

# LAW OF MONGOLIA ON THE SECURITIES MARKET

(Revised version)

24 May 2013

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## CHAPTER ONE: GENERAL PROVISIONS

### Article 1. Purpose of the Law

- 1.1 The purpose of this Law is to regulate relations concerning the regulation and monitoring of activities of participants in the securities market, and the protection of the rights and interests of investors.
- 1.2 In order to achieve the objectives of this Law, the following principles shall be observed in its implementation: reducing the risks in the securities market system and ensuring fairness, transparency and efficiency.

### Article 2. Legislation relating to the securities market

- 2.1 The legislation relating to the securities market shall consist of the Constitution of Mongolia<sup>1</sup>, the Civil Code of Mongolia<sup>2</sup>, the Company Law of Mongolia<sup>3</sup>, this Law and other legislative acts adopted in accordance therewith.
- 2.2 If an international treaty to which Mongolia is a party contains provisions which are contradictory to the provisions of this Law, the provisions of the international treaty shall prevail.

### Article 3. Scope of application of the Law

- 3.1 This Law shall regulate matters relating to the issue by way of public offer, trading, and registration of securities, clearing, settlements and deposit of securities, and conducting other regulated activities in the securities market.
- 3.2 This Law shall provide general regulation in respect of the issue and trading of asset-backed securities. Detailed regulation shall be provided in specific laws and regulations relating to asset-backed securities.<sup>4</sup>
- 3.3 This Law shall provide general regulation in respect of the issue and trading of derivative financial instruments based on goods and commodities. Detailed regulation shall be provided in specific laws and regulations.
- 3.4 This Law shall provide general regulation in respect of undertaking professional investment activities in the securities market. Detailed regulation shall be provided in specific laws and regulations relating to investment funds.

### Article 4. Definitions of terms used in this Law

- 4.1 The following terms used in this Law shall have the following meanings:
  - 4.1.1 "securities market" means the regulated market and over-the-counter market for the registration, issue and trade of securities and derivative financial instruments, the provision of services relating to the transfer of ownership rights in the same, and depositary, clearing and settlement services;
  - 4.1.2 "regulated market" means the relations resulting from the activities set out in Article 24 of this Law;
  - 4.1.3 "over-the-counter market" means the market in which persons licensed to undertake the activities specified in Articles 24.1.1, 24.1.2, 24.1.4, 24.1.5, 24.1.10, and 24.1.12 of this Law enter into agreements relating to directly buying and selling of financial instruments which are not otherwise prohibited by laws and regulations and which such persons either themselves own or are authorised by the owner to trade;
  - 4.1.4 "primary securities market" means the market where a securities issuer sells its shares by way of public offer;

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<sup>1</sup> The Constitution of Mongolia was published in Issue 1 of the 1992 State Gazette.

<sup>2</sup> The Civil Code of Mongolia was published in Issue 7 of the 2002 State Gazette.

<sup>3</sup> The Company Law of Mongolia was published in Issue 42 of the 2011 State Gazette.

<sup>4</sup> Translation note: the Law of Mongolia on Asset-backed Securities enacted on 23 April 2010 governs the matters relating to issue of asset-backed securities.

- 4.1.5 "secondary securities market" means the market where the securities that have been issued on the primary securities market are traded;
- 4.1.6 "financial instrument" means a security, a derivative financial instrument, or such other financial instrument approved for trade in the monetary or the regulated market;
- 4.1.7 "derivative financial instrument" (otherwise known as derivatives) means option contracts and futures contracts and such other financial instruments approved for trade on the regulated market;
- 4.1.8 "security" means a financial instrument specified in Article 5.1 of this Law;
- 4.1.9 "bond" means a security evidencing an obligation to repay principal and interest to holders of the same either in cash or in kind in the form of certain property or property rights at the expiry of the term (as determined by the issuer), or any similar security;
- 4.1.10 "option contract" means a derivative financial instrument which creates for one party a right, but not an obligation, in respect of a counterparty to buy or sell a certain number of assets being the subject of the contract at an agreed price at pre-determined time and creates a corresponding obligation for the counterparty;
- 4.1.11 "futures contract" means a contract or derivative financial instrument that creates for relevant parties the obligation to buy or sell a certain number of assets being the subject of the contract at an agreed price at a pre-determined time;
- 4.1.12 "depository receipt" means a security issued by a depository receipts issuer (depositor) for the purpose of trading on the securities market of another jurisdiction on the basis of having deposited an underlying security at an institution conducting securities depository services (custodian);
- 4.1.13 "depository receipts issuer" (depositor) means an issuer of the depository receipts specified in Article 4.1.12 of this Law;
- 4.1.14 "underlying security" means the financial instrument that evidences a depository receipt;
- 4.1.15 "securities prospectus" means the prospectus and set of documents prepared pursuant to relevant laws and regulations by a securities issuer for the purpose of receiving the placement of orders for or the selling of securities and which have been registered with the Financial Regulatory Commission;
- 4.1.16 "participant in the securities market" means a securities issuer, a regulated entity, or an investor;
- 4.1.17 "regulated entity" means a legal entity licensed to engage in the activities set out in Article 24.1 of this Law;
- 4.1.18 "professional investment activity" means investing in a professional and efficient manner by the entities specified in Article 4.1.19 of this Law other than non-banking financial institutions, underwriters, or dealers by utilising funds raised within an investment policy;
- 4.1.19 "professional investor"<sup>5</sup> means persons that are considered as entities engaged in professional investment activity by law or the Financial Regulatory Commission such as investment funds, pension funds, banks or persons licensed to undertake activities related to non-banking financial activities, insurance, underwriting or dealer activities;
- 4.1.20 "securities issuer" means a person who pursuant to this Law has registered with the Financial Regulatory Commission or submitted an application to register its securities to be traded on the securities market;

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<sup>5</sup> Translation note: the literal translation of the Mongolian version is "entity engaged in professional investment activity".

- 4.1.21 "public offer" means the making of an offer to the public through any media channels for the sale of securities to 50 or more persons through an institution undertaking securities trading in accordance with the procedures issued by the Financial Regulatory Commission;
- 4.1.22 "register of securities approved for public offer" means a register of those securities which have been approved for public offer by the Financial Regulatory Commission in accordance with the procedures specified in this Law;
- 4.1.23 "register of securities ownership rights" means a register evidencing the ownership rights relating to securities pursuant to procedures set out in this Law;
- 4.1.24 "securities registrar" means a legal entity that registers, on the basis of a contract established with a securities issuer, securities at national level with a central depository and which maintains a centralised register of securities;
- 4.1.25 "nominal owner" means a regulated entity, registered in the register of securities ownership rights as the custodian of securities, who is not the owner (beneficial owner) of the concerned securities;
- 4.1.26 "beneficial owner" means the actual owner of securities that has registered securities in its ownership in the name of the nominee in accordance with the provisions of this Law and that has the right to enjoy the benefits attaching to the concerned securities;
- 4.1.27 "stock exchange register" means a register of securities that have been approved by a stock exchange to be traded on such exchange;
- 4.1.28 "stock exchange" means the legal entity having a licence to carry out the trading of securities;
- 4.1.29 "influential shareholder" means an individual or legal entity who alone or in concert holds 5% or more of the total issued shares with voting rights of the concerned company or who exercises the voting rights of such securities on the basis of the provisions of law or contract;
- 4.1.30 "connected person" shall mean any of the following persons:
- 4.1.30.a. with regard to individuals, wives, husbands, children and adopted children, stepchildren, sons-in-law, daughters-in-law, grandchildren, or parents, parents-in-law, stepfathers, stepmothers, siblings, or half-siblings of an individual or his/her spouse;
  - 4.1.30.b. a company in which the concerned person works as a governing person<sup>6</sup>;
  - 4.1.30.c. a company or legal entity in which the entity specified in Article 4.1.30 of this Law holds, either alone or in concert, 10% or more of the voting shares;
  - 4.1.30.d. if the concerned person is an employer, its employees;
  - 4.1.30.e. if the concerned person is a company, its parent, controlled, subsidiary, or sister companies; and
  - 4.1.30.f. such other persons as may be defined by the Financial Regulatory Commission as "connected persons".
- 4.1.31 "company group" means the following legal entities being related to a participant in the securities market:

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<sup>6</sup> Translation note: the term "governing person" is defined in Article 84.1 of the Company Law of Mongolia, enacted on 6 October 2011.

- 4.1.31.a. a company, partnership or other legal entity that is the parent entity of a participant in the securities market;
- 4.1.31.b. a company, partnership or other legal entity that is a controlled, subsidiary or sister entity of a participant in the securities market;
- 4.1.31.c. the parent company of a company that is a controlled or a subsidiary company of a participant in the securities market; and
- 4.1.31.d. all other persons who hold a controlling block<sup>7</sup> of shares in a legal entity specified in Articles 4.1.31.a and 4.1.31.b.
- 4.1.32 "investment fund" means funds raised from the public or by way of closed subscription under the direction of an investment management company for the purpose of engaging in the activities described in Article 4.1.18 of this Law; and
- 4.1.33 "investment management company" means a licensed regulated legal entity in the securities market that manages the assets of an investment fund on the basis of a contract entered into with such investment fund.

## CHAPTER TWO: ISSUE AND TRADING OF SECURITIES

### Article 5. Securities

- 5.1 The following financial instruments shall be considered to be securities that are subject to regulation by this Law:
  - 5.1.1 shares of an open joint stock company (hereinafter "shares");
  - 5.1.2 company debt instruments;
  - 5.1.3 debt instruments issued by the Government or the governors of aimags<sup>8</sup> or the capital city;
  - 5.1.4 shares or unit rights in an investment fund;
  - 5.1.5 depositary receipts;
  - 5.1.6 asset-backed securities;
  - 5.1.7 rights to purchase a certain number of shares or debt instruments that are offered by a securities issuer to an investor, within a certain period of time and at an agreed price (hereinafter "warrants");
  - 5.1.8 derivative financial instruments specified in this Law; and
  - 5.1.9 such other financial instruments as may be deemed by the Financial Regulatory Commission to be securities in accordance with this Law.
- 5.2. Unless otherwise provided in law, the following financial instruments shall not be subject to the scope of this Law:
  - 5.2.1 shares in a limited liability company;

<sup>7</sup> Translation note: "a controlling block" of a company's shares is a defined term under the Company Law of Mongolia, and although there is no direct reference to such definition herein, for the purpose of this translation it is assumed to be the same, i.e. one-third.

<sup>8</sup> Translation note: Aimag is an administrative territorial unit of Mongolia similar to a province, and currently the territory of Mongolia is divided into 21 aimags.

- 5.2.2 derivative financial instruments that have not been approved for trade on the regulated market;
- 5.2.3 bills of exchange and simple promissory notes;
- 5.2.4 savings certificates issued by banks; and
- 5.2.5 such other financial instruments with a maturity of less than one year issued by a commercial bank to be traded on a monetary market in accordance with Article 15.2 of the Banking Law.

5.3 The financial instrument specified in Article 5.2.4 of this Law shall not be regarded as a depositary receipt.

#### **Article 6. Issue of securities**

- 6.1 Securities may be issued for sale by way of public offer or by closed subscription.
- 6.2 A list of persons prohibited from purchasing shares issued by way of public offer may be determined by law or the Financial Regulatory Commission (hereinafter "FRC").
- 6.3 Securities may be issued for trade within the territory of Mongolia or in another jurisdiction.
- 6.4 The securities of an issuer registered on a foreign stock exchange may be traded within the territory of Mongolia in accordance with procedures approved by the FRC.
- 6.5 During the period commencing with registration with the FRC of a decision to issue securities and terminating on the sale of such securities on the primary securities market, it shall be prohibited to amend such decision save with the approval of the FRC.
- 6.6 Securities to be traded on a stock exchange may only be issued in the form of registered<sup>9</sup> securities.
- 6.7 If an issuer that is filing an application to register its securities for the first time in the regulated securities market has previously issued bearer securities, it shall convert such securities into registered securities in accordance with the proper procedures.

#### **Article 7. Securities issuers**

- 7.1 The Government, governors of aimags or the capital city, and companies may issue securities in accordance with this Law and other relevant legislation, regulations, and procedures.

#### **Article 8. Procedures for issuing securities by way of public offer**

- 8.1 The Government shall approve regulations for the issue of securities by the Government and governors of aimags or the capital city.
- 8.2 The FRC shall approve the procedures, instructions and sequence relating to issue of securities by way of public offer.

#### **Article 9. Registration of securities and approval for public offer**

- 9.1 The FRC shall register securities for public offer by companies and approve the offering of such securities on the primary securities market.

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<sup>9</sup> Translation note: "registered securities" are called "name-bearing securities" in the original Mongolian version.

- 9.2 The FRC shall register debt instruments to be issued by way of public offer by the Government, or the governor of aimags or the capital city. Registration shall be made in accordance with simplified procedures to be approved by the FRC.
- 9.3 Where there is to be a private placement of additional securities of the type that were previously issued by way of public offer, the FRC shall register such additional securities.
- 9.4 If a legal entity that previously issued its securities by way of public offer is to issue another type of securities by closed subscription, such new securities shall be registered by the FRC.
- 9.5 The following documents shall be appended to an application to register securities in the register of securities approved for public offer:
- 9.5.1 the application form;
  - 9.5.2 the securities prospectus;
  - 9.5.3 a document evidencing payment of the regulatory service fee; and
  - 9.5.4 such other additional documents as specified in regulations issued by the FRC.
- 9.6 The FRC shall consider applications to register securities other than those specified in Article 9.2 of this Law within 20 working days of receipt of the same with the prospectus and other documents and shall issue either of the following decisions: a decision to register the securities if it considers that the application accords with the requirements established by the FRC; or a decision refusing to register the securities, in which case it must specify justifiable grounds therefor. The period for considering applications shall be calculated as commencing on the date of receipt of a complete application.
- 9.7 When making the decision specified in Article 9.6 of this Law, the period for considering applications may be extended by up to a maximum of 15 working days if it is necessary to obtain additional documents, evaluations or reports from independent organisations or experts such as auditors and valuers.
- 9.8 The applicant shall be responsible for the costs or expenses incurred in obtaining items specified in Article 9.7 of this Law.
- 9.9 The FRC shall approve the public offer of securities on the basis of the decision to register such securities pursuant to Article 9.6 of this Law.
- 9.10 The FRC shall refuse to register the securities in the register of securities approved for public offer in the following circumstances:
- 9.10.1 the application was not made in accordance with this Law or the procedures issued by the FRC;
  - 9.10.2 the securities issuer, its application or the appended documents do not meet the relevant requirements;
  - 9.10.3 the necessary information was not included in the application, or the required information was not fully provided;
  - 9.10.4 false, misleading, incorrect, or contradictory information was included in the application;
  - 9.10.5 additional necessary information was not supplied within the prescribed period; or
  - 9.10.6 the FRC considers that registration of the concerned securities would be adverse to the interests of investors.
- 9.11 It shall be prohibited to issue any public notification or advertise securities which have not been registered in the register of securities approved for public offer or which the FRC has refused to register.

