



**FINANCIAL REGULATORY COMMISSION OF MONGOLIA
RESOLUTION**

April 08, 2020

Reference 179

Ulaanbaatar

Approval of
Regulation on fitness and propriety for non-bank financial institutions and non-
financial businesses and professions

In accordance with article 6.1.2, 6.1.11 of clause 6 of the Law on the Legal Status of Financial Regulatory Commission and article 19.2.3 of clause 19 of the Law on anti-money laundering and terrorism financing, it is RESOLVED:

1. To approve the “Fitness and propriety requirements for non-bank financial institutions and non-financial businesses and professions” as attached.
2. To annul the corresponding clauses and chapters of the following regulations and guidelines from the date the above-stated regulation enters into force.
 - 1/ “Guidelines on fitness and propriety” approved by the resolution 208 of the Financial Regulatory Commission, dated June 06, 2018;
 - 2/ Chapter 10 of the “Regulation on conducting regulated activities in the stock market” approved by the resolution 04 of the Financial Regulatory Commission, dated January 09, 2019;
 - 3/ Chapter 5 of the “Regulation to issue a license, permit, authorization, and registration of real estate entities” approved by the resolution 120 of the Financial Regulatory Commission, dated March 11, 2020.
3. To assign the Secretariat /T. Jambaajamts/ to monitor the enforcement of the resolution and inform the public.

CHAIRMAN

D.BAYARSAIKHAN

REGULATION ON FITNESS AND PROPRIETY FOR NON-BANK FINANCIAL
INSTITUTIONS AND NON-FINANCIAL BUSINESSES AND PROFESSIONS

ONE. GENERAL PROVISIONS

- 1.1. The purpose of this regulation is to identify the appropriate entities to conduct non-bank financial and non-financial businesses and professions based on the license, and to reduce the risks of money laundering and terrorism financing, and prevent the criminals, criminal suspects, members of the criminal grouping, and their representatives from founding a legal entity that provides financial and non-financial business and professional services, and conceal the source of the fund by lobbying the decision-making, and use for illegal purposes to convert, launder the money, accumulate the fund for criminal purposes, and to finance crimes.
- 1.2. According to this regulation, the Financial Regulatory Commission shall verify the following persons and legal entities for the compliance of fitness and propriety requirements:
 - 1.2.1. The applicant and holder of the license for the financial and non-financial businesses and professions and authorized personnel of those entities stated in article 3.1 of clause 3 of the Law on the Legal Status of Financial Regulatory Commission;
 - 1.2.2. Person or entity who owns or applied to own 10 or above percent shares of the legal entity, or majority shareholder, or shared owners of affiliates /further “shareholders”/;
 - 1.2.3. In case the shareholder is a legal entity, the shareholder that owns 10 or above percent of the total shares and authorized personnel deemed as key by the Financial Regulatory Commission.
- 1.3. The beneficial owner defined in article 3.1.6 of clause 3 of the Law on anti-money laundering and terrorism financing shall be verified according to the questionnaire defined in Appendix 1 of this regulation.
- 1.4. In case of necessity, the requirements of this regulation shall be applied to the holding, subsidiary, affiliate company and sister companies in a phased approach.

TWO. CRITERIA FOR APPROPRIATE ENTITY

- 2.1. The Financial Regulatory Commission shall deem the entity that satisfies the following requirements as the appropriate entity:
 - 2.1.1 The following requirements apply to the legal entities:
 - 2.1.1.1. financial stability and solvency;

2.1.1.2. have policy regulation;

2.1.1.3. be free of administrative and coercive punishment from the government administrative entities;

2.1.1.4. have a decent business and ethical reputation;

2.1.1.5. be free from conflict of interest;

2.1.1.6. other legal requirements.

2.1.2 The following requirements apply to the person:

2.1.2.1. have the knowledge, education, and work experience;

2.1.2.2. be free from criminal records;

2.1.2.3. have an ethical reputation;

2.1.2.4. be free from conflict of interest;

2.1.2.5. other legal requirements.

