

Preliminary Assessment Summary

Sub-decree on Financial Trust Funds

The requirement of financial trust fund registration is intended to enhanced the effectiveness accountability and transparency of trust fund usage. It will also be easier to manage and prevent trust fund fraud during transactions and obtain clear trust fund financial statements, and ensure the trust fund balance is transfered to either trust fund operators or the royal government to manage after project termination. All Bank and micro-finance institutions which have received trust funds from development partners are required to register and pay a yearly certificate fee? and pay a contribution equal to 0.5 % of the trust fund balance to the Ministry of Economy and Finance.

1. **Problem Identification**

- Management of Financial Trust Funds haven't been good enough and smooth yet
- Shortage Lack of transparency and accountability over trust fund usage
- Trust fund providers lose confidence in the royal government
- No proper registration

2. **Objective**

This Sub-decree is intended to manage, keep and use trust funds effectively, transparently and accountably. It is also intended to help reduce the misuse of trust funds and also permit the royal government to manage a fund as a trust fund that has an agreement with development partners, which is under the management of bank and micro-finance institutions.

3. **Options**

Option 1 : Status quo, no need to create sub-decree

Option 2 : Sub-decree on Financial Trust Funds

4. **Estimate of compliance Costs and Benefit**

Costs and benefits analysis has been undertaken as follows :

Option 1	Costs	Benefits	
Royal Govt	N/A	-No Confidences from development partners -Management	
Business	N/A	Can use budget that is left over from the project termination as capital to continue business	
Option 2	Costs	Benefits	

Royal Govt	-Total costs for 5 years = \$41,075	-Total benefits for 5 years = \$ 599 600 # Net income \$558,526 -Obtain confidence from development partners -Effective management of trust fund	
Business	-Total costs for 5 years = \$604,408	-May receive trust fund from development partners -Get additional benefits from incremental trust fund - Get trust in bank and micro-fund institutions's operations -Smooth working and no challenges with MEF	

Sensitivity:

1. 30% of bank and microfinance
2. Balance of trust fund In this case assume 20 Million?
3. How many banks and microfinance firms get profit from trust funds?

5. Consultation

MEF has consulted with Banks, micro-finance institutions, trust fund operators, trust fund providers, inter-department general, independent financial trust fund officials, council of legal affairs and other stakeholders. As a result, all stakeholders have supported the draft sub-decree on financial trust fund.

6. Conclusion

The study shows that option2 the creation of sub-decree on financial trust funds, which requires banks, micro-finance institutions, trust fund operators, and trust fund providers to cooperate with royal government via MEF, and requires bank and micro-finance institutions to pay a small fee for registration of financial trust funds and for a yearly certificate, which costs more for businesses but this option provides significant benefits and transparency for the royal government and trust fund providers. Therefore this sub-decree should be created.

As for Option 1- status quo : no creation of sub-decree on financial trust funds, the conclusion from the Option 1 demonstrates that no benefit to royal government due to implementation is not effective and transparent. Therefore, Option 1 should not be chosen.

7. **Implementation and monitoring and evaluation**

After the Sub-decree on Financial Trust Funds is officially passed, MEF should take the following action for implementing and monitoring:

1. MEF should disseminate this sub-decree widely to the public, bank and micro-finance institutions, trust fund providers, beneficiaries, and stakeholders and instruct Provincial-Municipal Department of Economy and Finance to disseminate to bank and micro-finance institutions.

2. MEF has to create Prakas on Management and Control of Financial Trust Funds.

3. Directive Circular

4. Implementation

-Transitional period

-Fine

-Ministry and Departments of Economy and Finance to follow up the implementing the sub-decree in order to improve its transparency and governance. Competent officials at ministry and provincial-municipal level to follow up directly with bank and micro-finance institution's implementation.

5. Monitor and evaluate implementation of Sub-decree Prakas and Circular?

This regulation should be monitored and evaluated the result of implementing annually and should be assessed and also reviewed in 5 years to adapt to actual situation.

Preliminary Assessment statement

Regulation : Draft Sub-Decree on Financial Trust Fund
 Ministry : Economy and Finance
 Reference no :
 Date started : 04 July 2016
 Date finished : 06 Oct 2106

A brief description of the proposal

This Sub-Decree stipulates rules and procedures on establishment, registration, management and monitore financial trust fund and has the scope of implementation on trust fund governance which receive financing or financing in form of grant from development partners or sub-loan aiming at development of bank and micro-finance in the Kingdom of Cambodia.

Refer to Law on Financial Management year 2013 chapter 3, part 2, article 14 stipulated that "Allow MEF to be Financial Trust Fund Regulator in order to manage and keep trust fund that royal government signed agreement with development partners, which is under the management of bank and micro-finance institutions".

This Financial Trust Fund is authorized by Sub-decree as requested by Minister of MEF. Refer to the content of article 14 of the Law on Financial Management year 2013 requires MEF to manage financial trust find in bank and micro-finance sector in the Kingdom of C Cambodia. Therefore, MEF create the sub-decree to manage financial trust fund that Royal government signed agreement with development partners, which is under management of bank and micro-finance institutions and MEF plays the role as regulator.

