

# Legal and Regulatory Framework

## A. Legal Tradition

Cambodia's legal system follows the civil law tradition.

Many of the relevant laws and regulations for the securities market have been put in place since the late 1990s and continue to be revised and adjusted to the requirements of modern financial and capital markets.

## B. English Translation

Cambodia does not have an official requirement to translate legislation into English. Instead, the respective regulatory authorities often take it upon themselves to provide an unofficial English version of applicable laws and regulations to the market at large. This may lead to differences in interpretation of the original Khmer version. At the same time, translations undertaken by the SECC are generally referenced as consistent in the use and definition of English technical terms for the securities industry.

While the English translation of Cambodian laws and regulations find frequent use, they may only be used for reference since the final interpretation—and the acceptance and application by Cambodian courts—is based on the original Khmer version.

## C. Legislative Structure

Like many ASEAN+3 economies, Cambodia features a multitiered legislative and regulatory system, both overall and for the securities market in particular, guided by the Constitution of the Kingdom of Cambodia.

The tiered approach is detailed below using the designated Khmer terms and the example of existing securities market-related legislation and regulations.

[1st tier] Constitution of the Kingdom of Cambodia

[2nd tier] *Kram* (laws or decrees) represent both fundamental and key legislation

[3rd tier] *Anukret* (sub-decrees) are intended to detail laws and decrees for a particular area of legislation such as for securities market-related implementation rules and regulations

[4th tier] *Prakas* (official declarations) represent further detailed implementation rules under the respective *Anukret*

[5th tier] Guidelines from regulatory authorities

Table 2.1 applies the prevalent legislation and regulations to the individual tiers of the legislative structure for the securities market mentioned above.

**Table 2.1: Examples of Securities Market Legislation by Legislative Tier**

Legislative Tier	Content or Significant Examples
Constitution of the Kingdom of Cambodia	Principles, Rights, and Obligations
Fundamental legislation: <i>Kram</i> (laws or decrees)  and  Key legislation for the securities market	<ul style="list-style-type: none"> <li>• Law on State-Owned Enterprises, 1996</li> <li>• Law on the Organization and Conduct of the National Bank of Cambodia, 1997</li> <li>• Law on Banking and Financial Institutions, 1999</li> <li>• Law on Commercial Enterprises, 2005</li> <li>• Law on the Issuance and Trading of Non-Government Securities, 2007</li> <li>• Law on Government Securities, 2007</li> </ul>
Implementation rules and regulations: <i>Anukret</i> (sub-decrees)	<ul style="list-style-type: none"> <li>• Anukret on the Conduct and Organization of the Securities and Exchange Commission of Cambodia, 2008</li> <li>• Anukret on the Implementation of the Law on the Issuance and Trading of Non-Government Securities, 2009</li> <li>• Anukret on Tax Incentives in the Securities Sector, 2015</li> </ul>
<i>Prakas</i> (official declarations)	<ul style="list-style-type: none"> <li>• Prakas on the Licensing of Securities Firms and Securities Representatives, 2009</li> <li>• Prakas on the Issuance of Tradable Securities by the NBC, 2010</li> <li>• Prakas on Code of Conduct of Securities Firms and Securities Representatives, 2011</li> <li>• Prakas on Qualified Investors in the Securities Sector, 2016</li> <li>• Prakas on Operating Rules on Securities Liquidity Provider, 2016</li> <li>• Prakas on the Implementation of the Operating Rules of Securities Market, 2017</li> <li>• Prakas on Accreditation of Professional Accounting Firm Providing Professional Services in the Securities Sector, 2017</li> <li>• Prakas on Public Offering of Debt Securities, 2017</li> <li>• Prakas on Accreditation of Credit Rating Agency, 2017</li> <li>• Prakas on Accreditation of Bondholders Representative, 2017</li> </ul>
Guidelines	<ul style="list-style-type: none"> <li>• Guidelines on Granting Investor Identification Number, 2012</li> <li>• Guidelines on Application Forms to Open a Trading Account and Customer Agreements for Derivatives Trading, 2016</li> </ul>

NBC = National Bank of Cambodia.

Source: Compiled by ADB consultants for SF1 and based on publicly available information.

## 1. Legislation: *Kram* (laws or decrees)

Fundamental legislation consists of basic laws or decrees that may govern the issuance of specific instruments and the basic roles and responsibilities of financial and securities market participants. These laws and decrees are reviewed and updated through the full legislative process, requiring tabling by the Prime Minister in (and adoption by) the National Assembly, approval by the Senate, and promulgation by the King before taking effect.

Key legislation is the summary term or important additional term for those laws or decrees aimed at a certain market or specific activities, such as the bond market or the securities market at large.

### Fundamental Legislation

The Law on Commercial Enterprises, 2005 represents the foundation for the issuance of securities—both equity and debt—in Cambodia. However, the law does not contain a universal definition of securities. In addition, Cambodia also features the Law on State-Owned Enterprises, 1996, which specifies the actions and responsibilities of state-owned enterprises across all market activities, including the issuance of securities.

At the same time, the Law on Banking and Financial Institutions, 1999 defined a number of original activities for banks and financial institutions relating to the securities market when such a market was still to be established.

Together, these laws have formed the basic legal framework for securities issuance and many market participants for some time.

#### a. Law on Commercial Enterprises, 2005

The Law on Commercial Enterprises, 2005 replaced the governance of activities within and among companies that had previously been done purely on a contractual basis. The law defines and prescribes roles and responsibilities, as well as actions for commercial enterprises, including private partnerships and limited public companies.

The law states the ability and criteria for commercial enterprises to issue securities, but this law does not provide details on the procedures to issue securities.

For those companies making a public offering of securities, the relevant activities fall under the Law on Trading and Issuance of Non-Government Securities, 2007, which is reviewed later in this section.

#### b. Law on State-Owned Enterprises, 1996

The Law on State-Owned Enterprises, 1996 states the types, roles, and responsibilities of state-owned enterprises, including their possible activities as permitted entities in the securities market. State-owned enterprises are likely to eventually participate in the securities market, as both issuers and investors, once the bond market commences operation.

## Key Legislation

Key legislation for the bond market and the securities market at large in Cambodia consists of two specific laws, one with a focus on government securities and the other on nongovernment securities.

### a. Government Securities—Law on Government Securities, 2007

The principal basis for the issuance of government securities is the Law on Government Securities, 2007. However, this law has not yet been fully implemented since the issuance of government securities is only targeted to begin in 2019. In order to implement this law effectively, the Ministry of Economy and Finance (MEF) is drafting an *Anukret* (sub-decree) on government securities issuance.

In addition, the actual issuance of government securities for each fiscal year may in future be regulated by the Financial Management Law for the respective fiscal year.

### b. Nongovernment Securities—Law on the Issuance and Trading of Non-Government Securities, 2007

The Law on the Issuance and Trading of Non-Government Securities, 2007 remains the key piece of legislation for the securities market in Cambodia. The law provided for the establishment of the SECC and provided for the role and functions of a securities exchange, securities clearing and settlement operator, and securities depository operator. It also gave the SECC authority to license securities firms and identify the basic roles and responsibilities of other specific market participants.

## 2. *Anukret* (Implementation Rules and Regulations)

In the Cambodian legislative context, an *Anukret* (used both in singular and plural form) further defines and details the corresponding laws and decrees with a focus on a particular area, in this context the bond and securities markets or market segments, its institutions, and participants. An *Anukret* is adopted by the Council of Ministers and signed by the Prime Minister.

Three existing *Anukret* deserve specific mention for the purpose of the bond market and the securities market at large.

