

PRAKAS
On
Clearing System of Settlement Payment

Article 1.-

Definitions stated in Article 2 of the NIPTL are incorporated into this Prakas, unless hereafter modified or where the context requires otherwise:

1. **“Designated payment clearing system”** means a payment clearing system designated under this [Prakas](#).
2. **“Instruction”** includes directive;
3. **“Manager”** includes a member of the Board of Directors and means any person that in the view of the NBC is in a position to supervise and be responsible for the management of the business and affairs of a service provider. Notice under this Article to be given to a manager is to be given to the manager as advised to the NBC by the Service provider, unless the NBC specifically designates another person to be a manager;
4. **“Monetary value”** means a medium of exchange, whether or not redeemable in money, including in the form of stored value, payment instrument or credit to account;
5. **“Money”** means a monetary unit or a medium of exchange that is issued, established, authorized or adopted by Cambodia or a foreign government. The term includes a monetary unit or a medium of exchange issued, established, authorized or adopted by an intergovernmental organization or by agreement between two or more governments;
6. **“Money transmission”** means selling or issuing monetary value, or receiving money or monetary value in connection with the transmission of money or monetary value, either from the transmitter or for a beneficiary, and includes the provision of a facility for the withdrawal of money, for the transfer of monetary value between accounts, or for the payment of monetary value to third parties. The term includes the taking part in any transaction or arrangement involved in carrying out the transmission from the transmitter to the beneficiary, even to which neither the transmitter nor the beneficiary is a party or direct participant. Money transmission could be from place to place, within, to or from Cambodia or any other country;
7. **“Participant”** means a party to an arrangement in respect of a payment clearing system. It may be a bank, a provider of money transmission services or any other person but does not include a user or customer of a participant who instructs or receives payment over the payment clearing system;

8. **“Payment card”** means any card, plate, coupon book, or other device, including a code or any other means of access to an account or stored value, that may be used from time to time to obtain money or to make payment, and includes a debit, charge, credit and stored-value card;
9. **“Payment clearing system”** means a system or arrangement for the communication, processing, exchange, clearing or settlement of payment orders and other messages effecting, ordering, enabling, or facilitating the making of payments, money transmission, money withdrawals, or transfers of monetary value;
10. **“Payment clearing system rule”** means a rule, by whatever name called, other than one issued by the NBC, that governs a payment clearing system, including its operation, clearing and settlement. It includes an amendment to, or a repeal of, a payment clearing system rule;
11. **“Payment instrument”** means a check, draft, money order, traveler's check, payment card, or other instrument for the transmission or payment of money or monetary value, whether or not negotiable. The term does not include a credit card voucher, letter of credit, or instrument that is redeemable by the issuer in goods or services;
12. **“Person”** means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation, or any other public, private or commercial body, unit or organization, with or without separate legal personality;
13. **“Record”** means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;
14. **“Service provider”** means any person who operates or participates in the operation of a payment clearing system; and
15. **“Stored value”** means monetary value that is evidenced by an electronic record.

Article 2.-

1. The NBC may by rules:
 - a. Set out conditions, requirements and standards under which payment clearing systems may be operated and designated;
 - b. Require the registration or licensing of service providers, set out conditions and requirements for such registration or licensing and provide for the circumstances under which such license or registration may be revoked by the NBC;
 - c. Set out charges and fees for the registration and licensing of service providers;
 - d. Supervise, regulate and oversee service providers;

- e. Set out conditions and requirements under which persons, including those providing money transmission services, may be participants in a payment clearing system or hold accounts and keep deposits in the NBC;
 - f. Submit service providers to prudential requirements, including accounting and reporting requirements;
 - g. Set out requirements, standards and guidelines on corporate matters of service providers, such as with regard to their form of incorporation or organization, administration, management, governance, control, capital adequacy and other capital requirements, ownership structure, quality of shareholders and administrators, and business and investment powers;
 - h. Impose on service providers requirements, standards and guidelines designed to facilitate their inspection by the NBC, including requirements, standards and guidelines regarding the collection, maintenance on record and reporting to the NBC of information on matters as specified, including about their participants and in relation to transactions or any category of them, in such format and detail as shall be set out in rules; and
 - i. Submit service providers to market regulation aimed at the protection of customers and participants or any category of them, and particularly, set out disclosure requirements and regulate contract terms of payment clearing systems and their participants.
2. Rules under this Article, and any conditions, requirements and standards provided thereunder, on any matter, including on licensing, registration, or designation, and regarding fees and charges, may vary from one category to another of service providers, as well as from one sub-category or type of service providers, as classified and determined by the NBC at its sole discretion.

Article 3.-

1. The NBC may, if it considers it in the public interest to do so, designate a payment clearing system to be subject to regulation, supervision and oversight under this Prakas.
2. The following factors shall be considered in a determination of whether it is in the public interest to designate a payment clearing system:
 - a. the level of financial safety provided by the payment clearing system to the participants and users;
 - b. the efficiency and competitiveness of payment clearing systems in Cambodia; and
 - c. the best interests of payment clearing system participants and their customers or the financial system in Cambodia.
3. Before a payment clearing system is designated, the NBC shall consult the manager and participants of the payment clearing system, and may consult interested parties, with respect to the effects of the designation.

