



# AMBIF Bond and Note Issuance Process in Cambodia

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

In May 2020, the SECC promulgated the Prakas on Debt Securities Offering to Qualified Investors as a measure to promote the issuance of corporate bonds to a professional investor market segment. The *Prakas* adopts concise disclosure requirements, being a concession from full-disclosure requirements and a number of other concessions, but it also references definitions and prescriptions established by the SECC in the Prakas on Public Offering of Debt Securities, 2017.

The regulatory processes explained in this chapter focus on Debt Securities Offerings to Qualified Investors and their specific prescriptions only.

## A. Overview of the Regulatory Process

### 1. Regulatory Process by Corporate Issuer Type

Table 2 provides an overview of the regulatory process by issuer type and identifies which regulatory authority or market institution is involved. 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 between all such issuer types or prescribe specific approvals.

**Table 2: Authorities Involved in the Regulatory Process by Corporate Issuer Type**

Type of Corporate 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) <sup>a</sup>	X
<b>Nonresident issuer</b>			
Nonresident nonfinancial institution	N.A.	N.A.	N.A.
Nonresident financial institution	N.A.	N.A.	N.A.
Nonresident issuing FCY-denominated debt securities	N.A.	N.A.	N.A.

CSX = Cambodia Securities Exchange, FCY = foreign currency, NBC = National Bank of Cambodia, N.A. = not applicable, SECC = Securities and Exchange Commission of Cambodia.

<sup>a</sup> The NBC may or may not require approval or consent, in principle, for issuance in foreign currency.

Source: ABMF SF1.

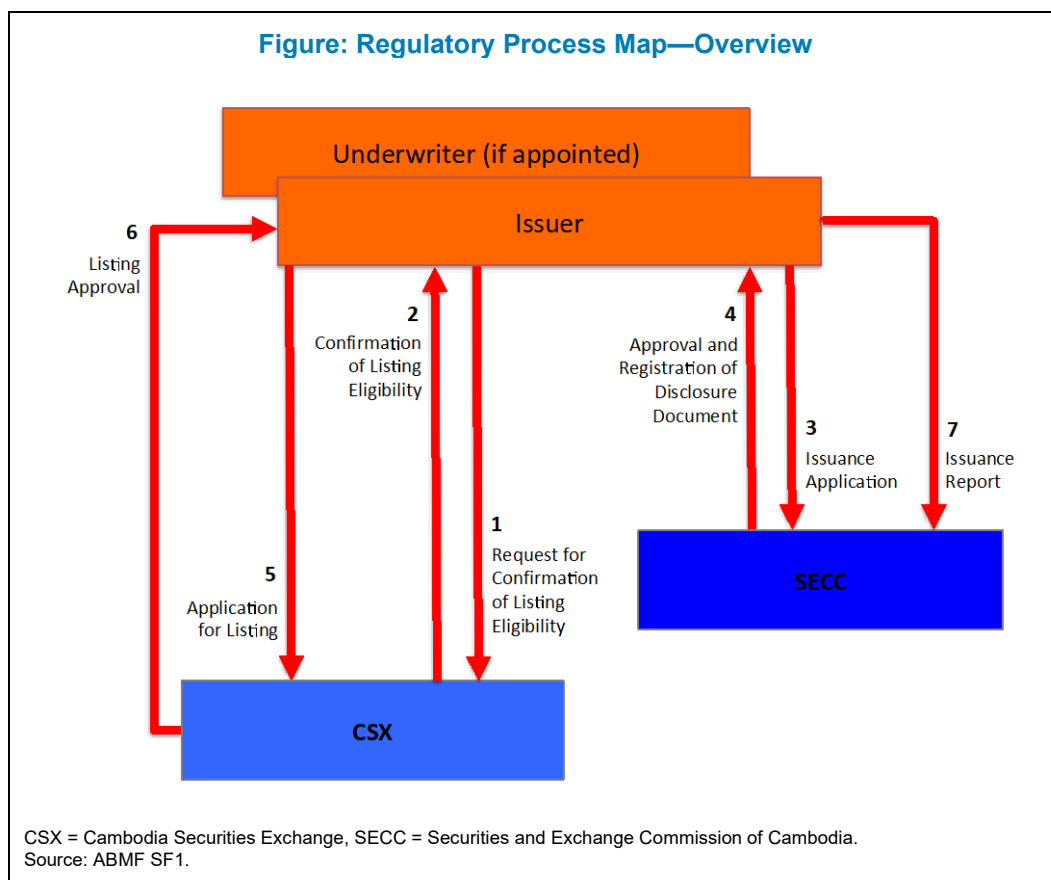
The table reflects the current regulatory regime, which requires approval for the issuance of nongovernment (corporate) debt securities from the SECC and the establishment of listing eligibility and separate listing approval from CSX for debt securities to be listed. Domestic financial institutions require a no objection letter from the NBC prior to issuing debt securities.