- 9.12 An applicant whose application has been refused may not resubmit an application in the period of one year from the date of the decision refusing to register its securities in the register of securities approved for public offer.
- 9.13 Registration of securities for public offer or of the prospectus by the FRC or the stock exchange, or granting approval of a public offer or sale on the primary securities market pursuant to Articles 9.6 and 9.9 of this Law shall not constitute a guarantee of such securities, and the authorities that authorised the registration shall not be liable for any loss or damage suffered by an investor who purchased such securities.
- 9.14 The securities prospectus and associated documents shall contain accurate and correct information, and in the event that loss or damage has been suffered as a result of the inclusion of false, falsified, incomplete, misleading, contradictory, or incorrect information, the securities issuer and its governing persons who made the decision shall be jointly liable for such loss or damage.
- 9.15 Those who participated in the preparation of the prospectus and the associated documents shall be liable for any loss or damage suffered in connection with the work performed by them.
- 9.16 The securities issuer may simultaneously apply to register its securities for registration in the register of securities approved for public offer and in the stock exchange register.
- 9.17 The registration of the securities issuer with the stock exchange shall not serve as grounds for the public offer of its securities or the registration of the same in the register of securities approved for public offer.

#### **Article 10. Securities prospectus**

- 10.1 Securities must be subject to public offer within six months of the date of registration of the same and the related prospectus with the FRC. It is prohibited to publicly offer securities after the expiry of this period.
- 10.2 After the expiry of the period provided in Article 10.1 of this Law, in the event such securities are to be offered to the public, they must be re-registered with the FRC.
- 10.3 The securities prospectus must include information regarding the securities issuer, its shareholders, management, organisational structure and governing persons, the assets, debts, financial condition, present and future outlook, and risks relating to the securities issuer, the securities being issued, the rights evidenced by such securities, the procedures for trading the securities, independent opinions, and such other information as the FRC may consider necessary for investors to make an investment decision.
- 10.4 The securities prospectus shall be prepared in accordance with the procedures specified in Article 8.2 of this Law.
- 10.5 The securities prospectus shall include the following information:
- 10.5.1 the name, permanent address, postal and contact address of the securities issuer, its industry/business activities, and whether it is registered with the stock exchange;
  - 10.5.2 the state registration number and registration number and the registration date of the securities issuer;
  - 10.5.3 the full name of any influential shareholder, and if a legal entity, the name, state registration number, and the number and percentage of shares held by it and its connected persons;
  - 10.5.4. information concerning the structure, organisation, and governing persons of the securities issuer, and information concerning the number and percentage of shares held by such governing persons;

- 10.5.5 information concerning the amount of share capital of the securities issuer, the number, type and par value of securities that were previously authorised, issued, and redeemed, the net asset value<sup>10</sup> and information concerning the securities issuer's tangible and intangible assets;
  - 10.5.6 the securities issuer's financial statements, and an auditor's report in relation to the same;
  - 10.5.7 details of the contracts and transactions having a value of an amount equal to 5% or more of the share capital of the securities issuer, and information on performance and/or current status of the same;
  - 10.5.8 details of the connected persons of the securities issuer;
  - 10.5.9 the number, type and par value of securities being publicly offered, the conditions and procedures for any public offer and/or trade of these, the conditions and procedures for distributing dividends, and in the case of debt instruments, the details of the maturity term, and the conditions and procedures for payment of the principal and interest;
  - 10.5.10 the rights and obligations attaching to the securities being publicly offered;
  - 10.5.11 a business plan specifying the use of the capital to be raised by issue of the securities;
  - 10.5.12 if a security is convertible into shares, the conditions and procedures for such conversion;
  - 10.5.13 risks for the security issuer's operations and risk management plans;
  - 10.5.14 the regulated entities and other professional service providers involved in the public offer of the securities and the rights, obligations and liabilities provided in the contracts entered into therewith;
  - 10.5.15 in respect of debt instruments, information regarding any guarantees for repayment and/or pledged property;
  - 10.5.16 property valuation reports prepared within the past one year; and
  - 10.5.17 such other information considered by the FRC as necessary to include in the prospectus.
- 10.6 A law firm authorised to provide legal services in accordance with Article 33.2.1 of this Law shall verify whether the information included in the securities prospectus is valid and accurate and issue an opinion in relation thereto, and a legal entity authorised to provide audit services in accordance with Article 33.2.3 of this Law shall opine on the accuracy of the financial information.
- 10.7 The financial reports and legal opinion as verified by the entities specified in Article 33.2 of this Law shall form an integral part of the securities prospectus.
- 10.8 If the securities prospectus contains the valuations and opinions of independent experts or professionals, the following information and clarifications must be appended to the securities prospectus:
- 10.8.1 a document evidencing the authority to issue the relevant opinion;
  - 10.8.2 the name, address and professional experience of the expert that issued the relevant opinion;
  - 10.8.3 confirmation by the expert that the opinion was prepared pursuant to proper procedures and without any conflicts of interest; and

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<sup>10</sup> Translation note: the term "net asset value" (literal translation "owner's equity") is defined under Article 30.2 of the Company Law of Mongolia meaning the difference between the total tangible and intangible assets of a company specified in its balance sheet and the total liabilities.

- 10.8.4 a statement that there is no objection to the opinion being disclosed to the public along with the securities prospectus.
- 10.9 Any expert opinion shall contain the following information:
- 10.9.1 the expert's full name, information evidencing its authority to give the opinion;
- 10.9.2 information relating to the client who gave the instruction;
- 10.9.3 the period, frequency, and date that the analysis [on which the opinion is based] was conducted;
- 10.9.4 the scope of the client instruction;
- 10.9.5 the methodology used for the report and scope of the report, documents reviewed and those matters that are not covered in the report;
- 10.9.6 an executive summary of the expert's opinion;
- 10.9.7 the expert's confirmation that the opinion was prepared in accordance with the proper procedures and without any conflicts of interest;
- 10.9.8 the expert's signature and stamp/seal; and
- 10.9.9 such other items as maybe required by the FRC or the stock exchange.
- 10.10 The FRC shall issue a list of such other information that should be included in the prospectus in addition to that specified in Articles 10.5 - 10.9 of this Law.
- 10.11 The application delivered to the FRC, the securities prospectus, and copies of the same shall be signed and verified by the chairman of the board of directors, the executive director, and the chief financial officer of the securities issuer, the issuer of the legal opinion, the independent auditor that audited the financial report, and any other relevant independent experts.
- 10.12 In the event there is a change in the information specified in Article 10.5 of this Law, the securities issuer is under an obligation to update the securities prospectus with the consent of the FRC, and it is prohibited for the securities issuer to amend the securities prospectus without the FRC's consent.
- 10.13 If, within the period specified in Article 10.1 of this Law, there is any change to the circumstances of the securities issuer and/or the market conditions which could affect an investor's decision, the securities issuer shall inform the FRC concerning this and include an addendum to the securities prospectus relating to such change.
- 10.14 An interested person may make a request to the FRC for confirmation as to whether or not a securities prospectus relating to securities being offered to public has been registered with the FRC.
- 10.15 In the following circumstances preparation of the securities prospectus may not be required:
- 10.15.1 a public offer of debt instruments by the Government;
- 10.15.2 an issue of securities that are wholly-guaranteed by the Government;
- 10.15.3 a consolidation or split of issued shares;
- 10.15.4 a conversion of convertible debt instruments into shares in accordance with a securities prospectus previously circulated to the public; or

10.15.5 such other circumstances as may be provided in law.

10.16 The FRC shall approve procedures for registering those securities described in Article 10.15 of this Law in the register of securities approved for public offer.

#### **Article 11. Public offer of securities**

11.1 The securities issuer shall, either independently or on the basis of a contract established with a regulated entity, offer its securities on the primary securities market by way of advertising and offering the securities to 50 or more investors.

11.2 If the securities prospectus registered with the FRC provides that the securities shall be offered by way of closed subscription, the prospectus must be provided to investors within such closed subscription.

11.3 When offering securities specified in Article 5.1.1 of this Law to the public, the securities issuer shall engage a legal entity licensed to carry out underwriting activities.

11.4 When publicly offering securities, the securities issuer shall provide interested persons access to the relevant securities prospectus free of charge.

11.5 In the event additional information is required from the securities issuer concerning securities registered in the register of securities and that have been approved for public offer, or where it has been established that the securities issuer gave incomplete, false, or misleading information when registering the relevant securities, and the securities were offered or misrepresentations were made on the basis of such information, then depending on the gravity of the violation the FRC may adopt a resolution to either temporarily suspend the public offer or revoke the registration of the securities approved for public offer, notify the securities issuer, and the relevant stock exchange setting out justifiable grounds therefor and inform the public of the same.

11.6 The securities issuer shall be liable for costs and expenses and any loss or damage caused to others in connection with the revocation of the registration of securities approved for public offer resulting from the wrongful action of the securities issuer in accordance with Article 11.5 of this Law.

11.7 In the event that the securities issuer offering its securities to the public, the regulated entity and/or the independent experts that participated in the selling of securities on the primary securities market become aware of any violations specified in Article 11.5 of this Law, they shall immediately inform the FRC and the competent authorities.

11.8 The fact that the securities issuer has compensated others for loss or damage arising as a result of a violation pursuant to Article 11.5 of this Law shall not constitute grounds to release the governing persons of the securities issuer, regulated entities, or independent experts from personal, administrative, or criminal liability.

11.9 The loss and damage specified in Article 11.6 of this Law shall be compensated through judicial proceedings.

11.10 It is prohibited to publicly offer shares that have not been registered in the register of securities approved for public offer or to publicly offer shares of a limited liability company.

#### **Article 12. Selling securities on the primary securities market and related reporting**

12.1 Securities that are registered both in the register of securities approved for public offer and in the stock exchange register shall be sold on the primary securities market.

12.2 The FRC shall issue permission to trade the securities on the primary securities market, and such permission shall be granted on the basis of a request from the securities issuer and confirmation from the stock exchange that the securities are registered in the stock exchange register and the relevant preparations are finalised.

12.3 It is prohibited to sell securities by way of an exchange for debt or, unless otherwise provided by laws and regulations, to transfer ownership for no consideration.

- 12.4 The securities issuer shall submit a report regarding the trading of its securities on the primary securities market to the FRC within three business days of the conclusion of the sale of securities on the primary securities market in accordance with the applicable procedures.
- 12.5 The report concerning the sale of securities on the primary securities market must include the opinion of the stock exchange stating that the relevant trade was carried out in accordance with the applicable procedures.
- 12.6 The FRC shall review the report concerning the sale of securities on the primary securities market within three business days and in the event that no violation is found, and it considers the primary securities market trading to have been successful, the FRC shall issue permission for commencement of trading on the secondary securities market.
- 12.7 The FRC shall consider the primary securities market trading to have been successful where any one of the following conditions has been satisfied in full:
- 12.7.1 in the case of securities issued at par value, all the shares offered publicly were sold or all the proceeds from the relevant securities trade have been deposited into the account of the securities issuer;
- 12.7.2 in the case of securities sold at a premium above the par value, the funds necessary for the implementation of the project specified in the securities prospectus offered to the public were raised and all the raised funds have been deposited into the account of the securities issuer; or
- 12.7.3 in an underwritten issue, all the payments required pursuant to an underwriting agreement have been made or the conditions specified in Articles 12.7.1 or 12.7.2 of this Law have been satisfied.
- 12.8 Transactions made on the primary securities market may not be terminated following the issue by the FRC of a resolution confirming that the primary securities market trade has been successful and a notification to the public of the same.
- 12.9 It is prohibited to use the funds raised by way of securities trading for purposes other than those specified in the relevant securities prospectus.
- 12.10 In the event that the concerned securities have not been issued on the primary securities market within six months of registration with the FRC and approval for public offer of the securities, the registration of the securities approved for public offer shall be revoked.

### **Article 13. Depositary receipt**

- 13.1 A depositary receipt shall evidence the ownership rights to underlying securities deposited as well as such other rights and obligations attached thereto.
- 13.2 A depositary receipt shall be freely convertible into an underlying security, and in the event depositary receipt is sold to another, the ownership right of the underlying security and other rights and obligations attached thereto shall also be transferred to the transferee of those rights specified in Article 13.1 of this Law.
- 13.3 Conversion of a depositary receipt into an underlying security, or an underlying security into a depositary receipt shall be made for no consideration.
- 13.4 Depositary receipts may only be issued through a legal entity licensed to undertake securities custodial services (hereinafter "custodial services").
- 13.5 The issuer of a depositary receipt shall be regarded as an agent acting on behalf of the issuer of the underlying securities on the basis of a contract entered into therewith, and shall be a nominal owner of the underlying securities evidencing the depositary receipts.
- 13.6 The issue of a depositary receipt shall be prohibited unless the underlying securities have been deposited in full.

- 13.7 Depository receipts may be issued by way of an additional issue of the underlying securities, an issue based on existing underlying securities subject to the approval of the owner, or by way of a combination of these methods.
- 13.8 Each depository receipt of one class shall evidence an equal portion of the rights of one class of the underlying security.
- 13.9 One depository receipt may be evidenced by one or more underlying securities.
- 13.10 Where provided in the contract with the issuer of the underlying securities, several depository receipts may be evidenced by a single underlying security. In such event, the voting rights attaching to such underlying security shall be calculated as the aggregate of those attaching to the depository receipts.
- 13.11 Depository receipts shall have the following types:
- 13.11.1 Mongolian depository receipts; and
  - 13.11.2 global depository receipts.
- 13.12 A depository receipts issuer shall maintain a register of the beneficial owners of the depository receipts and shall deliver such register to the FRC and, if requested, to the issuer of the underlying securities.
- 13.13 It is prohibited for a depository receipts issuer to be a beneficial owner of such depository receipts.

#### **Article 14. Mongolian depository receipts**

- 14.1 A "Mongolian depository receipt" shall mean a financial instrument registered and issued by a depository receipts issuer for sale on the regulated securities market of Mongolia on the basis of the deposit, with a legal entity licensed to undertake custodial services, of an underlying security registered with a stock exchange in another jurisdiction.
- 14.2 Unless otherwise provided in law, the FRC shall, on the basis of a recommendation from the stock exchange, approve the types of underlying securities of Mongolian depository receipts, the securities market charged with maintaining a register of the relevant underlying securities, and a list of the jurisdictions in which such securities are registered.
- 14.3 It shall be prohibited to sell depository receipts in Mongolia which are based on underlying securities that are not included in the list approved by the FRC.
- 14.4 The rights and obligations of the issuer of a depository receipt and the issuer of the underlying securities shall be determined by a contract established between them, and the main terms and conditions of such contract shall form an integral part of the prospectus for such depository receipts.
- 14.5 Notwithstanding any provision in the contract referred to in Article 14.4 of this Law stating that the issuer of the underlying securities shall observe the laws and regulations of its own jurisdiction, the depository receipts issuer shall be subject to Mongolian legislation in respect of the issue and sale of Mongolian depository receipts.
- 14.6 The FRC shall issue regulations for the conditions and requirements to be imposed on the Mongolian depository receipts issuer, the procedures for issuing depository receipts, registration in the register of securities approved for public issue, granting permission for public offers and trading, and the public disclosure requirements relating thereto.
- 14.7 The contract referred to in Article in 14.4 of this Law must include the following provisions:
- 14.7.1 a description of the rights to be exercised in relation to the underlying securities by the depository receipt holder, and the procedures for allowing it to exercise such rights, to assign and consolidate its voting rights, and notice of any voting results;

- 14.7.2 a description of the obligations undertaken by the issuer of the underlying securities regarding the prompt dissemination of information to the public in relation to the underlying securities and the issuer of the underlying securities in accordance with the procedures provided by legislation and the FRC; and
- 14.7.3 a requirement for cancellation of the depositary receipt on the holder's first demand, simultaneous registration of ownership rights of the relevant underlying securities, and the prohibition of cancellation of the depositary receipt without the permission of the depositary receipt holder.