Types of proposal

Law	Royal Decree	Sub Decree	Prakas	Decision	Circular	Other (describe)
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

This proposal regulation has impact on:

Economic Social Environmental Other

1. Problem Identification

1.1. Main problems to be addressed by this proposal

- Management of Financial Trust Fund haven't been good enough and smooth yet
- Shortage of transparency and accountability over trust fund usage
- Trust fund providers loss their confidence in royal government
- No registration properly

1.2. Other related problems to be also addressed by this proposal, No

1.3. List any (existing) regulations that are related or similar?

Law on Financial Management year 2013 just allows MEF to be financial trust fund regulator but it fails to detail procedures of management and registration of financial trust fund (Chapter 3 part 2 article 14 stipulated that "Allow MEF to be Financial Trust Fund Regulator in order to manage and keep trust fund that royal government signed agreement with development partners, which is under the management of bank and micro-finance establishments". The Financial Trust Fund is authorized by Sub-decree as requested by Minister of MEF.

1.4. Is there any competition impact?

This Sub-decree has no competition impact since the Sub-decree just stipulates rules and procedures on establishment, registration, management and monitoring of financial trust fund. So this Sub-decree has no competition impact.

This Draft Sub-decree is intended to manage, keep and use trust fund in an effective transparent and accountable manner. It also helps to reduce the misuse of trust fund and enhance confidence from development partners and also promote economic growth. Bank and micro-finance establishment shall register financial trust fund more than previously. Meanwhile Royal Government could manage fund as trust fund that signed an agreement with development partners, which is under the management of bank and micro-finance institutions.

3. Options

Option 1 : Status quo, no need to create sub-decree

Option 2 : Sub-decree on Financial Trust Fund

4. Preliminary estimate of compliance Costs and Benefit

4.1. Identification of tasks and cost categories

Option	Royal Government	Business
Option 1 : Status quo, no need to create sub-decree	-Cooperate with provincial and municipal departments to collect data on banks and micro-finance institutions which have received trust fund	-Participate in statistic recording
Option 2 : Sub-decree on Financial Trust Fund	-Inter-departmental meeting -Resources, materials, staff -Consultative workshop	-Participate in meeting from ministerial working group -Cost to register trust fund at MEF

4.2. Identification of benefit categories

Options	Costs
Option 1 : Status quo, no need to create sub-decree	-Small benefit for economy
Option 2 : Sub-decree on Financial Trust Fund	<ul style="list-style-type: none"> - -Ease to manage -Banks and micro-finance institutions participate in registering financial trust fund -At the end of the project, the trust fund remainder shall be transferred to trust fund providers or kept as state property. -Reduce trust fund fraud -Enhance effectiveness and accountability of trust fund usage.

4.3. Scope of each Option

Option	Sector or Business	Amount of business	Reference/Evidence
Option 1 : Status quo, no need to create sub-decree	-Micro-finance institution in 2013	39	http://nbc.org.kh/economic_research/mfis_reports.php
	-Banks in 2013	44	http://nbc.org.kh/economic_research/banks_reports.php
Option 2 : Sub-decree on Financial Trust Fund	-Micro-finance institution in 2013	39	http://nbc.org.kh/economic_research/mfis_reports.php

	-Banks in 2013	44	orts.php http://nbc.org.kh/economic_research/banks_reports.php
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5. Consultation

MEF has consulted with Banks, Micro-finance institutions, trust fund operators, trust fund providers, inter-department general, independent financial trust fund officials, council of legal affairs and other stakeholders. As a result, all stakeholders have supported draft sub-decree on financial trust fund.

6. Conclusion

The study shows that option 2 the creation of sub-decree on financial trust fund which requires banks, micro-finance institutions, trust fund operators, trust fund providers to cooperate with royal government via MEF, and requires bank and micro-finance institutions to pay small fee for registration of financial trust fund and for yearly certificate which cost more to businesses but this option provides significant benefits and transparency to the royal government and trust fund providers. Therefore this sub-decree should be created.

As for Option 1- status quo : no creation of sub-decree on financial trust fund, through the conclusion from the Option 1 demonstrates that no benefit to the royal government due to implementation is not effective and transparent. Therefore, Option 1 should not be chosen.

DO we need to do (RIS)?

Need

No Need

No need to do RIS due to this regulatory do not have the negative impact to competition.

If the regulatory choosed

7. Implement and monitoring

Option 2: the creation of Sub-decree on Financial Trust Fund may get results, it should implement as follows :

7.1. What measures were adopted to enhance transparency and good governance during the implementation stage?

Following the Sub-decree on Financial Trust Fund to be passed officially, MEF should take action on implementing and monitoring as follows :

1. MEF should disseminate this sub-decree widely to the public, bank and micro-finance institutions, trust fund providers, beneficiaries, and stakeholders and instruct Provincial-Municipal Department of Economy and Finance to disseminate to bank and micro-finance institutions.

2. MEF has to create a Prakas on Management and Control of Financial Trust Fund.

3. Directive Circular

4. Implementing

-Transitional period

-Fine

-Ministry and Provincial Departments of Economy and Finance have to follow up the implementing the sub-decree in order to improve transparency and governance. Competent officials at ministry and provincial-municipal level shall follow up directly bank and micro-finance institutions for implementation.

5. Monitor and evaluate implementation of Sub-decree Prakas and Circular?

7.2. Should this regulation be reviewed/monitored after implementation? If so when and how should it be reviewed/ monitored?

This regulation should be monitored and evaluated the result of implementing annually and should be assessed and also reviewed in 5 years to adapt to actual situation.

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