



KINGDOM OF CAMBODIA  
NATION RELIGION KING

NATIONAL BANK OF CAMBODIA

Number B7.09\_020 Prokor

**Unofficial translation**

**Prakas on**

**Overdraft Facilities made available by the NBC to Banks  
and Financial Institutions facing temporary Liquidity  
Shortages**

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**The Governor of the National Bank of Cambodia**

- With reference to the Constitution of the Kingdom of Cambodia;
- With reference to the Royal Kram NS/RKM/0196/27 of January 26, 1996, promulgating the Law on the Organization and Functioning of the National Bank of Cambodia;
- With reference to the Royal Kram NS/RKM/1199/13 of November 18, 1999, promulgating the Law on Banking and Financial Institutions;
- With reference to the Royal Kram NS/RKM/0605/019 of June 19, 2005, promulgating the Law on Commercial Enterprises;
- With reference to the Royal Decree NS/RKT/0508/526 of May 13, 2008, on the reappointment of His Excellency Chea Chanto as Governor General of the National Bank of Cambodia, equivalent to Senior Minister;
- With reference to the Prakas B7-00-04 on the Licensing of Commercial Banks, dated January 10, 2000;
- With reference to the Prakas B7-00-05 on the Licensing of Rural Credit Specialized Banks, dated January 11, 2000;
- With reference to the Prakas B7-00-06 on the Licensing of Micro-Finance Institutions, dated January 11, 2000;
- Pursuant to the recommendation made by National Bank of Cambodia management during the January 19, 2009, meeting.

**Decides:**

## **CHAPTER 1**

### **GENERAL PROVISIONS**

#### **Article 1**

NBC shall consider granting overdraft facilities for banking and financial institutions hereafter called “ Institutions ” to overcome temporary liquidity shortage under criteria and conditions sets forth in this Prakas.

#### **Article 2**

Maintaining the institution in a permanently sound liquid and solvent condition is the institution’s management prime responsibility.

Liquidity is the institution’s ability to fund increases in assets and meet obligations as they come due, without incurring unacceptable losses. Institutions might default if they are not able to meet their obligations as they come due and liquidity management relies on assumptions that might not prove stable or reliable over time. Therefore, institutions shall establish prudent policies and assumptions, set forth a reasonable appetite for liquidity risk and consider possible adverse market conditions that might impact their liquidity condition.

Furthermore, institutions shall foresee plausible stress scenarios and establish contingency funding plans aimed at coping with such adverse situations and preventing from any payment default situation. Such a default situation might also be devastating for the institution’s reputation.

Finally, institutions shall take appropriate measures to comply with other requirements such as reserve holdings at the NBC.

#### **Article 3**

All these liquidity management principles and risk appetite should result in the holding of a commensurate liquidity buffer and in the establishment of responsive policies and procedures aimed at taking timely and appropriate actions, such as the reduction of loan extensions or utilization of alternative funding sources, which shall help to bridge the gaps.

However, due to unforeseen or unprecedented adverse trends or market conditions, such prudent policies, procedures, liquidity buffers and forward-looking liquidity risk management might prove insufficient to face severely adverse liquidity constraints.

#### **Article 4**

Considering this risk for otherwise fully solvent institutions, the NBC shall, in this context, consider granting overdraft facilities aimed at helping such institutions overcome temporary liquidity shortages.

## **CHAPTER 2**

## **ELIGIBLE BANKS AND FINANCIAL INSTITUTIONS**

### **Article 5**

Overdraft facilities are designed to manage exceptional circumstances and to help eligible institutions to overcome temporary or short-term liquidity shortages as mentioned in Article 4.

Institutions shall not consider such overdraft facilities as systematically granted and shall not, as a general rule, fully rely on such facilities to excuse less prudent policies and procedures for regular liquidity management purposes. In addition, such facilities are not designed for insolvent or otherwise compromised financial conditions which shall be addressed by other appropriate supervisory actions commensurate to the gravity of problems faced.

### **Article 6**

Institutions applying for an overdraft facility shall be profitable, solvent and fully compliant with the minimum capital requirements and solvency ratio.

However, should the assessment performed by the NBC lead to judgment that the institution is actually facing more severe problems than temporary liquidity shortages, the NBC shall consider any appropriate resolution plan.

## **CHAPTER 3**

### **APPLICATION FOR AN OVERDRAFT FACILITY, TERMS AND CONDITIONS**

### **Article 7**

Institutions shall apply for an overdraft facility from the NBC as soon as a potential temporary liquidity shortage is identified due to unforeseen adverse trends or market conditions. The institutions shall consider compliance with minimum reserve requirements when forecasting such liquidity shortages; therefore, they shall not assume that drawing on compulsory reserve requirements constitutes a reasonable way of over coming such shortages.