#### **Article 15. Global depositary receipts**

- 15.1 "Global depositary receipt" shall mean a financial instrument issued only by a depositary receipts issuer on the basis of securities issued in Mongolia through an entity authorised to undertake custodial services.
- 15.2 A global depositary receipt may have a name which identifies the market and jurisdiction in which the relevant depositary receipt will be traded.
- 15.3 A securities issuer that has decided to issue a global depositary receipt based on its own securities shall inform the public, the FRC, and the stock exchange in writing within five working days after adopting a resolution in relation to the same.

#### **Article 16. Company debt instruments**

- 16.1 A company that has met the criteria determined by the FRC and the stock exchange may issue debt instruments for public offer.
- 16.2 The FRC shall issue regulations for registration of company debt instruments for public offer.
- 16.3 Company debt instruments for public offer may be secured in order to ensure repayment.
- 16.4 The total value of debt instruments issued by a company shall not be greater than the relevant company's net asset value. The total value of debt instruments being issued with a third party guarantee shall not be greater than the total sum of the amount of the relevant company's net asset value and the total guarantees issued by the third party.

#### **Article 17. Issue of securities in a foreign jurisdiction by a company listed on the stock exchange**

- 17.1 Unless otherwise provided in law, a company listed on the stock exchange of Mongolia may also register on a foreign stock exchange and trade a certain percentage of its total issued shares or depositary receipts based on such securities.
- 17.2 When issuing shares in a foreign jurisdiction, a company specified in Article 17.1 of this Law shall register such shares with the FRC which shall issue regulations for such registration.
- 17.3 A legal entity incorporated in Mongolia shall notify the FRC in the event that it lists its shares on a foreign stock exchange.

#### **Article 18. Issuing of securities in Mongolia by a legal entity registered in a foreign jurisdiction**

- 18.1 A legal entity listed on a foreign stock exchange may, with the permission of the FRC, register with the Mongolian stock exchange and trade its securities.
- 18.2 Unless otherwise provided by law, the FRC shall issue the regulations and procedures to be observed by the securities issuer specified in Article 18.1 of this Law.
- 18.3 A legal entity specified in Article 18.1 of this Law shall include in its prospectus for the securities to be traded in Mongolia any regulatory conflicts between the laws of the jurisdiction where its securities were originally registered and

the laws of Mongolia, and shall detail the risks arising from such conflict to holders of the securities and the procedure within which investors may exercise the rights attached to such securities.

- 18.4 The FRC shall determine the conditions and requirements to be imposed on those foreign securities issuers who may issue shares in Mongolia and the list of approved foreign stock exchanges.
- 18.5 The stock exchange shall, with approval of the FRC, issue regulations in relation to the registration specified in Article 18.1 of this Law.
- 18.6 Unless otherwise provided in law, the issue of securities on the Mongolian securities market by a legal entity registered in a foreign jurisdiction shall not deem such legal entity to have carried out operations in Mongolia.
- 18.7 The provisions of Article 20.1.3 of this Law shall not apply to entities specified in Article 18.1 of this Law.

#### **Article 19. Issuing derivative financial instruments**

- 19.1 A legal entity authorised to undertake securities dealer activities may trade derivative financial instruments with professional investors in accordance with the procedure set out by the relevant securities trading organisation.
- 19.2 Article 19.1 of this Law shall not apply to the issue or trade of asset-backed securities.
- 19.3 The relevant securities trading organisation and the FRC shall determine the conditions, requirements and criteria to be imposed on issuers of derivative financial instruments, the standards applicable to derivative financial instruments and the procedures for trading the same.
- 19.4 Derivative financial instruments may be issued with the approval of the FRC based on the price and trading indices of certain securities.

#### **Article 20. General obligations of the issuer**

- 20.1 The securities issuer shall have the following general obligations:
- 20.1.1 to discuss and adopt a resolution to issue securities by a meeting of those suitably authorised;
  - 20.1.2 to produce information and reports connected with the trade in securities accurately and in accordance with relevant methodology in the approved form, and submit these to the FRC and issue these to the public within the prescribed period;
  - 20.1.3 to have no fewer independent members of the board of directors than as is specified in the Company Law of Mongolia;
  - 20.1.4 to appoint or elect suitable persons as governing persons;
  - 20.1.5 to inform the public and shareholders in a timely fashion in the event that the implementation of a project provided in the securities prospectus has changed;
  - 20.1.6 to submit to the FRC and the stock exchange half-yearly financial reports and annual financial reports certified by auditors registered with the FRC within the period specified in Article 13 of the Law of Mongolia on Accounting;
  - 20.1.7 to publish information concerning the operational and financial condition of the company in accordance with the procedures established by the FRC;
  - 20.1.8 to immediately inform the public of the resolutions of a shareholders' meeting and submit to the FRC and the stock exchange the relevant documents and information within three business days of such meetings;

- 20.1.9 to immediately inform the public in the event of circumstances that could appreciably influence the price or trading volume of securities; and
- 20.1.10 to observe the corporate governance principles issued by the FRC.
- 20.2 The provisions of Articles 20.1.3, 20.1.4, 20.1.6 - 20.1.8, and 20.1.10 of this Law shall not apply to the Government and the governors of aimags or the capital city.
- 20.3 The stock exchange shall issue regulations, with the FRC's approval, relating to the type of information that might appreciably influence the price or trading volume of securities and the procedure for the public disclosure of the same.

#### **Article 21. Demand of information relating to securities issuers, and submission of claims**

- 21.1 Where the following circumstances have arisen, or are considered likely to arise, the FRC shall have the authority to demand that the securities issuer and its connected persons deliver information in accordance with the prescribed procedures:
  - 21.1.1 where illegal activities, including deceiving or defrauding of others, have been carried out or are being carried out, or the interests of shareholders have been harmed;
  - 21.1.2 where a legal entity has been established in order to deceive or defraud others, or for other illegal purposes;
  - 21.1.3 the founders, influential shareholders or governing persons of a company have deceived or defrauded such company or its investors or have otherwise conducted illegal activities; or
  - 21.1.4 there was a failure to comply with the disclosure requirements owed to investors or to the public.
- 21.2 If the FRC considers that the securities issuer or its governing persons have acted in a way that is adverse to the interests of shareholders or investors or have carried out illegal activities, it may bring judicial proceedings on behalf of the shareholders.
- 21.3 A charter of a securities issuer may not be amended in a way that puts it in conflict with charter amendments made as a result of a court order.

### **CHAPTER THREE: PURCHASING ALL OR A CONTROLLING BLOCK OF THE SHARES OF A COMPANY**

#### **Article 22. Making of an offer to purchase the shares of a company**

- 22.1 An offer to purchase the shares of a company (hereinafter "an offer") shall be made in the following form:
  - 22.1.1 by a shareholder of the company alone or together with its connected persons, or else a person that is not a shareholder, making an offer for the purchase of all or more than a controlling block of the shares of the company on a voluntary basis; or
  - 22.1.2 by a shareholder who has alone, or together with its connected persons, purchased a controlling block of shares of a company, exercising its obligations specified in Article 57.1 of the Company Law of Mongolia.
- 22.2 An institution undertaking custodial services shall notify the FRC and the stock exchange of the situation where the obligations specified in Article 22.1.2 of this Law have become exercisable within five business days of the purchase of the controlling block of shares, and shall inform the public of the same through such institution's website.
- 22.3 In the event that there is an increase or decrease in a controlling block of shares by 5 per cent or more, the shareholder holding the controlling block of the company alone or together with its connected persons shall notify the

FRC and the stock exchange within five business days of such increase or decrease, and shall inform the public of the same through such shareholder's website.

- 22.4 The person making the offer shall simultaneously inform both the FRC and the public of its offer.
- 22.5 When making an offer to shareholders to purchase the shares of the company, the person making the offer shall observe the procedures stipulated in Article 57.1 of the Company Law of Mongolia and simultaneously provide all interested persons with information relating to such purchase.
- 22.6 The following information shall be included in the notice delivered to the public concerning the purchase of the shares of a company:
- 22.6.1 the full name and residential address of the person making the offer, and in the case of a legal entity, the name and registered address of such legal entity; and
- 22.6.2 the number of shares subject to the offer and the minimum offer price per share.
- 22.7 The period of validity of an offer shall not be less than one month and not exceed three months.
- 22.8 Before making the offer to the public to purchase the shares, the offeror shall inform the board of directors of the relevant company in relation to the same.
- 22.9 The price offered by the offeror to purchase the shares shall not be less than the market price of the relevant shares. The FRC shall approve methodologies for determining the market price on the basis of recommendations from the stock exchange.

### **Article 23. Procedures for the purchase the shares of a company**

- 23.1 The FRC shall establish procedures for purchasing the shares of a company.
- 23.2 The procedures specified in Article 23.1 of this Law shall include the following:
- 23.2.1 the method and form of making the offer;
- 23.2.2 the content of the offer documents, the period for public disclosure;
- 23.2.3 evidence of the financial capacity to implement the takeover of the company's shares (hereinafter the "takeover process");
- 23.2.4 measures to be implemented by the company management in relation to the takeover process;
- 23.2.5 the rights, obligations, and liability of the persons participating in the takeover process;
- 23.2.6 regulations for the trading of securities in relation to the takeover process;
- 23.2.7 supervision of the offer and the takeover process;
- 23.2.8 activities which are prohibited during the takeover process; and
- 23.2.9 such additional requirements as may be considered necessary by the FRC to properly implement the takeover process.
- 23.3 It is prohibited to make an offer in violation of the procedures established by the FRC, or conduct any activities in respect of the takeover of a company without first making an offer.

- 23.4 If a person specified in Article 22.1.1 of this Law or its connected persons have violated the procedures set out in this Law relating to the takeover process, any shares purchased in violation of this Law shall not carry voting rights.
- 23.5 If a person specified in Article 22.1.2 of this Law or any of its connected persons have not discharged the obligations set out in Article 57.1 of the Company Law of Mongolia, or else have violated the procedures for the takeover process set out in this Law, none of the shares held by such persons shall carry voting rights.
- 23.6 The FRC shall notify the public in respect of the suspension of the voting rights of shares through its website within 15 days of such suspension.

## **CHAPTER FOUR: REGULATED ACTIVITIES**

### **Sub-chapter One: General regulations**

#### **Article 24. Regulated activities**

- 24.1 Regulated activities shall be of the following types:
- 24.1.1 securities brokering;
  - 24.1.2 securities dealing;
  - 24.1.3 securities investment advisory services;
  - 24.1.4 securities nominee services;
  - 24.1.5 underwriting;
  - 24.1.6 registration of securities ownership rights;
  - 24.1.7 securities trading clearing;
  - 24.1.8 securities trading settlements;
  - 24.1.9 securities central depository services;
  - 24.1.10 custodial services;
  - 24.1.11 securities trading;
  - 24.1.12 investment fund activities;
  - 24.1.13 investment management activities;
  - 24.1.14 credit rating services;
  - 24.1.15 providing legal advice to participants in the securities market;
  - 24.1.16 providing property valuations and appraisal services for participants in the securities market;
  - 24.1.17 providing auditing services for participants in the securities market; and
  - 24.1.18 such other activities as may be set down by the FRC.
- 24.2 The activities specified in Articles 24.1.1 - 24.1.14 and in Article 24.1.18 of this Law shall only be undertaken on the basis of a licence issued by the FRC.

- 24.3 The activities specified in Articles 24.1.15 - 24.1.17 of this Law shall be undertaken by a legal entity authorised to undertake the concerned activity on the basis of having fulfilled the conditions and requirements set down by, and having registered with, the FRC.
- 24.4 A licence to undertake the activity specified in Article 24.1.14 of this Law shall be issued by the FRC in consultation with the Bank of Mongolia<sup>11</sup>.
- 24.5 The shareholders of a regulated entity undertaking the activities specified in Articles 24.1.1-24.1.11, 24.1.13 or 24.1.18 of this Law shall be prohibited from selling, trading, pledging, or otherwise transferring their shares without the approval of the FRC. This provision shall apply to influential shareholders of a regulated entity that is organised as a joint stock company.
- 24.6 A regulated entity undertaking the activities specified in Articles 24.1.1 - 24.1.14 or in Article 24.1.18 of this Law shall obtain the approval of the FRC in order to establish a branch or representative office.
- 24.7 The name of a regulated entity undertaking the activities specified in Articles 24.1.1 - 24.1.14 or in Article 24.1.18 of this Law shall consist of their corporate name and the detailed designation of "unet tsaasnii company (securities company)" or the abbreviation "UTsK".
- 24.8 Entities other than those specified in Article 24.7 of this Law are prohibited from using the designation "unet tsaasnii company (securities company)" or the abbreviation "UTsK" in their corporate names.
- 24.9 Article 24.7 of this Law shall not apply to the stock exchange, legal entities licensed to engage in securities central depository activities or banks.

#### **Article 25. Principles to be observed when undertaking regulated activities**

- 25.1 Regulated entities shall observe the following principles when carrying out their activities:
- 25.1.1 to comply with laws, regulations, rules, procedures, and publicly-recognised norms;
  - 25.1.2 to have knowledge of or to understand a client's investment goals and opportunities in rendering services to clients in accordance with the proper procedures;
  - 25.1.3 to provide necessary information and advice to a client in order for them to make an informed investment decision;
  - 25.1.4 to avoid creating conflicts of interest with clients or other related persons, and in the event a conflict of interest arises, to inform the client immediately;
  - 25.1.5 not to put the one's private interests above that of the client, and not to use information acquired in the process of performing official duties for personal gain;
  - 25.1.6 to keep the assets of each client separate from its own assets and those of other persons and to ensure the safekeeping of the same;
  - 25.1.7 to have the financial capacity to undertake the concerned activities and to cover liabilities arising from potential risks;
  - 25.1.8 to organise its internal activities in an appropriate form, and to operate an internal supervisory system;

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<sup>11</sup> Translation note: Central Bank of Mongolia.

- 25.1.9 to maintain and keep original accounting records and documents associated with its operations in accordance with relevant standards;
- 25.1.10 to have human resources sufficient to carry out its activities; and
- 25.1.11 not to carry out such other activities that are not related to the licensed activities.

#### **Article 26. Regulations for regulated activities**

- 26.1 Matters related to undertaking regulated activities in the securities market shall be regulated by a set of regulations to be approved by the FRC.
- 26.2 The set of the regulations relating to the regulated activities shall consist of the following regulations, rules, guidance, and methodologies:
  - 26.2.1 regulations on granting, extending, suspending, reinstating, and revoking licences specified in Article 24.2 of this Law, and regulations on measures to be taken in the event that a licence has been suspended or revoked;
  - 26.2.2 regulations on the conditions and requirements to be imposed on a regulated entity, and methodologies and criteria for determining, and procedures for supervising, its financial capacity;
  - 26.2.3 regulation on establishing, funding and supervising the risk management fund of a regulated entity;
  - 26.2.4 unless otherwise provided in law, regulations on setting the maximum amount of fees chargeable by a regulated entity for the provision of services;
  - 26.2.5 regulations on mandatory disclosures to the FRC and to the public and on supervising the same;
  - 26.2.6 procedures for advertisements by a regulated entity or a securities issuer;
  - 26.2.7 procedures and guidance on the provision of services to clients and documenting of the same;
  - 26.2.8 procedures for accepting and implementing client instructions;
  - 26.2.9 procedures for appointing governing persons of regulated entities and determining suitable persons;
  - 26.2.10 procedures for preparing, maintaining and transferring records and archives of regulated entities;
  - 26.2.11 guidance on standard forms of reports to be submitted by regulated entities to the FRC;
  - 26.2.12 conditions and requirements for opening and operating a branch or representative office of a regulated entity;
  - 26.2.13 setting the amount of regulatory service fees payable by regulated entities; and
  - 26.2.14 procedures for delivering information concerning connected persons by regulated entities to the FRC and for public disclosure of such information.

