

**PRAKAS**  
**ON**  
**THIRD-PARTY PROCESSORS**

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**Chapter I**  
**General Provisions**

**Article 1.-**

The purpose of this Prakas is to enable Banks as defined under the Law on Banking and Financial Institutions, hereafter referred to as “Bank”, to outsource one or more parts of their payment transactions services through one or more third-party processors, as may be agreed between the Bank and those third-party processors, and subject to prior approval from the National Bank of Cambodia (also “NBC”), in conformity with Article 204 of the Law on Negotiable Instruments and Payment Transactions.

**Article 2.-**

- **Third-party Processor** means a person entrusted by a Bank to conduct one or more parts of its payment transactions services.

- **Outsourcing** consists of a Bank entrusting by way of agreement a legal person or another Bank to provide one or more parts of its services on its behalf.

**Chapter II**  
**Payment Transactions Services**

**Article 3.-**

1. A person which is not a Bank may not engage in the business of payment transactions or hold itself out as providing payment transactions services unless the person

- a) is entrusted by agreement by a Bank to act as its Third-party-Processor, and
- b) is licensed by the National Bank of Cambodia

2. Once entrusted by the Bank and licensed by NBC, a Third-party Processor may act on behalf of the Bank to provide one or more of the following services, as specified in Article 203 of Law on Negotiable Instruments and Payment Transactions:

- (i) A communication facility
- (ii) An inter-bank clearing facility, which may further transmit inter-bank settlement information to Banks, including the Bank in which settlement is completed;
- (iii) Managing or operating of Bank customers’ accounts; and/or

- (iv) Play as a sending and receiving point for payment orders sent or received by the Bank, which may be accessed directly by the Bank's customers for sending and receiving payment orders and in addition:
- (v) A service provider of money remittance by mobile phone or other means
- (vi) A service provider of clearing and settlement of debit and credit card payment

**Article 4.-**

1. The Third-party Processor can also manage and operate on behalf of one or more Banks, a payment system for:

- a) Payment transactions and cash withdrawals,
- b) Clearing and settlement for instruments of domestic and foreign currency payment in Cambodia.

2. In this event, it shall be duly entrusted to provide such services by each and all Banks taking part into the payment system and respective liabilities shall be duly allocated.

**Article 5.-**

A Third-party Processor managing a Payment System shall be subject to existing NBC Prakas on Payment Clearing Systems, Prakas on Control of Systemic Risk of Payment Systems and Prakas on the Operation of Settlement Accounts, and any other relevant measure, as applicable.

**Chapter III**

**Bank's Application for Licensing Third-Party Processor**

**Article 6.-**

1. Before allowing a Third-party Processor to conduct any payment transactions services, the Bank shall apply for a license on behalf of such Third-party Processor, issued by the NBC. The application must state or contain as follows:

- a) The legal name and residential and business addresses of the Third-party Processor and any fictitious or trade name used by such Third-party Processor in conducting its business on behalf of the Bank and a description of its legal status;
- b) A description of payment transactions services previously provided by the Third-party Processor also inside and outside Cambodia, if any, and the payment transactions services that the Third-party Processor seeks to provide in Cambodia on behalf of the Bank;
- c) A description of the legal means to be undertaken to protect the customers' funds from any risk coming from the outsourcing of the services, allocation of Anti-Money Laundering and Terrorism Financing, and Know-your-

Customer duties, and measures to make and keep the customers aware of the role of the Third-party Processor into the payment transactions services..In case of use of Agents, their functions and legal status shall be described.

2. The application must be attached by the following documents:

- The decision of the concerned Bank management body to allow the Bank to provide one or more parts of their payment transactions services to a Third-party Processor.
- The agreement between the Bank and the Third-party Processor to provide and to accept the services.
- The authorization from the parent company or head office, as relevant, to allow their branch or subsidiary to act as Third-party Processor.
- A guarantee letter issued by the Bank that commits to undertake all responsibilities on the ongoing activities of the Third-party Processor.