### a. *Anukret* on the Implementation of the Law on the Issuance and Trading of Non-Government Securities, 2009

This *Anukret* supports the implementation of the Law on the Issuance and Trading of Non-Government Securities, 2007. The procedures and criteria for the issuance of publicly issued securities of commercial enterprises are stated in this *Anukret*. In addition, the *Anukret* also regulates operators, including the securities market operator, clearing and settlement facility operator, and securities depository operator, all of which must comply with specific criteria to gain approval from the SECC, as well as the functions and obligations of each operator. Financial intermediaries—such as securities firms, collective investment schemes, and other financial services suppliers—are regulated by the SECC and need to obtain relevant licenses to operate their services.

b. [Anukret on the Conduct and Organization of the Securities and Exchange Commission of Cambodia, 2008](#)

As the name suggests, this *Anukret* details the set-up, roles, and responsibilities of the SECC.

c. [Anukret on Tax Incentives in the Securities Sector, 2015](#)

The Anukret on Tax Incentives in the Securities Sector was introduced to the securities market in 2011 to encourage the issuance of securities among domestic companies and to attract both local and foreign investors. The incentives focus on equity and debt securities issued through a public offering and listed on a permitted securities market.

This *Anukret* was rolled over in 2015 as a measure to continue supporting the public issuance of securities and as an incentive for public investors to participate in the securities market. Equity and/or corporate bond issuers will be granted a tax incentive in the form of a reduction of 50% of the total amount of tax on profit to be paid, as well as a tax reduction of the withholding tax for securities investors for 3 years after listing. Public investors will also get a 50% deduction of the withholding tax on interest and/or dividends, which applies for a period of 3 years after the *Anukret* comes into force.

At the time of compilation of the Cambodia Bond Market Guide, the MEF was in the early stages of drafting an *Anukret* for the issuance of government securities, pursuant to the Law on Government Securities, 2007 and in line with the necessary preparations for the government's target to begin issuing securities by 2019.

### 3. [Prakas \(Official Declarations\)](#)

*Prakas* (used both in singular and plural form) represent ministerial or inter-ministerial decisions signed by the minister overseeing the respective activities to be governed. *Prakas* must conform to the Constitution and to the law or sub-decree to which they refer, and are the equivalent of implementation rules and regulations issued by, for example, the MEF or the NBC. *Prakas* interpret aspects from key legislation such as the roles and responsibilities of market institutions and its participants. For the purpose of implementing and executing key legislation (*Kram* and *Anukret*), many individual *Prakas* may be issued.

*Prakas* to be issued for the securities market are proposed by the SECC and undergo inter-departmental review as well as consultations with related parties before being made available for public consultation. The results of the consultations and the proposed final *Prakas* are then presented to the SECC Board for approval before sending them to the minister for signature and promulgation.

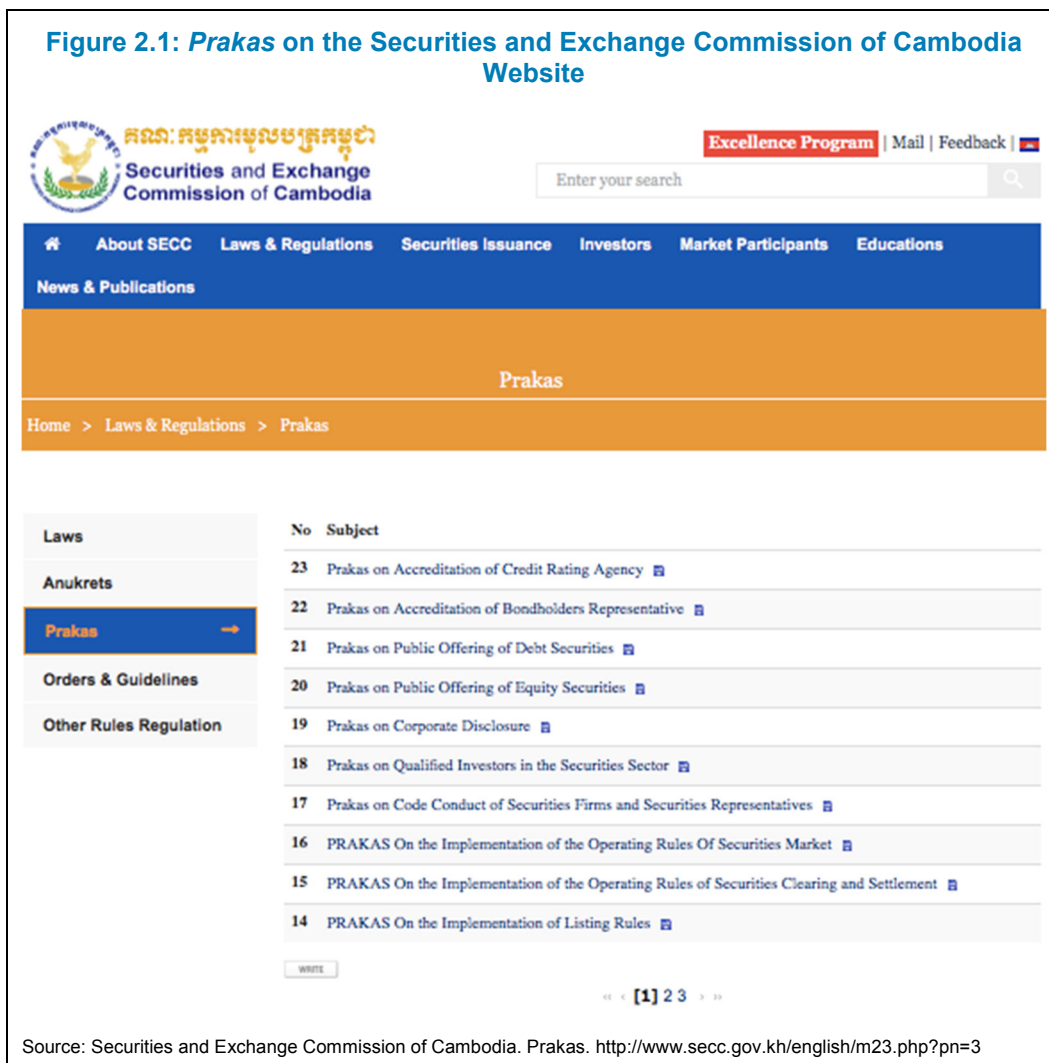
In Cambodia, each *Anukret* pursuant to a particular area of legislation is complemented by a number of *Prakas*. *Prakas* with relevance for the securities market are available on the SECC and CSX websites (Figure 2.1); however, a number of *Prakas*, in particular those with operational details, might only be available in Khmer.

CSX rules are published as annexes to *Prakas* issued by the SECC. These rules govern specific aspects of the exchange business such as listing, membership, and market operation, and are enforced by the SECC.

One of the most recent *Prakas* was the *Prakas* on Qualified Investors in the Securities Sector (No. 005/2016 SECC/Pr.K.) issued in August 2016. The *Prakas* introduced a

professional investor concept with Institutional Investors and High Net-Worth Investors as sub-categories. Please see Chapter III.N for details.

**Figure 2.1: *Prakas* on the Securities and Exchange Commission of Cambodia Website**



The screenshot shows the website of the Securities and Exchange Commission of Cambodia (SECC). The header includes the SECC logo and name in Khmer and English, along with a search bar and navigation links like 'Excellence Program', 'Mail', and 'Feedback'. The main navigation menu includes 'About SECC', 'Laws & Regulations', 'Securities Issuance', 'Investors', 'Market Participants', and 'Educations'. The 'Prakas' section is highlighted in orange, and a breadcrumb trail shows 'Home > Laws & Regulations > Prakas'. A sidebar on the left lists categories: 'Laws', 'Anukrets', 'Prakas' (selected), 'Orders & Guidelines', and 'Other Rules Regulation'. The main content area displays a list of 14 'Prakas' items, each with a number and a subject line, such as '23 Prakas on Accreditation of Credit Rating Agency' and '14 PRAKAS On the Implementation of Listing Rules'. A 'WRITE' button and pagination controls are visible at the bottom of the list.

