

SECURITIES LAW OF MONGOLIA

Chapter One

General Provisions

Article 1. Purpose of the law

The purpose of this law is to regulate the issue of securities for the purpose of accumulating capital, the buying and selling of securities, depository arrangements and clearing and settlement services, the regulation of issuers and other persons involved in the securities market and the protection of investors.

Article 2. Legislation on securities

The legislation on securities comprises this law and any other relevant legislation.

Article 3. Definitions

In this law:

- 1) "security" means a share certifying a right to an investment, dividend or vote, a debenture with a maturity date of within one year from the date of its issue by an authorised organisation, a Government bonds or other instruments determined by the Securities Committee (hereinafter referred to as "the Committee") to be a security for the purposes of this law;
 - 2) "material security" means a security issued in a physical form in compliance with prescribed rules; "non-material security" means a security which is not issued under such rules but which exists in a special registry such as in a computerised form;
 - 3) "issuer" means any legal person that issues or has issued securities in order to raise funds for the purposes of increasing its production and services, implementing specific projects or increasing its capital;
 - 4) "securities market" means a primary market where issuers offer securities directly or through underwriters, or a secondary market where securities are traded;
 - 5) "underwriter" means a person who contracts with an issuer either to buy all or some of its securities for the purpose of facilitating an offer of securities to the public or to sell securities on behalf of an issuer;
 - 6) "dealer" means a person who engages in the business of buying securities in order to resell them to other persons at a profit in the secondary market;
 - 7) "broker" means a person who engages in the business of buying and selling securities on the secondary market;
 - 8) "public offering" means an offer of securities in accordance with prescribed rules to more than 20 persons and disclosed to the public;
 - 9) "tender offer" means a public offer by way of tender to purchase a certain percentage of the equity securities of a company;
 - 10) "inside information" means information not disclosed to the public which may affect the market price of securities;
 - 11) "insider of an issuer" means an executive or shareholder owning no less than 10 percent of the issuer as well as other persons who may have access to inside information;
 - 12) ["stock exchange" means a legal person that provides services for a fee in relation to the selling, buying and trading of securities;]
- [] *as amended on December 26, 1996*
- 13) "clearing and settlement services" means services performed for a fee in relation to the clearing and settlement of securities;
 - 14) "depository arrangements" means services performed for a fee in relation to the holding of securities;

- 15) "investment fund" means a company that issues securities to the public and is in the business of investing or trading in securities;

Chapter Two

Issuing and Trading in Securities

Article 4. Issuers of securities

The following entities and organisations may issue securities:

- 1) the Government and the Governors of the capital city and Aimags with the approval of their Hural of Citizens' Representatives; and
- 2) companies registered in Mongolia.

Article 5. Information requirements for securities

Securities shall contain the following information:

- 1) the name and type of security;
- 2) the name of the issuer;
- 3) the face value;
- 4) the purpose of issuing the security;
- 5) the terms in respect of the payment of interest and dividends; and
- 6) the obligation to repay principal and other terms.

Article 6. Public offering

1. An issuer may sell securities by way of an offer to the public or a private offering.
2. In the case of an offer to the public, an issuer must register with the Committee. Registration is not necessary for private offers.
3. For the purposes of an offer to the public, an issuer shall submit a registration statement to the Committee.
4. The registration statement shall contain the following information and documents:
 - 1) the name and address of the issuer and underwriter, the names of members of the board of directors, and a copy of the certificate of incorporation;
 - 2) the financial statements of the issuer for the last 3 years verified by an independent auditor (if the issuer/company has been in existence for more than one year);
 - 3) the type, amount, face value, term of issue and a specimen of the security; and
 - 4) documents verifying the financial position of the issuer, a list of major contracts entered into with other parties and the viability of the issue of securities.
5. The registration statement submitted to the Securities Committee must be approved by the board of directors of the issuer.
6. Within 30 days after receipt of the registration statement the Committee shall decide whether to declare the registration statement valid or issue a rejection.
7. An issuer may place its securities directly in the primary market or through an underwriter.
8. An issuer is responsible for appointing an underwriter.
9. Buyers of securities shall purchase them using their own assets or bank loans. The Committee shall establish rules for the use of bank loans for the purchase of securities.
10. It shall be prohibited to lend securities.
11. An issuer shall not be obliged to buy back its securities.
12. An issuer shall spend the funds accumulated through the issue of securities in accordance with the purpose stated in the registration statement.
13. Professionals who prepare and sign documents that form part of registration statements shall be responsible for their accuracy and adequacy.

