

## Capital Markets

# New Regulations on FinTech Regulatory Sandbox in Non-Banking Financial Services Sector

In line with the vision of the Royal Government of Cambodia to innovate financial technology ("**FinTech**") in the non-banking financial services industry in Cambodia, the Non-Banking Financial Services Authority ("**NBFSA**") issued Prakas No. 037 on FinTech Regulatory Sandbox in Non-Banking Financial Services Sector dated 4 August 2023 ("**Prakas**"). The Prakas aims to introduce and manage a sandbox environment for FinTech in sectors regulated under NBFSA to test out new products. Regulators currently supervised by NBFSA are required to issue guidelines setting out details in which companies can partake in testing out their FinTech products in the sandbox environment.

In line with the Prakas, on 7 August 2023, the Securities and Exchange Regulator of Cambodia ("**SERC**") issued Guideline No. 009/23 on the Regulatory Sandbox in Securities Sector ("**Guideline**"). The Guideline replaces the presiding Guideline No. 001/22.

Under the Prakas and the Guideline, "FinTech Regulatory Sandbox" refers to an environment that allows a company to experiment its new Financial Product and Services ("**FPS**") with actual customers within a well-defined space and under limited duration, before the official launch and circulation of the product on a larger scale.

This Update highlights the key features of the Prakas and the Guideline.

## Prakas on Fintech Regulatory Sandbox in Non-Banking Financial Services Sector

### A. Obligation of the Regulators Supervised by NBFSA

Regulators supervised by NBFSA are required to develop guidelines on the FinTech Regulatory Sandbox ("**FRS**") which set out the objectives, policy, evaluation criteria, and formalities and procedures in relation to testing out FPS in a sandbox environment, the pre- and post-experimental stage obligations, as well as disclosures required by the regulators.

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### **B. Conditions and Requirements for the Applicant**

Prior to the participation in the FinTech Regulatory Sandbox (“**FRS**”), a company must submit an application and obtain a permit from the relevant regulator. It must comply with the formalities and requirements set out by the relevant regulator. An applicant must be a duly registered company with the Ministry of Commerce (“**MOC**”) in Cambodia. When a company is in the sandbox environment, the relevant regulator may require the company to meet certain conditions prescribed by the regulator in a rule book to ensure that the product testing of each company is managed properly.

## **Guideline on FinTech Regulatory Sandbox in Securities Sector**

### **A. Application Procedure**

The company which intends to conduct its FPS experiment in the FinTech Regulatory Sandbox must submit an application to the Securities and Exchange Regulator of Cambodia (“**SERC**”). Upon the receipt of the application, SERC will first review if the application satisfies with the FRS requirements and notify the applicant whether its application is accepted within 45 business days from the date of receiving adequate documents for evaluation. If the application is accepted, SERC will then evaluate the application and conduct a site visit at the applicant’s business premises before accepting the proposal.

The timeframe for the evaluation process is based on a case-by-case approach and notification on the acceptance of the proposal will be made in writing to the applicant.

### **B. Validity of Permit**

The validity of the FRS permit is to be determined by SERC on a case-by-case basis, taking into consideration the complexity and necessity of the experiment of the proposed FPS. The applicant may, if necessary, request for extension to the validity of the permit at least 30 days before its expiration.

### **C. Objective of the FRS**

The objective of the FRS is to encourage the testing of new FPS with proper management and within a specific period of time to ensure:

- i. increased effectiveness;
- ii. better risk management;
- iii. creation of new opportunities; and
- iv. better living standards for citizens.

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### **D. Principles of the FRS**

The FRS adopts the following principles:

- i. The proposed FPS do not contain similarities to existing products and services in the securities sector.
- ii. The proposed FPS introduces innovation that is a value-add to existing products and services in the securities sector.
- iii. The proposed FPS provides determinable benefits directly or indirectly to the customers or the securities sector.
- iv. The scope and timeline for the carrying out of the testing phase are specific.
- v. The risk and consequences that could arise from the failure of the testing phase are manageable.
- vi. The applicant fulfils all legal obligations including the testing of the proposed FPS as well as understands the obligations pertaining to the proposed products and services.

### **E. Evaluation Criteria of the FRS**

The criteria for evaluating the FRS are as follows:

- i. The proposed FPS uses new or emerging or existing technology in an innovative way.
- ii. The proposed FPS is capable of solving problems of or providing benefits to the consumers or the financial industry.
- iii. The applicant is a duly registered company with the MOC in Cambodia, with full commitment, resource and capability to launch its proposed FPS on a broader scale after leaving the sandbox environment.
- iv. The applicant has comprehensively determined the experiment scenario and the expected outcomes of the experiment with the proposed FPS.
- v. To ensure efficiency and proper functioning of the proposed FPS, the applicant has assessed the scale and working conditions of the FPS.
- vi. The applicant has evaluated and minimised risks that could potentially arise from the proposed FPS.
- vii. The applicant establishes measures, principles, and essential policies for the operation of the proposed FPS.
- viii. The applicant establishes acceptable strategies for exiting the FRS.
- ix. The applicant complies with other conditions as may be determined by SERC.

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### F. Exception to the FRS Requirements

Exceptions to the conditions/requirements may be granted by SERC on a case-by-case basis depending on the proposed FPS.