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 Map—Overview

The regulatory process map shown in the figure provides an overview of the regulatory processes relevant for Debt Securities Offerings to Qualified Investors in the Cambodian bond market. While the general process of submitting an application to (and seeking approval from) the SECC is the same, there are distinctive differences in the regulatory processes between public offers and Debt Securities Offerings to Qualified Investors. In these AMBIF Implementation Guidelines, only the regulatory process for Debt Securities Offerings to Qualified Investors has been described in detail. For a comprehensive description of the regulatory process for public offers in the Cambodian market, please refer to the *ASEAN+3 Bond Market Guide for Cambodia*.<sup>13</sup>

<sup>13</sup> See <https://www.adb.org/publications/asean3-bond-market-guide-2018-cambodia>.



Debt Securities Offerings to Qualified Investors are subject to the approval of the SECC and the registration of the disclosure document. Also, for Debt Securities Offerings to Qualified Investors, the issuer must appoint an underwriter licensed by the SECC.

Debt Securities Offerings to Qualified Investors only require the appointment of a bondholders representative if the offering is exclusively to Qualified Investors (including High-Net Worth Investors); however, if an offering is only aimed at Institutional Investors, the appointment of a bondholders representative is voluntary. At the same time, depending on the type of Qualified Investors (Institutional Investors) the issuer is targeting, appointing a bondholders representative may be a practical consideration, in particular if certain investor types require such a feature under their mandate or prudential regulations.

In the context of issuances under AMBIF, the listing of the debt securities on CSX will be mandatory to fulfill the AMBIF Element of regular disclosure and access to updated information at any time (see Chapter I.3).

## B. Issuance Process for Bonds Denominated in Local Currency

This section describes the issuance processes for bonds and notes denominated in Cambodian riel and aimed at Qualified Investors (Debt Securities Offerings to Qualified Investors) in Cambodia.

In the case that regulatory authorities make distinctions according to particular corporate issuer types, such distinctions would be highlighted in the individual sections that follow.

In some cases, bonds or notes issued by a foreign government or government-linked agency may require specific SECC approval, and may also be subject to additional approvals, as the case may be, that are not detailed in these Implementation Guidelines.

### **1. Issuance Process for Resident Issuer (Other Than Financial Institution)**

A potential resident issuer needs to be a public limited company or other legal entity permitted by the SECC. Eligibility criteria for potential issuers are set out in Article 7 of the Prakas on Debt Securities Offering to Qualified Investors, including the minimum number of years of financial statements (including any concessions for listed entities), strong corporate governance, and credit rating requirements.

The issuer needs to appoint a cash settlement agent that is accredited by the SECC, typically a commercial bank, which needs to certify the opening of a separate bank account for the deposit of the issuance proceeds from the Debt Securities Offering to Qualified Investors. The issuer also needs to appoint a securities registrar, securities transfer and paying agent. The service providers, including a bondholders representative and law firm, need to be accredited by or registered with the SECC.

If the issuer wishes to issue a guaranteed bond via a Debt Securities Offering to Qualified Investors, the guarantor will need to be accredited by the SECC and rated by a CRA accredited by the SECC.

The necessary steps to complete the regulatory process are described in detail below.

#### **Step 1—Application for Listing Eligibility Review to the Cambodia Securities Exchange**

This step is required for applicants that have not previously had their equity or debt securities listed on a permitted securities market such as CSX. Provisions in Article 9 of the Prakas on Debt Securities Offering to Qualified Investors exempt listed issuers from the need to obtain a confirmation of listing eligibility.

Proposed issuers that do not have an active listing on CSX will need to submit an application for listing eligibility review to CSX. Confirmation of listing eligibility is a prerequisite for the application for issuance to the SECC. The prescriptions for the listing eligibility review are contained in the Debt Securities Listing Rules of CSX.