14. Liability for losses resulting from the acts referred to in paragraphs 1 and 2 of article 21 of this law shall be borne by those persons who signed the relevant documents in the registration statement.

Article 7. Public offering of Government and municipal bonds

1. The Government may issue bonds and make offers to the public with the approval of the State Ih Hural and Governors of the capital city and Aimags may issue bonds and make offers to the public with the approval of the Government and with a guarantee from the Minister of Finance.
2. Paragraphs 2, 3, 5, 6, 13, 14, and sub-paragraphs 1 and 2 of paragraph 4 of article 16 of this law do not apply to Government and municipal bonds.

Article 8. Tender offers

1. Tender offers shall be made in accordance with this law and the regulations of the Securities Committee.
2. A person who intends to make a tender offer shall file a statement with the Committee within the prescribed time. The Committee shall announce its decision within 15 days after the tender offer statement is filed, and until then no offer to purchase may be made and no securities may be deposited.
3. Public announcements and advertisements of tender offers and amendments to tender offers must be made in accordance with the Committee's regulations.
4. A tender offer must remain open for at least 45 days from the date the tender offer statement is approved by the Committee.
5. A person who deposits securities pursuant to a tender offer has the right to withdraw the securities at any time during the offer period.
6. When a tender offer is made, all activities relating to the offer must comply with the Committee's regulations.
7. When a tender offer is made, the price of the securities shall be fixed at either the highest price paid by a bidder in the last 12 months or the average price paid for these securities in the last 30 days, whichever price is the greater.
8. An issuer must distribute the same information in respect of a tender offer to all interested parties. Any information given to a bidder or a group of bidders must also be furnished promptly to other bidders.

Article 9. Duty of investors

1. Any person who directly or indirectly purchases 5 percent or more of the total shares of any company must report the fact to the Committee within 5 days after such acquisition.
2. Any person who intends to acquire directly or indirectly 20 percent or more of the total shares of any company must make a tender offer in accordance with article 8 of this law.

Chapter Three

Participants in the Securities Markets, Their Duties and Powers

Article 10. Participants in the securities market

"Participants in the securities markets" means underwriters, brokers, dealers, securities exchanges, clearing and settlement organisations, depository organisations and investment funds.

Article 11. Licensing of participants

1. In accordance with its rules, the Committee shall grant licences to operate in the securities markets to the persons specified in article 10 of this law.

2. Licences to operate as a securities exchange, a clearing and settlement organisation or a depository organisation may be granted to one or more entities.
3. Applications for a licence to operate as a securities exchange, a clearing and settlement or depository organisation, a broker, a dealer or an underwriter must be made to the Committee in writing. The Committee shall advise its decision within 30 days of receipt of such an application.

Article 12. General obligations of participants and issuers

Participants in the securities markets and issuers shall have the following general obligations:

- 1) to report to the Committee using the relevant standard forms within the specified time and in accordance with established rules;
- 2) to publish 6 monthly and annual financial statements which are verified by an independent auditor;
- 3) to promptly distribute accurate and adequate information to all interested parties; and
- 4) to ensure fair and transparent trading in securities.

Article 13. Requirements of stock exchanges

1. The Government, and brokers, dealers and underwriters who hold licences granted by the Committee may own shares in a stock exchange.
2. At least 50 percent of members of the board of directors of a stock exchange shall be issuers or investors.
3. A stock exchange shall comply with the following requirements in the course of trading:
 - 1) to commence selling at the lowest offer and buying at the highest bid; and
 - 2) in the case of identical bids or offers, to give precedence to an earlier bid or offer over a later bid or offer.

Article 14. Rights and obligations of stock exchanges

1. In addition to the general obligations set out in article 12 of this law, a stock exchange shall have the following rights and obligations:
 - 1) to constitute an organisation trading in those securities that are not prohibited from being traded by the Committee;
 - 2) to make rules within the scope of its powers with the approval of the Committee;
 - 3) to grant authority to operate to licensed brokers and dealers.

Article 15. Rights and obligations of clearing and settlement organisations

In addition to the general obligations set out in article 12 of this law a clearance and settlement organisation shall have the following rights and obligations:

- 1) to make rules within the scope of its powers with the approval of the Committee;
- 2) to enter into agreements in respect of its clearing and settlement services with each of its customers;
- 3) to provide clearing and settlement services in respect of securities transactions conducted only at licensed stock exchanges;
- 4) to record the transfer of ownership rights over securities.