2.2. In case the legal entity is registered in the tax exemption or off-shore zone, the Financial Regulatory Commission may demand additional documents that determine the requirements for the shareholders, source of share capital, executive management, and key personnel.

2.3. In case the authorized personnel were replaced the acting personnel shall satisfy the requirements of the appropriate entity and person.

2.4. The criteria defined in article 3.1 of this regulation may apply to authorized personnel of the foreign legal entities that conduct operations in Mongolia through branch, representative office, subsidiary, and controlled companies.

THREE. DETERMINING THE COMPLIANCE CRITERIA OF THE FITNESS AND PROPRIETY REQUIREMENTS

3.1. The following criteria apply to the compliance of the legal entities stated in article 2.1.1.

3.1.1. The criteria “financial stability and solvency” defined in article 2.1.1.1 of this regulation shall be identified with the following indicators:

3.1.1.1. no outstanding payables other than ordinary loans;

3.1.1.2. whether the legal entity defined in article 1.2 of this regulation faced insolvency due to financial difficulties;

3.1.2. The criteria “have policy regulation” defined in article 2.1.1.2 of this regulation shall be identified with the following indicators:

3.1.2.1. To have a defined policy and regulations reflecting the requirements and ethical codes for the board of directors, and the similar level management personnel, regarding the money laundering, terrorism financing, and proliferation of mass destruction weapons, and anti-terrorism measures;

- 3.1.2.2. Issue a warranty guaranteeing to perform its legal liabilities, conduct the regulated activities under the corresponding laws and regulations in a fair and mutually beneficial manner to the entity, other participating parties, and the clients.
- 3.1.3. The criteria “to be free of administrative and coercive punishment from the government administrative entities;” defined in article 2.1.1.3 of this regulation shall be identified with the following indicators:
- 3.1.3.1. Whether the regulated entity by the Commission ever had licenses or permits revoked or suspended permits due to its own faulty activities;
- 3.1.3.2. The regulated entity by the Commission or other legal entities shall be free of criminal records and liabilities induced due to the breaches related to the money laundering, terrorism financing, bribery, corruption, economic crime due to own faulty activities;
- 3.1.4. The criteria to have “decent business and ethical reputation” defined in article 2.1.1.4 of this regulation shall be identified with the following indicators:
- 3.1.4.1. Whether ever been a principal defendant of the complaint related to the financial services and operations;
- 3.1.4.2. Shall not have breached the ethical code of conduct of the industry within the last 1 year;
- 3.1.4.3. Shall not be in breach or assisted to breach the legal, regulatory, and business and ethical code of conduct within Mongolia or abroad;
- 3.1.4.4. Be willing to adhere to regulatory requirements within the territory of Mongolia and abroad, or adapt professional and ethical code of conduct.
- 3.1.5. The criteria to have “be free from conflict of interest” defined in article 2.1.1.5 of this regulation shall be identified with the following indicators:
- 3.1.5.1. Shall not be in violation of clause 20, 21, and 22 of the Law on Regulating Public and Private Interests in Public Service and Preventing Conflicts of Interest;
- 3.1.5.2. Shall not violate special purpose law that regulates the financial services defined under article 3.1 of the Law on the Legal Status of Financial Regulatory Commission.
- 3.2. The following criteria apply to the compliance of the person stated in article 2.1.2 of this regulation.
- 3.2.1. The criteria to “have knowledge, education, and work experience” defined in article 2.1.2.1 of this regulation shall be identified with the following indicators:
- For non-bank financial institutions:*
- 3.2.1.1. The personnel appointed in the authorized positions of Board of Directors, executive management, and branch management shall:
- a) Have higher education in banking, finance, accounting, economics, law, and other profession accepted by the Commission;
 - b) Have at least 1-year work experience in the job positions similar to the appointed position

c) Have worked in the finance industry for at least 2 years.