No	Subject
23	Prakas on Accreditation of Credit Rating Agency
22	Prakas on Accreditation of Bondholders Representative
21	Prakas on Public Offering of Debt Securities
20	Prakas on Public Offering of Equity Securities
19	Prakas on Corporate Disclosure
18	Prakas on Qualified Investors in the Securities Sector
17	Prakas on Code Conduct of Securities Firms and Securities Representatives
16	PRAKAS On the Implementation of the Operating Rules Of Securities Market
15	PRAKAS On the Implementation of the Operating Rules of Securities Clearing and Settlement
14	PRAKAS On the Implementation of Listing Rules

Source: Securities and Exchange Commission of Cambodia. Prakas. <http://www.secc.gov.kh/english/m23.php?pn=3>

After extensive public consultations, the SECC introduced a set of *Prakas* for the corporate bond market in August 2017, which included the *Prakas* on Public Offering of Debt Securities, the *Prakas* on Accreditation of Credit Rating Agency, and the *Prakas* on Accreditation of Bondholders Representative, pursuant to the Anukret on the Law on the Issuance and Trading of Non-Government Securities, 2007. The *Prakas* contain a definition of corporate bonds and permitted bond types, and detail the issuance application process and disclosure and documentation requirements to be met and the eligibility criteria and official prescriptions for credit rating agencies (CRAs) and bondholders representatives and their activities in the Cambodian market.

In a next step, the SECC will publish *Prakas* featuring the corresponding amendments to CSX rules to include or accommodate corporate bonds in the listing, disclosure, market operation, and settlement and depository activities. These *Prakas* are expected to be promulgated by early 2018.

#### 4. Guidelines

The regulatory authorities also issue orders and guidelines on specific subjects under their purview, such as the SECC for matters related to the securities market. While guidelines are not legally binding, in contrast with *Anukret* and *Prakas*, they are issued under the executive powers of the SECC (or the respective authority) and are followed by the relevant constituents. The guidelines contain descriptions on how regulations should be applied and how specific market activities should be carried out.

In order to support the securities market, some guidelines are introduced to streamline the process of issuing and trading securities. These guidelines include the Guidelines on Book-Building and Subscription of Equity Securities, Guidelines on the Procedure of Cash Settlement in the Securities Market, Guidelines on the Mechanism of Initial Public Offering on Equity Securities, Guidelines on the Mechanism of Receiving a Securities Order, Guidelines on Dividend Payout to Shareholders for a Listed Company or Listed Public Enterprise, and Guidelines on Granting an Investor Identification Number, among others. However, these guidelines were issued to administer the issuing and trading of equity securities only. Once the regulatory framework for the corporate bond market has been fully established, new guidelines to support this market may be issued.

A list of relevant guidelines issued by the SECC can be found in Appendix 2.

### D. Cambodian Financial and Capital Market Regulatory Structure

The key policy body for legislation, regulations, and the development of the financial and capital market, and the securities market at large, has traditionally been the MEF. In addition, the SECC, as the specific regulatory authority for the securities market, governs the activities of the participants in the bond market as detailed in this section.

#### 1. Ministry of Economy and Finance

The MEF obtained its present mission under Anukret No. 04/ANK/BK to guide and administer the economy and finances of the Kingdom of Cambodia to support economic development and improve the living standards of the Cambodian people based on the principles of a free market economy and social equality.<sup>6</sup>

Among its specific tasks, MEF is to participate in developing, administering, and controlling industrial and financial activities, including insurance, market, bonds, lotto games, lotteries, casinos, retirement funds, and other financial reserves.

At the MEF, the General Department of Financial Industry is responsible for development of the government bond market.<sup>7</sup> While the General Department of Financial Industry is not pursuing a particular bond issuance timeline—this was set by the General Department of National Treasury (GDNT)—its Financial Market Division is tasked with creating the prerequisites for a future government bond market; the immediate focus of the division is the creation of a suitable legislative environment and capacity building.

For the roles and responsibilities of the departments of the MEF in the context of issuance and issuance methods for government securities, please see Chapter III.

<sup>6</sup> See <http://www.mef.gov.kh/about-ministry.html>

<sup>7</sup> See <http://gdfi.mef.gov.kh>

## **2. General Department of National Treasury**

The GDNT, in operation since January 1991, is the single cashier and public accountant of the Government of Cambodia. The GDNT is responsible for Cambodia's public debt and plays a role in the formulation and execution of public finance-related policies, as well as the management of the public budget.

For the purposes of the capital market, the department's duties and tasks include the managing of government finances, including the future use of Treasury bills and government bonds.

## **3. National Bank of Cambodia**

The NBC was established in December 1954, following the independence of Cambodia from France. The present legal basis for its operation is the Law on the Organization and Conduct of the National Bank of Cambodia, 1997.

As the central bank, the NBC is responsible for setting and executing monetary policy and conducting related activities. The NBC also regulates and supervises banks and financial institutions, including in the interbank market, and oversees the country's payment systems.<sup>8</sup>

Cambodia does not practice the universal banking system in which banks can actively participate in the securities and capital market under a single banking license. In addition, the Law on the Issuance and Trading of Non-Government Securities, 2007 confers the responsibility of the regulation and governance of the nongovernment securities market, as well as the secondary market for government securities, to the SECC.

## **4. Securities and Exchange Commission of Cambodia**

The SECC was inaugurated on 23 July 2008 as a result of relevant provisions in the Law on the Issuance and Trading of Non-Government Securities, 2007.

The SECC is an autonomous government agency and the sole regulator of the securities sector in Cambodia, including infrastructure providers, market participants, and intermediaries for participant activities in the securities market. Due to the absence of government securities issuance until 2019, the SECC's present focus is on the stock (exchange) market and the building of a corporate bond market.

The SECC consists of a board with eight commissioners, plus the Minister of Economy and Finance as Chairman. Commissioners represent a number of government ministries and include persons with securities industry experience who are proposed by the MEF. The board answers to the MEF.

Chapter 2, Article 7 of the Law on the Issuance and Trading of Non-Government Securities, 2007 delineates the authority of the SECC as described below:

- i. regulate and supervise securities markets, both government and nongovernment, in the Kingdom of Cambodia;
- ii. enforce policy with respect to the securities market;
- iii. formulate conditions for granting approvals to the operators of a securities market, clearance and settlement facility, and securities depository;

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<sup>8</sup> For a complete description of the NBC's functions and duties, please refer to [http://www.nbc.org.kh/English/about\\_the\\_bank/overview\\_of\\_functions\\_and\\_operation.php](http://www.nbc.org.kh/English/about_the_bank/overview_of_functions_and_operation.php)



- iv. formulate conditions for granting licenses to securities companies and securities company representatives;
- v. promote and encourage compliance with the requirements of this law, play a role as an institution to examine and solve complaints against, and consult with any qualified person to develop policies for the purpose of developing a securities market in the Kingdom of Cambodia; and
- vi. fulfil other duties prescribed by sub-decree.

According to the law, details on the organization and functioning of the SECC were to be provided by an *Anukret*. The respective *Anukret* on the Conduct and Organization of the Securities and Exchange Commission of Cambodia (No. 97 ANKR.BK) was passed on 23 July 2008. The *Anukret* further details the functions and structure of the SECC, describing its departments and their main focus areas; it also contains an SECC organization chart as an appendix.<sup>9</sup>

Out of the six departments and one unit of the SECC (there is an additional, independent Internal Audit Unit as well), the following departments have direct responsibilities and oversight functions for the bond or securities market (with the relevant article of the *Anukret* provided):

- Department of Research, Training, Securities Market Development and International Relations (Article 7);
- Department of Securities Issuance Supervision (Article 8);
- Department of Securities Market Supervision (Article 9);
- Department of Securities Intermediaries Supervision (Article 10); and
- Department of Legal Affairs (Article 11).