## Sub-chapter Two: Issuing and registering licences to legal entities to undertake regulated activities

### Article 27. Applications for licences

- 27.1 A legal entity that wishes to obtain a licence specified in Article 24.2 of this Law shall submit an application in the prescribed form to the FRC.
- 27.2 When applying for a licence specified in Article 27.1 of this Law, the following documents shall be appended in addition to those specified in the Law of Mongolia on Licensed Business Activities:
- 27.2.1 a copy of the charter of the applicant entity;
  - 27.2.2 information concerning the founders or the shareholders of the applicant entity, a reference letter concerning their financial capacity and confirmation that they do not have overdue debts with banks, financial institutions or other entities, information evidencing that they are suitable persons;
  - 27.2.3. documents evidencing that the applicant entity has met the requirements relating to the minimum amount of share capital and current assets;
  - 27.2.4 documents evidencing that the applicant entity has sufficient human resources with the relevant professional skills and experience who are able to properly carry out the concerned activities;
  - 27.2.5 documents evidencing that the applicant entity has met the requirements in terms of office space, facilities, equipment and computing infrastructure to carry out the concerned activities;
  - 27.2.6. business and risk management plans for undertaking the concerned activities for no fewer than three years; and
  - 27.2.7 such other additional documents and information as may be specified in regulations adopted by the FRC.
- 27.3 In the event that a bank, its parent, subsidiary or controlled company, or any legal entity that is a member of a banking group<sup>12</sup> or that holds more than five percent of the shares of a bank applies to the FRC to obtain a licence to undertake professional activities in the securities market, the relevant procedure set out in the Banking Law of Mongolia shall be observed.
- 27.4. An entity seeking to obtain a licence to undertake securities trade clearing, settlements, or custodial services must be connected to the electronic trade network of the stock exchange, and shall append documentation concerning this to the application specified in Article 27.1 of this Law.
- 27.5 An entity seeking to obtain a licence to undertake securities trading must be connected to the electronic network of the institution undertaking securities trade clearing and settlements, and shall append documentation concerning this to the application specified in Article 27.1 of this Law.

### Article 28. Granting a licence

- 28.1 The FRC shall grant a licence to applicants who have met the following conditions and requirements:
- 28.1.1 its other activities are not considered to conflict or create conflicts of interest when undertaking regulated activities in the securities market;
  - 28.1.2 its governing persons have been determined to be suitable persons;

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<sup>12</sup> Translation note: the term "banking group" is defined in Article 3.1.6 of the Banking Law of Mongolia, enacted on 28 January 2010.

- 28.1.3 it has met the requirements with respect to human resources established by the FRC;
  - 28.1.4 it has met the minimum amount of share capital and current asset requirements established by the FRC;
  - 28.1.5 its office space, equipment, facilities and computer systems have met the requirements for undertaking the concerned activities; and
  - 28.1.6 it has met other additional conditions and requirements established by the FRC in accordance with the provisions of the law.
- 28.2. The FRC shall refuse to grant a licence if the applicant legal entity is considered to have not met the conditions or requirements for carrying out the relevant activity.

#### **Article 29. Suspension of a licence**

- 29.1 In the following circumstances, the FRC may suspend a licence for the period provided in the Law of Mongolia on Licensed Business Activities:
- 29.1.1 where a licence holder so requests;
  - 29.1.2 where a licence holder violated the law or regulations established by the FRC, or where a valid request was submitted by a competent self-governing body such as a stock exchange or a securities trade payment, settlement or depository institution;
  - 29.1.3 where a licence holder violated or else ceased to meet the conditions and requirements of the licence;
  - 29.1.4 where a licence holder failed to comply with an instruction given by the FRC pursuant to Article 66 of this Law;
  - 29.1.5 where a licence holder failed to produce information demanded by the FRC on time, or provided incorrect, contradictory, false, falsified, incomplete, or misleading information;
  - 29.1.6 where a governing person of the concerned legal entity is determined to be an unsuitable person; or
  - 29.1.7 where the regulatory service fees were not paid within the prescribed period.
- 29.2 In the event that the circumstances for suspending a licence have ceased to be applicable, a licence holder may submit to the FRC an application to reinstate such licence.
- 29.3 The FRC shall decide the application specified in Article 29.2 of this Law within 30 days of its submission.
- 29.4 The suspension of a licence shall not serve as grounds to alter the initial term of such licence.

#### **Article 30. Revocation of a licence**

- 30.1 The FRC shall revoke licences in the following circumstances:
- 30.1.1 where a licence holder so requests;
  - 30.1.2 where no request was submitted to the FRC to reinstate the licence following the remedy of the violation during the period that the licence was suspended;
  - 30.1.3 the conditions and requirements of a licence were repeatedly or materially breached;
  - 30.1.4 extensive damage or loss was caused to investors;

- 30.1.5 licensed activities were not carried out for a period of one year;
- 30.1.6 the concerned legal entity has become insolvent or has been liquidated; or
- 30.1.7 such other circumstances have arisen that are in conflict with carrying out the licensed activity.

30.2 A licence that has been revoked shall not be reinstated.

#### **Article 31. Consequences of suspension or revocation of a licence**

- 31.1 The FRC shall deliver its decision specified in Article 29 or 30 of this Law in writing to the licence holder, and the decision shall include the following matters:
- 31.1.1 the grounds for the decision;
  - 31.1.2 the date when the decision shall take effect; and
  - 31.1.3 the measures, instructions, and official demands to be taken and implemented in connection with having made the decision.
- 31.2 Suspension or revocation of the licence shall not serve as a ground for terminating contracts or transactions concluded by the concerned legal entity with others, or releasing it from the obligations undertaken in such contracts or transactions, or from compensating others for the loss or damage caused.
- 31.3 In order to protect the interests of the clients of the concerned legal entity in the period that a licence has been suspended or after it has been revoked, the licence holder shall be prohibited from entering into any contract, transaction, or business other than those which have been approved by the FRC.

#### **Article 32. Measures to be taken and implemented by the FRC in connection with suspending, restoring, and revoking a licence**

- 32.1 The FRC shall inform the public within three working days after adopting a decision to suspend, revoke, or reinstate a licence.
- 32.2 In the event a licence has been suspended, services to be rendered to clients during the suspension period and, in the event that a licence has been revoked, the activity of transferring the rights and obligations undertaken by contracts established with clients to another legal entity, shall be implemented within the scope of regulations adopted by the FRC.
- 32.3 If the FRC considers it necessary, during the period it has suspended the concerned licence it may take and implement measures to restrict a licence holder's access to its clients' accounts or its right to do business, and may also freeze or sequester its assets.
- 32.4 For the purpose of protecting the rights and interests of investors and ensuring stable market conditions, the FRC may take measures such as restricting access of a licence holder whose licence has been revoked to its clients' accounts or its right to do business, freeze its assets, and seize or transfer to archives the documents or records relating to its activities.
- 32.5 In the event that an entity which it does not carry out other licensed activities has had its licence revoked, it shall convene a meeting of its corporate governing body within 45 days of the licence being revoked to decide whether or not to liquidate.
- 32.6 The FRC may bring judicial proceedings to compulsorily liquidate a legal entity that has not decided within the period provided in Article 32.5 of this Law whether or not to liquidate.

**Article 33. Regulated activities to be undertaken on the basis of registration**

- 33.1 The activities specified in Articles 24.1.15 - 24.1.17 of this Law shall be undertaken on the basis of registration with the FRC.
- 33.2 A person who wishes to undertake relevant activities in the securities market specified in Articles 24.1.15 - 24.1.17 of this Law must meet the following criteria:
- 33.2.1 in respect of a legal entity providing legal advice, it shall have a prescribed number of lawyers who work on a full-time contractual basis and who have passed the lawyer's qualification examination;
  - 33.2.2 in respect of a legal entity undertaking property evaluation activities, it shall have a prescribed number of valuers/experts who work on a full-time contractual basis and who have a licence to perform property valuations/appraisals; and
  - 33.2.3 in respect of a legal entity undertaking audit activities, it shall have a prescribed number of auditors who work on a full-time contractual basis and who have a licence to perform audits.
- 33.3 The FRC shall establish the conditions and requirements to be imposed on each kind of activity specified in Articles 24.1.15 - 24.1.17 of this Law, taking into account the opinions of self-governing bodies in the securities market specified in Article 69 of this Law, the Lawyers' Association specified in Article 44 of the Law of Mongolia on Legal Status of Lawyers, the professional institution of the property valuers, and the Professional Accountants' Institute specified in paragraph 1 of Article 13 of the Law of Mongolia on Audits.
- 33.4 The FRC may organise professional training for legal entities who wish to be included in the register and their employees in cooperation with a relevant professional organisation.
- 33.5 The FRC shall make a decision on applications submitted for inclusion in the register within 20 working days of receipt of the same.
- 33.6 The FRC shall refuse registration in the following circumstances:
- 33.6.1 where the applicant has not met the criteria set out in Article 33.2 of this Law;
  - 33.6.2 where the conditions and requirements specified in Article 33.3 of this Law have not been satisfied; or
  - 33.6.2 where the applicant lacks the financial capacity to render such services.
- 33.7 The FRC shall remove the legal entity from the register in the following circumstances:
- 33.7.1. where the concerned legal entity has so requested;
  - 33.7.2 where the relevant services have not been provided in accordance with the applicable procedures or standards, or serious professional errors have been made; or
  - 33.7.3 where it has been determined that a violation of the law has occurred.
- 33.8 The FRC shall not accept an application for registration from a legal entity which has been removed from the register for three years following such removal.
- 33.9 The registration with the FRC shall be valid in circumstances other than those specified in Article 33.7 of this Law.

**Article 34. Right to make a complaint**

- 34.1 A person that refuses to accept a decision of the FRC specified in Articles 28.2, 29.1, 30.1, 33.7 or 33.8 of this Law may file a complaint within 14 days of the decision with the Supervisory Board of the FRC specified in Article 28 of the Law of Mongolia on the Legal Status of the Financial Regulatory Commission.
- 34.2 The submission of a complaint in accordance with Article 34.1 of this Law shall not serve as grounds to suspend the implementation of the decision of the FRC, however the implementation of the FRC's decision may be temporarily suspended through a decision of the Supervisory Board.
- 34.3 The FRC shall accept and implement the decisions of the Supervisory Board issued in accordance with laws and regulations.
- 34.4 In the event the decisions of the Supervisory Board are disputed, such disputes may be subject to judicial proceedings.

**Sub-chapter Three: Professional Certification****Article 35. Professional certification**

- 35.1 A professional who is employed by a legal entity engaged in regulated activities must be certified by the professional association specified in Article 69.2 of this Law.
- 35.2 The certificate granted to a professional shall be of a specific type and grade depending on the work scope, the type of service, and his/her level of expertise.
- 35.3 The FRC shall establish the types and grades specified in Article 35.2 of this Law taking into account the opinions of the professional associations in the securities market and self-governing bodies.
- 35.4 The certification specified in Article 35.1 of this Law shall be granted for a period of 3 years to a citizen who has passed the professional certification exam on the basis of an opinion of the Certification Board specified in Article 35.5 of this Law.
- 35.5 The Certification Board shall conduct the certification exam. The Certification Board shall have 9 members.
- 35.6 The members of the Certification Board shall be individuals with no fewer than three years of experience in the fields of finance, economics, or law who have been recommended by relevant state administrative bodies, self-governing bodies and relevant professional bodies.
- 35.7 The FRC shall establish the operational procedures and procedures for appointing the members of the Certification Board.
- 35.8 A member of the FRC appointed by the chairman of the FRC shall preside over the Certification Board.
- 35.9 The FRC shall establish the procedures for conducting the certification and for granting, suspending, and revoking professional certificates.

**Sub-chapter Four: Types of regulated activities****Article 36. Securities broker activities**

- 36.1 Undertaking intermediary services on a contractual basis in connection with the buying and selling of securities with client funds, in their name, and on their instructions shall be called securities broker activities (hereinafter "broker activities").

- 36.2 A broker shall observe laws and regulations and the regulations and procedures issued by the FRC and self-governing bodies with memberships such as the relevant stock exchange, securities trade clearing, settlement and depository institutions.
- 36.3 A broker and a client shall regulate their relationship through their contract. The FRC shall establish the standard conditions of brokerage service contracts and the procedures for concluding the same.
- 36.4 A broker shall have the obligation to carry out client instructions in good faith in accordance with the terms and conditions of the brokerage service contract, and to a professional standard, and if the conditions of the contract should change, it shall inform the client in this regard and to take measures to receive an updated instruction.
- 36.5 Regardless of whether or not it is also acting as a dealer, a broker shall be obliged to implement the client's instructions with priority and to carry out client instructions in accordance with the order in which the instructions were given.
- 36.6 A broker shall inform the client of circumstances where a conflict of interest has arisen before concluding a brokerage service contract with a client, and where a conflict of interest arises after concluding the contract, it shall inform the client immediately.
- 36.7 The concerned broker shall be personally liable for the losses suffered by a client as a result of failure to inform the client of a conflict of interest before concluding a brokerage service contract with a client, and for failing to immediately notify the client of occurrence of a conflict of interest situation after concluding the contract.
- 36.8 A broker shall operate by depositing its clients' cash funds and securities in special-purpose client accounts in competent cash and securities depository institutions separately from its own funds and securities.
- 36.9 An account specified in Article 36.8 of this Law where clients' funds and securities shall be deposited shall be a securities trading account used solely for the purpose of clearing and settlement of securities trading.
- 36.10 It is prohibited to dispose of client cash funds or securities deposited in accordance with Article 36.8 of this Law for purposes other than those which relate to carrying out clearing and settlement of securities trading by persons other than the client or authorised representatives of the client.
- 36.11 Unless otherwise provided in law or contract, a broker is under an obligation to deposit cash funds received from the client in accordance with the brokerage service contract or from a counterparty in the name of its client in accordance with a contract entered into with others following the client's instructions, with an institution licensed to carry out savings activities in the name of the relevant client.
- 36.12 A broker shall maintain an accounting register of securities held by its clients and the funds for each client and shall make such accounting registers accessible to its clients in accordance with the relevant procedures.
- 36.13 A broker is under an obligation to conduct know-your-customer checks, and shall confirm as to whether a client has a right to participate in trading of relevant securities in accordance with laws and regulations, rules and procedures and shall refuse to carry out the instructions of a client who is not entitled to trade.
- 36.14 Client cash funds shall not be used for discharging a broker's obligations to third parties.
- 36.15 Save in relation the extension of credit by a broker to a client in connection with the purchase of securities as provided under contract, a broker is prohibited from transferring funds between its account and its client accounts.
- 36.16 Intermediary activities relating to selling and purchasing securities on a foreign securities market shall be carried out with the FRC's approval and the FRC shall issue regulations concerning the same.

### **Article 37. Securities dealing activities**

- 37.1 The activities of selling and buying securities in one's own name and with one's own assets shall be called dealing activities (hereinafter "dealing activities").