3.2.1.2. The personnel appointed in the director's committee, monitoring committee, and loan committee of the cooperative shall satisfy the requirements defined in article 34.3, 34.4, 34.11 of the Law on Loan and savings cooperatives, and the executive director shall satisfy requirements of article 39.6 of the same law;

3.2.1.3. The agent of the non-bank financial institutions shall:

a) Have higher education in banking, finance, accounting, economics, law, and other profession accepted by the Commission;

b) Have worked in the finance industry for at least 1 year.

For non-bank businesses and professional services providers:

3.2.1.4. The personnel appointed in the authorized positions of Board of Directors and branch management shall:

a) Have a secondary and above education;

b) Participated in the training conducted by Commission and be certified.

3.2.2. The criteria to "be free from criminal history" defined in article 2.1.2.2 of this regulation shall be identified with the following indicators:

3.2.2.1. Shall be free of criminal punishment records related to money laundering, terrorism financing, bribery, and corruption, economic crime, and violations stated in the Criminal Code.

3.2.2.2. Whether currently being subjected to the criminal case and case opening as a suspect or defendant, and investigated for money laundering, terrorism financing, bribery, and corruption, economic crime, and violations stated in the Criminal Code.

3.2.3. The criteria to "have an ethical reputation" defined in article 2.1.2.3 of this regulation shall be identified with the following indicators:

3.2.3.1. Shall not be fired from the job position due to faulty actions and for the breach of ethical code of the industry within the last 1 year;

3.2.3.2. Whether acted as a principal culprit of the complaint claimed due to the financial and non-financial services and operations;

3.2.3.3. Have not breached the industrial ethical code of conduct within the last 1 year;

3.2.3.4. Shall not be related or assisted in any violations of the business ethics and rules within the territory of Mongolia and abroad;

3.2.3.5. Be willing to adhere to regulatory requirements within the territory of Mongolia and abroad, or adapt professional and ethical code of conduct.

3.2.4. The criteria to "be free from conflict of interest" defined in article 2.1.2.4 of this regulation shall be identified with the following indicators:

3.2.4.1. Shall not be in violation of clause 20, 21, and 22 of the Law on Regulating Public and Private Interests in Public Service and Preventing Conflicts of Interest;

3.2.4.2. Shall not violate special purpose law that regulates the financial services defined under article 3.1 of the Law on the Legal Status of Financial Regulatory Commission.

FOUR. DOCUMENTARY PROOF OF COMPLIANCE TO THE APPROPRIATE ENTITY CRITERIA

- 4.1. The entity defined in article 1.2 of this regulation shall collect documentary proof of compliance to the appropriate entity criteria and deliver it to the Commission.
- 4.2. The entity defined in article 1.2 of this regulation complying with all requirements of chapter 3 of this regulation shall be deemed as an appropriate entity.
- 4.3. The questionnaire defined in Appendix 1 and 2, and the documentary proof according to Appendix 3 and chapter 3 of this regulation shall be prepared in accurate and complete set, and delivered to the Commission within the deadline specified in the special regulation of the sub-sector regulation.
- 4.4. The commission may collect the following documentary proof to identify the compliance to the appropriate entity criteria:
 - 4.4.1. Reference and information inquiry from the government and law enforcement organizations of Mongolia, and professional unions and other regulatory bodies;
 - 4.4.2. Reference and information inquiry from the government and law enforcement organizations of foreign countries, and professional unions and other regulatory bodies.
- 4.5. In case the foreign registered legal entity and person, may require the following documents and proofs related to the authorized personnel, majority shareholder entity, and persons:
 - 4.5.1. Documentary proof of having no outstanding payables of ordinary loans and loan guarantee agreements in the country of residence;
 - 4.5.2. Documentary proof of having no outstanding payables of tax, customs fee, and payment in the country of residence;
 - 4.5.3. Documentary proof of not having been involved in money-laundering, terrorism financing crimes.
- 4.6. In case the Financial Regulatory Commission deems to be necessary, it may interview the entity defined under article 1.2 and demand additional information.
- 4.7. The Financial Regulatory Commission shall identify whether the entity is an appropriate entity and whether the entity satisfies the requirements stated in chapter 3.
- 4.8. The Financial Regulatory Commission is obliged to identify the appropriate entity criteria for the following cases:

4.8.1. Entity which conducts operations under the regulatory jurisdiction of the Financial Regulatory Commission or applied to the Financial Regulatory Commission for a license or permit;

4.8.2. in case the entity defined under article 1.2 had a restructuring of shareholders, its composition, and change of elective members of loan and savings cooperation;

4.8.3. replacement of authorized personnel;

4.8.4. other cases.

4.9. The Financial Regulatory Commission shall resolve the application in accordance with the special regulations of the industry.

4.10. Each time the beneficial owner changed; it shall be notified to the Financial Regulatory Commission.

FIVE. MONITORING OF THE APPROPRIATE ENTITY

5.1. The Financial Regulatory Commission shall constantly monitor the appropriate entities for the compliance of above requirements either remotely or on site.

5.2. In case with monitoring, the entity defined under article 1.2 of this regulation identified not to satisfy the requirements defined in chapter 3 or conducted the following violations, it shall be deemed as a reason to deem the entity as inappropriate entity by the Financial Regulatory Commission:

5.2.1. concealed the information on beneficial owner and other relevant information;

5.2.2. falsely reported the source of the paid-in capital;

5.2.3. submitted forged and gave false information.

5.3. In case Financial Regulatory Commission deemed the entity as inappropriate the corresponding information shall be delivered to the entity.

5.4. In case the entity defined under article 1.2 of this regulation failed or ceased to satisfy the requirements for the appropriate entity the Financial Regulatory Commission shall take measures stated in the relevant laws and regulations.

5.5. The Financial Regulatory Commission shall maintain the list of entities failed to satisfy the requirements for the appropriate entity.

SIX. LIABILITIES

6.1. The entity violated this regulation shall be punished in accordance with the corresponding laws and regulations.

Appendix 1 to the “Regulation on fitness and propriety for non-bank financial institutions and non-financial businesses and professions”, approved by resolution 179 of the Financial Regulatory Commission,

QUESTIONNAIRE FOR THE BENEFICIAL OWNER OR CONTROLLING PARTY

Each beneficial owner shall respond to all questions, without the assistance of the applicant. If space was not enough, respond on additional paper, and attach it to this sheet.

№	Question	Answer
1.	Name of the entity (“entity”) that concerns this questionnaire	
2.	Please provide the name of the beneficial owner. Provide the name of the organization, and any other businesses used in relation and for the business	
3.	The reason for satisfying the controlling party requirement concerning the entity (for example, owns 10% of the share)	
4.	Information about the business	
5.	Any prior or registered names	
6.	Country and date of establishment	
7.	(a) Registered head office address (b) Present address	
8.	Named and positions of the directors of the Controlling party	
9.	Names of all the names and means of Controlling parties	
10.	Names of all financial and non-financial organizations obtained legal rights from the applicant entity (controlling party shall be the controlling party or a shareholder of the same entity). Provide proof of being a controlling party for each organization.	
11.	Whether the controlling party obtained a financial and non-financial business license from the regulatory bodies in Mongolia or any other sovereign? If yes, please provide detailed information. In case the license was terminated or invalidated, please provide detailed information.	
12.	Whether the controlling party ever applied for the financial and non-financial business license from the regulatory bodies in Mongolia and any other sovereign, besides the response stated in the answer of question 12? If yes, please provide detailed information. In case if the application was refused or withdrawn, please provide detailed information.	
13.	Did the controlling party ever failed to pay its liabilities assigned by the legal proceedings in Mongolia or anywhere else within one year of the court ruling? If yes, please provide detailed information	
14.	Did the controlling party ever failed to re-negotiate with the lenders, or in other words, whether it failed to fully repay the loan obtained? If yes, please provide detailed information	
15.	Whether the receiver was ever appointed for the assets of the controlling party in Mongolia, or similar appointment was made within the last 10 years in any other country? If yes, please provide detailed information, whether the receiver or similar party is	

