



INVESTMENT AND  
TRADE AGENCY

The background of the page is a close-up, slightly blurred image of several stacked books. The top book's cover is visible, showing the title "МОНГОЛ УЛСЫН ҮНДСЭН ХУУЛЬ" (The Fundamental Law of Mongolia) in Mongolian script and a circular emblem. The books are light-colored, possibly white or cream, and the text is embossed or printed in a dark color.

LAW ON ASSET  
BACKED  
SECURITIES



## LAW OF MONGOLIA ON ASSET BACKED SECURITIES

23 April, 2010.

Ulaanbaatar city

### CHAPTER ONE. GENERAL PROVISIONS

#### Article 1. Purpose of law

- 1.1. The purpose of this law is to regulate relations concerning issuing of assets backed securities, monitoring, and protecting rights and interests of investors.

#### Article 2. Legislation on asset backed securities

- 2.1. The *Asset Backed Securities Law* shall comply with the *Constitution of Mongolia*, *Civil Code*, *Securities Law*, *Company Law*, *Law on Pledge of Real Estate*, and other legislative acts adopted.
- 2.2. If international treaties with Mongolia stipulate otherwise, provisions of the international treaties shall be followed.
- 2.3. Relations of closing down the issuer of the asset backed securities is regulated by this law.

#### Article 3. Definitions

- 3.1. In this law, the following terms shall have the following meanings.
  - 3.1.1. 'Asset' means financial instruments, which can generate cash flows, such as a claim of debt/promissory note, rental or leasing contract, and receivable of a credit card issuer;
  - 3.1.2. 'Obligor' means a person, who is liable for repayment related to the assets in accordance with the agreement;
  - 3.1.3. 'Investor' means an owner of an asset backed security, or his/her heir or successor;
  - 3.1.4. 'Overdue assets' means assets classified as 'delinquent' and 'defaulted' assets, in accordance with the regulations adopted by an authorized body.
  - 3.1.5. 'Seller' means the individual or legal entity (not the primary borrower) that transfers assets from the originator and sells to a special purpose vehicle (SPV).

### CHAPTER TWO. ASSET BACKED SECURITIES AND ASSETS POOL

#### Article 4. Asset backed securities and its types

- 4.1. An asset backed security is a security which is backed by assets stipulated in this law and certifies the investor to claim against the cash flow of these assets, with first priority.
- 4.2. Assets backed securities are classified as follows.
  - 4.2.1. backed security
  - 4.2.2. covered bond.
- 4.3. Asset backed securities can be issued under the form of a debt note or other types of securities allowed by the Financial Regulatory Commission (hereinafter referred to as the 'Commission') depending on its term, interest rate and other features.

**Article 5. Issuer of asset backed securities**

- 5.1. Asset backed securities can be issued by authorized legal entities specified in Articles 11 and 26 of this law.
- 5.2. It is prohibited to issue asset backed securities from any other legal entities except entities stipulated in Articles 11 and 26 of this law.
- 5.3. Operations of purchasing assets with the purpose of issuing asset backed securities will not relate to a factoring service.
- 5.4. On the day of issuing asset backed securities, there should be no actions associated with bankruptcy, liquidation of the issuer of the security (hereinafter referred to as the 'issuer'), or any request, claim or resolution of the regulatory authority on the appointment of a cessionary.
- 5.5. It is prohibited to issue asset backed securities in the cases where any of the circumstances stipulated in Paragraph 5.4 of this law have arisen.

**Article 6. Granting license to the issuer of securities**

- 6.1. The issuer of asset backed securities shall take a license from the Commission, pursuant to this law.
- 6.2. The Commission will grant a license to issue asset backed securities to the issuers who comply with the requirements stipulated in this law.
- 6.3. The expiration date of the license shall not be earlier than the maturity date of the asset backed security.