Among its fundamental functions, the Department of Research, Training, Securities Market Development and International Relations conducts studies and researches strategies for developing the securities market in the Kingdom of Cambodia as well as the legal infrastructure and regulations relating to the supervision and development of the securities industry.

For the issuance of instruments in the Cambodian securities market, the Department of Securities Issuance Supervision examines and makes recommendations on public offerings of securities, in particular the registration statement and disclosure documents, the registration of these disclosure documents, and other statements of public issuing firms. The department also monitors and publishes any disclosure documents and other statements relating to the securities business made through electronic systems and/or the public media.

The Department of Securities Market Supervision is charged with formulating regulations, granting approval for operators of securities markets, managing the clearing and settlement facility, and supervising the securities depository. The granting of accreditation to market participants includes cash settlement agents, securities registrars or transfer agents, and paying agents. The department is also charged with the oversight of market trends and collecting various information, as well as the examination of suspicious transactions—such as suspected market manipulation, insider trading, or fraud—to ensure fair trading and to protect public investors.

In turn, the Department of Securities Intermediaries Supervision formulates regulations, grants licenses, and supervises securities firms and their representatives, securities dealers and securities brokers, fund managers, and other market participants and their operations.

<sup>9</sup> For the full text of the *Anukret* and the organization chart, please see <http://www.cambodiainvestment.gov.kh/content/uploads/2011/09/Sub-Decree-97-on-the-Conduct-and-Organization-of-the-SECC.pdf>

Part of the remit of the Department of Legal Affairs is to examine and make recommendations on rules for operators of the securities market, develop and propose amendments to the rules and regulations, enforce the implementation of laws and regulations, receive any lawsuits and investigations related to illegal securities activities, undertake mediation and dispute resolution efforts among market participants, and file lawsuits and send them to the courts.

## **E. Regulatory Framework for Debt Securities**

The MEF is in the early stages of drafting an *Anukret* for the issuance of government securities, while the SECC is the entity to draft relevant regulations for corporate bond issuance.

In the primary market, the issuance of and practices for government securities are regulated by the MEF. Nongovernment securities, including corporate bonds, are regulated by the SECC. To date, the relevant regulatory framework for nongovernment securities (corporate bonds) has been established through the publication of the Prakas on Public Offering of Debt Securities, Prakas on Accreditation of Bondholders Representative, and Prakas on Accreditation of Credit Rating Agency. This means that the regulatory framework for the primary market in corporate bonds is now ready for application. Operating rules for corporate bonds—such as rules on debt securities listing, market operation, clearing and settlement, and depository processes—are on track to be in place by early 2018.

In the secondary market, both government securities and nongovernment securities (corporate bonds) are regulated by the SECC. The SECC also promulgates regulations for the trading, clearing, and settlement of debt securities in the Cambodian market. This includes any revisions to CSX rules, which are typically published as annexes to individual *Prakas* by the SECC.

## **F. Debt Securities Issuance Regulatory Processes**

The provisions of the Law on the Issuance and Trading of Non-Government Securities, 2007 and related *Anukret* and *Prakas* contain fundamental provisions for the public offering of securities—with no distinction made between equities and debt securities—but also make allowance for exempt offers and provide a basic definition of private placements.

In August 2017, the SECC started setting specific regulatory processes for the issuance of nongovernment debt securities (corporate bonds) via a public offering and the related prescriptions for the appointment of a CRA and bondholders representative for such issuances.

It is expected that the SECC will further specify the processes for the offers of debt securities through private placements, including distinctions from public offerings in the issuance documentation and disclosure information.

At present, market practices, including the listing of securities, are focused on public offerings. In turn, the CSX, with the approval of the SECC, is expected to set dedicated rules for the listing (including profile listing) of debt securities, or to extend the existing listing rules to debt securities, as the case may be, by early 2018.

### **1. Regulatory Processes by Issuer Type**

Table 2.2 provides an overview of these regulatory processes by issuer type and identifies which regulatory authority or market institution will be involved. In order to make the issuance process by issuer type more comparable across ASEAN+3 markets, the table features common issuer type distinctions that are evident in regional markets. Not all markets will distinguish all such issuer types or prescribe approvals. Sovereign issuers are typically exempt from corporate bond issuance approvals but, at the same time, may be subject to different regulatory processes.

**Table 2.2: Authorities Involved in Regulatory Processes by Issuer Type**

Type of Issuer	SECC	NBC	CSX (listing only)
<b>Resident issuer</b>			
Resident nonfinancial institution	X		X
Resident financial institution	X	X	X
Resident issuing FCY-denominated debt securities	X		X
<b>Nonresident issuer</b>			
Nonresident nonfinancial institution			
Nonresident financial institution			
Nonresident issuing FCY-denominated debt securities			

CSX = Cambodia Securities Exchange, FCY = foreign currency, NBC = National Bank of Cambodia, SECC = Securities and Exchange Commission of Cambodia.

Source: ADB consultants for SF1.

The table reflects the current regulatory regime, which requires approval for the issuance of nongovernment (corporate) debt securities from the SECC and a separate listing approval from the CSX for debt securities to be listed. According to the (Draft) Prakas on Listing Criteria of Banking and Financial Institutions on Cambodia Securities Exchange to be published by the NBC, banks and financial institutions supervised by the NBC are required to seek NBC approval prior to issuing and listing debt securities (see section 5 for details).

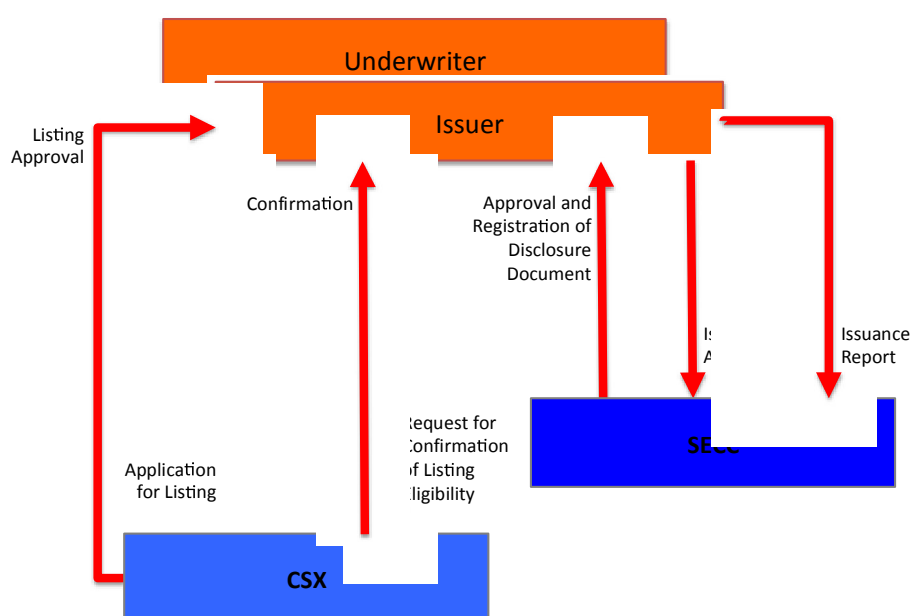
Nonresident issuers are presently not (yet) able to issue bonds and notes—or securities in general—in Cambodia, regardless of the issuance currency.

## 2. Regulatory Process Overview

The regulatory framework for the issuance of nongovernment (corporate) debt securities introduced by the SECC in August 2017 presently only covers issuance via a public offering and stipulates the need for an application process and approval from the SECC, including the registration of the disclosure document by the SECC upon successful application. The issuance of corporate bonds is closely linked to the listing and subsequent trading of the debt securities on the CSX, starting with the need for an issuer to obtain confirmation of listing eligibility of the proposed debt securities as one input item required for the issuance application to the SECC.