	continuing the responsibilities.	
16.	Whether any other party requested the administrative ruling regarding the entity in Mongolia, or similar requests were made in any other places within the last 10 years? If yes, please provide detailed information	
17.	Whether voluntary dissolution notification was handed to the controlling party in Mongolia or similar notifications were received in any other country? If yes, please provide detailed information	
18.	Whether involuntary dissolution notification was handed to the controlling party in Mongolia or similar notifications were received in any other country? If yes, please provide detailed information	
19.	Whether the inspector or other authorized staff of the government entity, agency, professional association, or other authorized personnel designated by other regulatory entities designated by Mongolian or foreign laws currently inspecting or previously inspected the business operations of the controlling party? If yes, please provide detailed information.	
20.	Whether the regulator in Mongolia or elsewhere condemned, prosecuted, warned, disciplined, or openly criticized the controlling party in connection with prospective contracts? If yes, please provide detailed information.	
21.	Whether the controlling party was denied the membership of a trading association of Mongolia or elsewhere, related to banking, finance, or non-financial activities or whether the controlling party ever decided to cancel the membership after submitting the application? If yes, please provide detailed information.	
22.	Whether the controlling party is involved or likely to be involved in the litigation that may have a material impact on its financial state of the entity in Mongolia or elsewhere? If yes, please provide detailed information.	
23.	Whether the controlling party entered or intends to enter into any transaction or agreement (excluding the dividend receipt) with any other organizations? If yes, please provide detailed information.	
24.	Whether the entity intends to issue guarantee for the business operations of the controlling party, i.e., issue a warranty, guarantee, or collateralize, or pledge? For example, provide a loan collateral to the bank or other financial institution in relation to the loan taken by affiliate company or controlling party. If yes, please provide detailed information.	
25.	How many shares of the entity are registered under the controlling party or its subsidiary? Provide the registered names and the stock classes	
26.	What is the intended amount of the share purchase by the controlling party or group company, or affiliate company (not registered under the controlling party or its subsidiary)? (for profit making)	
27.	Whether the controlling party or its subsidiaries hold shares of the entity as trustee or nominal shareholders? If yes, please provide detailed information.	
28.	Whether the shares of the companies stated in the answers of the questions 25, 26, and 27, were fairly or legally pledged or proposed to any other party? If yes, please provide detailed information.	
29.	What percentage of the equity shares of the entity (or its subsidiary	

Appendix 2 to the “Regulation on fitness and propriety for non-bank financial institutions and non-financial businesses and professions”, approved by resolution 179 of the Financial Regulatory Commission,

QUESTIONNAIRE

/Questionnaire due diligence for the personnel of the entity stated in article 1.2/

	Question	Answer
1.	The name of the company concerning the questionnaire	
2.	Surname Name Former name (if any) Sex (Male/female)	
3.	What is your role for filling this questionnaire? Member of the board of directors, shareholder, executive management, branch management, employee, and agent?	
4.	Residential address	
5.	Previous addresses from the past 10 years (provide dates)	
6.	Birthday Birth place (State, province, city)	
7.	Origin of citizenship (for example, birth, naturalized, married)	
8.	Citizenship ID (Registration number, tax payer ID, and other)	
9.	Present occupation and profession, occupations from the past 10 years, name of organization, name of employers, nature of business, position, relevant dates, resignation date, for each position please provide the following information: i. Position; ii. employment date; iii. name and address of the employer; iv. referee name, position and phone number	
10.	Your, present status in the registered entity– (a) Director or controlling party? (b) Was appointed as director or used to be a controlling party in the past 10 years? (please provide the country of incorporation for each incident and type of business)	
11.	Shareholding information of the other financial entities (current and for the past 10 years) (a) Name of the company (b) Country of incorporation (c) Share percent (d) Nature of business	
12.	(a) Education, year of graduation (c) Degree	
13.	Did any other regulatory body decline your application for permit?	
14.	Have you been convicted by a civil or military court for (a) the case was committed before turning to 18 years or underage, except the case was repeatedly committed within the last 10 years; or (b) any other case determined in simplified procedure related to the transportation vehicle use and ownership? If yes, please provide detailed information about the imposed liability and if convicted, the date of the sentence, case, and the fine	