**Article 7. Issuing assets backed securities**

- 7.1. Asset backed securities shall be in tangible and intangible forms.
- 7.2. Asset backed securities may be issued by public offering or by closed offering.
- 7.3. Asset backed securities can be sold directly or through brokerage firms.

**Article 8. Registration of asset backed securities**

- 8.1. Asset backed securities shall be registered by the Commission pursuant to this law.
- 8.2. The Commission shall approve registration procedures for asset backed securities.
- 8.3. The investor's rights specified in Paragraph 4.1 of this law shall be ratified upon registration of asset backed securities by the Commission.
- 8.4. The issuer shall pay the registration fee set by the Commission.

**Article 9. Assets pool and its requirements**

- 9.1. An assets pool will constitute the total amount of assets that secure the one-time issuance of asset backed securities.
- 9.2. The assets in the pool shall be owned by the issuer at the time of issuance and there should not be any other liability upon the assets.
- 9.3. It is prohibited to include the following assets in the pool.
  - 9.3.1. collateral of an incomplete building and/or vacant land;
  - 9.3.2. a pledged loan that exceeds the loan-to-value (LTV) ratio set by regulatory bodies in the law;
  - 9.3.3. assets classified as past due.

**CHARTER THREE. BACKED SECURITY**

**Article 10. Backed security**

- 10.1. The backed security is the security that certifies that the assets have been removed from the balance sheet of the originator, founder of securities issuer (hereinafter referred to as the 'founder') and seller, that all related claim rights and receivables on the assets transferred to the balance sheet of the SPV, and originator, founder, and seller are completely free from liability.

## **Article 11. Issuer of backed securities**

11.1. A backed security is issued by an SPV.

## **Article 12. Establishment of an SPV**

- 12.1. An SPV is a limited liability company (LLC), established under the provisions of the *Company Law* and *Law on State Registration of Legal Entities*, and holds the license specified in Article 6 of this Law.
- 12.2. The SPV executes the functions of securing the investor's right of owning an asset backed security by transferring the assets pool to its balance sheet.
- 12.3. A separate SPV must be established for each issuance of an asset backed security.
- 12.4. Banks, non-bank financial institutions, housing finance companies, and other financial institutions approved by the Commission may establish SPVs.
- 12.5. The name of an SPV shall consist of its given name and the term '*special purpose vehicle*' or the abbreviation of '*SPV*'.
- 12.6. Other entities, except an entity defined in Paragraph 12.1 of this law, are prohibited from using the term '*special purpose vehicle*' or the abbreviation of '*SPV*' along with its given name.
- 12.7. The shareholders of an SPV shall not sell, exchange, pledge or transfer their shares without the consent of the Commission
- 12.8. It is prohibited for a majority of board members of an SPV be an authorized body or family member of the originator, founder, seller, or their shareholder.
- 12.9. Beside the provisions of *Company Law*, the charter of an SPV shall reflect the following.
- 12.9.1. having the sole purpose of issuing backed securities;
  - 12.9.2. will be closed down in the case where the backed security is fully repaid.
- 12.10. The Commission shall approve the regulation confirming the amount of the asset, requirements for the financial statement, organizational and management structure, and rights of an SPV.
- 12.11. An SPV has the following rights.
- 12.11.1. to obtain assets by purchasing or transferring;
  - 12.11.2. to issue backed securities;
  - 12.11.3. to own and manage assets in accordance with the interests of investors;
  - 12.11.4. to conclude service agreements and other agreements on implementing its rights stated in Sections 12.10.1-12.10.3 of this law according to the regulations approved by the Commission and the prospectus of the asset backed security (hereinafter referred to as the '*prospectus*');
  - 12.11.5. if the outstanding balance of the assets pool of a backed security reaches 20% of its initial value, based on the discussion with the originator, founder and seller, the pool can be resold/repurchased;
  - 12.11.6. to use derivative contracts in accordance with this law.
- 12.12. It is prohibited for an SPV to conduct the following operations.
- 12.12.1. to engage in operations other than those specified in Paragraph 12.11 of this law;
  - 12.12.2. incur debt and/or responsibility for liabilities other than those stated in 12.11 of this law.
  - 12.12.3. to take a loan from others, with the condition of repaying by income from selling backed securities;
  - 12.12.4. to take deposits,
  - 12.12.5. to hire employees by labor or other contracts,
  - 12.12.6. to make amendments to the charter of the company without permission of the Commission.
- 12.13. The SPV shall hire a third party for implementing services related to the rights stated in Paragraph 12.11 of this law.
- 12.14. The SPV shall bear full responsibility for the liabilities caused by actions (or non-actions) of the third party stated in Paragraph 12.13 of this law.

