



MONGOLIA

**RESOLUTION OF
FINANCIAL REGULATORY COMMISSION**

November 14, 2018

#339

Ulaanbaatar

Adopting the rule

Based on provisions 6.1.2 of Article 6 of the Law on the Legal Status of the Financial Regulatory Commission, provision 19.2.1 of Article 19 of the Law on Combating money laundering and financing of terrorism, the followings are ORDERED:

1. Adopt "Rule on offsite supervision and onsite inspection to non-banking sector reporting entities in the field of combating money laundering and financing terrorism" as an attachment.
2. Assign the Secretariat /B.Ariunaa/ to supervise the implementation of the resolution and publicly inform it.

CHAIRMAN

S.DAVAASUREN

**RULE ON OFFSITE AND ONSITE INSPECTION TO NON-BANKING SECTOR
REPORTING ENTITIES IN THE FIELD OF COMBATING MONEY LAUNDERING
AND FINANCING TERRORISM**

CHAPTER ONE. GENERAL PROVISION

One. General provision

- 1.1. Present rule shall be applied to make evaluation on offsite supervision and onsite inspection whether reporting entities defined in provisions 4.1.2-4.1.7 of Article 4 of Law on Combating money laundering and financing terrorism, and take measures to eliminate any revealed violations.
- 1.2. The guideline on supervision and inspection stated in present Rule shall be adopted by the Chairman of the Financial Regulatory Commission.
- 1.3. Present rule may apply to comprehensive supervision conducted by Mongolbank with collaboration of state administrative organization in charge of financing and budget.

Two. Types of supervision and inspection

- 2.1. The supervision and inspection by the Financial Regulatory Commission on performing the duties charged under the Law on Combating money laundering and financing terrorism shall have following types:
 - 2.1.1. Offsite supervision
 - 2.1.2. Onsite inspection
- 2.2. Offsite supervision shall have the types defined as below:
 - 2.2.1. Regular supervision
 - 2.2.2. Special supervision
- 2.3. Onsite inspection shall have the types defined as below:
 - 2.3.1. Planned thematic inspection

2.3.2. Unplanned thematic inspection

2.4. Offsite supervision and onsite inspection

Onsite inspection and offsite supervision shall be done by the state inspectors and supervisors. Onsite inspection shall be conducted or working group might be lead only by state inspectors or the supervisors with license certifying him/her as state inspector.

2.5. Supervisors and state inspectors shall conduct inspections and supervisions within the scope of Present rule, Rule on state inspectors of Financial Regulatory Commission, Law on Legal Status of Financial Regulatory Commission and other related laws.

CHAPTER TWO.OFFSITE SUPERVISION

Three. Basis to conduct offsite supervision

3.1. Offsite supervision shall be conducted by the Financial regulatory commission in order to protect risks through regular supervision and evaluation on whether reporting entities defined in Law on Combating money laundering and financing terrorism.

3.2. Regular supervision shall be conducted as follow.

3.2.1. Risk assessment

3.2.2. Conduct supervision based on the report submitted by the reporting entities

3.3. Information required to conduct risk assessment shall be collected not less than two times per year.

3.4. Regular supervision based on report shall continuously be conducted and report shall be presented to the meetings of the Financial Regulatory Commission in every six months.

3.5. Presentation on assessment and evaluation defined in provision 3.4 of the present Rule shall be informed in the meetings of the Financial Regulatory Commission in every six months.

3.6. The assessment defined in provision 3.2 of the present rule may be conducted using information technology tools, and methodology, application form shall be adopted by the chairman of the Financial Regulatory Commission.

3.7. The Financial Regulatory Commission may conduct thematic supervision including reporting entities on the following basis.

3.7.1. Assessed as highly risky under the regular supervision

3.7.2. Opinion by the Supervision department of the financial regulatory commission

3.7.3. Assessment report on combating money laundering and financing terrorism submitted by international organization rated the reporting entities as risky, or determined as highly risky

3.7.4. Written proposal submitted by the competent authority

3.7.5. Information given by the natural and juridical person

3.8. The Chairman of the Financial Regulatory Commission may order to conduct onsite thematic inspection including the particular reporting entity where the grounds stated in provision 3.7 of the present rule are justified.

