

Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

Bank of the Lao PDR

No. 42/BOL

Vientiane Capital, Date 15 JAN 2016

DECISION
ON THE ESTABLISHMENT OF COMMERCIAL BANKS BRANCHES
OF COMMERCIAL BANKS

- Pursuant to the Law on the Bank of the Lao PDR, No. 05/NA, Dated 14 October 1995 and the Law on the Amendment of Laws, No. 05/NA, Dated 14 October 1999;
- Pursuant to the Law on Commercial Banks, No. 03/NA, Dated 26 December 2006 and the Decree on the Implementation of the Law on Commercial Banks, No. 275/PM, Dated 25 September 2009; and
- Based on Studies and Proposals of the Commercial Banks Management Department, No 10/CBMD, Dated 12/01/2016.

The Governor of the Bank of the Lao PDR issues the following Decision:

SECTION I
GENERAL PROVISIONS

Article 1. Objectives

This Decision determines the principles and regulations regarding the establishment of commercial banks and branches of commercial banks in the Lao PDR in order to be a reference for applications and the consideration of the establishment, in order to ensure that commercial banks and branches of commercial banks authorised to be established are strong and stable, able to actively contribute to the development of the national socio-economy and link regionally and internationally.

Article 2. Principles for the Establishment of Commercial Banks and Branches of Commercial Banks

The establishment of domestic and foreign commercial banks and branches of commercial banks shall be authorised by the Bank of the Lao PDR.

The Bank of the Lao PDR will not consider applications for the establishment of intangible

banks and intangible applicants.

SECTION II

ESTABLISHMENT OF FOREIGN COMMERCIAL BANKS AND BRANCHES OF COMMERCIAL BANKS

Article 3. Commercial Banks Establishment Shareholding

Individuals and legal entities may be shareholders in the establishment of commercial banks, but therein, one or more establishing shareholder banks must hold more than 50% (fifty percent) of the total voting shares. A single establishing individual may hold not more than 10% (ten percent) of the total voting shares. Domestic and foreign commercial banks may establish group banks in the Lao PDR holding shares up-to 100% (one hundred percent) of the group bank and may establish branches as provided in this Decision.

Shareholders which are individuals or legal entities may not have any material interest in more than two banks established in the Lao PDR, except in the case of holding shares to strengthen the weak banks as authorised by the Bank of the Lao PDR.

Any Individual shareholder who has a relationship with or is relative with any other individual shareholder to in the banks, regardless of whether such relationship is horizontal or vertical shall be deemed as a single same individual and shall be subject to the limitations of shareholding by individuals as defined in Paragraph 1 of this Article.

Article 4. Applications for Establishment

Applications for the establishment of foreign commercial banks or branches of foreign commercial banks shall include the following documents:

4.1 General Documents

- 1) application for establishment as in the forms determined by the Bank of the Lao PDR;
- 2) an economic – technical feasibility study in the format determined by the Bank of the Lao PDR;
- 3) articles of Association in the format determined by the Bank of the Lao PDR;
- 4) resolution or decision on the establishment of an Establishment Oversight Committee, in the event that a proxy is appointed to oversee the establishment a legal power of attorney shall be issued in accordance with the laws and regulations of the Lao PDR (the proxy shall be a legal entity established in accordance with the laws and regulations of the Lao PDR);
- 5) a Joint Venture Agreement;

- 6) a resolution of a meeting of establishing shareholders on the approval of Items 1) to 5) above, and the appointment of the first Board of Directors and directors;
- 7) an operations manual concerning accounting activities, risk management, auditing, employee management, product services, anti money laundering and the financing of terrorism, etc.;
- 8) a certificate [issued] by the Services Department of the Bank of the Lao PDR regarding the payment of establishment application fees; and
- 9) other documents as determined by the One Stop Investment Office for general activities.