- 12.15. The SPV shall be closed down when the liabilities related to the backed securities are completed.

**Article 13. Transfer of assets to an SPV**

- 13.1. The originator, founder or seller shall transfer its assets to the SPV on a contractual basis.
- 13.2. Regarding transferring assets to an SPV, it is considered that the rights, collateral, guarantees, and other financial instruments related to the assets (to satisfy the obligation fulfillment) are transferred.
- 13.3. After completion of payment for the backed securities, the residual assets shall be the property of the SPV.
- 13.4. In the following cases, any entities, except the investors and any third party who has an agreement with the SPV, should not make claim over the assets of the SPV until completion of the payment obligations of backed securities.
  - 13.4.1. if the assets have been purchased at their market value;
  - 13.4.2. if the founder, seller and service provider disbursed the assets or its receivables by transferring to others via pledging, trading, repurchasing and utilizing with the permission of the investor and its legal representative;
  - 13.4.3. if the originator, founder and seller have sold the assets with non-recourse condition or the SPV bears risk related to the assets.

**Article 14. Registration of an assets pool of backed securities**

- 14.1. A backed securities pool shall consist of the list of assets enclosed in the prospectus submitted to the Commission.
- 14.2. Prior to the issuance of securities, the prospectus, the list of assets, the contract of transferring assets to the SPV, and other related documents shall be submitted to the Commission in written and electronic forms.
- 14.3. Upon registration of an assets pool by the Commission, the assets in the pool are deemed as transferred to the SPV.
- 14.4. If the asset has immovable property as collateral, the state registration authority shall register the collateral based on the resolution on the asset registration of the Commission.
- 14.5. A service fee shall not be charged during registration.
- 14.6. Unless the obligor's liability has been completed in accordance with the law and requested by the SPV to cancel registration, registration stated in 14.4 of this law shall be changed only by resolution of the Commission.
- 14.7. Content and operational procedures for registration stated in Paragraph 14.4 of this law shall be approved jointly by the Commission and a member of Government's Cabinet.
- 14.8. Transfer of other assets which are not stated in Paragraph 14.4, does not require the state registration process.
- 14.9. The Commission shall have a separate registration for the backed securities pool and approve regulations for providing information to individuals or legal entities.

**Article 15. Modification in backed securities pool**

- 15.1. After registration of an asset backed security, the assets pool may be modified by replacing or adding an asset.
- 15.2. In the following cases, an asset in the pool may be replaced.
  - 15.2.1 if the asset does not comply with requirements (if the asset is not qualified);
  - 15.2.2 if the asset is overdue.
- 15.3. An asset can be added to the pool stated in Paragraph 15.1 of this law in the following cases.
  - 15.3.1 if an asset in a backed securities pool does not meet with the requirements set in Paragraph 32.1 of this law;
  - 15.3.2 if additional securities are issued via an open public offering;

- 15.4. If an assets pool is modified, the assets pool registration stated in Paragraph 14.9 of this law shall be modified.