The regulatory process map shown in Figure 2.2 provides an overview of the regulatory processes introduced for the Cambodian bond market. At the same time, based on existing mentions in laws and regulations, the regulatory processes for public offerings and private placements differ in one aspect; a public offering requires approval from the SECC, while the issuer only needs to file relevant documents with the SECC in the case of a private placement. However, only the regulatory process for public offerings has been described in detail by the SECC and, hence, its necessary steps are explained in the next few sections.

**Figure 2.2: Regulatory Process Map—Nongovernment Debt Securities Issuance via Public Offering in Cambodia**



CSX = Cambodia Securities Exchange, SECC = Securities and Exchange Commission of Cambodia.  
Source: ADB consultants for SF1.

### 3. Regulatory Process in Case of a Nonresident Issuer

In the absence of specific provisions in *Kram* or *Prakas* for the securities market, nonresident are not yet able to issue debt securities in the Cambodian market.

### 4. Regulatory Process for Public Offerings

The regulatory framework for the issuance of corporate debt securities in Cambodia is focused on the issuance of instruments via a public offering, followed by a listing on the CSX. The regulatory process for private placements closely follows the one for public offerings described here (see also section 5). Corporate debt securities are subject to issuance approval from the SECC and, subsequently, listing approval from the CSX.

The issuer needs to appoint an underwriter licensed by the SECC, who is also required to conduct due diligence on the proposed public offering and issue a report on its findings. The debt securities to be issued need to be rated by a CRA accredited with the SECC. Other appointments to be made by the issuer for a public offering of debt securities include a bondholders representative and a securities registrar and transfer and paying agent. The service providers need to be either accredited or registered with the SECC. For details on these functions, please see Chapter III.M.

The issuer also needs to appoint a cash settlement agent, typically a commercial bank, which needs to certify the opening of a separate bank account for the deposit of the issuance proceeds from the public offering.

The Prakas on the Public Offering of Debt Securities also imposes eligibility criteria for an issuer to be able to pursue a public offering and prescribes the individual steps for the issuance of corporate debt securities, which are detailed below. The SECC will further define the format and contents of the application form and disclosure document.

#### Step 1—Request for Confirmation of Listing Eligibility from the Cambodia Securities Exchange

The issuer—possibly with the help of the securities firm or underwriter servicing the issuer—will need to obtain a confirmation of listing eligibility from the CSX. This confirmation is required as documentation for the actual application to the SECC for the issuance of corporate bonds. Article 36 of the Prakas on Public Offering of Debt Securities stipulates that the issuer needs to comply with all relevant regulations of the permitted securities market on which the debt securities will be listed and traded eventually. The CSX is the only permitted securities market at this point in time.

The listing requirements set by the CSX, and details of its review process, are explained in Chapter III.H.

#### Step 2—Issuance Application to the Securities and Exchange Commission

The issuer (also termed “applicant” in the regulations) will need to submit an application to the SECC in a form to be prescribed by the SECC. The application needs to be in writing and consist of a number of components that are further detailed below. The issuer may secure the help of the underwriter or securities firm for the compilation of the application and its constituent parts. In any case, the issuer is responsible for the content of the application and the disclosure document, while any service providers, including the underwriter or securities firm (also termed “expert” in the regulations), will be responsible for statements attributed to and information provided by them.

The following documents will need to be submitted together with the application form and the disclosure document:

- i. a certified copy of the certificate of incorporation;
- ii. a certified copy of the articles of association;
- iii. the board of directors’ resolution on the public offering of debt securities;
- iv. a power of attorney that transfers the right to the director or chief executive officer of the issuer to act on behalf of the company, signed by chairman of the board of directors and all directors;
- v. a letter from a commercial bank, acting as cash settlement agent, certifying the opening of a separate account for the proceeds of the public offering of debt securities;

- vi. a report issued by an accounting firm accredited by the SECC that provides audit services, in case financial statements specified in point 3 of Article 6 have not previously been audited by an audit firm accredited by the SECC;
- vii. a due diligence report issued by an underwriter licensed by the SECC;
- viii. a due diligence report issued by a law firm accredited by the SECC;
- ix. a credit rating report issued by a CRA accredited by the SECC;
- x. loan agreements (if any);
- xi. material agreements (if any);
- xii. a certified copy of an underwriting contract or plan for entering into an underwriting contract with the underwriter;
- xiii. a certified copy of an agreement with a CRA;
- xiv. a certified copy of an agreement with a bondholders representative;
- xv. a certified copy of agreements with a securities registrar and transfer and paying agent; and
- xvi. the value-added tax certificate, which shall have a tax identification number and documents confirming tax and duty compliance.

In the event that the issuer wishes to issue secured or guaranteed bonds, additional documents will have to be submitted to the SECC; these documents are mentioned in Article 10 of the Prakas on the Public Offering of Debt Securities.

Articles 12–22 of the Prakas on the Public Offering of Debt Securities stipulate the content requirements of the disclosure document itself, which are in line with international standards. Article 12 specifies the minimum content as follows:

- i. a note to investors;
- ii. a tentative timetable for the offering;
- iii. the identity of the related entities who prepared the disclosure document;
- iv. definitions, abbreviations, and technical terms;
- v. a summary of the disclosure document;
- vi. information about the public offering of debt securities;
- vii. information about the use of proceeds;
- viii. general information about the applicant (issuer);
- ix. information about operation, including business strategies and business plan;
- x. information about risk factors;
- xi. information about corporate governance;
- xii. information about relationships and transactions with related parties;
- xiii. financial information and/or consolidated financial information;
- xiv. operational and financial review and forecasting;
- xv. other information; and
- xvi. an annex.

The disclosure document shall also contain the following statement: “All information in the disclosure document is under the responsibility of the issuer and the entities related to the preparation of this disclosure document.”

Significantly, the disclosure document must carry the signatures of the chairman of the board of directors of the issuer as well as its directors, chief executive officer, and chief financial officer.

In the annex of the disclosure document, the issuer is expected to include the following:

- i. terms and conditions of the debt securities,
- ii. code of conduct for directors and senior officers,
- iii. asset valuation report (if any),

- iv. auditor's report or accountant's report issued by the SECC-accredited firm providing audit services to the issuer,
- v. auditor's report previously issued by a firm providing audit services if it is not accredited by the SECC (if so applicable),
- vi. interim financial statement reviewed by an independent auditor (if any),
- vii. summary credit rating report issued by a CRA that is accredited by the SECC,
- viii. declaration by the applicant (issuer) certifying the accuracy and compliance with relevant laws and regulations of the documents and information submitted to the SECC,
- ix. summary credit rating report on the guarantor issued by a CRA accredited by the SECC in case of a guaranteed bond, and
- x. experts' consent letters (if any).

Detailing the required information about the public offering of debt securities, Article 14 of the Prakas on the Public Offering of Debt Securities specifies the inclusion of

- i. a description of the debt securities by stating the rights and requirements attached to the debt securities being issued;
- ii. the terms and conditions of the debt securities;
- iii. the price and coupon rate of the debt securities being offered;
- iv. the method of price determination of the debt securities;
- v. the allotment plan of the debt securities;
- vi. all expenses related to the public offering of debt securities;
- vii. the appointment, powers, and obligations of the bondholders representative;
- viii. conditions for the removal of the bondholders representative;
- ix. details on the debt securities holders' meeting;
- x. the procedure, date, and place for the settlement of coupon and principal payments;
- xi. a description of potential events of default;
- xii. material information related to the underwriting contract or the plan for entering into an underwriting contract with the underwriter;
- xiii. the credit rating; and
- xiv. other information that may be required by the Director General of the SECC.