4. The NBC shall notify the manager and the participant of the designated payment clearing system in any manner that the NBC considers appropriate.
5. A designation shall be published in the *Official Gazette*.

Article 4.-

1. A copy of every payment clearing system rule governing a designated payment clearing system shall be sent by the manager of the designated payment clearing system or, if there is none, by the participants to the NBC,
 - a. In the case of a payment clearing system rule made before the designation of the payment clearing system, within 30 days after the designation; and
 - b. In the case of a payment clearing system rule made after the designation, within 10 days after it is made.
2. A payment clearing system rule, other than a payment clearing system rule referred to in paragraph (1)(a), does not come into force before the thirtieth day after a copy of it is sent to the NBC under paragraph (1), but the NBC may declare the payment clearing system rule to be in force at any time before that period expires.
3. If the NBC is of the opinion that an extension of the period mentioned in paragraph (2) is necessary to permit adequate review of a payment clearing system rule, the NBC may within 10 days after its receipt, on written notice to the sender of the payment clearing system rule, extend that period by up to 30 days.
4. The NBC may disallow the whole or a part of a payment clearing system rule governing a designated payment clearing system, before or anytime after it becomes or is in force. A payment clearing system rule in force so disallowed becomes ineffective from the moment the decision to disallow it is advised to the manager of a designated payment clearing system, or at any time thereafter, as instructed by the NBC in its decision to disallow the payment clearing system rule.
5. Where a payment clearing system rule in force is disallowed in whole or in part by the NBC under paragraph (4), so as to give rise to the need to amend or replace a payment clearing system rule, in order to facilitate the continued smooth operation of the designated payment clearing system, the decision of the NBC to disallow it must be included in an instruction, issued pursuant to Article 5, instructing the manager of the designated payment clearing system of the needed amendment or replacement, and further providing a text for a temporary payment clearing system rule to apply until an amending or replacing payment clearing system rule is adopted by the system. The temporary payment clearing system rule becomes effective immediately when the payment clearing system rule to be replaced or amended becomes ineffective.
6. The NBC may exempt a designated payment clearing system from the application of paragraph (2).

Article 5.-

1. The NBC may issue an instruction to the manager or to a participant of a designated payment clearing system in respect of :
 - a. The conditions a person must meet to have access or become a participant in the designated payment clearing system;
 - b. The operation of the designated payment clearing system, including its clearing and settlement;
 - c. The interaction of the designated payment clearing system with other payment clearing systems; or
 - d. The relationship of the designated payment clearing system with its participants.
2. Before giving an instruction, the NBC shall consult the person to whom it is to be given, and may consult any interested party, with respect to the content and the effect of the instruction.
3. The NBC may specify in an instruction that a manager of the designated payment clearing system or a participant in such a system shall, within such time as the NBC considers necessary,
 - a. Cease or refrain from engaging in an act or course of conduct;
 - b. Perform such acts as in the opinion of the NBC are necessary in the public interest; or
 - c. Make, amend, or repeal a payment clearing system rule.
4. As soon as is practicable after implementing an instruction and completing any actions required to be taken in connection with it, the person to whom it is given shall notify the NBC that the directive has been implemented and the action completed.
5. An instruction shall be published in the *Official Gazette*.
6. An instruction is binding on the person to whom it is given.

Article 6.-

1. The NBC may audit, inspect, and require the production of, accounts, records, books, and documents, inspect offices of, and request information from any person the NBC wishes to determine whether such a person operates or involved in the operation of a payment clearing system to be considered for designation under this Article.
2. Any person and an employee, agent or manager of a person to whom a request or demand is made under paragraph (1) shall comply with it.
3. At its sole discretion the NBC may have audits and inspections under paragraph (1) carried out on its behalf, in whole or in part, by reputable independent external auditors who shall report to the NBC.

4. For the purpose of obtaining evidence under oath in relation to an audit or inspections under paragraph (1), the NBC has all the powers of a person appointed as a commissioner under the Law on the organization and the conduct of the NBC.
5. Participants shall comply with all obligations imposed under this Article on a manager of a payment clearing system.
6. If a manager of a payment clearing system fails to comply with the obligations imposed on it under this Article, the participants jointly and severally shall comply with those obligations and shall be liable for the contravention in the same manner and to the same extent as the manager.

Article 7.-

On an application for judicial review of any designation of a payment clearing system under this Prakas or of any instruction issued thereunder, no stay of the designation or instruction shall be granted pending the final disposition of the application.

Article 8.-

1. Information and documents obtained under this Prakas are confidential and shall be treated accordingly.
2. Nothing in paragraph (1) prevents the NBC from disclosing any information or documents to any government agency or regulatory body charged with the regulation of financial institutions, provided that the NBC is satisfied that the information or documents will be treated as confidential by the agency, body or person to whom they are disclosed.

Article 9.-

The General Director, the General Secretariat, the General Inspection, the General Cashier and all Departments of the National Bank of Cambodia, and all Banking and Financial Institutions under the NBC's supervisory authority shall strictly implement this Prakas.

Article 10.-

This Prakas shall have effect from the signing date.

Phnom Penh, December 04, 2006
Governor
Signed and sealed: **CHEA CHANTO**