- 37.2 When a dealer undertakes activities specified in Article 37.1 of this Law, it may include the following conditions:
- 37.2.1 the maximum and minimum amount of securities to be purchased or sold;
  - 37.2.2 the period of validity of the offer price; and
  - 37.2.3 such other terms not prohibited by law.
- 37.3 A dealer may amend or cancel the offer specified in Article 37.2 of this Law in the same manner or form that it first made the offer in accordance with the procedures established by the stock exchange.
- 37.4 In the event that a dealer's offer to sell or buy securities is accepted, the dealer shall fulfill its obligation without any objection.
- 37.5 A dealer shall deposit its own securities and cash funds in a designated account held with an independent institution licensed for the deposit of securities and cash funds.
- 37.6 Loss or damage suffered by others as a result of the dealer failing to perform its obligation under Article 37.4 of this Law may be pursued through judicial proceedings.
- 37.7 The Bank of Mongolia and the FRC shall jointly issue regulations concerning the matters related to securities trading accounts specified in Articles 36.8 and 37.5 of this Law.

#### **Article 38. Investment fund activities**

- 38.1 An investment fund shall have the objective to operate fully representing its investors' rights and interests and to increase its asset base as efficiently as possible.
- 38.2 In respect of accounting registers, the assets of investment fund shall be separate from those of its founders and shall be deposited in a designated account with an institution licensed to carry out custodial services or a licensed bank.
- 38.3 Investment funds may be organised with as legal entities or in such other forms as may be permitted by law. A separate law shall regulate the matters relating to the separate legal personality of investment funds.
- 38.4 Investment funds may issue securities (shares or unit rights) in accordance with procedures established by the FRC.
- 38.5 Investment funds shall be of the following types:
- 38.5.1. open-ended funds, which offer its shares to others on a regular basis, issue the same on demand and have an obligation to redeem such shares;
  - 38.5.2. close-ended funds, which issue shares within limits determined by their founders by way of public offer, sell such shares at their market price and have no obligation to redeem such shares; and
  - 38.5.3. such other types as may be approved by the FRC.
- 38.6 Investment funds may not engage in the following activities:
- 38.6.1. undertaking work and services other than those permitted by investment policies, laws and the FRC;
  - 38.6.2. promising or issuing guarantees to investors in respect of profits or share redemption price, or borrowing from or lending to others for investment purposes;
  - 38.6.3. issuing fund shares (unit rights) by way of loan;

- 38.6.4. disposing of fund property for personal gain or exceeding the management expenses without justifiable grounds; and
- 38.6.5. accumulating risks in managing fund's assets.
- 38.7 Asset management of investment funds shall be implemented by investment management companies on the basis of asset management contracts and such investment management companies shall be legal entities licensed by the FRC.
- 38.8 It is prohibited for investment management companies to expend any fees and payments from the investment funds assets other than service fees and performance bonuses.
- 38.9 The FRC shall approve procedures concerning the issue, renewal, suspension, and revocation of a licence to carry out activities of an investment management company as well as other operational matters relating to the same.
- 38.10 Other matters relating to investment funds that are not regulated by this Law shall be governed by separate laws and regulations approved by the FRC.

#### **Article 39. Securities investment advisory activities**

- 39.1. Securities investment advisory activities shall mean performing research and analysis based on publicly-available information of securities issuers and providing fee-based professional advice to clients concerning the price, conditions, and period for the buying and selling of securities.
- 39.2 The following circumstances shall not be considered as being securities investment advisory services:
  - 39.2.1 where a regulated entity performs research or analysis for its own operational purposes;
  - 39.2.2 where research or analysis is conducted for the purpose of enabling investors to make investment decisions; or
  - 39.2.3 where research or analysis or the publishing of the same is conducted for public or academic purposes.

#### **Article 40. Security nominee activities**

- 40.1 Security nominee activities shall mean exercising the rights of ownership in relation to the client's securities and associated assets within the scope of limitations set out in a security nominee contract.
- 40.2 The nominee shall be liable for loss and damage arising as a result of its failure to inform its client of conflicts of interest that exist between both the nominee and its client and between the nominee's clients and that have not been disclosed to such clients.
- 40.3 Following the transfer of the securities or cash funds into the name of the nominee, the beneficial owner client shall exercise its ownership rights only in accordance with the provisions of the nominee contract.
- 40.4 Obligations of the nominee assumed towards to third parties other than those that are undertaken in accordance with the provisions of Article 40.1 of this Law shall not be discharged using the securities of the client.
- 40.5 In the event that the client is a professional investor, the nominee may enter into a contract or agreement connected with derivative financial instruments.
- 40.6 The FRC shall approve detailed regulations in relation to securities nominee activities.

**Article 41. Underwriting activities**

- 41.1 Underwriting activities shall mean activities including providing professional services to a securities issuer on the basis of a contract concluded for a public offer of its securities, and buying a contractually-agreed amount of those securities that remain unsold following an offer of the same on the primary securities market.
- 41.2 A licence to undertake underwriting activities may be issued to a legal entity which is licensed to undertake broker or dealing activities.
- 41.3 The revocation of a licence to undertake broker or dealing activities shall serve as grounds for revoking a licence to undertake underwriting activities by the relevant legal entity.
- 41.4 Underwriting services may be provided in the following forms:
- 41.4.1 preparing a securities prospectus and determining the offer price of securities;
  - 41.4.2 purchasing all of the securities publicly offered by the securities issuer;
  - 41.4.3 carrying out all reasonable endeavours to sell securities by way of disseminating information to investors;
  - 41.4.4 purchasing all of the securities remaining unsold following a public offer of the same;
  - 41.4.5 guaranteeing to purchase securities being publicly offered at the contractually agreed price in the event such securities are not sold during a public offer;
  - 41.4.6 informing its own clients of and/or organising the sale of securities; and
  - 41.4.7 such other conditions as may be specified in contract.
- 41.5 An underwriter may provide the services specified in Article 41.4 of this Law alone or jointly with another legal entity licensed to undertake underwriting activities. In this case, the underwriters shall conclude a joint service contract, which shall include the following conditions:
- 41.5.1 the allocation of the rights, obligations and responsibilities of the parties that will jointly provide underwriting services; and
  - 41.5.2 the term of the contract.
- 41.6 The FRC shall approve the procedures for carrying out underwriting activities and the standard conditions of underwriting contracts.

**Article 42. Securities ownership rights registration activities**

- 42.1 Securities ownership rights registration activities shall mean activities carried out based on a contract entered into with a securities issuer for receiving information connected with the contractual transfer of securities ownership rights and entering the same in a database of a register of securities ownership rights, and maintaining, developing, and reporting such information in accordance with legislation.
- 42.2 Securities registration activities shall be divided into two types of registers:
- 42.2.1 centralised securities registers; and
  - 42.2.2 specific securities registers.

- 42.3 The securities register shall be a unified system. The centralised securities register shall be maintained by a legal entity having a licence to act as a centralised securities depository. Such legal entity shall grant a unified securities number in accordance with a unified international securities code.
- 42.4 A legal entity licensed to maintain a specific securities register must be a member of the centralised securities depository. Changes in a specific securities register shall be registered promptly in conjunction with the registration of changes to the centralised securities register.
- 42.5 The database of a specific securities register shall contain information in respect of the owners (nominal owner) of securities and their rights, obligations, and connected persons, and such other additional information as required by the FRC.
- 42.6 The database of the centralised securities register shall contain the following information:
- 42.6.1 the class and number (issued and authorised) of financial instruments approved for trade in the regulated securities market of Mongolia, information in respect of the securities issuers;
  - 42.6.2 the class and number (issued and authorised) of securities and other financial instruments based thereon of a securities issuer that, although registered with a Mongolian stock exchange, is trading such securities in a foreign jurisdiction and information concerning the securities issuers;
  - 42.6.3 the class and number (issued and authorised) of securities and other financial instruments based thereon of a securities issuer that is trading such in Mongolia through a dual listing with a foreign stock exchange and information concerning the securities issuer; and
  - 42.6.4 a centralised register of securities with accounts opened in the names of members.
- 42.7 An entity carrying out activities of securities ownership rights registration shall maintain in its entirety the information and documents pertaining to registration of security ownership rights for the period prescribed by law and regulations and shall disclose and/or report the same in accordance with the applicable procedures.
- 42.8 The FRC shall establish the procedures connected with carrying out the activities specified in Article 42.7 of this Law.
- 42.9 A securities issuer may obtain a copy of the register of the owners of its securities once a year free of charge.
- 42.10 An offending person shall be liable for compensating the loss or damage caused by the entity as a result of recording incorrect information in the register of securities ownership rights.
- 42.11 An entity carrying out activities of securities ownership rights registration shall have the right to refuse to undertake registration on grounds specified in law and the relevant regulations and to inform a competent body of such and request that such body review the appropriate information.
- 42.12 Entities engaged in securities nominee (nominal owner), custodian or broker activities shall accurately and promptly produce such information as is required for the specific securities register.
- 42.13 The securities nominee shall register the name of the beneficial owner of the concerned securities along with its own name with the specific register of securities ownership rights.
- 42.14 The FRC shall establish a list of owners for which duplicate registration in the specific securities register will not be required.
- 42.15 Only one legal entity undertaking specific securities registration activities shall register a security, and duplicate registration of the same security with another legal entity is prohibited.
- 42.16 An entity carrying out activities of securities ownership rights registration is prohibited from freely disposing of securities registered in its own securities register without the permission of the owner.

42.17 Article 42.16 of this Law shall not apply to the situation where a securities owner has failed to pay the price of securities within the period set out in Article 44.2 of this Law.

42.18 An entity carrying out activities of securities ownership rights registration shall be free to determine its service fees.

#### **Article 43. Securities clearing activities**

43.1 Securities clearing activities (hereinafter "securities clearing") shall be understood to be a series of activities carried out in the following order:

43.1.1 following a securities trade, determining the payments that the parties which participated in the trade should make in accordance with a contract or agreement on a contract-by-contract and aggregate basis and making the relevant financial and accounting records; and

43.1.2 preparing trade settlements and issuing payment processing requests to competent settlement institutions.

43.2 A legal entity undertaking securities clearing activities (hereinafter a "clearing house") shall have a membership and maintain a special fund for the purpose of reducing the risk relating to cancellation of contracts and transactions made in securities trading.

43.3 A clearing house shall analyse the risks in the securities market system and shall provide an institution engaged in securities settlement activities with recommendations in respect of measures to reduce such risks.

43.4 The FRC shall issue procedures for securities clearing.

#### **Article 44. Securities trade settlement activities**

44.1. Securities trade settlement activities (hereinafter "trade settlements") shall be understood as a series of activities to be carried out in the following order:

44.1.1 transferring the payment by the purchaser to the account of the seller in accordance with the instructions of the clearing house;

44.1.2 depositing the appropriate number of securities that are in the account of the seller of securities into the account of the purchaser;

44.1.3 performing simultaneous payment transactions by way of issuing instructions to the custodians' central depository and cash depository institutions within the prescribed period;

44.1.4 making the proper financial records in accordance with the statement of payments, and certifying transactions;

44.1.5 delivering relevant information to securities depository and registration institutions.

44.2 Trade settlements shall be made within three business days of the relevant trade.

44.3 Trade settlements shall be made in a single transfer, and in special circumstances if there has not been an exchange of the securities nor the consideration, the transaction may be cancelled by an FRC inspector following a valid request from a securities trading, clearing or settlement institution.

44.4 In order to reduce credit and payment risks when undertaking trade payments, the settlement institution may demand security from the payer in the form of a pledge or a payment guarantee. In the event that the payer has not fully performed its obligations, it may be held liable in accordance with the provisions of the contract entered into between the parties.

- 44.5 The ownership rights of securities shall be transferred provided the payment obligation for the securities trade is discharged in full.

#### **Article 45. Securities central depository activities**

- 45.1 Securities central depository activities shall mean activities relating to the safe-keeping of securities on the basis of a contract entered into with a securities issuer or other participants and maintaining the register in connection therewith.
- 45.2 A licence to carry out securities central depository activities shall only be issued to a single legal entity.
- 45.3 The FRC shall establish the conditions and requirements to be imposed on the management, structure, organisation, and activities of a legal entity engaged in securities central depository activities and the mandatory terms that must be reflected in a contract to be concluded with a securities owner.
- 45.4 A legal entity licensed to conduct securities central depository activities may concurrently engage in specific securities registration activities or custodial services.
- 45.5 A legal entity licensed to conduct securities central depository activities shall be prohibited from disposing of the securities that are deposited with it, and it shall be liable for and remedy loss or damage caused as a result of its failure to properly safe-keep the securities that are deposited with it.
- 45.6 A legal entity licensed to conduct securities central depository activities shall provide information regarding the transfer of securities to an entity engaged in securities registration activities and if requested, to a securities issuer.
- 45.7 A legal entity licensed to conduct securities central depository activities shall not be authorised to safe-keep funds in cash, and it shall transfer any dividends paid or any proceeds from the sale of a depositor's securities into an account in the client's name held with a bank.
- 45.8 A legal entity licensed to conduct securities central depository activities shall be prohibited from using the securities in its clients' accounts or the cash funds associated therewith to discharge its obligations to third parties.
- 45.9 Securities issued by public offer shall be registered in the centralised securities register database.

#### **Article 46. Custodial services**

- 46.1 Securities custodial services shall mean the deposit of securities, and providing services connected with exercising other rights of ownership evidenced by the securities.
- 46.2 Custodial services may be conducted by a bank, its controlled or subsidiary companies, or a centralised securities depository.
- 46.3 An entity engaged in custodial services shall be prohibited from concluding any contract or agreement with any person other than the owner of such securities in relation the securities deposited with it or from otherwise disposing of such securities.
- 46.4 An entity engaged in custodial services shall at all times keep and safely maintain its own accounts separate from the accounts of its clients and each client's account separate from those of others.
- 46.5 The Bank of Mongolia and the FRC shall jointly approve the procedures for conducting custodial services.
- 46.6 An entity engaged in custodial services shall be prohibited from using the securities in its clients' accounts or the funds in cash associated therewith to discharge its obligations to third parties.

**Article 47. Securities trading activities**

- 47.1 Securities trading shall mean providing an environment for the entry into and performance of contracts and transactions for the buying and selling of securities and derivative financial instruments for public offer and organising the trading of securities.
- 47.2 The stock exchange shall approve the following regulations and make them publicly available:
- 47.2.1 regulations on organising securities trading;
  - 47.2.2 regulations on approving securities for trading;
  - 47.2.3 regulations on concluding and registering a securities trading contract;
  - 47.2.4 regulations on performing a securities trading contract;
  - 47.2.5 regulations on the supervision of securities trading;
  - 47.2.6 regulations on securities trading service timetables;
  - 47.2.7 such other rules and procedures necessary to conduct securities trading; and
  - 47.2.8 other information required to be provided to the public in accordance with legislation and internal stock exchange regulations.
- 47.3 The stock exchange shall notify the public in respect of the following information relating to securities trading:
- 47.3.1 the date of transactions, the registration number and distinguishing features of the concerned securities;
  - 47.3.2 the amount, price, and opening or closing price of securities that were publicly traded; and
  - 47.3.3 other information required to be publicly disclosed in accordance with legislation and applicable regulations.
- 47.4 In addition to the activities specified in Article 47.1 of this Law, a stock exchange may conduct the following activities:
- 47.4.1 trading activities of derivative financial instruments which are based on commodities or goods;
  - 47.4.2 settlement activities;
  - 47.4.3. to lease, at a fee, certain assets for the purpose of organising securities trading in accordance with relevant procedures; or
  - 47.4.4 other activities provided in laws and regulations and the regulations established by the FRC.
- 47.5 The stock exchange shall be prohibited from conducting activities other than those specified in Articles 47.1 and 47.4 of this Law.
- 47.6 A stock exchange may hold shares in a legal entity licensed to engage in securities clearing and settlement activities.
- 47.7 A governing person of a stock exchange is prohibited from holding any official position in a regulated legal entity participating in the securities trade.