#### **Article 16. Pledging the assets to the investor**

- 16.1. Upon registration of an assets pool in accordance with Article 14 of this law, the assets in the pool shall be deemed as pledged to the Investor.
- 16.2. The pledge right stated in Paragraph 16.1 of this law shall constitute all rights related to the assets and income generated from assets or any other sources, all types of claim, sales income of assets owned by SPV, its intermediary or representatives, Security Depository or fiduciary agent.
- 16.3. An SPV may cover the costs of registration of securities and issuance of backed securities using the income generated from assets in compliance with the procedures of the Commission and the prospectus.

#### **Article 17. Participants**

- 17.1. The originator, founder, seller, service provider, SPV, fiduciary agent, investor and other related parties shall be involved in the operations of issuing the backed securities.

#### **Article 18. Originator**

- 18.1. The originator is the legal entity that transferred its balance assets to an SPV, and having the right of dealing with loan activities.
- 18.2. An originator shall have the following responsibilities for issuing a backed security.
  - 18.2.1. to guarantee to repurchase or replace the assets when an asset becomes unqualified under the condition of replacing;
  - 18.2.2. to provide services related to the asset;
  - 18.2.3. to repurchase an assets pool if more than 20% of the assets in this pool are past due (which should be stated in prospectus).

#### **Article 19. Service Provider**

- 19.1. The service provider is a legal entity which has an agreement with an SPV on customer servicing, collecting and transferring the payments related to the assets, logging, reporting, and providing other services and operations related to the assets
- 19.2. The service provider shall conduct operations according to provisions of the service agreement or written instructions provided by the SPV or its representatives.
- 19.3. The service provider shall collect the payments from assets in a separate account, by each assets pool, and by certain parts of an assets pool.
- 19.4. If the service provider has failed to fulfill contractual obligations or to fulfill these obligations duly, the SPV has the right to terminate the agreement, and to conclude an agreement with a new service provider.
- 19.5. If a service agreement has been terminated, the following items shall be transferred without any charge from a service provider to a new service provider chosen by the SPV.
  - 19.5.1. any cash related to the assets;
  - 19.5.2. all original and electronic copies of the accounting and financial reports and documents.
- 19.6. Unless otherwise specified in the law, the service provider shall continue its contractual obligations until agreement with a new service provider comes into force.
- 19.7. A service fee shall be paid to the service provider, if it is stipulated in the agreement.
- 19.8. An originator, founder and/or seller can be a service provider.
- 19.9. The service provider shall be responsible for the loss to others, whether caused deliberately or not.
- 19.10. The Commission shall determine professional requirements, responsibilities, minimum capital requirements and other criteria for service providers.

#### **Article 20. Fiduciary agent of assets**

- 20.1. A fiduciary agent (manager) is an entity (person) which has an agreement with an SPV and has duties to hold and manage assets in the best interest of investors.
- 20.2. A fiduciary agent shall have the following duties.
  - 20.2.1. hold and manage assets in the best interests of investors;
  - 20.2.2. maintain detailed financial reports and records related to the assets pool of backed securities according to procedures and regulation approved by Commission, and it should be done separately from other records of the originator, founder, seller and own equity;
  - 20.2.3. provide required reports to the investors,
  - 20.2.4. transfer the securities' payments
  - 20.2.5. implement other activities for managing the assets and protecting investors' rights as may be prescribed by Commission.
- 20.3. It is prohibited to appoint the originator as a fiduciary agent.
- 20.4. The content of the fiduciary management agreement may be determined by the Commission.
- 20.5. A draft copy of the fiduciary management agreement shall be enclosed with the prospectus.