Article 4.2 Specific Documents for Applicants that are Legal Entities

- 1) documents certifying the past 3 (years) financial status of applicants audited by an external audit organisation;
- 2) documentary proof of funding sources for the establishment of the bank, certified by the bank where the funds are deposited (for monetary fund sources) and certificates issued by the relevant assets register management authority (for material fund sources which are registered for management) and relevant sales-purchase documents (for material fund sources which are not registered for management);
- 3) a letter of consent for the Bank of the Lao PDR to audit the funding sources to be used for the establishment of the bank;
- 4) documents certifying the shareholding structure of all establishment applicants, including the actual beneficiaries of the shareholding;
- 5) copy of the Enterprise Registration Certificate, and Business Operating License of the establishment applicants;
- 6) Articles of Association of the establishment applicants;
- 7) resolution of the Board of Directors, meeting of shareholders or the authority of the establishment applicants relating to the decision to establish a bank in the Lao PDR;
- 8) a letter of authorisation from the competent authority authorising the establishment of the bank in the Lao PDR pursuant to the laws and regulations of the relevant country (for foreign legal entities);
- 9) a letter of certification relating to the implementation of national security regulations over the past 3 (three years) from the competent authority (for legal entities which are foreign banks) in the event that it is not rated by an international rating agency;
- 10) historical criminal record information or involvement in domestic and international criminal activity and all negative information discovered by any domestic or international authority relating to the legal entity, actual beneficiaries and directors of the establishment applicants in the format determined by the Bank of the Lao PDR.

Article 4.3 Specific Documents for Applicants that are Individuals

- 1) assets-debts statements in the format determined by the Bank of the Lao PDR;
- 2) documentary proof of funding sources for the establishment of the bank, certified by the bank where the funds are deposited (for monetary fund sources) and certificates issued by the relevant assets register management authority (for material fund sources which are registered for management) and relevant sales-purchase documents (for material fund sources which are not registered for management);
- 3) a letter of consent for the Bank of the Lao PDR to audit the funding sources to be used for the establishment of the bank;
- 4) resume in the format determined by the Bank of the Lao PDR, qualifications certificates, work references, experience and profession of the establishment applicants;
- 5) copy of Identification Card (colour copy) and original criminal records history of shareholders who are Lao citizens, foreigners shall provide a copy of the passport (colour copy), criminal record history or similar documents (originals) certified by the relevant competent authorities;
- 6) criminal record information or involvement in domestic and international criminal activity and all negative information discovered by any domestic or international authority relating to the legal entity, actual beneficiaries and directors of the establishment applicants in the format determined by the Bank of the Lao PDR.

4.4 Specific Documents for Persons to be Appointed as Directors

- 1) resume in the format determined by the Bank of the Lao PDR, qualifications certificates, work references, experience and profession for a continuous period of the past 5 (five) of directors (including internal auditors) of the establishing bank;
- 2) copy of Identification Card (colour copy) and original criminal records history of shareholders who are Lao citizens, foreigners shall provide a copy of the passport (colour copy), criminal record history or similar documents (originals) certified by the relevant competent authorities; and
- 3) criminal record information or involvement in domestic and international criminal activity and all negative information discovered by any domestic or international authority relating to the legal entity, actual beneficiaries and directors of the establishment applicants in the format determined by the Bank of the Lao PDR.

4.5 Applications for the establishment of foreign branches, Article 4.1 (excluding Items 5 and 6), Articles 4.2 and 4.4 of this Article shall be implemented. An original of a resolution of

the Board of Directors, a meeting of shareholders or the authority of the establishment applicants regarding the approval of the documents determined in Article 4.1 (Items 1 to 4) and the appointment of the first management committee and an agreement¹ of the parent bank for the performance of debt obligations of the branch established in the Lao PDR.

Documents evidencing funding sources used for the establishment of the bank shall include the last 6 months bank statements of the establishing shareholders issued by the bank where the accounts are held, statements detailing the sources of such funds and relevant certification of such.

The establishment application shall be submitted in Lao language. Documents translated from foreign languages into Lao shall be certified by the Notary Organization of the Lao PDR. Documents and copies shall be legible.

Article 5. Submission of Application Documents

Foreign commercial bank or branches of commercial bank establishment applications shall be submitted through the One Stop Investment Office for general activities at the Industry and Commerce Sector. After receipt of the establishment application from such Sector, the Bank of the Lao PDR will consider the establishment application as provided in this Decision.