### **Article 8**

When applying for an overdraft facility at the NBC, institutions shall provide the Central Bank, in writing, with the following discussions and data:

- Liquidity forecasts and estimates of the date where liquidity shortages will arise
- Assumptions made use of for the establishment of the transmitted liquidity forecasts, including stress test scenario(s) where applicable
- Discussion of adverse trends and / or market conditions that lead to foreseeable liquidity shortages
- The action plan considered to address in a durable manner the liquidity shortages to be temporarily covered by the overdraft facility applied for
- Prudent estimates related to the time necessary to implement the action plan and to reimburse the overdraft facility
- Foreseeable impacts and consequences of the implementation of the envisioned action plan on profitability (cost of funds, alternative sources of funding, liquidation of assets ...) and on solvency, and

- Assessment on the institution's overall condition aimed at supporting the NBC's decision and at ensuring that the institution remains fully solvent and profitable.

#### **Article 9**

The application file shall be established based on accurate data. Should reported data and facts prove to be inaccurate or incomplete in order to knowingly and positively influence the NBC's final decision, the NBC shall consider taking sanctions against the institution. Such sanction(s) shall be considered within the entire range of sanctions foreseen by the Banking Law in its Article 52.

The application file shall also provide a list of collateral proposed to the NBC in order to secure the overdraft facility.

#### **Article 10**

The NBC shall notify its decision to the applying institution within two (2) working days, starting from the reception of the complete application file as mentioned under Article 8 in this Prakas.

However, the NBC's decision might carry provisions; such provisions and conditions might be related to further investigations aimed at refining its assessment of the institution's overall condition, due diligence to be carried out on-site, determination of haircut and eligibility of collateral proposed as a pledge and other tasks deemed necessary to make an informed decision.

#### **Article 11**

The overdraft facilities shall be granted either in US Dollars or in Riels, depending on the liquidity shortfalls forecasted by applying institutions.

The amount requested for the overdraft facility shall be considered in light of the reserve requirements the institutions shall comply with. Requests shall not exceed 50 % of the reserve requirement.

The confirmation fee and interest rate on this overdraft facility are the rate which is not encouraged and shall be determined separately from actual by the confirmation of NBC.

#### **Article 12**

Overdraft facilities shall be considered initially for a short period of time ranging from one week to one month and are aimed at helping institutions to overcome short-term liquidity shortages.

The NBC might consider extending an overdraft facility for a new period of time that shall not exceed one month and that shall not be rolled over more than two times. Provided that the institution is still solvent and in a viable condition, it is the implementation of the proposed and appropriate action plan, and if deemed insufficient, supplemented by any adequate corrective actions that shall be considered by the NBC, that shall ultimately lead to solve the liquidity problems in a durable manner.

Should the implementation of the proposed action plan not result in a durable improvement of the institution's liquidity condition after an extension period of the overdraft facility, the NBC shall consider any appropriate supervisory action aimed at dealing with problem institutions and devising appropriate resolution.

## CHAPTER 4

### ELIGIBLE COLLATERAL AND HAIRCUT

#### Article 13

Besides collateral foreseen in Article 36 and 37 of the Law on the Organization and Conduct of the National Bank of Cambodia, institutions may propose loans as a collateral pledge aimed at securing their overdraft facilities.

Such loans shall not be adversely classified. Non Performing Loans (Substandard, Doubtful and Loss) are not eligible as collateral to secure an overdraft facility. To be eligible, such loans shall also meet all the criteria and requirements established in applicable regulations issued by the NBC on loan classification.

Institutions shall provide to NBC a detailed list of eligible collateral and loans such as initial amount, debtor, nature of the loan, classification in the institution's books and records, tenor, amortization schedule, transaction number, ultimate maturity and collateral pledged to the institution to secure the loan.

Loans and facilities extended to related parties are not eligible and shall not be proposed by banks to the NBC since they would be rejected and lead the NBC to require additional and alternative loans. The NBC also reserves the right to refuse collateral in case of suspicion of close links with related parties as well as close economic or business relationships. Decision to reject shall be made by the NBC under its sole discretion and shall not be subject to appeal.

The loans and facilities pledged as a collateral to the NBC shall be sufficiently diversified to prevent from any concentration issue (exposures to single borrowers, to groups of borrowers, to economic sectors, etc.). The NBC shall ensure diversification of risk is reasonable and might require the pool of assets pledged to be reconsidered in order to meet this diversification requirement.

Institutions shall not provide to NBC a loan or facility maturing during the overdraft facility period as a part of the collateral pool.

#### Article 14

Proposed collateral shall be valued at book value as of the closest date to the establishment of the list of proposed collateral submitted to the NBC.