#### **Article 21. Cessionary**

- 21.1. The Commission shall assign a cessionary if the circumstances stated in Section 22.1.3 of this law emerges.
- 21.2. If it is necessary, duties of the cessionary can be carried out by the Commission.
- 21.3. A cessionary has the following rights and duties.
  - 21.3.1. possess the assets with the purpose of protecting investors;
  - 21.3.2. request to change the authorized body of the SPV;
  - 21.3.3. take measures to improve the security repayments;
  - 21.3.4. modify or terminate the service agreement and fiduciary management agreement concluded by the SPV;
  - 21.3.5. replace a service provider or conclude a servicing agreement with another entity based on the permission of Commission;
  - 21.3.6. propose to close down the SPV;
  - 21.3.7. other activities permitted by the Commission.
- 21.4. A cessionary shall carry out its rights and duties stated in Paragraph 21.3 under the supervision of the Commission.
- 21.5. The authorized body of the SPV and fiduciary managers are responsible for carrying out all required measures to protect investors' interests, transferring the total assets, financial reports, documents, blanks and stamps to the possession of the Cessionary and cooperating with the cessionary in all possible ways to implement his/her rights and duties.

#### **Article 22. Closing down the SPV**

- 22.1. The SPV should be closed for the following reasons.
  - 22.1.1. has completed obligations on the backed securities;
  - 22.1.2. the assets pool has been repurchased by originator, founder and seller;
  - 22.1.3. due to failure of obligations of security payments or duties reflected in the prospectus, two-thirds of the investors holding total securities are required to close down.
- 22.2. The following body shall make the decision to close the SPV:
  - 22.2.1. the SPV or shareholder of the issuer in pursuant to the provisions of 22.1.1 and 22.1.2 of this law;
  - 22.2.2. the court under the request of the Commission in pursuant to the provisions of 22.1.3 of this law.

#### **Article 23. Distribution of the assets of a SPV that is closed**

- 23.1. Assets of the closed SPV shall be distributed in the following order.

- 23.1.1. the costs associated with closing down;
  - 23.1.2. the securities payment to the investors in accordance with the priority set out in the prospectus
  - 23.1.3. the claim of any person/entity other than the originator who has a receivable from the SPV according to the agreement permitted under this law;
  - 23.1.4. the claim of the originator who has a receivable from the SPV according to the agreement permitted under this law.
- 23.2. After distribution of the assets in pursuant to the provision 23.1 of this law, the remaining asset shall be distributed to the shareholders in proportion to their invested capital amount.

## **CHARTER FOUR. COVERED BOND**

### **Article 24. Covered bond**

- 24.1. A covered bond is a debt obligation which is segregated from the balance sheet of the issuer, secured by claims related to mortgage loan and other pledged immovable properties stipulated in this law, and certifies payment obligations of principal and interest to the Investor within the date stated in prospectus of the security.

### **Article 25. Requirements to the covered bond**

- 25.1. A covered bond can be in a tangible and intangible form, and should have a procedure or method for calculation of principal and interest.
- 25.2. A covered bond may have the following terms.
- 25.2.1 fixed term or serial;
  - 25.2.2. issuer should pay the payments on or before the due date;
  - 25.2.3. partial amortization of bond principal or balloon payment on maturity;
  - 25.2.4. with fixed or variable interest rates;
  - 25.2.5. other terms determined by the Commission.

### **Article 26. Issuer of the Covered bond**

- 26.1. A covered bond can be issued by banks and/or housing finance companies.
- 26.2. The issuer of the covered bond shall pledge the income from assets under its own possession or recorded in its balance sheet. These assets shall be segregated from its balance sheet and the security payments are made by repayments from these assets with primary priority.

### **Article 27. Housing finance company**

- 27.1. A housing finance company is a limited liability company established pursuant to *Company Law* and having a license stated in Article 6 of this law.
- 27.2. The equity capital of a housing finance company shall be comprised of cash assets, and the capital requirement shall be determined by the Commission.
- 27.3. The name of a housing finance company shall consist of its given name and term '*housing finance company*' or its abbreviation '*HFC*'.
- 27.4. Other entities except the entity stated in Paragraph 27.1 are prohibited to use term of '*housing finance company*' or its abbreviation '*HFC*' with its given name.
- 27.5. A housing finance company shall be established by two or more banks.
- 27.6. A housing finance company shall conduct the following operations.
- 27.6.1. receive and collect transferred assets from the shareholder banks or other financial institutions;
  - 27.6.2. set up an assets pool;
  - 27.6.3. issue covered bonds;
  - 27.6.4. take measures to improve repayments;
  - 27.6.5. set the requirements of the assets to be purchased;
  - 27.6.6. use derivative contracts as stated in this law;
  - 27.6.7. other operations associated with issuing asset backed securities.
- 27.7. A housing finance company shall have the following rights.