Article 16. Rights and obligations of depository organisations

1. In addition to the general duties set out in article 12 of this law, depository organisations shall have the following rights and duties:
 - 1) to record the owners of and the transfer of ownership rights of securities;
 - 2) to ensure the safety of securities deposited.

Article 17. Investment funds

1. An investment fund may be either open or closed:

- 1) an open investment fund is a company responsible for making offers to sell and buy securities to and from others and for selling certain required amounts of securities;
 - 2) a closed investment fund is a company which sells securities in the amounts established by its shareholders.
2. The following items shall be included in the charter of an investment fund:
- 1) the rules by which net asset value is to be calculated and by which payment is to be determined when a shareholder sells his or her shares back to an open investment fund;
 - 2) the requirements for book-keeping, accounting, financial statements and auditing of investment funds; and
 - 3) the rules for buying and selling securities permitted by the Committee.
3. Meetings of shareholders of investment funds shall be considered valid if at least 25 percent of shareholders are present.

Article 18. Obligations of underwriters

In addition to the general obligations set out in article 12 of this law an underwriter must be diligent and shall be liable for any losses which arise as a result of its failure to fulfil its obligations.

Chapter Four

Securities Market Regulatory and Supervisory Authority

Article 19. The Committee and its establishment

1. The authority supervising and regulating the activities of participants in the securities markets shall be the Securities Committee.
2. The Committee shall be composed of 5 members. The Chairman shall be nominated by the Prime Minister, one member of the Committee by the Minister of Finance, one member by the Governor of the Bank of Mongolia and the remaining two members, by the appropriate Standing Committee of the State Ih Hural. The two members of the Committee nominated by the Standing Committee of the State Ih Hural shall represent the interests of the companies referred to in paragraph 2 of article 4 of this law.
3. The Chairman of the Committee shall work full-time, and the members on a part-time basis.
4. If there is reason to remove the Chairman or any member of the Committee on grounds specified in the Law on Government Service, the nominating bodies and their executives shall submit a proposal for removal to the State Ih Hural for resolution.
5. The charter of the Committee shall be adopted by the State Ih Hural.
6. The Committee shall have an executive office financed from the State budget.
7. Part-time members may receive remuneration for their work in accordance with the provisions of the charter of the Committee.

Article 20. Powers of the Committee

The Committee shall have the following powers:

- 1) to make regulations for the supervision and regulation of the securities market in relation to:
 - (a) the documents to be included with registration statements;
 - (b) the procedures for offers by way of tender;
 - (c) the establishment and licensing of stock exchanges, clearing and settlement organisations, depository organisations, brokers, dealers and underwriters;
 - (d) the financial investigation of participants in the securities markets;

- (e) other issues provided by this law;
- 2) to keep a detailed register of all securities authorised to be offered to the public;
 - 3) to establish accounting rules to ensure the fair presentation of financial statements;
 - 4) to grant and revoke licences and to determine the requirements for obtaining licences for brokers, dealers, underwriters, stock exchanges, clearing and settlement and depository organisations;
 - 5) to administer and enforce this law and its regulations;
 - 6) to suspend and examine suspicious offers and, if their non-compliance or illegality is established, to cancel the listing of or trading in such securities listed by any stock exchange, and to suspend clearing and settlement transactions for any period of time necessary in order to protect the interests of investors;
 - 7) to require brokers, dealers, underwriters and stock exchanges to reduce the fees they charge and if they do not comply with those requirements to cancel the rules establishing those fees, revoke the licences granted to the entities in question and to publish the revocation;
 - 8) to determine appeals brought by persons and business entities within the framework of administration and enforcement of the legislation governing securities;
 - 9) to require the financial statements of issuers to be verified by an independent auditor licensed by the Committee;
 - 10) to consult the shareholders of stock exchanges, clearing and settlement and depository organisations on issues regarding the appointment or removal of directors of such entities and if it is considered necessary to require consideration of replacement of those directors;
 - 11) to represent the interests of the State in Courts of law in claims for compensation for damage caused to State property, and to represent persons disadvantaged from accessing legal services in some way in order to ensure protection of their legitimate rights.

