

MONTHLY LEGAL UPDATE

I. OVERVIEW

In August 2024, the Royal Government of Cambodia (“RGC”) continued to develop the country’s business regulatory environment. Below are some key regulations to be highlighted in this Monthly Legal Update:

- Sub-decree No. 194 on the Organization and Functioning of the National Committee on Trade Remedies;
- Prakas No. 044 on Rules and Guidelines for Reinsurance;
- Prakas No. 525 on the Abrogation of Prakas No. 360 dated 19 June 2024 on the Implementation Guidelines for Sub-decree on Tax Incentives for Informal Economic Development;
- Circular No. B7.024.001 on Loan Restructuring; and
- Notification No. 329 on Exemption of Monetary Fines for the Expiration of Tour Guide License and Tour Guide Translator.

II. NATIONAL COMMITTEE ON TRADE REMEDIES

On 27 August 2024, the RGC issued a sub-decree on the organization and functioning of the National Committee on Trade Remedies (“Committee”). The Committee aims to foster and promote the implementation of the Cambodian Law on Trade Remedies.

Roles and Duties

This Committee has the following roles and duties:

- Implement the procedures set out under trade remedies law and related international agreements;
- Determine the confidentiality protection procedures;
- Review and provide legal advisory on the implementation of trade remedies law;
- Review and settle the conflict of regulations of different regulators;
- Request the RGC to review or amend the law or regulation related to trade remedies;
- Cooperate with relevant countries with respect to trade remedy cases and law enforcement;
- Advise, monitor, and support all stakeholders in connection with information gathering and other coordination when Cambodia becomes the subject of a suit; and
- Other roles and duties as provided by the head of RGC.

The Committee's Membership

This Committee is chaired by the commerce minister. It consists of representatives from various institutions, which include:

- Ministry of Commerce;
- The Office of the Council of Ministers;
- Ministry of Economics and Finance;
- Ministry of Industry, Science, Technology, and Innovation;
- Ministry of Justice;
- The Council for the Development of Cambodia;
- General Department of Customs and Excise;
- General Department of Taxation; and
- The Secretariat of the Committee.

III. RULES AND GUIDELINES FOR REINSURANCE

On 12 August 2024, the Non-Banking Financial Service Authority (“NBFSA”) issued a Prakas No. 044 on Rules and Guidelines for Reinsurance. It aims to ensure safety and effectiveness of risk management and risk protection for insurers operating in Cambodia.

Reinsurance

Reinsurance is an insurance practice in which a primary insurer transfers in whole or in part of the risk that such primary insurer has underwritten to the reinsurer. Such reinsurance is required when the coverage amount is larger than the primary insurer retention threshold based on the basis of per occurrence and per risk.

Reinsurance Agreement

An insurer is required to prepare the reinsurance agreement on the basis of per occurrence and per risk. The agreement must contain the minimum information as follows:

- retention threshold;
- reinsurance threshold;
- types of reinsurance agreement (proportional reinsurance and non-proportional reinsurance); and
- target reinsurer and risk diversification.

An insurer shall prepare any offshore and onshore reinsurance agreement planning and request for approval from the Insurance Regulator of Cambodia (“IRC”) after obtaining approval from the board. Any changes to the reinsurance agreement are subject to the board resolution and the approval from the IRC.

Reinsurance Policy

An insurer is required to prepare a reinsurance policy with respect to risk profile, business strategy, and capital margin. This policy must contain the minimum information as follows:

- Determination and monitoring mechanism on retention threshold with respect to the types of insurance products;
- Determination and cumulated risk assessment procedures;
- Determination of types and reinsurance capacity;
- Selection and assessment of reinsurers; and
- Conditions for the use of reinsurance outside the principal reinsurance agreement.

This insurance policy requires approval from the IRC after obtaining the resolution from the board. Any changes to this policy shall also be subject to approval from the board and the IRC.

Reinsurance Diversification

An insurer may transfer its risk to local and/or foreign reinsurers. Such transfer is compulsory when the risk exceeds the insurer’s retention threshold.

Annual Reporting Obligations

An insurer is required to submit a brief report on its reinsurance to the IRC before January 15 of the following year. Below is the minimum information of the report:



- Reinsurance information: retention threshold, reinsurance threshold, and the amount of reinsurance premium of each reinsurer;
- Copy of reinsurance agreement;
- Proportion of reinsurance for the leading reinsurer and each participating reinsurer;
- Information on the settled insurance compensation, including the compensation for emergency insurance and the outstanding compensation from the reinsurer; and
- Other information related to the reinsurance agreement required by the IRC.

IV. ABROGATION OF PRAKAS NO. 360

On 22 August 2024, the Ministry of Economy and Finance issued a Prakas to abrogate Prakas No. 360 dated 19 June 2024 on the Implementation Guideline for Sub-decree on Tax Incentives for Informal Economic Development (“Prakas No. 360”). Prakas No. 360 covered the rules and procedures on tax incentives for micro businesses, small-sized businesses, and medium-sized businesses that voluntarily registered with the GDT.