- 27.7.1. to originate loans to shareholder banks under the terms of enforcing the payment from the pledged assets registered in the registration of special assets pool of backed securities in case of failure of performance or improper performance;
- 27.7.2. issue covered bonds in a way of pledging the collateral assets of the loans to the shareholder banks;
- 27.8. A housing finance company shall confirm its claim on the loan issued to the shareholder banks by agreement, and this right shall be included in the registration of the assets pool.

**Article 28. Assets pool of a covered bond**

- 28.1. An assets pool of a covered bond shall consist of principal and other assets.

**Article 29. Principal assets**

- 29.1. The principal asset in assets pool of covered bond shall be the mortgage loans and claims on collateral.
- 29.2. A financial lease, a purchase/sale agreement by loan or other similar income generating assets may be considered as a principal asset if it is permitted by the Commission.
- 29.3. The immovable property mortgaged loans forming the assets pool of a covered bond shall be registered in the state registration and certify the claims with first priority of the originator.
- 29.4. Up to 10% of the assets pool of a covered bond may be loans for financing non-residential immovable property.

**Article 30. Other assets**

- 30.1. The following items can be considered as other assets in an assets pool.
  - 30.1.1. cash;
  - 30.1.2. debt obligations issued by the Government of Mongolia and the Bank of Mongolia;
  - 30.1.3. loans issued in accordance with Section 27.7.1 of this law.
- 30.2. Other assets shall not be more than 20% of a covered bond assets pool in terms of amounts.
- 30.3. The Commission shall set the regulation of the valuation of the other assets.

**Article 31. Appraisal of pledged immovable property**

- 31.1. Pledged immovable property can be appraised in accordance with relevant legislation.
- 31.2. The Commission may adopt regulations on the above appraisal.

**Article 32. Requirements of covered bond assets pool**

- 32.1. The assets pool of a covered bond shall meet the following requirements.
  - 32.1.1. income from assets pool shall be sufficient to implement the obligations under the covered bond;
  - 32.1.2. the nominal principal balance of the assets in the pool shall be not less than 110% of the outstanding payment amount of the bond;
  - 32.1.3. the average interest rate of the assets in the pool shall be equal or more than the interest rate of the bond;
  - 32.1.4. the average term of assets in the pool shall not be less than the average term of the bond.
- 32.2. Detailed requirements to the assets pool shall be determined by the Commission.

**Article 33. Registration of the assets pool of a covered bond**

- 33.1. The issuer of a covered bond shall undertake the registration of the assets pool securing the bonds.
- 33.2. The registration of the assets pool shall be maintained in a unified form for all bonds issued or separated by each bond issued.
- 33.3. If the Issuer of a covered bond is a bank, the registration shall be submitted to the Commission and Bank of Mongolia. If it is a housing finance company, the registration shall be submitted to the Commission.
- 33.4. The assets pool registration template of a covered bond and its maintenance procedures shall be regulated by the Commission.
- 33.5. Upon the registration of a covered bond in accordance with this law, it is considered that the assets pool is separated from the issuer's assets and is collateralized.
- 33.6. When the state title registration authority makes a supplementary description on assets in the assets pool of a covered bond, the provisions 14.5-14.7 of this law shall operate as well.

**Article 34. Modifications on the assets pool of a covered bond**

- 34.1. The issuer is eligible to issue additional securities or increase the amount of principal assets in the pool at any time with the purpose of complying with requirements stated in Article 32 of this law.
- 34.2. The issuer may replace the assets any time under the permission of the assets pool registration controller, as stated in Section 36.4.3 of this law.