3.9. The reporting entities included in the planned thematic inspection may be selected due to its locations, subsidiaries and its sector

Four. Offsite supervision procedure

4.1. Expected date for regular supervision shall be reflected in plan of the Supervision department of the Financial Regulatory Commission.

4.2. Head of the related department may present his/her opinion to the Chairman of the Financial Regulatory Commission about the justification stated in provisions 3.7.1, 3.7.2, 3.7.3 of the present rule within 3 days after its relevance.

4.3. The supervision shall be conducted under the relevant laws on the basis stated in provision 3.7.4, 3.7.5 of the present rule.

4.5. Supervisor, state inspector or competent official shall promptly inform to head of the department about crime defined in Criminal Code or offense determined in Infringement Law is revealed during the offsite supervision.

4.6. Following reports and materials could be used in offsite supervision:

4.6.1. Risk assessment matrix in relation to activities combating money laundering and financing terrorism by the reporting entities

4.6.2. "Form on collecting quantities and qualities data" used in "Risk assessment matrix"

4.6.3. "Questionnaire on assessment of implementation of laws and internal audit of the reporting entities"

4.6.4. Quarterly report and information of the activities combating money laundering and financing terrorism submitted by the reporting entities to the financial regulatory commission

4.6.5. Previous reports on offsite supervision and onsite inspection

4.6.6. Implementation and performance of the previously assigned duties in accordance to the previous offsite supervision and onsite inspection

4.6.7. Report, information, conclusion transferred by the Financial information unit that submitted by the reporting entities

4.6.8. Publicly open information prepared by the international organization and domestic authorities

4.6.8. Documents and material on source of the fund in case of increasing the amount of the contribution of reporting entities

4.6.9. Shareholders, board of directors, executive managers of the reporting entities and curriculum vitae and reference inquiries of the person in charge of the monitoring on the implementation of the law on combating money laundering and financing terrorism.

4.6.10. Other documents and information located in the Archive of the Financial regulatory commission

4.7. During the offsite inspection, additional information or comments may be asked to be submitted by the reporting entities.

4.8. Risk on money laundering and financing terrorism shall be categorized as follows.

4.8.1. Low risk;

4.8.2. Slightly low risk;

4.8.3. Average risk;

4.8.4. Slightly high risk;

4.8.5. High risk;

4.9. The chairman of the Financial Regulatory Commission shall adopt matrix, form, report, information model accordingly determined in provision 4.6.1, 4.6.2, 4.6.3, 4.6.4 and risk assessment methodology stated in provision 4.8 of the present rule.

4.10. In case it is deemed to be necessary, during the offsite supervision, the financial regulatory commission may request information about reporting entities from national or foreign other authorities under the legislation about the reporting entities included in the inspection.

4.11. Recommendations and guidelines may be provided to reporting entities in in line of the risk mitigation specified in provision 4.8 of the present rule in Article 4.8 of the present rule.

Five. Offsite supervision report

5.1. Report shall be presented to the chairman of the Financial Regulatory Commission within the time period defined in the plan and guideline on offsite supervision.

5.2. Offsite supervision report shall include the followings:

5.2.1. Risk assessment of the reporting entities made in the form of risk assessment matrix defined in the provision 4.6.1 of the present rule using quantitative and qualitative information and questionnaires specified in 4.6.2 and 4.6.3 of the present rule

5.2.2. Change in the risk assessment of reporting entities, its causes, and the major factors influencing to increase the risk

5.2.3. Proposals to amend the rules and policies counterfeiting money laundering and financing terrorism

5.2.4. Proposals on implementation of the action plan including reporting entities in order to mitigate the risk of money laundering and financing terrorism, and enforce the implementation of laws

5.2.5. Opinion whether onsite inspection required to be conducted for reporting entities

CHAPTER THREE. ONSITE INSPECTION

Six. Justification to conduct onsite inspection

6.1. The Financial Regulatory Commission shall conduct onsite inspection in order to make a decision whether to take measures defined in statutes in accordance with the grounds and procedures set forth in the present rule determining how reporting entities perform their obligations under the Law on combating money laundering and financing terrorism.

6.2. Onsite inspection shall be conducted upon the below justification:

6.2.1. Upon the conclusion of the offsite supervision stated in the present rule, evaluated as defined in provisions 4.8.3, 4.8.4 and 4.8.5 of the present rule.