**Article 48. Participating in trading on the stock exchange**

- 48.1 Brokers, dealers, and underwriters included in the register specified in this Law may participate in trading on the stock exchange.
- 48.2 In the event that securities clearing for a particular trade is carried out by an institution other than that which organised the trade, such institution shall not be deemed to have participated in trading on the stock exchange.

**Article 49. Conditions and requirements for stock exchange activities**

- 49.1 The stock exchange shall comply with the following conditions and requirements:
- 49.1.1 providing services appropriate to trading of securities or derivative financial instruments based on goods and commodities on the stock exchange;
  - 49.1.2 approving the stock exchange listing rules;
  - 49.1.3 approving procedures for registering, de-registering, and approving the trade of derivative financial instruments;
  - 49.1.4 having ratified by the FRC the rules and regulations to be approved by the stock exchange in accordance with this Law and any amendments thereto in accordance with the applicable procedures;
  - 49.1.5 supervising trading activities to ensure compliance with applicable regulations; and
  - 49.1.6 ensuring continuous trading operations free from interruption in a transparent and fair manner, and providing suitable facilities for trade with its own resources.
- 49.2 The stock exchange, for the purpose of implementing its obligations specified in Article 49.1.5 of this Law, shall be authorised to demand information from trading participants, securities owners, and securities issuers.
- 49.3 The stock exchange shall be authorised to determine the fees and promotions it may charge for its services.

**Article 50. Credit rating activities**

- 50.1 Credit rating shall mean independent and impartial assessments to establish the financial standing of a securities issuer on the basis of methodologies adopted for this purpose.
- 50.2 A legal entity licensed to conduct credit rating activities may, if it has satisfied certain criteria, analyse and rate certain types of financial instruments in the securities market based on certain indicators such as quality, risk, or return.
- 50.3 A legal entity licensed to conduct credit rating activities shall be prohibited from providing services to a client with which it has a conflict of interest, providing false ratings, or establishing ratings on the basis of incomplete information or analysis.
- 50.4 The FRC shall establish the methodologies and operational procedures for credit rating activities.

**Article 51. Concurrently conducting regulated activities**

- 51.1 The following activities may be conducted concurrently:
- 51.1.1 a legal entity licensed to conduct broker activities may conduct dealing and underwriting, or investment advisory activities;
  - 51.1.2 a legal entity licensed to conduct securities central depository activities may conduct securities custodial services and clearing or settlement activities;

- 51.1.3 a legal entity licensed to conduct custodial services may conduct specific securities registration activities;
  - 51.1.4 a legal entity licensed to conduct custodial services may conduct settlement activities; or
  - 51.1.5 such other activities as approved by the FRC on ad hoc basis.
- 51.2 It is prohibited to conduct regulated activities in the securities market concurrently with other activities other than as provided in Article 51.1 of this Law.
- 51.3 In the event that one legal entity concurrently engages in several regulated activities in the securities market, the financial requirements to be imposed on it shall be deemed to be cumulative, aggregating the requirements for each regulated activity.

## **Sub-chapter Five: Accounting and auditing**

### **Article 52. Keeping accounting registers**

- 52.1 A regulated entity shall maintain accounting registers that detail those transactions made in connection with licensed activities and transactions of its own and its clients' property and shall produce balance sheets and cash flow statements accurately and in a timely fashion.
- 52.2 The regulated entity shall safe-keep the documents and records specified in Article 52.1 of this Law at its offices for not less than 5 years, and then shall transfer them to archive storage.
- 52.3 The FRC or a person appointed thereby shall be authorised to examine the documents and registers specified in Article 52.1 of this Law and to obtain copies of the same free of charge.

### **Article 53. Auditing**

- 53.1 A regulated entity shall select an auditing institution and conclude a contract with it from among the auditor institutions that are registered with the FRC within one month of receiving its licence, and shall notify the FRC of the same.
- 53.2 It is prohibited to appoint the following persons as auditors specified in Article 53.1 of this Law:
- 53.2.1 a person that serves or has served as a governing person of the regulated entity or a shareholder or the clients of such persons;
  - 53.2.2 a connected person of those persons specified in Article 53.2.1 of this Law; or
  - 53.2.3 an auditor that is not registered with the FRC.
- 53.3 A regulated entity shall notify the FRC in writing within seven days of the termination or expiry of its contract with its auditors.

### **Article 54. Audit inspection**

- 54.1 A regulated entity shall have its annual financial reports audited at the end of each financial year, and shall submit to the FRC a copy of its audited financial reports together with an auditor's opinion within the period specified in the Law of Mongolia on Accounting<sup>13</sup>.

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<sup>13</sup> The Law of Mongolia on Accounting was published in Issue 4 of the 2002 State Gazette.

- 54.2 If the audit reveals material adverse financial circumstances in relation to a regulated entity or a violation of other financial regulations, the auditor shall immediately inform the FRC and the relevant regulated entity in writing.
- 54.3 If the FRC considers it necessary, it may demand that quarterly financial statements of a regulated entity be audited.

## **CHAPTER FIVE: Securities market information**

### **Article 55. Primary securities market information**

- 55.1 A securities issuer in the primary securities market shall provide the following information to interested persons free of charge:
- 55.1.1. any information included in the securities prospectus;
  - 55.1.2 details of the procedures for issuing and trading of securities as specified in the charter and by-laws of the securities issuer;
  - 55.1.3 financial and operational reports; and
  - 55.1.4 information that is required to be disclosed to the public in accordance with the rules and regulations relating to securities issuers approved by the FRC, the stock exchange and other competent institutions.

### **Article 56. Secondary securities market information**

- 56.1 Within one business day of the following circumstances arising, the securities issuer whose shares are traded on the secondary securities market shall notify the FRC, the stock exchange, and through its website, the public in respect of the same:
- 56.1.1 where there are changes to the management structure of the securities issuer;
  - 56.1.2 where there is a change in the [shareholding]<sup>14</sup> structure of the influential shareholder of a securities issuer or where there are changes in the shareholding interests held by such influential shareholders in other companies;
  - 56.1.3. where there is any organisational change in the securities issuer, its subsidiaries, affiliates and sister companies;
  - 56.1.4. where assets of the security issuer have been seized or confiscated;
  - 56.1.5. where the securities issuer commences engaging in licensed activities, or where its licence is suspended or revoked;
  - 56.1.6. where the shareholders' meetings of the securities issuer adopts resolutions; and
  - 56.1.7. any other circumstance that may influence the market price of the securities.
- 56.2 The stock exchange shall make publicly available on its website the following information concerning securities and securities issuers that are listed with it:
- 56.2.1 the securities price, and other information that might influence the same;

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<sup>14</sup> Translation note: the word "shareholding" does not appear in the original Mongolian version, but is assumed to be implied.

- 56.2.2 the security issuer's operational and financial status;
  - 56.2.3 the convening of shareholders' meetings of the securities issuer and any resolutions adopted thereby;
  - 56.2.4 any major and/or conflict of interest contracts<sup>15</sup> and transactions concluded by the securities issuer;
  - 56.2.5 the percentage and number of shares and derivative financial instruments in the possession of the governing persons of the securities issuer;
  - 56.2.6 changes to the management and organisational structure of the securities issuer and information on the independent members of the board of directors;
  - 56.2.7 information concerning influential shareholders of securities issuers and their connected persons; and
  - 56.2.8 such other information as may be required by laws and regulations, the FRC or the stock exchange.
- 56.3 The securities issuer shall be liable for the accuracy of the information specified in Article 56.2 of this Law.

#### **Article 57. Information regarding regulated entities**

- 57.1 Entities undertaking licensed regulated activities shall have the obligation to provide the following persons with the following information:
- 57.1.1 clients with information relating to any circumstances that may adversely affect investors' interests;
  - 57.1.2 clients with any information relating to the relevant securities and securities issuer which is available to it but excluding information that is confidential in taking orders for sale and purchase of securities;
  - 57.1.3 clients with restrictions on the concerned securities and securities issuer imposed by a competent body and any other special terms relating to the concerned securities;
  - 57.1.4 clients where client instructions have not been or cannot be performed and an explanation of the reasons therefor;
  - 57.1.5 the FRC with information that is required to be disclosed to the FRC in accordance with laws and regulations concerning a transaction or trade of securities and the persons participating in such transaction;
  - 57.1.6 clients with information delivered by an relevant person for the client; and
  - 57.1.7 clients and the FRC in accordance with established procedures, with changes to its operation, organisational structure, charter, or by-laws.

#### **Article 58. Investor information**

- 58.1 An investor shall inform the securities registrar and nominees in respect of all necessary information connected with securities in registering its securities and transferring securities to nominees.
- 58.2 The securities registrar and nominees shall not be liable for loss or damage caused to others arising as a result of the investor failing to fulfill its obligation stipulated in Article 58.1 of this Law.

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<sup>15</sup> Translation note: the terms "major transactions" and "conflict of interest transactions" are defined in Articles 87.1 and 92.1 of the Company Law of Mongolia, enacted on 6 October 2011, respectively.

- 58.3 Where demanded by the FRC, an investor must disclose information concerning the securities in its ownership and in the ownership of its connected persons.

#### **Article 59. FRC information**

- 59.1 In addition to such information specified in other laws, the FRC shall disclose the following information to the public:
- 59.1.1 details of registered securities and the relevant securities prospectus;
  - 59.1.2 clarifications, reports, and opinions relating to the securities issuer that have been submitted to the FRC;
  - 59.1.3 decisions connected with the issuing of licences to or registering regulated entities and the grounds therefor;
  - 59.1.4 annual financial and operational reports submitted to the FRC by regulated entities and self-governing bodies;
  - 59.1.5 the FRC's annual operational report; and
  - 59.1.6 such other additional information as may be determined by the FRC.
- 59.2 Matters connected with the FRC providing information to a competent regulatory body of a foreign jurisdiction or an international organisation shall be regulated in accordance with the provisions of Article 65 of this Law.

#### **Article 60. Receiving of information by the FRC**

- 60.1 In order to perform its functions in an appropriate manner and carry out its operations in a timely fashion or in accordance with requests from competent regulatory bodies of foreign jurisdictions or international organisations, the FRC shall be authorised to demand such information that it considers necessary from individuals or legal entities other than those that specified in Article 82.1 of this Law.
- 60.2 Unless otherwise provided in law, the information specified in Article 60.1 of this Law shall be treated as an organisational secret of the FRC, and such information shall only be used for official purposes and not disclosed without the permission of the person or entity which supplied it.

### **CHAPTER SIX: SECURITIES MARKET REGULATION**

#### **Sub-chapter One: State Regulation of Securities Market**

#### **Article 61. The central state administrative body in charge of finance and budget matters<sup>16</sup>**

- 61.1 The central state administrative body in charge of finance and budget matters shall exercise the following authority:
- 61.1.1 determination of state policy on the securities market along with other state administrative bodies in accordance with an integrated financial and economic policy;
  - 61.1.2 cooperation with and support of the activities of the FRC; and
  - 61.1.3 such other authorities as may be specified in law.

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<sup>16</sup> Translation note: this is currently the Ministry of Finance

**Article 62. Organisation in charge of implementing state regulation in the securities market**

- 62.1 The FRC shall be the body that implements state regulation on and supervises the securities market.
- 62.2 Participants in the securities market shall comply with the decisions of the FRC issued for the purpose of implementing laws and regulations concerning the securities market.

**Article 63. Authority of the FRC**

- 63.1 The FRC shall have the following authorities:
- 63.1.1 developing proposals for the improvement of securities market legislation, and for ensuring implementation of applicable laws and regulations;
  - 63.1.2 adopting and enforcing regulations binding on participants in the securities market for the purpose of ensuring the implementation of legislation concerning the securities market;
  - 63.1.3 formulating state policy with respect to developing the securities market, and submitting the same to the relevant authorities for approval;
  - 63.1.4 taking measures considered necessary to ensure the fairness, efficiency, competitiveness, and transparency of the securities market;
  - 63.1.5 determining the conditions and requirements for licences issued in respect of applications by regulated entities and issuing, renewing, suspending, reinstating and revoking licences;
  - 63.1.6 registering and de-registering legal entities providing auditing, property valuation and legal advice in the securities market;
  - 63.1.7 approving the standard terms and requirements for service agreements concluded between regulated entities and clients;
  - 63.1.8 supervising the activities of regulated entities, issuing orders and instructions for the remedy of violations discovered during inspections, and imposing sanctions in relation to the same;
  - 63.1.9 determining whether candidates for the management of regulated entities are suitable persons, approving them to act as governing persons, and taking measures to remove those who are not suitable persons from management roles;
  - 63.1.10 registering securities and derivative financial instruments of a domestic or foreign legal entity for public offer and for trading in the territory of Mongolia, giving permission to commence trading on the primary and secondary securities markets, suspending or invalidating trading activity for certain securities and canceling the registration of certain securities;
  - 63.1.11 giving permission for approval of the rules and regulations to be observed by self-regulatory bodies and regulated entities;
  - 63.1.12 regulating and monitoring the activities of investment funds;
  - 63.1.13 regulating the making of offers for purchase of such number of company shares that are equal to or more than a controlling block;
  - 63.1.14 adopting and implementing regulations on the over-the-counter markets;
  - 63.1.15 creating the conditions and environment to protect the rights and legitimate interests of investors in accordance with the general principle that investors are responsible for their own investment decisions;

- 63.1.16 when necessary, bringing claims on behalf of a securities holder without a power of attorney in respect of the rights and interests of a securities holder;
- 63.1.17 cooperating with competent regulatory bodies of foreign jurisdictions and international organisations, exchanging information and providing reciprocal assistance;
- 63.1.18 issuing proposals to reduce service fees charged by professional participants in the securities market, revoking decisions setting out such fees in the event such proposal is not accepted and notifying the public on the same; and
- 63.1.19 such other authority as may be determined by law

#### **Article 64. Cooperation with competent regulatory bodies of foreign jurisdictions and international organisations**

- 64.1 The FRC may enter into memorandums of understanding and contracts with regulatory bodies of foreign jurisdictions and international organisations for the purpose of exchanging information and providing reciprocal assistance.
- 64.2. The FRC shall take into account the following issues when providing assistance to regulatory bodies of foreign jurisdictions or international organisations:
  - 64.2.1 whether or not memorandums or contracts have been made with the applicant body;
  - 64.2.2 whether or not reciprocal assistance has been previously provided on matters similar to the relevant matter or whether or not it is possible to provide such reciprocal assistance; and
  - 64.2.3 whether or not it is able to keep the disclosed information confidential.
- 64.3 A regulatory body of a foreign jurisdiction or international organisation must, when requesting assistance from the FRC, state the purpose for which the information will be used, and whether the information will be kept confidential.
- 64.4 The FRC may request further information or clarification in respect of the information requested from a regulatory body of a foreign jurisdiction or international organisation.
- 64.5 If a response has not been provided to a request specified in Article 64.4 of this Law, the FRC may refuse to provide assistance.
- 64.6 Information given by the FRC shall only be used for the purpose specified in the request, and it is prohibited to use such information for any other purpose or to transfer or release it to another person without the permission of the FRC.
- 64.7 The FRC shall use the information submitted by a regulatory body of a foreign jurisdiction or international organisation only for the specified purpose, and is prohibited from transferring or releasing it to another person without such body's permission.