**Article 35. Separation and collateralization of a covered bond assets pool**

- 35.1. Upon registration of the assets pool of a covered bond, it shall be deemed that the assets have been separated from other assets of the issuer, and the issuer shall record it separately in its balance sheet.
- 35.2. It is prohibited to use the assets in the assets pool of a covered bond for another purpose which is not stated in this law.
- 35.3. The investor has a priority right to claims upon the assets in the assets pool of the covered bond.
- 35.4. If several investors have a same priority rights to claims from the same assets' pool, priority will be given by the order of issuance date and it will be paid on a pro-rata basis.
- 35.5. The derivative contractual parties associated with the assets pool of the covered bond have a right to conclude and terminate the agreement, disclaim, and have a right to proceed against the issuer under the investors' rights.
- 35.6. The covered bond payments shall be fully covered by the assets of the pool.
- 35.7. After the repayment of each claim from a corresponding assets pool of the covered bond, the investors shall have equal rights to be repaid their residual payment from other assets of the issuer if those are not included in the assets pool of a covered bond.
- 35.8. Unless the issuer is bankrupted or it is not possible to fulfill its obligations, the covered bond assets pool or issuer's obligations can be transferred to others consistent with regulations set by the Commission.

**Article 36. Controller of the assets pool registration of a covered bond**

- 36.1. The controller of the assets pool registration of a covered bond (hereinafter referred to as the '*controller of the assets pool registration*') has the duty to provide oversight control on the registration of the assets pool, provide standards of the assets pool and check whether they meets the requirements stated in Article 36 of this law.
- 36.2. The Commission shall issue special permission to the controller of assets pool registration, and shall provide regulation for professional requirements, appointment, dismissal and replacement of the controller.
- 36.3. The controller of the assets pool registration shall be appointed by the issuer of the covered bond, and written notice should be sent to the Commission within three working days.

- 36.4 The controller of the assets pool registration shall have the following duties.
- 36.4.1. to verify whether the assets pool meets the requirement in this law and regulations set by the Commission;
  - 36.4.2. to control replacement of the assets in the assets pool and any transactions related to the assets pool;
  - 36.4.3. to give permission on withdrawal transactions from the assets pool;
  - 36.4.4. to confirm any modifications in the registration of the assets pool and to inform the Commission and Bank of Mongolia within 15 days;
  - 36.4.5. to conduct scheduled audits on registration of the assets pool within the period set by the Commission;
  - 36.4.6. to provide a report including recommendations on eliminating any violations of the registration process to the Commission and Bank of Mongolia within 15 days of completion of scheduled audits stated in Section 35.4.5 of this law.
  - 36.4.7. to take other required measures to protect the investors' rights.
- 36.5. The controller of the assets pool registration is entitled to demand information and go over the documents related to the assets pool securing the bonds from the issuer and Title Registration Office.