In the event of secured or guaranteed bonds, the following additional information on the issuer needs to be included:

- i. history and development,
- ii. strategy and business plan,
- iii. business description,
- iv. industry overview,
- v. group structure,
- vi. information related to the issuer's noncurrent assets, and
- vii. information about the issuer's tax obligation.

Some of the articles further detail the information required on the use of proceeds, the risk factors the issuer foresees, and the relationships or transactions with related parties. Article 18 prescribes the information necessary on corporate governance exercised by the issuer, namely:

- i. information about shareholders;
- ii. information about directors, senior officers, and the company secretary and corporate disclosure officer;
- iii. information about the board of directors and any board committees;
- iv. information about the involvement of directors and senior officers in certain legal proceedings;

- v. information about remuneration or compensation of directors and senior officers;
- vi. information about related parties of the applicant (issuer); and
- vii. information about other corporate governance conditions that are prescribed in the enacted laws, *Anukret*, and regulations.

The application to the SECC will need to be accompanied by payment of a fee for the review and registration of the disclosure document by the SECC (please see Chapter VI.A for details). The fee is not refundable even if the application is not successful.

### Step 3—Approval-in-Principle from the Securities and Exchange Commission

The SECC will review the application and supporting documents and may ask, in writing, for additional information or the replacement of information in the disclosure document and supporting documents, as the case may be. In such a case, the issuer (and its service providers) has 15 days from the day the request has been issued to respond to the SECC's request, or any other time period that the SECC may specify, after which the application would either become void or the validity extended if there is a reasonable explanation from the applicant about the delay.

The SECC will inform the issuer in writing of its approval or rejection of the issuance application within 30 days from the receipt of complete documentation.

In case of rejection, the SECC will provide the applicable reasons for which the application was rejected, which may include incomplete, false, or misleading statements; the status of the issuer; or qualifications of a party acting for the issuing company. Article 27 of the Prakas on the Public Offering of Debt Securities contains a full list of possible reasons for rejection.

### Step 4—Finalization of Offer Terms and Pricing, Approval from the Securities and Exchange Commission, and Registration of the Disclosure Document

Following the in-principle approval from the SECC, the issuer may finalize the terms of the public offering, including the pricing for the debt securities. The proposed pricing needs to be confirmed by the CSX as the permitted securities market on which the debt securities are to be listed and traded.

Once the SECC has issued its in-principle approval of the disclosure document, the issuer is able to advertise (see also next step) and to conduct road shows or similar activities, provided it has submitted the necessary details and obtained prior written approval from the Director General of the SECC for these activities.

Upon submission of the final terms of the public offering, the SECC will approve the issuance and then register the disclosure document.

### Step 5—Subscription of Debt Securities

Once the SECC has approved the issuance of debt securities and registered the disclosure document, the issuer may proceed with the public offering within the validity of the disclosure document. In the event that the subscription of the debt securities fails, the registered disclosure document may be cancelled.

The subscription shall be conducted through a securities firm or firms licensed by the SECC. The issuer will need to ensure that the disclosure document will be available for public inspection at its offices, the securities firm, and the CSX within 5 days of obtaining approval from the SECC.



The securities firm(s) will deposit any subscription moneys received into the dedicated account with the cash settlement agent, and subscriber information will be kept by the securities registrar appointed by the issuer.

The issuer is required to publicly announce the offer through the media and other publication instruments recognized by the SECC at least 5 days before the subscription will take place.

According to Article 38 of the Prakas on the Public Offering of Debt Securities, the announcement is required to contain the following information:

- i. the name and country, or other entity, of the issuer;
- ii. the number and type of the debt securities to be offered;
- iii. the places where the public may obtain the disclosure document and subscription form of the debt securities;
- iv. the date of the subscription of the debt securities;
- v. a statement to let the public know that the disclosure document has been approved and registered by the SECC;
- vi. a statement specifying that subscribers shall consider subscribing based on documents related to the public offering of debt securities; and
- vii. a statement to let the public know that the announcement itself is only to inform the public and does not represent an invitation to subscribe.

Prior to the SECC's approval of the public offering and such announcement, the issuer may already contact potential investors, directly or via securities firms, if an approval for this action was obtained from the SECC and the issuer submitted a list of targeted investors and other relevant documents.

The subscription form and the disclosure document need to be available in printed form; in addition, the issuer is able to distribute the subscription form and disclosure document in electronic form if the contents of the physical and electronic versions are the same.

In case the public offering is not fully subscribed, the underwriter is required to subscribe to the outstanding amount and pay the requisite amount into a separate account with the cash settlement agent within 30 days from the closing date of the subscription.

The issuer, securities registrar, or securities firm(s) shall distribute the debt securities to successful subscribers within 15 working days from the closing date of the subscription of the debt securities.

### Step 6—Listing of Debt Securities

The approval from the SECC and the registration of the disclosure document is the prerequisite for the listing of debt securities on the CSX. At the same time, the listing of debt securities is an integral part of the issuance process for public offerings prescribed by the SECC.

Article 36 of the Prakas on the Public Offering of Debt Securities prescribes that the issuer shall comply with the required process at the permitted securities market. The one market approved by the SECC is on the CSX.

For the detailed listing regulatory process, please see Chapter III.H.

## 5. Issuance Process for a Domestic Financial Institution

In principle, the regulatory process for debt securities issuance by a domestic financial institution also follows the prescriptions by the SECC, as explained in section 4.

At the same time, banks and financial institutions supervised by the NBC are required to seek a no-objection letter from the central bank for the issuance and subsequent listing of debt securities on the CSX. According to the (Draft) Prakas on Listing Criteria of Banking and Financial Institutions on Cambodia Securities Exchange, to be published by the NBC, additional criteria apply, such as an institution's net worth and the assessment grade given by the NBC.

## 6. Regulatory Process for Private Placements

A general description of private placements exists in the Law on the Issuance and Trading of Non-Government Securities, 2007 and its related *Anukret*. At the same time, the Prakas on the Public Offering of Debt Securities states in its Article 5 that an issuer who proposes to make a private placement of debt securities shall file the related documents with the SECC, without making further prescriptions.

In the context of the regulatory framework for the corporate bond market, the SECC is expected to further elaborate on provisions for a private placement of debt securities.

Please also see Chapter III.E for the definition of a private placement in Cambodia.

## 7. Obligations after Approval and after Subscription

The Prakas on Public Offering of Debt Securities prescribes the reporting obligations of the issuer or underwriter following the completion of the debt securities subscription. The *Prakas* also makes a brief reference to the obligations in the case of a private placement.

### a. Public Offering

Pursuant to Articles 29 and 35 of the Prakas on Public Offering of Debt Securities, the issuer shall submit a report of the subscription result to the SECC without delay once the subscription for a public offering is completed. The report must follow the form determined by the Director General of the SECC and include a letter from the cash settlement agent on the amount contained in the dedicated account for the issuance proceeds.

Under Article 20, the issuer must also report details if any of the debt securities were unsubscribed and the underwriter subscribed to the remaining amount.

### b. Private Placement

When the debt securities offer via private placement is completed, the issuer is required to report the result of the private placement to the SECC without delay.

## 8. Regulatory Process for Foreign-Currency-Denominated Nongovernment Debt Instruments

The Government of Cambodia has decided to allow, for a 3-year period from 2018 to 2020, the issuance of corporate debt securities in the Cambodian market to be denominated in either Cambodian riels or US dollars. At the same time, the

government encourages issuance in Cambodian riel, which may also attract other incentives to be introduced in the near-term.