Article 6. Consideration of Establishment Applications

After complete and correct establishment application documents are received in accordance with this Decision, the Bank of the Lao PDR will consider the establishment application documents and notify the establishment applicants in writing within 90 (ninety) days of receipt of complete and correct establishment application documents.

The Bank of the Lao PDR will inspect the completeness and correctness of the application documents and fulfillment of the conditions for establishment as provided in this Decision.

¹The intent of the Lao term used is probably guarantee.

Article 7. Issue of Temporary License

The Bank of the Lao PDR will issue a temporary license to the establishment applicants if the documents are complete and correct as provided in Article 4 of this Decision, the business plan is good and reasonable and the following conditions are fulfilled:

7.1 For Establishment Applicants that are Banks:

- the business operations over the past 3 (three) years have been profitable and no accumulated losses; -

- than 40,000,000,000.00 (forty billion) Kip equivalent to 5,000,000,000.00 (five billion) United States Dollars in the financial year of the year of establishment application; - be rated BBB or higher by an international rating agency or have a good rating from a relevant competent authorities;
- in the event that the establishment applicant is a foreign bank, such shall be authorized by the relevant competent authorities for investment in the establishment of a commercial bank in the Lao PDR;
- have a clear and actual shareholder structure;
- be a legal entity deemed suitable to receive a bank establishment license; and not be black-listed in regards to money laundering or the financing of terrorism.

7.2 For Establishment Applicants that Legal Entities that are not Banks:

- the business operations over the past 3 (three) years have been profitable and no accumulated losses;
- have sufficient, clear and legal funding sources and be not less than twice the value of the shares that will be held in the established bank in the financial year of the year of establishment application;
- have a clear and actual shareholder structure;
- be a legal entity deemed suitable to receive a bank establishment license; and
- not be black-listed in regards to money laundering or the financing of terrorism.

7.3 For Establishment Applicants that are Individuals:

- have sufficient, clear and legal funding sources and be not less than twice the value of the shares that will be held in the established bank in the financial year of the year of establishment application;
- major shareholders shall be qualified and have appropriate experience in finance-banking business operations;
- never been convicted by a criminal court for theft, fraud, embezzlement, falsification of documents, acceptance or payment of bribes, corruption, money laundering, financing terrorism, or other crimes related to finance or currency or drug dealing;
- be an individual deemed suitable to receive a bank establishment license; and
- not be black-listed in regards to money laundering or the financing of terrorism.

7.4 For Directors:

- be mentally competent;
- have experience in business administration and have knowledge and ability in finance-banking;

- never been convicted by a criminal court for theft, fraud, embezzlement, falsification of documents, acceptance or payment of bribes, corruption, money laundering, financing terrorism, or other crimes related to finance or currency or drug dealing;
- be an individual deemed suitable to be a bank director; and
- never been dismissed as an director by another legal entity, never been declared bankrupt by a court and never been an director of a legal entity declared bankrupt by a court.

A recipient of a temporary establishment license may not operate the business, but may use such proof for reference for implementation of the conditions precedent provided in Article 8 of this Decision.

A recipient of a temporary establishment license shall open a registered capital account or investment account with the Bank of the Lao PDR and shall source the registered capital or investment funds in full after receipt of the temporary establishment license. The registered capital or investment funds in a foreign currency shall be converted into Kip on the date that the Bank of the Lao PDR issues a permanent establishment license at the buying rate of the Services Department of the Bank of the Lao PDR. Payment of the registered capital or investment funds shall be undertaken through the banking system regardless of whether the funding sources are derived domestically or from abroad and cash payments are prohibited.

A temporary establishment license is valid for 180 (one hundred and eighty) days from the date of authorization. A recipient of a temporary establishment license shall complete the conditions precedent provided in Article 8 of this Decree. In the event that the performance of such conditions has progressed, but remain unfulfilled within 180 days, the term may be extended for additional terms of 90 (ninety) days, but such shall not exceed two extensions. If the conditions precedent remain unfulfilled within such term, the temporary establishment license will be invalid.