### **Article 37. Conservatorship**

- 37.1. Conservatorship is considered necessary in the following circumstances:
- 37.1.1. a bankruptcy case has been filed in relation to the issuer of the covered bond;
  - 37.1.2. the issuer is presumed to be closed;
  - 37.1.3. the regulatory body has decided to restructure the issuer in accordance with grounds stated in this law.
- 37.2. If the conservatorship has occurred as stated in Paragraph 37.1, the Commission shall take the following actions immediately.
- 37.2.1. the assets pool shall be separated from the issuer's balance sheet until completion of the investor's claim;
  - 37.2.2. a cessionary will be appointed by the issuer jointly with the Bank of Mongolia if it is a bank or Commission itself if it is a housing finance company when the issuer became insolvent.
- 37.3. In case of conservatorship, the controller of the assets pool registration shall be responsible for the following duties until appointment of a cessionary.
- 37.3.1. to possess the assets pool of the covered bond;
  - 37.3.2. to collect the income from the assets pool of a covered bond.
- 37.4. The controller of the assets pool registration shall be responsible for the submission of original copies of all accounts and documents to the cessionary in order to protect the pool that is securing the bonds.
- 37.5. The cessionary shall send one of the following proposals to the regulatory body which is appointed him/her.
- 37.5.1. to sell the assets in the pool to prepay the bond payments;
  - 37.5.2. to transfer the assets pool of the covered bond and their obligations to another issuer without modifying the term of the bond;
  - 37.5.3. in case the method stated in Section 37.5.2 is not applicable, the assets pool of the covered bond shall be transferred to a fiduciary manager.
  - 37.5.4. to take measures to improve the repayments of the covered bond.
- 37.6. Based on the proposal of the cessionary as stated in Paragraph 37.5 of this law, the regulatory body shall make a decision.
- 37.7. A service fee shall be paid to the cessionary from income generated from the asset pool that is securing the covered bond and the amount of the fee shall be set by the Commission and/or the Bank of Mongolia in conformity with the customary fees of the banks and financial sector.
- 37.8. Special regulations related to the implementation of these provisions of this law shall be approved by the Commission and the Bank of Mongolia.

- 37.9. Insolvency of the Issuer shall not be grounds for approving the claims to prepay bond payment to the Investor.

## **CHAPTER FIVE. PROTECTING THE INVESTORS' INTERESTS**

### **Article 38. Meet requirements of investors**

- 38.1. Investor's requirements shall be met by all rights related to the assets.

### **Article 39. Reporting**

- 39.1. The issuer shall prepare reports by each classification of securities and submit them to the investor and the Commission half yearly.
- 39.2. The report stated in Paragraph 39.1 of this law shall reflect the following information.
- 39.2.1. the outstanding balance of the assets pool;
  - 39.2.2. the amount of principal payments done on time and overdue principal payments;
  - 39.2.3. the amount of prepaid principal payments;
  - 39.2.4. the amount of non-performing or past due assets;
  - 39.2.5. other information that influences the financial condition of the assets and asset backed securities.
- 39.3. The Commission shall confirm the format and contents of the report stated in Paragraph 39.1 of this law.

### **Article 40. External audit**

- 40.1. The external audit on the issuer operation shall be conducted by an auditor approved by the Commission.
- 40.2. The Commission shall confirm the type and frequency of the external audit, professional requirements for auditors, their responsibilities, and regulations for approving auditors.

### **Article 41. Measures improving the repayments**

- 41.1. If it is necessary, the issuer of asset backed securities shall take measures to improve the repayments.

### **Article 42. Issuing guarantee**

- 42.1. A guarantee can be issued on the covered bond by the lender, a housing finance company, the Government, the Bank of Mongolia, and another other third party.

## **CHARTER SIX. MISCELLANEOUS**

### **Article 43. Interference of Bank of Mongolia**

- 43.1. The authority of the Bank of Mongolia to monitor and regulate banks' operations as stated in the *Banking Law* shall be respected by the banks, those implementing the functions of lender, and fiduciary stated in this law.
- 43.2. Authorizing the Commission to regulate the bank's operation related to the issuance of covered bonds, does not change or limit the authority of the Bank of Mongolia to monitor and regulate the banks' operations.

### **Article 44. Penalties to be imposed to violators of the legislation**

- 44.1. If the actions of an official violating this law are not of a criminal nature, he/she shall be subject to liability specified in the *Civil Service Law*.
- 44.2. A person or legal entity that violates this law shall be subject to liability specified in the *Criminal Code* or the *Law on Infringement*.

(This paragraph was amended according to the law dated 4 December, 2015)

**Article 45. Law enforcement date**

45.1. This law will be effective from 1 January, 2011.

**D. Demberel**

**Chairman, State Great Khural**

INVESTMENT AND TRADE AGENCY