## G. Continuous Disclosure Requirements in the Cambodian Market

### 1. Securities and Exchange Commission of Cambodia

According to Article 8 of the Anukret on the Conduct and Organization of the Securities and Exchange Commission of Cambodia, the SECC Department of Securities Issuance Supervision is charged with defining and regulating issuance and disclosure documentation for the offer of securities. Among the department's roles is the ongoing review of financial reports and business reports of public issuing firms. This function was expected to be detailed through *Prakas* on the continuous reporting obligations of issuers of debt securities.

#### a. *Prakas* on Continuous Disclosure

The actual disclosure requirements have been further defined by the SECC in the *Prakas* on Corporate Disclosure (No. 002/2012 SECC/Pr.K.), which was promulgated in 2012.

#### b. Debt Securities Issued via a Public Offering

The *Prakas* on Public Offering of Debt Securities references the need for issuers of debt securities to comply with the *Prakas* on Corporate Disclosure and details specific material events that are to be reported to the SECC under the issuers' continuous disclosure obligations:

- i. a board of director's resolution on bondholders' meeting arrangements, indicating the place, time, agenda, and conditions for participation and participants;
- ii. a bondholders' meeting resolution after the bondholders' meeting;
- iii. any change in the articles of association of the issuer;
- iv. when the issuer is unable to pay interest and/or principal according to the debt payment period under the terms and conditions;
- v. when there is an interest payment;
- vi. when the issuer is planning to delay the interest payment;
- vii. when the issuer repurchases part or all of its debt securities in the secondary market;
- viii. report to the SECC, after obtaining a credit rating report, annually or within an appropriate time period determined by the Director General of the SECC on the credit rating as prescribed in point 5 of Article 6 of this *Prakas* until the principal payment is finished; the Director General of the SECC may grant an exemption for reporting on a credit rating by taking into consideration the necessity of the credit rating information for the investors;
- ix. when changing a bondholders representative;
- x. in case of any amendment to the terms and conditions and/or collateral of debt securities, the issuer shall submit the related documents to the SECC within 10 working days; such amendment shall be made through the bondholders' meeting by indicating the reason of such amendment and the effect which occurs or may occur to the bondholders for their decision making;
- xi. when an account of the issuer at a bank is frozen, or an account is permitted to be released after having been frozen; and
- xii. any material information, which can affect the issuer and/or its credit worthiness.

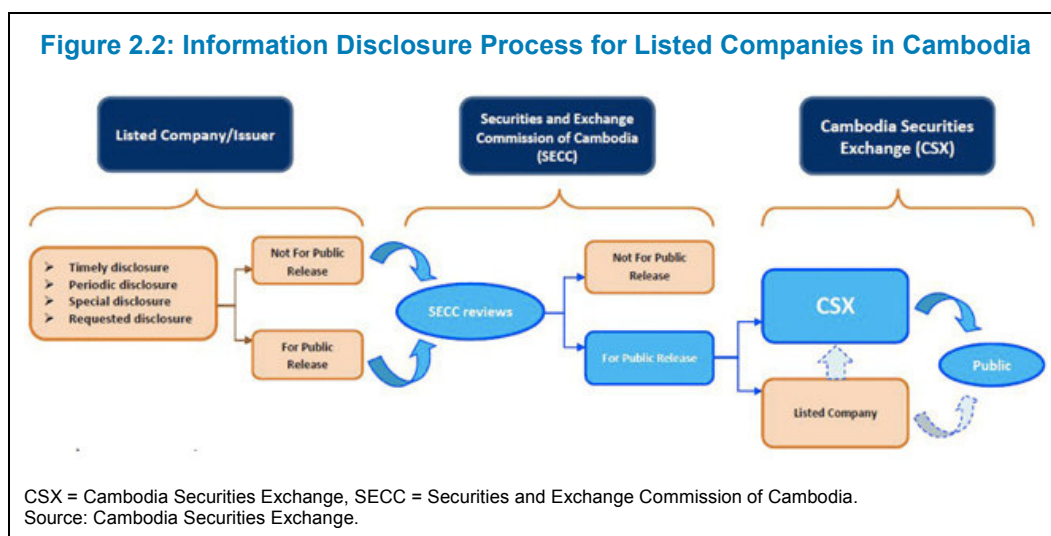
The change of a bondholders representative (item 9) requires approval from the Director General of the SECC.

## 2. Securities Listed on the Cambodia Securities Exchange

The issuance of securities to be listed on the CSX must be done via a public offering.

For companies or their securities listed on the CSX, the obligation to provide continuous disclosure information to the CSX is defined in Article 16 (Chapter V, Supervision of Listed Securities) of the CSX Listing Rules. Since the CSX is not a self-regulatory organization (SRO), the Listing Rules are promulgated as an annex to the Prakas on the Implementation of Listing Rules issued by the SECC (No. 004/11 SECC/Pr.K.) in May 2011, pursuant to the Law on the Issuance and Trading of Non-Government Securities, 2007.

**Figure 2.2: Information Disclosure Process for Listed Companies in Cambodia**



The listed company (issuer) of listed securities is required to appoint at least one dedicated disclosure officer who is responsible for providing the disclosure in a timely manner and as specified in the regulations. This includes the following periodic reporting requirements:

- an annual report within 90 days after the end of the financial year,
- a semiannual report within 45 days after the end of a semiannual period, and
- a quarterly report within 45 days after the end of the quarter.

Special disclosure (e.g., in the event of a tender offer or buy-back) as well as specific disclosure information requested by the SECC or the CSX is also required. The disclosure process is illustrated in Figure 2.2. Further details on the continuous disclosure requirements can be found on the CSX website.<sup>10</sup>

## H. Self-Regulatory Organizations in the Cambodian Market

There are presently no SROs in the Cambodian market.

<sup>10</sup> See <http://csx.com.kh/en/product/disclosure.jsp?MNCD=40302>

## I. Approval, Licensing, and Accreditation of Market Participants

The approval, licensing, and accreditation of market participants in the securities market, including the bond market in Cambodia, comes under the principal purview of the SECC. Approvals and licenses include those for securities market operators, clearance and settlement facility operators, and securities depository operators, as well as securities firms and securities representatives. Accreditations are required for bondholders representatives, CRAs, and audit and law firms.

Cambodia does not practice a universal banking regime and, hence, participants in the securities market, which was put under the supervision of the SECC in legislation and supplementary regulations, must be licensed as a securities firm or securities representative, or accredited according to their service functions.

### a. Market Participation as Securities Firms and Securities Representatives

Chapter 4 of the Anukret on the Implementation of the Law on Issuance and Trading of Non-Government Securities (No. 54 ANKR BK) sets out the detailed provisions for the licensing and conduct of securities firms and securities representatives, pursuant to the Law on the Issuance and Trading of Non-Government Securities, 2007.

The chapter also specifies exempt securities dealers (e.g., market operator or insolvency administrator) and exempt securities transactions (e.g., government securities issuance), which are not subject to licensing.

The Prakas on Licensing of Securities Firms and Securities Representatives, 2009 further defines the type of business a securities firm may engage in, including securities underwriting and securities dealing or securities broking (see also Chapter III.M.3). A securities firm may also conduct investment advisory services (defined in Article 8 of the *Prakas*) or other services approved by the SECC. Conducting investment advisory services by a securities firm does not require a separate license, but the SECC requires such securities firms to have individually licensed investment advisor representatives (Article 41).

### b. Market Participation as Accredited or Registered Service Provider in the Securities Sector

Accounting firms, commercial and custodian banks, law firms, securities firms, and securities registrars and transfer and paying agents may also participate in the securities sector as auditors, legal counsel, or bondholders representatives for issuers or investors accordingly (please see Chapter III.M for details). Carrying out any such function requires accreditation with the SECC and is subject to application, supervision, and renewal procedures set by the SECC in individual *Prakas* for specific functions (see a list of the relevant *Prakas* in Appendix 2).

The function of the securities registrar and transfer and paying agent requires registration with the SECC.