The Bank of the Lao PDR will consider the conditions precedent of license recipients or bank directors in order to suppress crimes and persons involved in crimes from receiving licenses or appointed as bank directors. In such considerations, the Bank of the Lao PDR will consider the criminal records and involvement in crimes and all negative information that any domestic or foreign organization discovers.

After a recipient of a temporary establishment license has fulfilled the conditions precedent, the Bank of the Lao PDR will be requested to undertake an on-site inspection in order to consider the issue of a permanent establishment license.

Article 8. Issue of Permanent Establishment Licenses

The Bank of the Lao PDR will issue a permanent establishment license to the establishment applicant within 10 (ten) business days if the following conditions precedent are fulfilled:

- 1) the lowest registered capital of the foreign commercial bank or branch is paid-up in full;
- 2) there are a sufficient number of employees who have completed domestic or foreign banking training. The quota of foreign employees shall be implemented in accordance with the Labor Law. The establishment applicant shall perform the obligations and regulations towards employees as provided in the Labor Law of the Lao PDR;
- 3) have a strong, permanent office premises. In the event that the land used to construct the office premises is under a lease or concession, the lease or concession term shall be not less than 20 (twenty) years. The structure shall be safe and have security systems in accordance with regulations issued by the Bank of the Lao PDR;
- 4) have modern database systems, being able to administer internal works securely and efficiently, be able to connect to the Bank of the Lao PDR and ensure the implementation of the reporting regime and performance of other transactions with the Bank of the Lao PDR in accordance with the laws of the Lao PDR;
- 5) have administration systems and work manuals relating to accounting activities, risk management, internal auditing, employee management, product services, anti-money laundering and the financing of tourism, etc. in accordance with the laws and regulations of the Lao PDR; and
- 6) have a suitable economic-technical feasibility study that is able to be implemented, have

tight and complete Articles of Association.

A recipient of a permanent establishment license shall pay fees in full in accordance with the regulations issued by the Bank of the Lao PDR and the enterprise shall be registered and the business shall be operational within 90 (ninety) days of receipt of the Enterprise Registration Certificate.

Article 9. Converting a Foreign Commercial Bank Branch into a Commercial Bank

The conversion of a foreign commercial bank branch into a commercial bank shall be performed in full in the same manner as the establishment of commercial banks as provided in Section II of this Decision.

SECTION III

THE ESTABLISHMENT OF DOMESTIC BRANCHES OF

COMMERCIAL BANKS AND SERVICE POINTS

Article 10. Applications for the Establishment of Domestic Commercial Banks

Commercial banks that have received permanent establishment licenses may establish branches in the Lao PDR after fulfilment of the following conditions:

- performed national security regulations well;
- have sufficient funds for branch expansion;
- have a sufficient number of employees who are able to administer the business, branch directors of branch applications shall meet the same conditions provided in Article 7, Item 7.4 of this Decision; and
- Have secure mechanisms and management regulations; have IT systems able to meet the operations of the branch and interconnect between branches and the head office and security measures.

Branch establishment applicants shall submit the following application documents:

- 1) application for establishment as in the forms determined by the Bank of the Lao PDR;
- 2) an economic – technical feasibility study in the format determined by the Bank of the Lao PDR;
- 3) management regulations in the format determined by the Bank of the Lao PDR;
- 4) in the event that the application is submitted on its behalf, a Power of Attorney shall be issued to the proxy (the proxy shall be a legal entity established in accordance with the laws and regulations of the Lao PDR);
- 5) a resolution of the Board of Directors of the applicant in relation to Items 2) to 4) above and the appointment of the initial management committee;
- 6) a resolution of the Board of Directors or meeting of shareholders of the applicant in relation to the establishment of the branch;
- 7) documents certifying the past 3 (years) financial status of applicants audited by an external audit organisation;
- 8) resume in the format determined by the Bank of the Lao PDR, qualifications certificates, work references, experience and profession for a continuous period of the past 5 (five) of directors (including internal auditors) of the establishing bank;
- 9) copy of Identification Card (colour copy) and original criminal records history of directors who are Lao citizens, foreigners shall provide a copy of the passport (colour copy), criminal record history or similar documents (originals) certified by the relevant competent authorities of foreign directors; and
- 10) a certificate issued by the Services Department of the Bank of the Lao PDR regarding

the payment of application fees.

