pay the annual fee of the trust registration certificate or annual declaration within two executive years.
- Trustee fails to comply with obligations of Article 23 of the Law on Trust.
- Trustee continue to operate trust business by contravening or incompliance with regulations in force after receiving instructions or penalties imposed by the Ministry of Economy and Finance or
- In case of relevant authorities revoke the license.

## **Article 19 ..**

After revoking the certificate as prescribed in Article 18 of this Anukret, the Ministry of Economy and Finance shall conduct procedures for trust termination in accordance with Chapter 4 of the Law of Trust and Chapter 5 of this Anukret and regulations in force.

## **Article 20 ..**

Trustee or related persons, who disagree with the decision made on the revocation of trust registration certificate, have the right to file the complain in accordance with the procedures for dispute resolution as prescribed in Article 34 of the Law on Trust and regulations in force.

## **Article 21 ..**

Trustor or substitute trustor has the right to appoint temporary director for managing the trust in case he/she finds out that there are insolvency risks as determined in trust deed.



## **Article 22 ..**

In case the trust is terminated, trustor or substitute trustor shall select liquidator to manage and evaluate trust fund in accordance with the terms and conditions determined in trust deed.

Trust shall continue legal existence until the liquidation is completely finished.

## **Article 23 ..**

Liquidator has duties as following:

- To complete and finish all the tasks leaving by the trustee.
- To collect and pay off debts.
- To value the remaining trust funds.

The remaining trust funds after the liquidation shall be distributed or provided to trustor or beneficiary or other persons as stated in the trust deed or considered it as the Government's properties.

In case the beneficiary is children or disable person, the trust authorities or legal parent or guardian has the authority to act as a substitute trustor at stipulated in Civil Code until the beneficiary has fully right or has the ability to legally own the properties in compliance with the laws in Cambodia.

## **Chapter 6**

### **Transitional Fines**

## **Article 24 ..**

Trustee or trustor shall be fined in cash by trust inspection officials from 10 million Riel or 30 million Riel and/or shall stop the trust immediately, and shall apply the application at the Ministry of Economy and Finance in accordance with the Law on Trust, in the following act:

- Late or fail to apply for renewal the certificate of trust registration.
- Fail to request for the change of trustee.
- Fail to request for the change of trust deed.

In case of repeating act, it shall be condemned by law and regulations in force.

## **Chapter 7**

### **Final Provisions**

**Article 25 ..**

All provisions contrary to this Anukret shall be abrogated, excepted Anukret No. 476 ANKR.BK, dated 26 August 2013 on Financial Trust.

**Article 26 ..**

Minister in charge of the Council of Ministers, Minister of Ministry of Economy and Finance, all Ministers of Ministries and all relevant institutions shall be responsible for implementation of this Anukret respectively after the date of signing.

Phnom Penh 2<sup>nd</sup> August 2019

**Prime Minister**

(Signed and Sealed)

**SAMDECH AKAK MOHA SENA PADEI TECHO HUN SEN**

Has informed to

**SAMDECH AKAK MOHA SENA PADEI TECHO**, Prime Minister

for signature

**Deputy Prime Minister, Minister of Ministry of Economy and Finance**

(Signed and Sealed)

**AKKAK BANDIT SAKPHEACHAR AUN PORNMONIROTH**

**Recipients:**

- Ministry of Royal Palace
- Secretariat of Constitutional Council
- Secretariat of Senate
- Secretariat of National Assembly
- Cabinet of Samdech Akak Moha Sena Padei Techo **Hun Sen**  
Prime Minister of the Kingdom of Cambodia
- Cabinet of Samdech His/Hers Excellencies Deputy Prime Ministers
- Vice-Chairman and member of the Non-Bank Financial Services Authority
- As prescribe in Article 26
- Royal Gazette
- Archives-records