3. An application fee of Riel 2,000,000 (Two millions Riel) must be accompanied with the application for a license.

4. The annual license fee of Riel 10,000,000 (Ten millions Riel) shall be paid by the Bank on behalf of Third-party processor by 15 January of each year.

5. For Banks applying for third-party license during the year, the license fee shall be calculated on pro rata basis for the period remaining to year's end.

6. In the event of late payment of the annual license fee, the Bank concerned shall be fined by paying interest on the overdue payment at the prevailing refinancing interest rate for a period up to thirty days.

**Article 7.-**

1. The license is valid for a period of three years, from the approval date. A license may be renewed only if the Third-party Processors' activities comply with laws and regulations and all infractions of relevant laws and prudential regulations, if any, have been remedied.

2. An application for renewal of a license shall be submitted to the National Bank of Cambodia at least three months before the expiration of the existing license. In the event that the request includes new services or substantially different methods to provide the same services, the NBC shall consider this as a request for a new license.

3. In the event this deadline is not met, a fine of Riel 1,000,000 (One million Riel) per day of delay up to the submission date shall be imposed.

4. Bank, which would remain not compliant beyond this period or any extension of time granted by the NBC, would be subject to a suspension of Third-party Processor's

license. The suspension shall be lifted if, within 20 (Twenty) days after its license is suspended, the Bank:

- a) Submits the application for renewal and pays the renewal fee to Third-party Processor; and
- b) Pays Riel 200,000 (Two hundred thousand Riel) for each day after suspension.

5. If a Bank would remain not fulfilled section 4 above, that Bank would be subject to a more serious penalty, which could go up to the revocation of Third-party Processor's license.

**Article 8.-**

1. The NBC shall approve or deny the application within 30 days (Thirty days) after the application date.

2. The NBC may for good cause extend the application period.

3. The license shall clearly state for what services or activities this is issued and/or subject the license to restrictions in the scope or means to provide such services.

4. The NBC can ask the Bank and the Third-party Processor to modify parts of the agreements to be undertaken should these results in excessive risk for the national payments system or the market.

**Article 9.-**

1. A Bank that entrusts one or more parts of payment transactions services to a Third-party Processor shall apply for renewal license not later than 30 days (Thirty days) before the expiration of the existing license. Bank must fulfill its obligation in giving information and pay the renewal license fee on behalf of the Third-party Processor.

2. The renewal application must contain:

- a) a copy of the Bank's most recent audited annual financial statement.
- b) description of each material change in information of its Third-party Processor in its original license application which has not been reported to the NBC on any required report;
- c) a list of the locations in Cambodia where its Third-party Processor engages in payment transactions or provides other payment transactions services;
- d) indication of any serious complaint or legal action undertaken by customers or third parties in relation of the licensed services.

**Chapter IV**

**Duties and Responsibilities of the Bank**

**Article 10.-**

Bank that received a license for Third-party Processor must act as follows:

1. Be fully responsible for any action or omission of the Third-party Processor and agent acting under its authority and on its behalf.

2. Ensure that a Third-party Processor operates under its full control and supervision in matters in which it acts on its behalf in order to ensure its compliance with this Prakas and with all other legal requirements. The Bank is precluded from denying such control and supervision.

3. Ensure that the Third-party Processors acting on its behalf and their Authorized Agents inform customers of this fact.

4. Ensure that the Third-party Processors Services have appropriate operational and technical safety and security to provide:

- i) unique service event records and audit trails,
- i) “per event” and “per customer” confirmations, investigation and reporting,
- ii) reliable detection and rejection of failed or fraudulent service events
- iv) tamperproof retention and storage of historical records

#### **Article 11.-**

The relationship and obligations of the Bank towards its clients shall not be materially altered by the outsourcing of any activities under this Prakas.

