

The Law on Trust

It has been almost three years and a half now since the promulgation of the Law on Trust (“**LoT**”) in January 02, 2019. Noticeably, following the introduction of the LoT, some relevant regulations have been issued to provide further details and instruction on the establishment and registration procedure, licensing and approvals, obligation and responsibilities of the trustee and so on. The LoT is perceived to be one among other key legal instruments to open the door for diverse investment schemes, which intends to provide more assurance and protection to the trustor or owner of legal interests in the trust.

The LoT contains 8 chapters and 57 articles, basically providing a legal framework for the parties to trust, types of trust, formation and its validity, amendment, supervision and termination of the trust.

I. Parties to Trust

There are three main parties to trust, in accordance with the LoT, a trustor, a trustee and a beneficiary. There are also other parties who can be involved in the trust, a trust contributor and a trustor substitute.

II. Types of Trust

Under the LoT, there are 4 (four) types of trust:

1. **Commercial Trust** is created with a purpose to gain profit for the interests of a trust contributor or any particular individual determined by the trust contributor.
2. **Public Trust** is created for the interests of Cambodian people as beneficiary of the trust, which includes the development of financial institutions like banks, and microfinance institutions in which development partners provide fund or wealth for the sake of Cambodian people’s interests, and other public interests when relevant regulators designate a trustee to manage and protect any funds in accordance with the conditions determined by a trust document or applicable laws.
3. **Social Trust** is created when a trustor donates his or her own property to a trustee for the purpose of social interests, which includes culture, education, humanity, religion, or science.
4. **Individual/Personal Trust** is created for the interests of a trustor or any individual who is specifically determined by the trustor, in a way that the trustor donates his or her own property or fund to a trustee for the interests of the trustor or other people.

III. Formation and Validity of Trust

There are two fundamental requirements for formation of a trust, one by a trustor and another by applicable laws. For a trust formation by a trustor, it is required that the trustor transfer his or her property or fund to a trustee by way of a trust document. On the other hand, for a trust formation by applicable laws, the property or fund shall be automatically transferred to a trustee for his or her management and disposal, in line with the applicable laws. Under both the former and the latter requirements, the trustor is required to indicate the purpose of the trust, and/or mention the identity of the beneficiary.

A trust is valid only if it is registered with the Ministry of Economy and Finance ("**MEF**") no later than 03 (three) months following the date of its formation. On the same note, an approval in principle from the relevant trust regulator(s) is required for a trust formation, for any purposes, prior to the trust registration.

IV. Amendment on the Purpose of Trust

To amend the purpose of the trust, the trustee is required to submit a written notice to MEF. The application shall indicate the reasons for not being able to comply with the original purpose of the trust, and shall include an agreement of the trustor, unanimous agreement of the trustee(s) and the responsible person, and mention the conditions under the trust document or applicable laws.

V. Supervision and Termination

To ensure that all the trust operation is in line with its purpose, the relevant regulators shall have the authority to supervise the operations.

As stipulated by the LoT, there are some certain conditions in which a trust shall be terminated; specifically, by the expiration date provided in the trust document, by having accomplished the purpose of the trust, by the trustor's discretion or unanimous decision, by the decision of a competent court or by any other event(s) set out in the trust document.

Upon the termination of the trust, the trustee shall furnish the report on the trust management to MEF or other relevant regulators, providing details on the remaining trust, income, expense and other related information in accordance with the relevant regulations in force. The reporting obligation shall be carried out until completion of the liquidation process, in which the liquidator shall be designated by a person in charge of the supervision of the trust.

Should any additional information be required regarding this legal alert or if you have any further inquiry, please contact our team at info@anlor.legal or reach out to our professionals below:



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