#### **Article 65. Issuing recommendations**

- 65.1 The FRC shall be authorised to issue recommendations to participants in the securities market for the following purposes:
  - 65.1.1 to protect the interests of investors;
  - 65.1.2 to ensure fairness, transparency, and efficiency of securities trading, clearing, settlements, or deposits;
  - 65.1.3 to reduce risks in the securities market;
  - 65.1.4 to provide a fair and appropriate management structure for regulated entities;

- 65.1.5 to implement securities market legislation;
  - 65.1.6 to ensure the performance of contractual obligations by regulated entities; and
  - 65.1.7 to deal with issues specified in this Law or otherwise considered necessary by the FRC.
- 65.2 In addition to giving recommendations to relevant entities in writing, if the FRC considers it to be necessary, the FRC may issue public notices in respect of the same.

#### **Article 66. Issuing instructions**

- 66.1 The FRC shall have the authority to give instructions to self-governing bodies, regulated entities, or securities issuers in the following circumstances:
- 66.1.1 where it has become necessary to protect the interests of clients or investors;
  - 66.1.2 where it has been determined that its governing persons have not met the criteria to be suitable persons;
  - 66.1.3 where circumstances have arisen which may lead to potential violations of securities market legislation or binding regulations issued by the FRC;
  - 66.1.4 where information has been released or disclosed to the public that is false, misleading, incorrect, or contradictory; or
  - 66.1.5 in such other circumstances considered by the FRC as necessary to protect the interests of investors.
- 66.2 An instruction by the FRC may include the following demands:
- 66.2.1 a suspension of activities which are in violation of the law and remedy of any loss or damage arising therefrom;
  - 66.2.2 a prohibition on entering into certain transactions;
  - 66.2.3 a prohibition or restriction on the carrying out of certain activities;
  - 66.2.4 a prohibition or restriction on the disposal of certain assets, and a demand that assets are not being used other than for approved purposes;
  - 66.2.5 a demand that a certain amount of funds be deposited in an FRC-designated account to protect the interests of investors or for the taking measures so as to ensure that the regulated entity complies with its obligations; or
  - 66.2.6 such other demands that the FRC may consider necessary to reduce market risks.
- 66.3 An instruction specified in Article 66.1 of this Law shall be valid during the period specified by the FRC.
- 66.4 A person that has been given an instruction by the FRC shall comply with it within the prescribed period and shall report its compliance to the FRC in accordance with the applicable procedures.

#### **Article 67. The register of regulated entities**

- 67.1 The FRC shall maintain a register of regulated entities, and shall make it accessible to the public.
- 67.2 The FRC shall approve the procedures for maintaining the register of regulated entities and the register shall include details of the regulated entities and any changes to such details.

**Article 68. Determining suitable persons**

- 68.1 The FRC shall consider a person meeting the following criteria to be a suitable person:
- 68.1.1 a person who is capable of conducting the concerned activity or position in good faith and to a professional level;
  - 68.1.2 if an individual, a person whose education, training, experience, previous position and role, any responsibility in connection therewith, and financial and ethical situation makes them a suitable candidate for such position; and
  - 68.1.3 such other additional criteria as may be provided by the FRC.
- 68.2 The FRC shall rely on the following information when determining a person's suitability:
- 68.2.1 the application form and relevant documents submitted by the applicant;
  - 68.2.2 information concerning the governing persons of the regulated entities and any persons that are legally representing them;
  - 68.2.3 if a regulated entity is a member of group of companies, information in respect of the companies in the group, and their influential shareholders, connected persons, and governing persons;
  - 68.2.4 information relating to the company charter and by-laws of the regulated entity and its systems for appropriate internal supervision and risk management; and
  - 68.2.5 such other additional information that the FRC may consider necessary.
- 68.3 If a regulated entity is a member of a group of companies, the FRC may require that other members of the group produce the necessary information.

**Sub-chapter Two: Self-governing bodies of the securities market****Article 69. Self-governing bodies**

- 69.1 A legal entity registered by the FRC for such purpose shall have the authority of a self-governing body in the securities market of Mongolia.
- 69.2 A self-governing body specified in Article 69.1 of this Law shall be a stock exchange, securities clearing house, securities central depository institution, or a professional association that has a membership consisting of regulated legal entities and certified professionals specified in Article 35.1 of this Law, and having the fundamental purpose of protecting its members' interests, establishing common procedures for professional activities and codes of conduct, increasing the capabilities of its members, developing and ensuring stability within the securities market.
- 69.3 A licensed regulated entity shall be a member of a self-governing body that is registered with the FRC.

**Article 70. Authority of a self-governing body**

- 70.1 A self-governing body shall have the following authorities:
- 70.1.1 to develop proposals with respect to improving legislation concerning the securities market, submit such proposals to the competent state bodies, and to give opinions in respect of proposed legislation, regulations, and rules;

- 70.1.2 to organise professional training and continuous professional development;
  - 70.1.3 to approve general procedures, professional codes of conduct, instructions, and guidance to be observed in its members' activities following submission thereof to the FRC, ensuring their implementation, and determining complaints and disputes connected with the ethics of members;
  - 70.1.4 to require the delivery of information (other than stated to be confidential by law) from its members;
  - 70.1.5 to conduct studies and research regarding members' activities, establish and publish member ratings;
  - 70.1.6 to establish a system for examining the activities of its members within the scope established by its own rules and regulations and for remedying violations, ensuring compliance, issuing proposals to the FRC for the suspension or revocation (depending on the gravity of the violation) of its members' licences, and informing relevant bodies concerning violations;
  - 70.1.7 to protect the lawful interests of its members;
  - 70.1.8 to take measures to reduce the risks which arise when its members conduct professional activities; and
  - 70.1.9 such other authority as may be approved by the FRC within the scope of the law.
- 70.2 A self-governing body shall promptly deliver to its members any information received from the FRC or any other competent body in respect of the activities of its members.
- 70.3 A self-governing body shall comply with instructions issued by the FRC.

#### **Article 71. Registration of a self-governing body**

- 71.1 The FRC shall register a self-governing body on the basis of the following criteria:
- 71.1.1 it shall have a membership consisting of more than fifty percent of the relevant licensed regulated entities;
  - 71.1.2 it shall be a legal entity registered in Mongolia; and
  - 71.1.3 it shall have a charter and by-laws consistent with the conditions and requirements specified in Article 72 of this Law;
- 71.2 In the event that a self-governing body has not satisfied the criteria specified in Article 71.1 of this Law, the FRC shall refuse to register such self-governing body.
- 71.3 In the event that a self-governing body no longer satisfies the criteria specified in Article 71.1 of this Law or the FRC has removed the self-governing body from the register, the authority of the self-governing body shall be terminated.

#### **Article 72. The charter and by-laws of a self-governing body**

- 72.1 Charter and by-laws of a self-governing body shall include the following:
- 72.1.1 requirements to be imposed on admission of members, membership fees, procedures for suspending membership and removal of members;
  - 72.1.2 a professional code of conduct for members and their employees;
  - 72.1.3 regulations for supervising members' activities, and for deciding complaints and disputes;
  - 72.1.4 the management and organisational structure, and operational procedures of the self-governing body;

- 72.1.5 procedures for organising training programmes for members and taking measures to develop professional skills;
  - 72.1.6 measures to support fair trading, such as preventive measures against market abuse or using inside information when participating in trade; and
  - 72.1.7 such other issues as may be specified in legislation.
- 72.2 The charter and by-laws of a self-governing body shall be approved by its all-members meeting, and they shall come into effect upon registration with the FRC.
- 72.3 The charter and by-laws that have come into effect in accordance with the provisions of Article 72.2 of this Law shall be binding on its members.

### **Article 73. Management and organisational structure of self-governing bodies**

- 73.1 The highest governing authority of a self-governing body, other than an institution conducting securities central depository activities or an institution conducting securities trading, shall be an all-members meeting.
- 73.2 The all-members meeting shall exercise the following authorities:
- 73.2.1 approval of the charter and by-laws specified in Article 72.1 of this Law, and any amendments thereto;
  - 73.2.2 discussion and approval of the financial and operational reports;
  - 73.2.3 election and removal of the members of the management board, setting the term of their office, and determination in respect of bonuses connected with their membership obligations;
  - 73.2.4 election and removal of the members of the supervisory board, setting the term of their office, and determination in respect of bonuses connected with their membership obligations;
  - 73.2.5 approval of the annual budget and setting of membership fees; and
  - 73.2.6 such other authorities as may be specified in legislation.
- 73.3 The management board shall convene a regular all-members meeting once annually. An extraordinary all-members meeting may be convened at the initiative of more than ten percent of the members or at the initiative of a majority of the management board.
- 73.4 During the intervening period between all-members meetings, the governing authority of a self-governing body shall be the management board, which shall consist of no fewer than nine members.
- 73.5 The management board shall exercise the following authorities:
- 73.5.1 appointment and removal of the executive management, establishment of the amount of remuneration and benefits thereof, and confirmation of the forecasts and operational plans of the body;
  - 73.5.2 supervision of the activities of the executive management;
  - 73.5.3 adoption of resolutions within the scope of authorities granted by the all-members meeting; and
  - 73.5.4 such other authorities as may be specified in the body's charter.
- 73.6 The executive management shall report its work to the management board on an annual basis and submit the report to the all-members meeting for discussion.

- 73.7 The executive management may be removed prior to expiry of the appointment period on the grounds of poor performance.

#### **Article 74. Relations between the FRC and self-governing bodies**

- 74.1 A self-governing body shall have the obligation to notify the FRC immediately regarding a members' violation of legislation or the charter or by-laws of the body, and concerning measures that have been taken in connection with such violation.
- 74.2 The FRC, if it considers it to be necessary, may obtain the opinions and assessments of a self-governing body or other independent expert before making a decision on any matter connected with the rights and interests of the self-governing body or its members.
- 74.3 Any amendment to the charter or regulations of a self-governing body shall be effective upon notification to and registration with the FRC.
- 74.4 The FRC may issue instructions to amend in full or in part the provisions of a charter or by-laws of a self-governing body which are in violation of legislation.
- 74.5 The FRC is prohibited from intervening in the internal operations of a self-governing body in respect of matters other than those specified in legislation or rules and regulations established by the FRC.

#### **Article 75. Supervising the operations of self-governing bodies**

- 75.1 A self-governing body shall submit its financial and operational reports to the FRC within the prescribed period and shall disclose the same to the public.
- 75.2 The FRC shall inspect the principal and financial operations of self-governing bodies.
- 75.3 A self-governing body shall promptly produce necessary documents and relevant clarifications to an FRC-appointed inspector in accordance with the proper procedures.
- 75.4 In the event that the self-governing body or its governing persons or professionals have violated this law or the relevant charter or by-laws, the FRC shall take the following measures and notify the public of the same:
- 75.4.1 issue a warning;
  - 75.4.2 issue an instruction;
  - 75.4.3. impose restrictions on certain of its activities;
  - 75.4.4 suspend or revoke its registration; or
  - 75.4.5 such other measures as may be specified in legislation.
- 75.5 Within 60 days of the date of the measures specified in Articles 75.4.1 - 75.4.3 of this Law being taken, such matter shall be considered and determined by the management board or the all-members meeting, and the FRC shall be notified thereof.
- 75.6 In the event that the authority of a self-governing body has been terminated, its members shall be transferred to another competent self-governing body. The FRC shall approve the procedures connected with transferring the membership of a self-governing body.

## **CHAPTER SEVEN: PROHIBITED ACTIVITIES IN THE SECURITIES MARKET**

### **Sub-chapter One: Activities prohibited to a holder of inside information**

#### **Article 76. Inside information**

- 76.1 Any information that is not publicly available and that may influence the price of a security shall be deemed inside information.
- 76.2 Analysis made on the basis of information available to the public shall not be considered inside information, even there is a possibility of it appreciably influencing the price or volume of trade of a security.

#### **Article 77. Holders of inside information**

- 77.1 The following persons shall be considered holders of inside information:
- 77.1.1 an influential shareholder, governing person, or employee of the securities issuer and their connected persons; or
  - 77.1.2 a person that acquired inside information in the course of performing its official duties, or preparing, concluding or performing a contract or transaction, and its connected persons.
- 77.2. A person specified in Article 77.1 of this Law shall be considered a holder of inside information regardless of whether or not it acquired such information directly or indirectly.

#### **Article 78. Prohibition on participation in trading activities using inside information**

- 78.1 A holder of inside information shall be prohibited from the following activities:
- 78.1.1 participating in the trading of securities or derivative financial instruments whose price or volume of trade may fluctuate as a result of the information;
  - 78.1.2 regardless of whether or not it is known that the information is inside information, proposing or inducing others to participate in the trade of securities or derivative financial instruments whose price or volume of trade may fluctuate as a result of the information; or
  - 78.1.3 disclosing of inside information to others otherwise than in the course of one's professional duties.
- 78.2 If a holder of inside information or its connected persons have participated in the trade of securities or financial instruments based thereon/deriving therefrom using inside information, it shall be deemed to have violated the provisions of Article 78.1 of this Law.

#### **Article 79. Disclosing inside information to the public**

- 79.1 A securities issuer shall have the obligation to disclose to the public inside information specified in Article 76.1 of this Law in accordance with regulations adopted by the stock exchange and the FRC. In publicly disclosing the inside information, the securities issuer shall also notify the FRC and institutions conducting securities trading.
- 79.2 The inside information shall be disclosed to the public in the following ways:
- 79.2.1 through the websites of the securities issuer, institutions conducting securities trading and the FRC;
  - 79.2.2 printed publications in accordance with procedures established by the FRC; and
  - 79.2.3 through other means which enables interested persons to obtain the information without obstruction.
- 79.3 The FRC shall approve the list of information specified in Article 76.1 of this Law and procedures for disclosing it.

## **Sub-chapter Two: Market abuse**

### **Article 80. Prohibition on market abuse**

- 80.1 It shall be prohibited to abuse the securities market by making fraudulent trades on the securities market, creating artificial securities prices, deceiving clients and other participants in the securities market with the intention of inducing or dissuading participation in trade, or in any other manner.
- 80.2 Where an agreement is entered into in relation to a particular security for the purpose of misleading a client or participant in the securities market and such agreement gives the appearance that the security is being actively traded notwithstanding that there has not been any change of ownership, or where parties collude to place purchase orders or enter into agreements in respect of a particular security within a certain price range, this shall be considered as having made a fraudulent trade.
- 80.3 If two or more transactions have been entered into directed at increasing, decreasing, or fixing the market price for the purpose of ensuring that another person buy, not buy, order, or not order a certain security, this shall be considered as having created an artificial securities price.
- 80.4 The following acts or omissions shall be considered deceiving with the purpose of inducing or dissuading participants in the securities market and clients from trading:
- 80.4.1 issuing or publishing incorrect, misleading, or false information, projections or estimates, or failing to disclose material facts;
  - 80.4.2 misleading a counterparty to a transaction by giving false information in relation to certain facts; or
  - 80.4.3 misleading a counterparty to a transaction by utilising certain methods or devices.
- 80.5 Securities and derivative financial instruments shall be included as "securities" for the purposes of this Article 80.

### **Article 81. Obligation to compensate damage**

- 81.1 An offending person shall compensate any loss or damage caused to others as a result of having participated in trade using inside information, not having disclosed to the public inside information in accordance with the proper procedures, or having abused the securities market.
- 81.2 The income or profits acquired from using inside information or else abusing the securities market may be claimed pursuant to the Civil Code of Mongolia.