## J. Cambodia Securities Exchange Regulations Related to Listing, Disclosure, and Trading of Securities

CSX rules are issued in the form of *Prakas* by the SECC or as an annex to *Prakas* on specific topics related to CSX operations (including clearing and settlement, and depository roles).

The SECC, on the request of the CSX, has issued rules for listing; market operation; membership; and clearing, settlement, and depository functions. The respective rules in their current versions are available for download as PDF files in English from the CSX website.<sup>11</sup>

#### a. Listing Rules

The CSX Listing Rules are issued in the form of *Prakas* by the SECC since the CSX is not an SRO. The CSX Listing Rules are amended from time to time upon the recommendation of the CSX to the SECC. At the time of compilation of the Cambodia Bond Market Guide, the latest issue was the *Prakas* on the Implementation of Listing Rules (No. 006/15 SECC/Pr.K.), dated 10 September 2015.

Issuers must meet the listing requirements prescribed in the CSX Listing Rules. The present listing process is explained in detail on the CSX website.<sup>12</sup>

Going forward, the CSX will have separate listing rules for equities and for debt securities. The listing of debt securities on the CSX is expected to largely follow the same regulatory approval process, with some requirements determined separately, depending on the type of debt securities.

Chapter V (Supervision of Listed Securities) of the CSX Listing Rules refers to the continuous disclosure requirements that are to be further detailed by the SECC. Please see section G in this chapter for details.

#### b. Market Operation Rules

In order to describe and govern the trading process and conventions, the SECC has supported the CSX by issuing the *Prakas* on the Implementation of the Operating Rules of Securities Market, which is applicable for both equity securities and debt securities. The most recent *Prakas* referring to market operation was the *Prakas* on the Implementation of the Operating Rules of Securities Liquidity Providing of Cambodia Securities Exchange, issued in August 2016, which is also available for download from the CSX website in English (unofficial translation).

For further details on the trading of (debt) securities, please refer to Chapter IV.

#### c. Membership Rules

The CSX Membership Rules were issued as an annex to the SECC's *Prakas* on the Implementation of the Membership Rules (No. 003/11 SECC Pr.K.) and may be amended from time to time through the issuance of further *Prakas*. The CSX Membership Rules define and regulate the conduct of members and participants.

As defined in the *Prakas*, a member refers to a securities firm licensed by the SECC that is a member of the securities market operator, securities clearing and settlement facility operator, and securities depository operator, and which is allowed to use the trading system, securities clearing and settlement system, and securities depository system of the CSX.

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<sup>11</sup> See <http://csx.com.kh/laws/rules/listPosts.do?MNCD=2050>

<sup>12</sup> See <http://csx.com.kh/en/product/listing.jsp?MNCD=40301>

In turn, a participant includes cash settlement agents, securities registrars, and securities transfer agents that are authorized to partly use the CSX's market facilities and services, commensurate with their function.

At the end of August 2017, the CSX had 10 members active as securities underwriters, securities dealers, or securities brokers. It also had five participants acting as cash settlement agents, securities registrars, and transfer agents. The list of members and participants may be viewed on the CSX website.<sup>13</sup>

## K. Market Entry Requirements (Nonresidents)

The present legislation and regulations do not specifically prevent or permit foreign investors from participating in the market. In fact, several regulations specifically mention the inclusion of nonresidents or the equal application of said regulations to both resident and nonresident investors. Nonresidents can participate in the IPO of a stock already listed on the CSX.

All investors, domestic and foreign, need to obtain an investor ID prior to investing in the Cambodian securities market. The SECC issues a notice to the market when the contents of the form or the application or approval procedures change. These notices are also viewable on the CSX website under the News and Publication tab.

### 1. Nonresident Issuers

Nonresident (foreign) issuers are not able to issue securities in the Cambodian market at this point in time.

### 2. Foreign Investors

There are no specific market entry requirements for foreign investors. In fact, nonresident investors enjoy the same tax incentives—a 50% concessionary rebate on the withholding tax rate—as domestic investors.

All investors into the Cambodian securities market must obtain an investor ID prior to buying securities. The only distinction between domestic and foreign investors is an indicator in the actual ID (either “D” or “F” for domestic or foreign, respectively).

Investors may apply directly to the SECC or through their broker. Institutional investors need to fill out Application Form B (Application Form A is for individual investors) and attach their company license, company registration certificate (or equivalent), passport details, and photos of the responsible officers, as well as a power of attorney in their favor.

The necessary steps on how to become an investor in the Cambodian securities market are well explained in the Investor Guide downloadable from the CSX website.<sup>14</sup> Application Form B is also available for download from the CSX website.<sup>15</sup>

## L. Market Exit Requirements (Nonresidents)

<sup>13</sup> See <http://csx.com.kh/en/member/members.jsp?MNCD=10511>

<sup>14</sup> See <http://csx.com.kh/news/brochure/viewPost.do?MNCD=7040&postId=86>

<sup>15</sup> See <http://csx.com.kh/news/notice/viewPost.do?MNCD=8020&postId=242#.WBw4BktSgpE>

### **1. Nonresident Issuers**

Since nonresident (foreign) issuers are not able to issue securities in the Cambodian market at this point in time, exit requirements are not applicable.

### **2. Foreign Investors**

There are no specific market exit requirements for foreign investors.

There are no restrictions on foreign investors repatriating funds from divestment or redemption of KHR-denominated assets, USD-denominated assets, or interest and other benefits arising from such investments. Proceeds dominated in Cambodian riels must be converted into a foreign currency with a domestic financial institution before being remitted abroad.

## **M. Regulations and Limitations Relevant for Nonresidents**

In principle, there are no limitations for nonresidents—other than issuers of securities—on their activities in the Cambodian market, particularly those related to investment in securities, although certain practices must be observed. A number of noteworthy considerations are mentioned here for reference.

### **1. Currency Exchange Controls**

The Cambodian riel is nonconvertible and nonnegotiable outside Cambodia. Foreign currency remittances must be converted with a domestic financial institution into Cambodian riel proceeds prior to the purchase of securities.

### **2. Bank Accounts in Domestic or Foreign Currency**

There are principally no restrictions for nonresidents on maintaining bank accounts in Cambodia. Nonresidents may open accounts in Cambodian riels as well as in US dollars with a commercial bank if they can provide the required documents.

### **3. Borrowing and Lending**

The borrowing and lending of cash by nonresidents is possible in both Cambodian riels and US dollars.

## **N. Regulations on Credit Rating Agencies**

As part of a comprehensive set of measures to develop the corporate bond market, the SECC introduced the Prakas on Accreditation of Credit Rating Agency in August 2017. This regulation addresses the eligibility criteria and requirements for CRAs to operate in Cambodia. The accreditation has no expiry date.

Prescriptions include the minimum content of the credit rating report, the need to have experienced management and staff, operating procedures, a code of conduct, a mechanism to avoid conflicts of interest, and minimum capital requirements. CRAs will need to submit an application with relevant documents to demonstrate that the requirements have been met. The SECC will decide on the application within 45 days from the receipt of complete documents and notify the applicant in writing.

A CRA will need to have a rating committee, consisting of at least three persons—one director and two analysts—and must ensure the committee's independence. The



operational prescriptions also contain the restrictions for when a CRA will be unable to act as rating agency for a company. A CRA will have to submit an annual report to the SECC, together with the latest audited statements, within 90 days after the end of a financial year.

The SECC will also issue a list of international CRAs that are eligible to carry out rating activities for credit-rated entities (issuers) in the Cambodian capital market.

The *Prakas* may be further detailed by the SECC through the issuance of guidelines.

The actual credit rating requirements for debt securities in the Cambodian market will be further defined in time. Once defined, the requirements for and the application of such credit ratings in the issuance process of debt securities will be described in detail in Chapter III.O.