6.2.2. Justifications stated in provision 3.7 of the present rule.

Seven. Preparing for inspection

7.1. Before conducting any onsite inspections, the following documents and information shall be presented taken into account the scope of the inspection and evaluation factors.

7.1.1. Grounds defined in the provision 6.2 of the present rule and related materials

7.1.2. Reports and materials of the previous inspection

7.1.3. Performance of duties and assignments given under the previous inspection

7.1.4. Audit report on reporting entities' activities made by the independent organization

7.1.5. References and estimation about reporting entities on the field of money laundering and financing terrorism made by the Financial information unit

7.1.6. Internal policies, rules, regulations and their amendments developed by the reporting entities in regard to counterfeiting money laundering and terrorist financing

7.1.7. Other

7.2. Planned thematic inspection shall be carried out in accordance with the onsite inspection annual schedule adopted by the Financial regulation commission.

7.3. Onsite inspection may commence to be carried out within 3 days upon adoption of the guidance of the planned thematic inspection and notification to reporting entities.

7.4. Prior to the commencement of the onsite inspection, guidance of the inspection, documents and materials that required to be prepared by the reporting entities shall be presented and handed to the managing administration of the reporting entities.

7.5. Supervisors and government inspectors whose names are not listed in the guidance of the onsite inspection are prohibited to participate in the inspection process.

Eight. Procedures to carry out onsite inspection

8.1. The inspectors and state inspectors shall be prohibited to use the illegal inhuman means such as insulting, forcing, cheating, degrading life or health of a citizen or ill-treating legal entities in order to take statements or comments.

8.2. Supervisors and state inspectors are entitled to take the following documents and information from reporting entities included in onsite inspection:

8.2.1. State registration certificate, license, power-of-attorney;

8.2.2. Structure of the shareholders, change in management, information on assets, and other relevant materials;

8.2.3. Decision on appointing the officer in charge of implementing the laws on money laundering and financing terrorism;

8.2.4. Internal policies and regulations adopted and implemented by the reporting entities under the legislations on money laundering and financing terrorism;

8.2.5. Supervision report previously made in regard to the counterfeiting money laundering and financing terrorism, and related materials;

8.2.6. Recommendations and information on implementation of the assigned duties under the previous reports;

8.2.7. Transactions /within the period defined in the guideline/ that clarify the financial reports and other accounting documents made by the reporting entities;

8.2.8. Customer identification and documentation verifying customer information;

8.2.9. Information about the service and product provided by the reporting entities;

8.2.10. Complaints by customers/third parties lodged in reporting entities;

8.2.11. Information on reports submitted to the Financial Information Unit;

8.2.12. If it is deemed necessary, in order to clarify any issues detected during the inspection process, additional information may be requested from the competent officer of the reporting entity.

8.2.13. Detecting and reporting suspicious transactions;

8.2.14. Statement of use of a list of terrorist organizations issued by United Nations Security Council and United Nations Security Resolution against the spread of weapons and materials of mass destruction;

8.2.15. Statement of use of a list of terrorist organizations issued by United Nations Security Council and United Nations Security Resolution and local authorities on combating financing terrorism;

8.2.16. Other documents defined in legislations;

8.3. Supervisors and state inspectors shall randomly select transactions in order to testing and sampling the transactions performed during reporting year and pre auditing year.

8.4. Supervisors and state inspectors of the Financial Regulation Commission have following rights and obligations:

8.4.1. If it is deemed necessary, require the original in order to check the copied version

8.4.2. Store on the electronic devices if large amount of documents required to be copied

8.4.3. Obtain comments from officers and employees of the reporting entities on regard to inspection matter

8.5. Scheduled date of the planed thematic inspections can be extended once by the head of the department in charge of it.

8.6. In below cases, supervisors and state inspectors shall present their opinion to ament the rule on supervision and inspection to the chairman of the financial regulation commission:

8.6.1. Cover previous 5 years prior to the supervision and inspection process;

8.6.2. Include activities of other citizens and legal entities related to reporting obligations in the course of the investigation

Nine. Make a note

9.1. Records and materials collected through the inspection activities set forth in the present rule shall be noted.

9.2. Supervisors and state inspectors may also use audio, video or audio-video recording, or take photos proving the information along with the note.

9.3. Supervisors and state inspectors shall take measures to protect from damage and loss of documents and materials.

Nine¹. Risk assessment /This article was added by Financial Regulatory Commission's Chairman's decree №438 in 2019/

9¹.1. The Financial Regulatory Commission will conduct money laundering and terrorism financing risk assessment in FRC regulated reporting entities in the following methods.