### G. Other Obligations and Conditions

The Guideline further sets out the following obligations and conditions for the applicant:

- **Obligations during experimental stage:** During the experiment, the applicant is required to provide update and report on any discoveries or issues, and measures taken to deal with such issues. The detail of the information to be provided in such update and report will be determined by SERC taking into consideration the complexity, duration, size and scope, and the relevant risks of the experiment. Customers who intend to test the FPS in the sandbox must be well informed of the FPS, the FRS and other relevant risks of the FPS. The applicant must ensure that the customers have read and understood all the relevant risks of the FPS.
- **Obligations post experimental stage:** Within 30 days after the experiment comes to an end, or within a specified time to be determined by SERC, the applicant is required to provide a final report which includes major discoveries, cybersecurity efficiency, relevant operations efficiency, customers' complaints and resolution report, and other noteworthy discoveries from the experiment as determined by SERC.
- **Obligations after leaving the FRS:** Upon the expiry of the Sandbox period, all exemptions from regulatory requirements by SERC will end and the applicant is required to leave the FRS. To launch its proposed FPS on a broader scale after leaving the FRS, the applicant must get an approval from SERC based on the result of the completed FRS and must comply with applicable regulations.
- **Conditions for withdrawal of permit:** SERC may withdraw the FRS permit if the applicant (i) fails to mitigate or implement measures against the risks; (ii) provides false or misleading information or fails to provide information; (iii) causes loss to the customers, investors and the public; (iv) suffers loss of reputation; (v) is in the process of liquidation; or (vi) violates laws and regulations in force, and other legal requirements.
- **Other measures:** In addition to the withdrawal of FRS permit, other measures may be enforced against an applicant who (i) fails to observe the laws and regulations relating to

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the Know Your Customer principle and customer privacy policy; (ii) encourages illegal or deceitful sale of products or services or , encourages the sale of products or services based on misleading advices; (iii) violates anti-money laundering and combating financing of terrorism or intellectual property laws; and (iv) causes risks to financial stability.

If you have any queries on the above, please feel free to contact our team members below who will be happy to assist.

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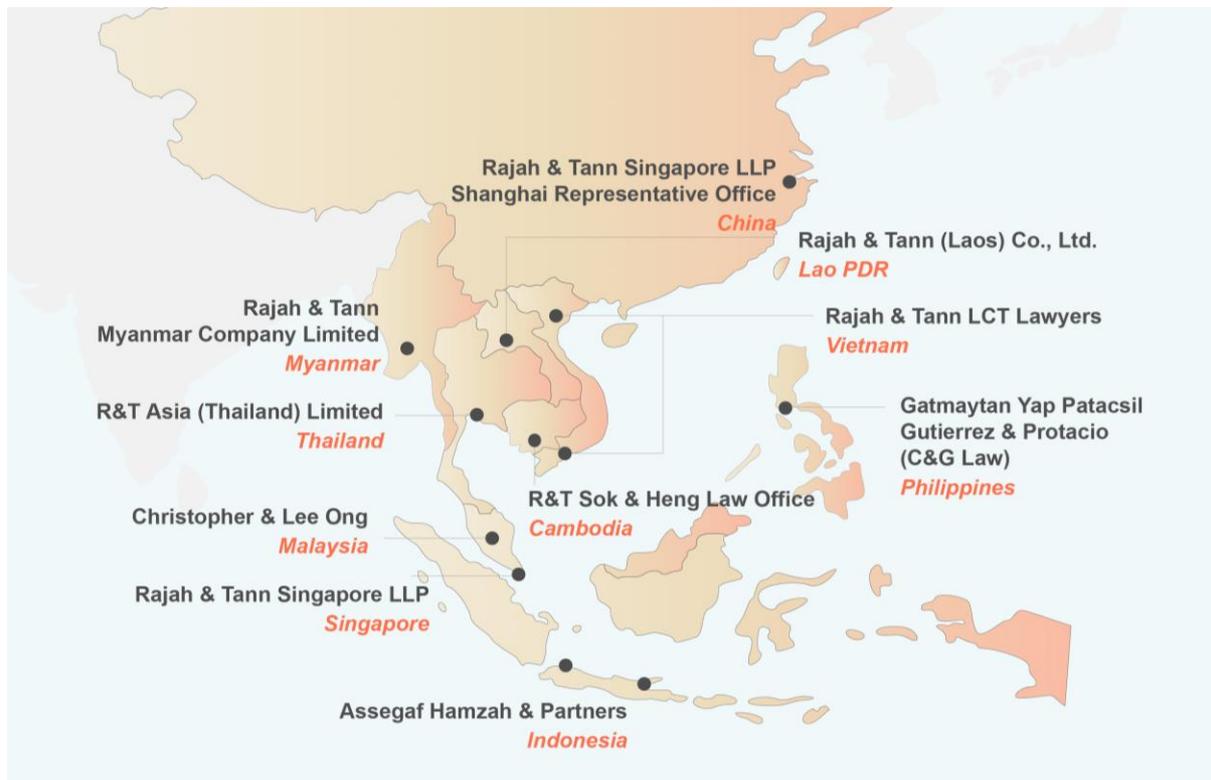
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