15.	Have you been investigated in connection with financial or non-financial institutions? If yes, please provide detailed information.	
16.	Have you been subjected to disciplinary sanction, punishment, or unsatisfactory performance evaluation, or professional certification on condition? If yes, please provide detailed information.	
17.	Have you ever been required to present evidence for the fraud and deception case, not as the expert or witness, but a participant of the case? If yes, please provide detailed information.	
18.	Have your organization (registered, unregistered, and joint venture), where you presently hold office or used to hold office as director, shareholder, manager, officer, or controlling party, ever been inspected by the government, professional, or any other regulatory bodies? If yes, please provide detailed information.	
19.	Have you ever been demoted or fired from your position and banned to work in your profession? If yes, please provide detailed information.	
20.	Have you ever been considered bankrupt by a relevant court? If yes, please provide detailed information.	
21.	Have you ever failed to pay a debt you owe or supposed to pay, assigned by a court order? If yes, please provide detailed information.	
22.	Have you ever been prosecuted by the civil or criminal court on behalf of the company or member, for fraud, abuse of power, and any other corporate crime in establishing registered, unregistered, or joint venture organization? If yes, please provide detailed information.	
23.	While you held office or within one year of your departure, whether the organization (registered, unregistered, and joint venture) you worked as director, shareholder, manager, employee, and controlling party was liquidated involuntarily; or halted the transaction while negotiated and agreed with creditor, or while creditors were not repaid or fully recovered? If yes, please provide detailed information.	
24.	Have you ever had the rights of the organization (registered, unregistered, and joint venture) revoked or invalidated where you held office as director, shareholder, manager, employee, or controlling party?	
25.	While you held office, will you direct and regulate the others? If yes, please provide detailed information.	

- a) I hereby confirm that the information provided herein is accurate, correct. Moreover, if any material change occurs to any of the information provided in the questionnaire, I acknowledge to notify the Financial Regulatory Commission within 21 days of such change.

Date: _____

Signature: _____

Appendix 3 to the “Regulation on fitness and propriety for
non-bank financial institutions and non-financial businesses and professions”,
approved by resolution 179 of the Financial Regulatory Commission

**LIST OF THE MANDATORY DOCUMENTS FOR THE APPLICATION OF THE
APPROPRIATE ENTITY**

№	Document type	Number of pages
1.	Questionnaire according to Appendices 1 and 2 of this regulation	
2.	Application, resolution, and other documents submitted by the authorized personnel	
3.	In case the appropriate entity is a legal entity, the policy and regulation that meets requirements of article 3.1.2.1 of this regulation	
4.	In case the appropriate entity is a legal entity, the declaration certifying the compliance of article 3.1.2.2 of this regulation /official letter and appendices/	
5.	In case the appropriate entity is a legal entity, financial statements and solvency indications	
6.	Reference from the Loan Database from the Bank of Mongolia, regarding the non-performing loan	
7.	The documentary evidence of the educational degree of the appropriate entity	
8.	The documentary proof of the work experience in the industry and fit for the position of the appropriate entity	
9.	The documentary certification of the participation of the appropriate party, in the training accepted by the Commission	
10.	Criminal background reference issued by the authorized entity and relevant documents	
11.	Whether the reference was issued by the General Executive agency of court decision or similar entity	
12.	Additional documents required by the FRC	