### **Chapter V**

#### **Duties and Responsibilities of Third-Party Processor**

#### **Article 12.-**

Third-party Processor acting payment transaction on behalf of bank shall have the following duties:

1. Select one or more agents to facilitate cash-in and cash-out transactions.
2. Shall have a legal binding contract with its selected agent and shall define clearly its policies and procedures for its agent to be fully complied with.
3. Ensure that its selected agent shall not provide payment transactions services outside the scope of activity permissible under the agency agreement between the Agent and the Third-party Processor.
4. Ensure that the services provided by itself or any appointed agent have appropriate operational and technical safety and security to provide:
  - i) unique service event records and audit trails,
  - i) “per event” and “per customer” confirmations, investigation and reporting,
  - ii) reliable detection and rejection of failed or fraudulent service events
  - iv) tamperproof retention and storage of historical records

### **Article 13.-**

A Third-party Processor has to be fully responsible for all its actions including its selected agent as follows:

1. Be fully responsible for any action or omission of an Authorized Agent providing payment transactions services on its behalf both against any third parties and the Bank.
2. Ensure that its Agents operate under its full control and supervision in matters in which it acts on its behalf. The Third-party Processor is precluded from denying such control and supervision.
3. Shall provide to NBC on a monthly basis, certified by the concerned Bank, the list of Agents together with their name and address of the location where they provide their services.

## **Chapter VI**

### **Account Management**

### **Article 14.-**

A Bank that entrusts of transferring transactions services to a Third-party Processor shall require a Third-party Processor to open an account in its own bank in order to hold cash that has received from customers for transferring purpose such as through mobile phones.

This Third-party Processor's account is in the form of Trust Account, which is only used to transfer customer's transaction and is not used in any other purposes.

The respective bank has duties to monitor this account regularly and in the case of Third-party Processor cease of service providing or bankruptcy, bank must retain this account in order to protect customer's benefits. The balance of this account is not the property of the Third-party processor.

## **Chapter VII**

### **Examinations, Reports and Records**

### **Article 15.-**

1. The NBC may conduct an annual examination of a Third-party Processor or if necessary a Bank upon 30 (Thirty) days' notice in a record.
2. The NBC may examine a Third-party Processor at any time, without notice, if the NBC has reasons to believe that the Third-party Processor is engaging in an unsafe or unsound practice or has violated or is violating this Prakas or an order issued under this Prakas.
3. If the NBC concludes that an on-site examination is necessary under paragraph (1) and (2) above, the Third-party Processor or the Bank shall pay the reasonable cost of the examination.
4. Information obtained during an examination under this Prakas may be disclosed only as provided in Article 17.

**Article 16.-**

1. A Third-party Processor shall file with the NBC within 15 (Fifteen) business days any material changes in information provided in the application as prescribed by the NBC.

2. With the certification of the Bank concerned, a Third-party Processor shall file with the NBC within 30 days (Thirty days) after the end of each fiscal quarter

- a) a year-to-date financial statements of the payment transactions, including a balance sheet and statement of income and expenses;
- b) payment transactions activity including monthly summaries of its activities for each month, broken down to categories as directed by the Bank concerned.
- c) a list of all services currently offered by the Third-party Processor and the days and hours of the operation of the payment transactions services;
- d) any other information required by the NBC.

**Article 17.-**

1. A Third-party Processor shall maintain for at least 10 (ten) years a log or logs of its activities containing for each transaction information and particularly the following records for determining the Third-party Processor's compliance with this Prakas:

- a) a record of each payment instrument;
- b) a general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts;
- c) bank statements and bank reconciliation records;
- d) records of outstanding payment instruments;
- e) records of each payment instrument paid within the 10 (ten)-year period;
- f) a list of the last known names and addresses of all of its Agents; and
- g) any other records required by the NBC.