## **CHAPTER EIGHT: SUPERVISION AND INSPECTION OF THE SECURITIES MARKET**

### **Article 82. Demand of information**

- 82.1 The FRC may, in exercising its authority or in accordance with a request from a competent regulatory body of a foreign jurisdiction, demand in writing from regulated entities, securities issuers, their connected persons or any other relevant person, confirmation and submission of information of the form and type it considers necessary within a prescribed period.
- 82.2 A person specified in Article 82.1 of this Law shall be under an obligation to deliver the information so demanded.
- 82.3 If a bank is a joint stock company or the connected person of a regulated entity, Articles 82.1 and 82.2 of this Law shall equally apply to the concerned bank.

- 82.4 Notwithstanding the fact that other laws contain conflicting provisions in relation to matters in respect of the demand of information as specified in this Article 82, the provisions of this Law shall prevail.
- 82.5 It shall be prohibited to release or transfer to another person without the FRC's approval the documents or information acquired by virtue of the authority specified in Article 82.1 of this Law.

### **Article 83. Regular supervision**

- 83.1 The FRC shall undertake regular supervision to determine whether a regulated entity is in compliance with the provisions of this Law, the rules and regulations issued by the FRC in accordance therewith, and the conditions and requirements of its licence.
- 83.2 A regulated entity shall produce those documents and materials demanded by the FRC within the prescribed period.
- 83.3 If a bank is a joint stock company, Articles 83.1 and 83.2 of this Law shall equally apply to it.
- 83.4 If a bank belongs to a company group which includes a regulated entity, the FRC shall inform the Bank of Mongolia and carry out its supervision and inspection activities either alone or jointly prior to implementing its authority specified in Articles 83.1 and 83.2 of this Law.

### **Article 84. Inspection of the activities of regulated entities**

- 84.1 The FRC shall perform inspections to determine whether or not regulated entities or securities issuers are in compliance with the provisions of this Law, other relevant legislation, and any rules or regulations issued in accordance therewith.
- 84.2 If the FRC considers it necessary it may at any time inspect the activities of a regulated entity at its own initiative or in accordance with information or a request submitted by individuals, legal entities or the competent regulatory bodies of foreign jurisdictions.
- 84.3 If a bank is a joint stock company, Articles 84.1 and 84.2 of this Law shall equally apply to it.
- 84.4 If a bank belongs to a company group which includes a regulated entity, the FRC shall inform the Bank of Mongolia and carry out its supervision and inspection activities either alone or jointly with the Bank of Mongolia prior to implementing its authority specified in Articles 84.1 and 84.2 of this Law.

### **Article 85. Authority of the State Inspector of the FRC**

- 85.1 The State Inspector of the FRC shall have the following authorities:
- 85.1.1 to undertake supervision of the implementation of legislation concerning the securities market and any other binding regulations based upon these, and to submit matters for discussion at meetings of the FRC;
  - 85.1.2 to obtain at no cost, the information, research, reports, analysis and other documents required for inspections from the relevant securities issuers, regulated entities, and their connected persons, and to receive clarificatory statements;
  - 85.1.3 if it considers there to have been, or there has been, a violation of securities market legislation, to temporarily suspend trade in the concerned security or to otherwise sequester the security;
  - 85.1.4 to issue an official decision on the basis of the results of an inspection, to ensure its implementation, to state what actions must be taken within a prescribed period in order to remedy the violation or fault, and ensure the implementation of the same;

- 85.1.5 in the event that the actions specified in Article 85.1.4 of this Law have not been carried out, or else in the process of inspection it has been established that a material violation occurred or is continuing to occur, to impose liabilities on the regulated entity or securities issuer, to temporarily suspend its activities in whole or in part, to inform the public concerning this, and if considered necessary, to submit a proposal to the FRC for the suspension or revocation of the relevant licence;
  - 85.1.6 in the event that documentary evidence indicates an attempted violation of the securities market legislation, or else a violation has been established, to temporarily suspend transactions to be completed through the account of the offending person held at a securities central depository;
  - 85.1.7 during business hours, to freely access the premises of the regulated entities and their connected persons as well as the persons that have held or are holding controlling blocks of shares of such regulated entities;
  - 85.1.8 to obtain copies of relevant documents free of charge;
  - 85.1.9 to make enquiries and receive responses in respect of the inspection;
  - 85.1.10 if violations revealed by the inspection are criminal in nature, to transfer the relevant documents to the competent authorities;
  - 85.1.11 to adhere strictly to the law and to remain impartial, to respect the lawful interests and reputation of the State, the participants in the securities market, their connected persons, and clients, to refrain from examining issues related to him/her or his/her family members or relatives, and to make full and comprehensive inspections;
  - 85.1.12 to take full responsibility for the accuracy of inspections, reports, opinions, official demands, figures, documents and evidence;
  - 85.1.13 to impose administrative sanctions on offending persons in accordance with the provisions of the law; and
  - 85.1.14 such other authorities as may be specified in legislation.
- 85.2 The General State Inspector and the Senior State Inspector of the FRC shall implement the following authorities in addition to the general authority specified in Article 85.1 of this Law:
- 85.2.1 on the basis of mutual agreement, a proper professional body may be delegated the work of inspections, and shall undertake investigations to establish certain facts;
  - 85.2.2 to take actions in accordance with applicable laws and regulations to ensure that loss or damage caused to investors and clients by securities issuers, regulated entities and their connected persons is compensated;
  - 85.2.3 in the event that the decision specified in Article 85.1.4 of this Law has not been implemented, unless otherwise provided by law, it may enforce such decisions by application to a court, or else may submit its proposals to the competent authority for decision on the termination of the relevant operations of the concerned securities issuer;
  - 85.2.4 if the FRC considers the liquidation of a regulated entity to be consistent with the interests of its clients, to apply to court for the liquidation of such entity;
  - 85.2.5 approval of scheduled and ad hoc inspections; and
  - 85.2.6 such other authorities as may be provided in law.

- 85.3 An inspector shall undertake inspections in accordance with relevant guidelines, and shall inform the regulated entity or the securities issuer of the guidelines in advance.
- 85.4 A scheduled inspection shall be organised not less than once every two years and shall be conducted so as not to cause interruption to the daily operations of regulated entity or a securities issuer.
- 85.5 A person whom the State Inspector considers to be in possession of documents relevant to an inspection shall produce the concerned documents in the required form within a prescribed period, and shall render other assistance such as providing additional explanations and clarifications and generally cooperate with the State Inspector.
- 85.6 The State Inspector of the FRC shall, in performing its duties, be provided with the guarantee provided in legislation concerning state officials and the Law of Mongolia on State Inspections.

#### **Article 86. Prohibition on obstruction of inspections**

- 86.1 It is prohibited to obstruct the course of an inspection specified in Articles 83 and 84 of this Law in following ways:
- 86.1.1. by evading an inspection;
  - 86.1.2. by interfering with an inspection or exerting influence on the assessment or decision to be issued;
  - 86.1.3. by temporarily or otherwise refusing without grounds to produce or handover, or by damaging, altering, destroying, hiding or falsifying documents relevant to an inspection; or
  - 86.1.4. in any other manner.
- 86.2 The events specified in Article 86.1 of this Law shall be grounds for the FRC to revoke the licence of a regulated entity.

#### **Article 87. Emergency situations**

- 87.1 The following circumstances shall be regarded as an emergency situation:
- 87.1.1. insolvency proceedings have been commenced against a regulated entity;
  - 87.1.2. circumstances have arisen that may lead to the liquidation of a regulated entity; or
  - 87.1.3. a competent authority has decided to reorganise a regulated entity on grounds specified in laws.
- 87.2 The FRC shall immediately take the following measures in the event of occurrence of an emergency situation as specified in Article 87.1 of this Law:
- 87.2.1. to separate assets of the regulated entity from its financial reports and statements until such time all the claims of the clients have been satisfied;
  - 87.2.2. to appoint a receiver for the regulated entity that is insolvent;
  - 87.2.3. to change the management of a regulated entity, revoke the decisions made by the management, and restrict rights relating to disposal of cash or other property of the regulated entity; or
  - 87.2.4. to restrict in full or in part or suspend the activities of the regulated entity.
- 87.3 A regulated entity is under an obligation to transfer to a receiver all the accounts and original copies of the documents and materials that are necessary to protect the clients' assets.
- 87.4 A receiver shall have the following authority:

- 87.4.1. to submit to the FRC a proposal concerning the transfer of clients to other regulated entities;
  - 87.4.2. to terminate orders that are placed by clients, but have not yet been executed;
  - 87.4.3. to terminate employment contacts or other agreements entered into by a regulated entity and hire new employees if necessary; and
  - 87.4.4. to disclose to the public any information that deemed is necessary.
- 87.5 The FRC shall make its decision based on the proposal by a receiver in accordance with Article 87.4.1 of this Law.
- 87.6 Regulations set out in Article 87 of this Law shall not be applicable to entities that are engaged in the activities specified in Articles 24.1.15 - 24.1.17 of this Law.
- 87.7 The FRC shall issue regulations concerning the implementation of provisions set out in Article 87 of this Law.

## CHAPTER NINE: MISCELLANEOUS

### Article 88. The Dispute Resolution Board

- 88.1 The FRC shall have a Dispute Resolution Board which has the authority to determine disputes that have arisen between regulated entities, securities issuers, investors and clients, and the FRC shall approve the personnel and operating procedures of such Board.
- 88.2 The Dispute Resolution Board shall receive and examine complaints relating to the dispute and submit its proposals concerning the decision connected therewith to a meeting of the FRC, and the FRC may take any of the following decisions:
- 88.2.1 approve the proposal as submitted;
  - 88.2.2 amend the proposal; or
  - 88.2.3 return the proposal to the Dispute Resolution Board for reconsideration.

### Article 89. Sanctions for violations

- 89.1 Unless the violation attracts criminal liability, the FRC's inspector shall impose the following administrative penalties on those who breached the laws and regulations of the securities market:
- 89.1.1 if regulated activities in the securities market have been conducted without licence, registration, or authorisation from the FRC, the income obtained from the concerned activities shall be confiscated and a fine shall be imposed on the offending legal entity in Mongolian tugrugs of an amount equal to 100 - 150 times the minimum monthly wage<sup>17</sup>, or on a governing person of the offending entity in Mongolian tugrugs of an amount equal to 50 - 70 times the minimum monthly wage;
  - 89.1.2 if, in violation of the requirements specified in Article 10 of this Law, incorrect, falsified or misleading information has been included in a securities prospectus and released to the public, false representations made, amendments have been made to a securities prospectus without the FRC's consent or in breach of the procedures specified in Articles 11.2 and 11.7 of this Law securities that have not been registered with the FRC are offered to the public or advertised, or other type of information has

<sup>17</sup> Translation note: currently, the minimum monthly wage is MNT 140,400 (approximately US\$ 95) and will increase to MNT 192,000 (approximately US\$ 130) effective from 1 September 2013.

- been released to the public for the purpose of raising capital a fine shall be imposed on the offending legal entity in Mongolian tugrugs of an amount equal to 200 - 250 times the minimum monthly wage, on a governing person of the offending entity in Mongolian tugrugs of an amount equal to 100 - 150 times the minimum monthly wage, and on the regulated entity that provided underwriting services in Mongolian tugrugs of an amount equal to 50 - 70 times the minimum monthly wage;
- 89.1.3 a fine shall be imposed on a legal entity that has violated the procedures for issuing the depositary receipts specified in Articles 13 - 15 of this Law in Mongolian tugrugs of an amount equal to 300 - 350 times the minimum monthly wage, and on a governing person of the offending entity in Mongolian tugrugs of an amount equal to 150 - 200 times the minimum monthly wage;
- 89.1.4 a fine shall be imposed on a legal entity that has violated the operational procedures for brokers, dealers or underwriters specified in this Law in Mongolian tugrugs of an amount equal to 100 - 150 times the minimum monthly wage, and on a governing person of the offending entity in Mongolian tugrugs of an amount equal to 50 - 70 times the minimum monthly wage;
- 89.1.5 a fine shall be imposed on a legal entity that has violated the procedures specified in Articles 6.5, 9.3, 9.4, 9.11, 11.10, 12.3, 12.4, 12.9, 17.3, 21.3, 23.3, 24.5, 24.8, 31.3, 38.6, 38.8, 42.7, 42.12, 42.15, 42.16, 44.5, 45.6, 45.8, 46.3, 46.6, 47.2, 47.3, 47.5, 47.7 or 51.2 of this Law in Mongolian tugrugs of an amount equal to 100 - 150 times the minimum monthly wage, and on a governing person of the offending entity in Mongolian tugrugs of an amount equal to 50 - 60 times the minimum monthly wage;
- 89.1.6 a fine shall be imposed on a securities issuer that has not complied with its general obligations of securities issuers specified in Article 20 of this Law in Mongolian tugrugs of an amount equal to 50 - 70 times the minimum monthly wage, and on a governing person of the offending entity in Mongolian tugrugs of an amount equal to 20 - 40 times the minimum monthly wage;
- 89.1.7 a fine shall be imposed on a legal entity or its connected person that has not produced and submitted the information or notices specified in Articles 22.2-22.4, 52.1, 52.2, 53.1 - 53.3, 54.1, 54.2, 55.1, 56 - 58, 70.2, 70.3, 74.1, 75.1, 75.3 - 75.5, 81.1, 82.2, 82.5, 85.5, 86.1, and 87.3 of this Law in accordance with proper procedures to a relevant person in Mongolian tugrugs of an amount equal to 120 - 150 times the minimum monthly wage, and on a governing person of the offending entity in Mongolian tugrugs of an amount equal to 50 - 60 times the minimum monthly wage;
- 89.1.8 a fine shall be imposed on a legal entity that has violated the provisions of Articles 78.1, 79.1, 79.2, or 80.1 of this Law in Mongolian tugrugs of an amount equal to 400 - 450 times the minimum monthly wage, and on a governing person of the offending entity in Mongolian tugrugs of an amount equal to 100 - 150 times the minimum monthly wage;
- 89.1.9 a fine shall be imposed on a legal entity that has violated the provisions of Articles 49.1, 62.2, 66.4 or 68.3 of this Law in Mongolian tugrugs of an amount equal to 100 - 130 times the minimum monthly wage, and on a governing person of the offending entity in Mongolian tugrugs of an amount equal to 40 - 60 times the minimum monthly wage;
- 89.1.10 a fine shall be imposed on a person that has intentionally evaded disclosure of the information specified in Articles 60.1, 82.1 or 83.2 of this Law in Mongolian tugrugs of an amount equal to 100 - 130 times the minimum monthly wage, and on a governing person of the offending entity in Mongolian tugrugs of an amount equal to 40 - 60 times the minimum monthly wage.
- 89.2 The income of a regulated entity obtained by violation of the law shall be confiscated and the expenses incurred by the FRC connected with investigating the violation shall be compensated by the offending person.
- 89.3 Loss or damage caused to others by violation of securities market legislation and property acquired without justifiable grounds shall be compensated pursuant to the Civil Code of Mongolia.

- 89.4 The statute of limitations for bringing claims under this Law shall be 3 years, and the statute of limitations for administrative violations specified in the Law of Mongolia on Administrative Liabilities shall not apply to this Law.
- 89.5 If the sanctions specified in Article 89.1 of this Law are considered to have been imposed without grounds, a complaint may be lodged in accordance with court and administrative procedures.

**Article 90. Entry into Force**

- 90.1 This Law shall come into force on 1 January 2014.

**SPEAKER OF THE STATE GREAT KHURAL OF MONGOLIA**

**Z.ENKHBOLD**

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