#### Article 15

The NBC shall apply a haircut of 40 % to the value of total collateral pledged to secure the overdraft facility, which means that if collateral is valued at 100, the overdraft facility could only be granted in the amount of 60.

Should the due diligence carried out by the NBC in order to check eligibility of proposed collateral evidence the presence of actually adversely classified loans or of loans that should be adversely classified in the institution's books, the NBC shall apply an additional haircut aimed at reflecting the corresponding risk taken.

## CHAPTER 5

## **COLLATERAL PLEDGE TO THE NBC**

### **Article 16**

Loans and any other eligible assets pledged as collateral to the NBC in order to secure an overdraft facility shall be clearly earmarked in the institution's books and records.

The collateral pledge shall be established in writing and in accordance with legal forms and rules applicable in order to safeguard the NBC's interests and to any possible joint claim from any other collateralized lending counterparty.

The NBC shall be considered a preferred creditor and shall make use of its retention right to obtain full reimbursement of the extended facility, accrued interests, penalties and confirmation fees.

### **Article 17**

NBC has full rights in collateral pledged and shall carry forth judiciary and supervisory actions against any institution that knowingly omits to disclosure of such restrictions or of preexisting pledges that could hamper the NBC's rights on such collateral.

In order to secure its position as a preferred creditor, NBC shall require institutions to provide original deeds including contracts, loan deeds, other evidentiary documents, and that the titles and collateral pledges securing those loans be handed over in original.

Any event foreseen in Article 21, a) and b), shall lead the institution to agree with the NBC upon a new eligible substitution of collateral and to deliver the corresponding deeds in accordance with paragraph 2. The NBC shall consider releasing original documents related to loans and facilities that are no longer part of the collateral pool.

### **Article 18**

Institutions shall disclose such collateral pledges in their financial statements in the form of a footnote summarizing the amount and principal characteristics of assets pledged to the NBC if such an overdraft facility is in force at the date at which the statements are established.

## **CHAPTER 6**

### **COLLATERAL QUALITY REVIEW**

### **Article 19**

The NBC shall conduct by any appropriate and convenient means a review of the proposed collateral prior to making its final decision on the terms and conditions of the requested overdraft facilities.

These reviews shall take the form of an on-site collateral review aimed at verifying notably the following:

- Effective possession of the proposed collateral items

- Characteristics of such collateral, including the existence and the effective validity of guarantees, titles and other credit risk mitigation elements securing the loans proposed as a pledge
- Absence of adverse classification in the applying institution's books and records as well as performance and delinquency over the past period of time, and
- Conditions under which the loans and assets proposed under the collateral pledge are earmarked and secured to protect the NBC's interests.

#### **Article 20**

In the case of collateral items rejected due to non performance issues or concerns, NBC shall lead the institution to immediately consider adversely classifying the corresponding items in its books and records and to provision the risk in accordance with the requirements set forth in the Regulation on Loan Classification.

### **CHAPTER 7**

#### **REPORTING REQUIREMENTS TO THE NBC**

#### **Article 21**

Institutions are required to establish reporting requirements to NBC after receiving an overdraft facility until the NBC lifts these requirements.

Such reporting requirements shall be considered in light of the adverse circumstances affecting the institution's liquidity condition and of the overall risk profile assessment made by the NBC on the institution's overall condition. The frequency of requested reports shall also be commensurate with the risk assessment.

Such minimal reporting requirements shall lead the beneficiary institutions to report to the NBC:

- a) Any decision to adversely classify any asset pledged as collateral during the validity of the overdraft facility and any corresponding proposal to substitute new performing assets to the adversely classified ones
- b) Any event including but not limited to delinquency or prepayment observed on the assets pledged as collateral to the NBC
- c) Progress status of the implemented action plan and impact on the institution's liquidity condition
- d) Any unforeseen difficulty in implementing the action plan and problems faced in restoring the institution's liquidity at a satisfactory level.

Where circumstances so require due to serious liquidity concerns and a progressively deteriorating condition, the NBC shall consider requiring a daily report of the day's inflows and outflows as well as on the liquidity gap forecasts related to the following days.

#### **Article 22**

An appropriately close monitoring process shall be considered by the NBC when extending an overdraft facility. This process shall lead to close monitor the bank on-site and aims at following up on both, its liquidity and its solvency condition.

## **CHAPTER 8**

### **FINAL PROVISIONS**

#### **Article 23**

The General Directorate, 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 NBC's supervisory authority shall strictly implement this Prakas.

#### **Article 24**

This Prakas shall have effect from the signing date.

Phnom Penh, January 20, 2009

**The Governor**  
**signed and sealed**

- cc: - All members of the Board of Directors
- The parties concerned as stated in Article 23
  - File
  - CM "for info"
  - Administration Department of CM
- "for publication in the National Gazette"