The application to CSX (shown for a nonlisted issuer) must comprise the following information and documents:

- i. general information, including
  - a. name of the debt listing applicant in Khmer and Latin,
  - b. address of the debt listing applicant,
  - c. date of incorporation of the debt listing applicant, and
  - d. business objectives of the debt listing applicant;
- ii. a copy of the articles of incorporation of the debt listing applicant;
- iii. a copy of the certificate of business registration;
- iv. a copy of the certificate of tax registration and patent;
- v. a copy of business licenses from the relevant authorities;

- vi. a copy of a letter authorizing a representative of the applicant for the debt listing and the ID of the representative;
- vii. shareholder information;
- viii. corporate governance information;
- ix. information about the business position of the debt listing applicant, consisting of business information and risk factors;
- x. information about the financial position of the debt listing applicant, consisting of
  - a. information about the financial position including all debt and equity securities and profitability,
  - b. an asset valuation and/or asset re-valuation (if any), and
  - c. audited financial statements as prescribed by the SECC;
- xi. a credit rating report issued by a CRA accredited by the SECC and/or a report on profitability and cash flow ratio, leverage ratio, and coverage ratio, with certification of the appropriateness from its experts or underwriter in case a CRA does not yet exist in Cambodia;
- xii. information on the collateral in case of a secured bond;
- xiii. information on the guarantor—including general information, a credit rating report on the guarantor, and a guarantee agreement—in the case of a guaranteed bond;
- xiv. information about the debt securities to be listed:
  - a. resolution of the board of directors of the debt listing applicant on the debt securities issuance;
  - b. specifications of the debt securities to be listed, including
    - i. coupon rate and payment schedule,
    - ii. face value,
    - iii. issuance and maturity date, and
    - iv. allotment method;
  - c. the plan of utilizing the proceeds from the debt securities issuance; and
  - d. a copy of the Bondholders Representative Agreement; and
- xv. other information relevant to the listing eligibility review.

During the listing eligibility review, CSX may ask the issuer or underwriter for additional information that it deems material to its decision-making process.

CSX accepts the SSF as key disclosure document for the listing eligibility review. The issuer or underwriter may submit draft or working copy versions of the key disclosure document, such as the SSF, and other supporting documents in English. Legally binding contracts and other material information are required to be submitted in Khmer.

Issuers with equity already listed on CSX need not provide some of the stipulated information and documents if such information has been updated with CSX. CSX will consider providing this concession to issuers with listed debt securities in the future.

#### Step 2—Result of Listing Eligibility Review from the Cambodia Securities Exchange

CSX will review the listing eligibility of the applicant and provide a result to the issuer within 10 working days from the receipt of the completed application. If the issuer is an equity-listed entity, the review period will only be 3 working days. The result notification will be in Khmer and in writing.

Should CSX reject the application, it will provide reasons for such rejection. In such cases, the issuer may seek clarification from CSX for the rejection or appeal to the SECC for a further review and decision.

### Step 3—Issuance Application to the Securities and Exchange Commission of Cambodia

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.<sup>14</sup> The application, which needs to be in writing, consists of a number of components that are further detailed below. The issuer may secure the help of the underwriter or securities firm (if appointed) for the compilation of the application and its constituent parts. While the issuer retains overall responsibility for the content of the application and the disclosure document, service providers, including the underwriter or securities firm (also termed “experts” in the regulations), will be responsible for statements attributed to (and information provided by) them.

The following documents will need to be submitted:

- i. the SSF as the key application and disclosure document, with the minimum contents prescribed by the SECC;
- ii. supporting documents as attachments, including
  - a. a certified copy of the certificate of incorporation;
  - b. a certificated copy of the articles of association;
  - c. the board of directors' resolution on the debt securities offering to Qualified Investors;
  - d. a letter from a commercial bank, acting as a cash settlement agent, certifying the opening of a separate account for the proceeds from the debt securities offering to Qualified Investors;
  - e. a due diligence report issued by the underwriter licensed by the SECC (if appointed);
  - f. a due diligence report issued by a lawyer accredited by the SECC;
  - g. a certified copy of an underwriting agreement or an engagement letter in case the applicant has not yet signed an agreement with the underwriter (if appointed);
  - h. a certified copy of the agreement with the securities registrar, securities transfer and paying agent;
  - i. a credit rating report issued by a CRA accredited by the SECC (if any);
  - j. a certified copy of the agreement with a CRA (if any);
  - k. a certified copy of the agreement with a bondholders representative (if appointed);
  - l. material agreements (if any);
  - m. a statement on transfer restrictions;
  - n. documents confirming the tax duty compliance;
  - o. in case the applicant wishes to issue secured bonds to Qualified Investors, the applicant shall include the following additional documents:
    - i. evidence of the collateral;
    - ii. certificate from the related authority, which states that the collateral is free from any lien; and
    - iii. a report on the asset valuation issued by a valuation company accredited by the SECC;
  - p. in case the applicant wishes to issue guaranteed bonds to Qualified Investors, the applicant shall include the following additional documents:
    - i. a credit rating report on the guarantor issued by a CRA accredited by the SECC (unless otherwise determined by the Director General of the SECC), and
    - ii. the guarantee agreement; and
  - q. other documents as required by the Director General of the SECC.