The establishment application shall be submitted in Lao language. Documents translated from foreign languages into Lao shall be certified by the Notary Organization of the Lao PDR. Documents and copies shall be legible.

The application documents shall be submitted to the Bank of the Lao PDR for consideration in accordance with the above conditions. The Bank of the Lao PDR will notify the establishment applicant in writing of its decision in principal or refusal of the branch establishment application within 60 (sixty) days of receipt of the application documents in full. In the event that the Bank of the Lao PDR agrees in principal to the establishment of the branch, the establishment applicant shall complete preparations within 180 (one hundred and eighty) days, and an extension of 90 (ninety) days may be applied for with due reason.

After completion of preparations, the Bank of the Lao PDR shall be requested to perform an on-site inspection in order to issue a branch establishment license.

Article 11. Establishment of Domestic Service Points

Commercial banks that have received permanent establishment licenses may establish service points, but the Bank of the Lao PDR shall be notified in writing within 15 (fifteen) days of establishment and attach the resolution of the Board of Directors regarding the approval of the establishment of the service point and management regulations of the service point. The management regulations of the service point shall include the following:

- 1) organizational structure;
- 2) positions;
- 3) scope of rights in the provision of services; and
- 4) audit and reporting systems.

The service point shall commence services within 15 days from the date that the Bank of the Lao PDR receives written notification of the establishment of such service point as provided in Paragraph One of this Article.

The bank service point may offer deposit services, cash withdrawal services, customer transfer services, foreign exchange services, but may not approve credit facilities to customers.

Foreign commercial banks may not expand service points and foreign exchange shops.

Article 12. Converting a Service Point into a Domestic Commercial Bank Branch

The conversion of a service point into a domestic commercial bank branch shall be performed in the same manner as the establishment of domestic commercial bank branches as provided in

Section III of this Decree.

SECTION IV

OTHER PROVISIONS

Article 13. Implementation of the Laws of the Lao PDR

The establishment of commercial banks, branches of commercial banks, and commercial bank service points in the Lao PDR shall be performed in accordance with this Decision and other relevant laws and regulations of the Lao PDR, such as: erection of bank signs, use of seals, construction applications, etc. as determined by the relevant Sectors.

Article 14. Applications and Reporting relating to Changes to Shareholders and Directors

Changes to major shareholders of commercial banks shall be authorized by the Bank of the Lao PDR. Such changes shall be consistent with the shareholding provided in Article 3 of this Decision, [the application shall be] fulfilled in accordance with the conditions and attached with supporting documents as the same requirements of applicant's establishing application as provided in Article 4, Item 4.2 or 4.3 and Article 7, Items 7.1, 7.2 or 7.3 of this Decision and be submitted to the Bank of the Lao PDR for consideration.

Changes to directors of foreign commercial banks or branches of foreign commercial banks shall be authorized by the Bank of the Lao PDR and [the application shall be] fulfilled in accordance with conditions and attached with supporting documents as same requirements of directors appointment application provided in Article 4, Item 4.4 and Article 7, Item 7.4 of this Decision and be submitted to the Bank of the Lao PDR for consideration.

Foreign commercial banks and branches of foreign commercial banks shall immediately notify the Bank of the Lao PDR regarding changes that may result in major shareholders or directors failing to meet the conditions provided in Article 7, Items 7.1, 7.2 or 7.3 as the case may be of this Decision.

This Article applies to all commercial banks established prior to or after this Decision becomes effective.

SECTION V

FINAL PROVISIONS

Article 16. Implementation

The Department of the Management of Commercial Banks, relevant departments of the Bank of the Lao PDR, commercial banks and other relevant legal entities shall strictly implement this Decision.

Article 17. Effectiveness

This Decision shall be effective 15 (fifteen) days after publication in the Government Gazette of the Lao PDR. All previous regulations regarding the establishment of commercial banks and branches of commercial banks issued and implemented by the Bank of the Lao PDR that conflict with this Decision are hereby repealed.

Governor of the Bank of the Lao PDR

[signature and seal]

Dr. Somphaw PHAISIT