2. The items specified in paragraph (1) may be maintained in any form of record.

3. All records maintained by the Third-party Processor as required in paragraph (1) through (2) are open to inspection by the NBC pursuant to Article 13.

4. The Third-party Processor shall fulfill requirements imposed by other laws or regulations.

**Article 18.-**

1. A Third-party Processor shall file with the authority designated by law all reports required by currency reporting, record keeping, and suspicious transaction reporting requirements as set forth in the Law on Anti-Money Laundering and Combating the Financing of Terrorism. It shall impose to its Authorized Agents the collection of all relevant information imposed by such authority for such purposes.

2. The timely filing of a complete and accurate report with the appropriate authority is compliance with the requirements of paragraph (1).

**Article 19.-**

1. Except as otherwise provided in paragraph (2), all information or reports obtained by the NBC from the Third-party Processor, and all information contained in or related to examination, investigation, operating, or condition reports prepared by, or for the use of the NBC, or financial statements, balance sheets, are confidential and are not subject to disclosure.

2. The NBC may disclose information not otherwise subject to disclosure under paragraph (1) to representatives of the Government who undertake in a record that they will maintain the confidentiality of the information; or the NBC finds that the release is reasonably necessary for the protection of the public and in the interests of justice, and the Third-party Processor has been given previous notice by the NBC of its intent to release the information.

3. This article does not prohibit the NBC from disclosing to the public a list of persons licensed under this Prakas or the aggregated financial data concerning those Third-party Processors and their Authorized Agents.

**Chapter VIII**

**Administrative Procedures**

**Article 20.-**

1. The NBC may suspend or revoke a license of a Third-party Processor, or order a Third-party Processor to revoke the designation of an Agent if:

- a) the Third-party Processor violates this Prakas or a rule adopted or an order, directive or instruction issued under this Prakas;
- b) the Third-party Processor does not cooperate with an examination or investigation by the NBC;
- c) the Third-party Processor engages in fraud, intentional misrepresentation, or gross negligence;
- d) an Agent is convicted of a violation of the Law on Anti-Money Laundering and Combating the Financing of Terrorism, or violates a rule adopted or an order issued under this Prakas;
- e) the Third-party Processor engages in an unsafe or unsound practice;
- f) the Third-party Processor is insolvent, suspends payment of its obligations, or makes a general assignment for the benefit of its creditors; or
- g) the Third-party Processor does not remove an Agent after the NBC issues a final order including a finding that the Agent has violated this Prakas.



In determining whether a Third-party Processor is engaging in an unsafe or unsound practice, the NBC may consider the size and condition of the Third-party Processor's payment transactions services, the magnitude of the loss, the gravity of the violation, and the previous conduct of the person involved.

**Article 21.-**

If the NBC determines that a violation of this Prakas or a rule adopted or an order, directive or instruction issued under this Prakas by the Third-party Processor is likely to cause immediate and irreparable harm to the Third-party Processor, its customers, or the public, or cause insolvency or significant dissipation of assets of the Third-party Processor, the NBC may issue an order requiring the Third-party Processor to cease and desist from the violation.

**Article 22.-**

The NBC may assess a civil penalty against a person that violates this Prakas or a rule adopted or an order issued under this Prakas in an amount of KHR 100,000 per day for each day the violation is outstanding.

**Article 23.-**

1. No person shall intentionally make a false statement, misrepresentation, or false certification in a record filed or required to be maintained under this Prakas or shall intentionally make a false entry or omit a material entry in such a record.
2. No person shall knowingly engage in the payment transactions activity without obtaining a license from National Bank of Cambodia.
3. If the NBC has reason to believe that a person has violated or is violating Article 3 of this Prakas, the NBC may issue an order to cease and desist that person.

**Chapter IX  
Final Provisions**

**Article 24.-**

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

**Article 25.-**

This Prakas shall have effect from the signing date.

Phnom Penh, 25 August 2010

**The Governor**

Signed and Sealed: **Chea Chanto**