V. LOAN RESTRUCTURING

On 29 August 2024, the National Bank of Cambodia (“NBC”) issued a Circular No. B7.024.001 on Loan Restructuring, which allows the banking and financial institution (“Institutions”) to restructure its loan for customers through the following conditions:

- The Institutions may restructure a loan for a customer up to two times by retaining the same classification and do not require additional provisioning.
- Any upgrading of restructured loan classifications shall be made with respect to the criteria set out in this circular. This reclassification will be implemented from the fourth quarter of 2024. It also applies to the restructured loan in the Siem Reap tourism sector, as specified in Circular No. B7.023.001, dated November 23, 2023.
- The Institutions should not only use the information on restructured loans available on Credit Bureau (Cambodia) Co., Ltd. as the basis for loan approval. The Institution is also required to use other conditions set out in the Institution’s policy.

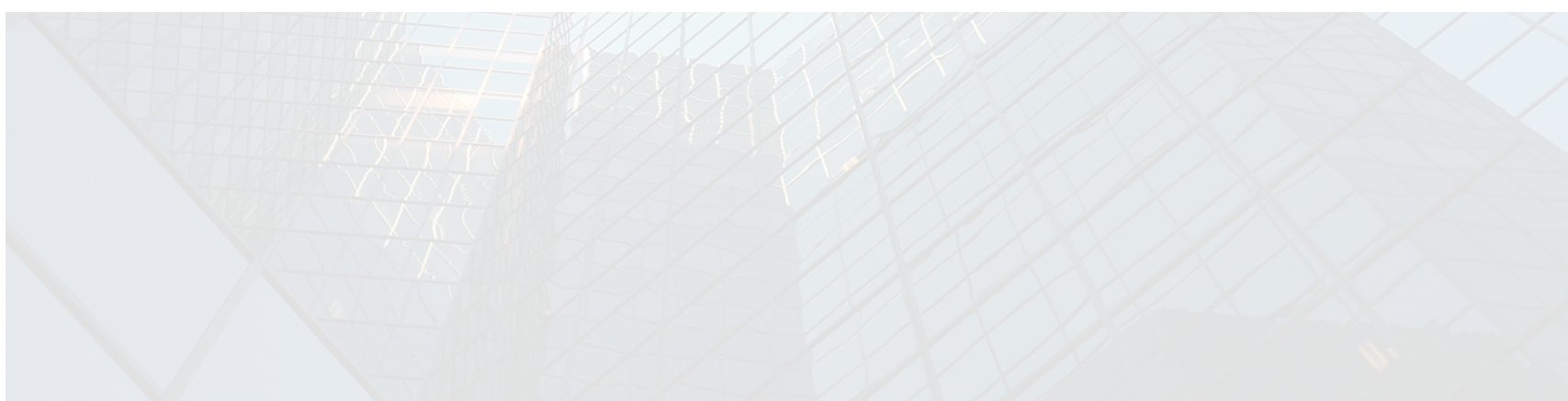


- The Institution shall restructure the loan only with respect to one or more favorable conditions as follows:
 - Reduction of the principal loan or the amount of repayment at maturity;
 - Lowering the interest rate set out in the original agreement;
 - Delaying the repayment of the principal loan or interest;
 - Delaying the maturity;
 - Adding and/or changing the joint borrower;
 - Changing from installment loan to bullet loan; and/or
 - Changing from bullet loan to installment loan.
- The Institution shall review, discuss, and select one or more of the above favorable conditions suitable for the customer to fulfill their obligation under the new conditions.
- Loans shall be restructured for customers whose business and/or financial conditions remain sustainable but are expected to face temporary financial and repayment difficulties only for a short period, with the likelihood of being able to fulfill repayment obligations in the future.

The Institution needs to make sure that the customers are well-informed about the condition of this loan restructuring. The Institution is required to provide regular reporting to the NBC for this loan restructuring.

VI. EXPIRATION OF LICENSE FOR TOUR GUIDE AND TOUR GUIDE TRANSLATOR

On 23 August 2024, the Ministry of Tourism issued a notification No. 329 to inform tour guides and tour guide translators of the decision to exempt monetary fines for the expiration of their license. It aims to serve as an encouragement mechanism for all tour guides and tour translators as well as to reduce the compliance burden. The government will waive these monetary fines from the date of this notification until 31st December 2024. Therefore, the tour guide and tour guide translator with the expired licenses are required to apply for license renewal at the municipal/provincial tourism department during this period.



*This Monthly Legal Update is a general information only and is not considered as legal advice or opinion. If you require any further information or have any questions, please contact **Mr. HOUN Vannak**, managing partner of **RHTLaw Cambodia**.*

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