<sup>14</sup> At present, the SECC does not define the form or format of the application. It can consider any form or format, such as the SSF, on its merits.

The application and key disclosure document (i.e., the SSF) shall be signed by a person authorized to sign on behalf of the applicant. Presently, the SECC requires the final version of the application form and the SSF to be submitted in Khmer.

The issuer must also provide proof of the eligibility of its debt securities for listing on CSX (see Step 1) and of the acceptance by CSX of its intended pricing.

Article 11 of the Prakas on Debt Securities Offering to Qualified Investors contains the minimum contents of the disclosure document. The SECC considers the SSF as fulfilling these contents requirements. A link to the SSF in its latest version is provided in Appendix 1 of these Implementation Guidelines and the SSF may be amended if the SECC's requirements change in future.

The disclosure document (SSF) needs to have the following minimum contents:

- i. a statement on the transfer restrictions,
- ii. the summary of the disclosure document,
- iii. information about the debt securities offering,
- iv. information about the use of proceeds,
- v. general information about the applicant and its operation,
- vi. information about risk factors,
- vii. information about corporate governance,
- viii. financial information and/or consolidated financial information, and
- ix. the components of the annex.

The disclosure document shall 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."

The annex to the disclosure document (SSF) needs to comprise the following components:

- i. detailed terms and conditions of the debt securities,
- ii. financial report audited by an independent auditor,
- iii. interim financial statement reviewed by the independent auditor (if any),
- iv. summary credit rating report issued by a CRA accredited by the SECC (if any),
- v. asset valuation report (if any),
- vi. summary credit rating report on the guarantor issued by a CRA accredited by the SECC (in case of guaranteed bond issuance), and
- vii. experts' consent letter on establishing their statement or report in the disclosure document.

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. The fee is not refundable even if the application is not successful.

#### Step 4—Review and Approval from the Securities and Exchange Commission of Cambodia and Registration of the Disclosure Document

The SECC will review the application and disclosure document (SSF) 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 working 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 would be extended if there is a reasonable explanation by the applicant for the delay.

The SECC will inform the issuer in writing of its approval or rejection of the issuance application and the registration of the disclosure document within 30 working days from the receipt of complete documentation. The approval and registration are valid for 6 months.

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. The reasons for a possible rejection are outlined in Article 16 of the Prakas on Debt Securities Offering to Qualified Investors.

Once the SECC has issued its approval and registration of the disclosure document, the issuer is able to offer the debt securities to Qualified Investors.

#### 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 Debt Securities Offering to Qualified Investors within the validity of the disclosure document (6 months), starting with the subscription. The subscription is open to Qualified Investors only.

The subscription shall be conducted through a securities firm or firms licensed by the SECC. There is no specified time frame for the subscription to a Debt Securities Offering to Qualified Investors; while a period of 4 days has emerged as the typical length of a subscription period, the underwriter determines the actual period. The subscription form to be used will be determined by the SECC and will need to include the disclosure document.

The securities firm(s) will need to issue a receipt and deposit any subscription moneys received into the dedicated account with the cash settlement agent; subscriber information will be kept by the securities registrar appointed by the issuer. When the subscription is completed, the issuer shall submit a report on the subscription result to the SECC without delay. The completion report will need to include a confirmation from the cash settlement agent on the proceeds received from the subscription.

The issuer, securities registrar, or securities firm(s) shall distribute the debt securities to successful subscribers by the next working day following the closing date of the subscription period. The issuer will need to deposit the debt securities issued with the securities depository operator for the debt securities to become tradable.

In the event that the debt securities remain unsubscribed at the end of the subscription period, the underwriter (if any) shall subscribe to the remaining debt securities in line with its contractual agreement, and the issuer needs to submit a report on the subscription of the remaining debt securities to the SECC without delay and in a form determined by the SECC.