9¹.1.1. Sectoral risk assessment

9¹.1.2. Individual risk assessment

9¹.2. The FRC Chairman will approve the risk assessment methodology, matrix, report form specified in Article 9¹.1 of this regulation.

9¹.3. Sectoral risk assessment shall include individual sectoral risk, vulnerability, issues that needs to be taken into consideration.

9¹.4. The risk assessment of each reporting entity shall include the risk conditions of the customer, products, services, delivery methods, forms and geographical location risks associated.

9¹.5. The risk assessment must be conducted every 2 years and a report on the findings shall be presented at the FRC meeting.

9¹.6. As specified in Article 9¹.2 of this regulation, risk profiles of each RE shall be compiled and updated in accordance with the report form approved in the appendix on the 10th of every month.

9¹.7. The frequency and scope of off-site and on-site inspections shall be determined based on the risk assessment and internal control program established in accordance with the Law on Anti-Money Laundering and Counter Financing of Terrorism as specified in Article 9¹.1 of this regulation.

Ten. Summarized evaluation

10.1. The working group shall abide the below principles in the course of evaluation and reporting about the activities of reporting entities on combating money laundering and financing terrorism:

10.1.1. The members of the working group in charge of the inspection shall evaluate supervision in accordance to their area under the present rule.

10.1.2. The head of the working group in charge of the inspection shall summarize evaluation considering assessments submitted by each member. Summarized evaluation shall be confirmed when all members of the working group in charge of the inspection are signed and the head of the working group stomp its state inspectors stamp.

10.1.3. Considering summarized evaluation, activities with regard to combating money laundering and financing terrorism could be concluded as below:

a) 1 or the laws are being implemented;

b) 2 or required to improve the implementation of laws;

c) 3 or non compliance with legislations.

10.2. A summary report shall not be made upon unplanned thematic inspection carried out under specific information. Necessary measures shall be taken under the statement of the supervisors or state inspectors relevant only to the information.

Eleven. Supervision report

11.1. State inspectors shall prepare the detailed reports including situation revealed the violation and shortcomings, proof of evidence, and conclusions upon completion of the onsite inspection. The report includes the following information:

11.1.1. The justification to conduct inspection, scope and duration of the inspection;

11.1.2. Names of the reporting entity, its legal representative involved in the inspection and the state inspectors carried out the inspection;

11.1.3. Conclusions made on the information collected in connection with the conduct of the reporting entity involved in the investigation;

11.1.4. Other shortcomings, violations inspected during the supervision;

11.1.5. Revealed shortcomings, violations and their proof of evidence;

11.1.6. Summary of the assessment;

11.1.7. Recommendation or proposed measures to be taken.

11.1.8. Other

Twelve. Presenting supervision report

12.1. Within five days after the termination of the inspection, supervision report shall be presented to the Chairman of the Financial Regulatory Commission.

12.2. The following information shall be included in the supervision report:

12.2.1. The date of the inspection, methodology, scope of the inspection, and guidance of the inspection conducted to inspect reporting entities;

12.2.2. Documents to proving the violation of the legislation shall be attached to the state inspector's warning letter;

12.2.3. The implementation of its internal procedures on combating money laundering and financing terrorism shall be assessed;

12.2.4. A note shall be made if prompt corrective action has been taken to rectify mistakes or shortcomings that may be corrected directly on site;

12.2.5. During the examination, whether the complaint was resolved according to its jurisdiction;

12.2.6. Report shall be submitted with evidence on performance of duties assigned in order to eliminate the shortcomings or rectify the violations revealed under the previous inspection;

12.3. In case of reporting entities does not accept supervision report, a written complaint may be lodged with the Chairman of the Financial Regulatory Commission within 14 days after being notified about the report or supervision result.

12.4. Supervision report and related materials shall be attached to the file of that specific reporting entities.

CHAPTER FOUR.MISCELLANEOUS

Thirteen. Miscellaneous

13.1. During the inspection, reporting entities are entitled to complain about the violation of the present rule by the state inspectors of the financial regulatory commission or supervisors to administration of the Commission.

13.2. Natural and juridical person or competent official who violated present rule shall be liable in accordance with the Criminal Code or Infringement Law.