Chapter Five

Prohibition of Unlawful Acts

Article 21. Prohibition of unlawful acts

Issuers and participants in the securities markets shall not:

- 1) mislead the public or make any untrue statement of material fact in connection with a public offering, purchase or sale of securities;
- 2) omit, conceal or refuse to make available any material fact, except insider information, which may affect the price of securities;
- 3) be involved in any securities transaction using any deceptive mechanism or technique to artificially stabilise, increase or lower the market price of any security;
- 4) be involved in any fraudulent transaction;
- 5) make any secret or misleading transaction.

Article 22. Prohibition against insider trading

1. An insider is prohibited from dealing in the securities of an issuer in any manner if the insider possesses inside information about the issuer.
2. An insider is prohibited from providing inside information to other persons.
3. The Chairman and members of the Committee and any other person who obtains information through the Committee shall not use or disclose to anyone information obtained under this law, except in order to achieve the objectives of the Committee.

Chapter Six

Inspections and Investigations

Article 23. Persons authorised to conduct inspections and investigations

1. The Securities Committee and the Government shall have within their powers the full rights to conduct inspections and investigations.
2. If the Committee determines that a person is about to breach this law or any relevant law it may temporarily or permanently suspend the provision of clearing and settlement services by that person. If the guilt of that person is established, the Committee may apply to the Court for an order to freeze the bank account(s) of that person.
3. If a person considers the decision of the Committee made under paragraph 2 of this article is not justified he or she may appeal to a Court.
4. If the Government finds that a decision made by the Committee breaches existing legislation, it can suspend that decision and request the Committee to revise it. In the case of reviewing an approval granted by the Committee, the matter may be referred to a Court for determination.

Article 24. State inspectors and their powers

1. The Chairman, members of the Committee and controllers to whom duties are delegated by the Committee shall have the rights of State inspectors.
2. A State inspector shall be empowered to conduct inspections and investigations to determine whether:
 - 1) transactions are conducted by licensed participants;
 - 2) this law and other relevant legislation are observed;
 - 3) transactions in the securities markets are conducted in a fair and transparent manner;
 - 4) financial resources accumulated through the issue of securities are applied properly;
 - 5) harm is caused to investors; and
 - 6) clearing, settlement and reporting procedures are carried out properly.
3. A State inspector shall exercise the following rights in the discharge of his or her duties:
 - 1) to inspect any document relating to securities transactions, to collate evidence and to require production of necessary documents from relevant officials and citizens;
 - 2) to report on the findings of the inspection and require any person in breach of this law to take the measures stipulated in the report and to remedy the breach within a certain time; and
 - 3) in addition to imposing administrative sanctions on those who do not fulfil the requirements stated in sub-paragraph 2 of paragraph 3 of this article or on those who breach the existing legislation governing securities, to suspend or terminate their activities or revoke their licences temporarily (up to 1 year) or permanently.
4. A State inspector may inspect and investigate either on his or her own initiative or on receipt of evidence from others.

Chapter Seven

Other Provisions

Article 25. Liability of and penalties for offenders

1. If a breach of the legislation on securities is held not to constitute a criminal offence, the following administrative sanctions shall be imposed on an offending person:
 - 1) a person who in the course of issuing or making an offer to the public, or selling, buying and trading in securities conducts unlawful acts as provided by article 21 or is

in breach of any of articles 6(5), 6(9), 6(10), 6(12), 8(7), 8(8), 9, 12, 13, 14(1), 14(2), 15(1), 15(3), 15(4), 16 and 18 of this law shall be liable to pay a fine of [20,000 to 50,000 togrogs in the case of an individual and of 75,000 to 200,000 togrogs in the case of a business entity or organisation] and any income gained as a result of such unlawful action shall be confiscated;

- 2) a person who breaches article 22 of this law shall be liable to pay a fine of [30,000 to 50,000 togrogs in the case of an individual and of 40,000 to 60,000 togrogs in the case of an executive] and any income gained as a result of such action shall be confiscated; and
- 3) a person who conducts business in the securities market without obtaining authorisation in accordance with articles 6(2), 7(1), 8(2) and 11(1) of this law shall be liable to pay a fine of [30,000 to 50,000 togrogs in the case of a business entity or organisation] and any income gained as a result of such action shall be confiscated.

[] *inserted by amendment on 17 April 1995*

Article 26. Settlement of disputes

A Court of law shall determine all disputes arising in relation to transactions in securities markets.

Chairman of the State Ih Hural of Mongolia
N Bagabandi

Ulaanbaatar
13 October 1994