If the subscription of the debt securities fails, the registered disclosure document may be cancelled. In case of an unsuccessful subscription, provisions for the refund of subscription amounts are stated in Articles 21 and 22 of the *Prakas*.

#### Step 6—Listing of Debt Securities

The approval from the SECC and the registration of the disclosure document is the prerequisite for the completion of the listing process of debt securities on CSX. At the same time, the listing of debt securities is an integral part of the issuance process under AMBIF (see Chapter I.3).



Once the issuer has obtained the issuance approval from the SECC (for a Debt Securities Offering to Qualified Investors) and the confirmation of the registration of the disclosure document, and the subscription process has been completed, the issuer shall complete the listing application process within 7 working days. The listing process is described in the Debt Securities Listing Rules of CSX, which are available in English from the CSX website.<sup>15</sup>

At the time of the listing application, the issuer needs to fulfill the following criteria:

- i. the shareholders' equity of the applicant shall be at least KHR2 billion, except in the case of a secured bond;
- ii. the total nominal value of the issued debt securities and to-be-listed debt securities shall be at least KHR1 billion, or at least KHR500 million for a secured bond;
- iii. the face value of the debt securities shall be KHR100,000; and
- iv. all issued debt securities shall be deposited at the operator of the securities depository of CSX.

The issuer will need to submit a Listing Application Form to CSX, with the documents attached as mentioned below:

- i. the disclosure document (such as the SSF) already registered with the SECC;
- ii. documents proving the debt securities subscription settlement;
- iii. a letter confirming that the debt securities have been deposited at the operator of the securities depository (i.e., CSX Depository);
- iv. a debt securities allotment report;
- v. a copy of the bondholder representative agreement or the agreement with the registrar, transfer and paying agent; and
- vi. a copy of the underwriting agreement.

The Listing Application Form is a physical document available from CSX and is to be submitted in duplicate. The form contains text in Khmer and English, but it is required to be completed in Khmer only. Legally binding contracts and other material information will need to be submitted in Khmer. CSX accepts the SSF when registered with the SECC; the SSF will be in Khmer as per current SECC requirements.

The issuer will need to sign a Securities Listing Agreement with CSX, in a format approved by the SECC, prior to listing; the agreement will take effect on the effective listing date.

CSX will check on the status of the issuer—based on its due diligence at the time of the Listing Eligibility Review—and respond within 5 working days with its listing approval and the effective listing date information. The listing approval will be in writing in Khmer in the form of a physical letter to the issuer.

A listing fee will be payable by the issuer prior to the effective listing date (please see the relevant details in Chapter VI of the *ASEAN+3 Bond Market Guide for Cambodia*).

### Step 7—Post-Issuance Reporting Obligations

When the issuance of debt securities to Qualified Investors is completed, the issuer is required to report the result of the offer without delay to the SECC; this report needs to include a confirmation from the cash settlement agent on the proceeds from the subscription. Detailed provisions on the timely and continuous disclosure of material

<sup>15</sup> See <http://csx.com.kh/laws/lsr/listPosts.do?MNCD=20501>.

events are stipulated in Article 27 of the Prakas on Debt Securities Offering to Qualified Investors, with further provisions on periodic disclosure in Article 28. The need for the issuer to advise the SECC of a planned change in bondholders representative is separately prescribed in Article 31.

The issuer will also need to comply with disclosure provisions in the CSX Debt Securities Listing Rules and the Prakas on Corporate Disclosure.

## **2. Issuance Process for Resident Financial Institution**

Banks and financial institutions supervised by the NBC are required to seek a no objection letter from the NBC for the issuance and subsequent listing of debt securities on CSX. According to the Prakas on Listing Criteria of Banking and Financial Institutions on Cambodia Securities Exchange, published by the NBC in September 2017, additional criteria apply such as an institution's net worth and the assessment grade given by the NBC.

The actual issuance application and approval process is the same as for all other resident issuers (see section 1).

## **3. Issuance Process for Nonresident Issuer**

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

## **C. Issuance Process for Bonds Denominated in Foreign Currency**

### **Issuance Process for US Dollar-Denominated Bonds and Notes**

The actual issuance and listing application and approval process for US dollar-denominated bonds and notes is the same as for bonds and notes denominated in riels. CSX can list, price, trade, and settle securities in both riels and US dollars.