

Policy Provision for Opening Branch Office by Foreign Bank or Financial Institutions in Nepal, 2010

Whereas, it is expedient to grant license to a foreign bank or financial institution for financial transaction having established its branch office in Nepal upon taking into account the goodwill and reputation of such a bank or financial institution in order to strengthen and consolidate the economy by mobilizing sufficient national and foreign capital for development of infrastructure of social and financial sectors within the country in view of contributing to the banking development by enhancing efficiency of the banking and financial system of the country;

Now, therefore, in line with the commitment made by Nepal under the financial service sector of the General Agreement on Trade in Services while entering into the World Trade Organization on 23 April 2004 as the 147th member, this Policy Provision has been brought into force pursuant to Section 34 of the Banks and Financial Institutions Act, 2006 for branch office to be opened in Nepal by a foreign bank and financial institution willing to carry on wholesale banking transaction from 1 January 2010.

1. Short title and commencement:

- (a) This Policy Provision may be cited as the "Policy Provision for Opening Branch Offices by Foreign Bank or Financial Institutions in Nepal, 2010".
- (b) This Policy Provision shall come into force on the date of its approval.

2. Definition:

Unless the subject or the context otherwise requires,

- (a) "Foreign bank or financial institution" means the bank and financial institution having its head office in a foreign country upon being incorporated under the foreign law.
- (b) "Branch office of foreign bank based in Nepal" means the office established by the foreign bank or financial institution in Nepal for the purpose of

operating wholesale banking transaction pursuant to Nepal law upon obtaining approval from the Nepal Rastra Bank.

- (c) "Wholesale banking transaction" means the large scale banking transaction as prescribed in No. 9 of this Manual to be carried on at the corporate level.
- (d) "Banking service" means the large scale banking service as prescribed in No. 9 of this Manual.
- (e) "Licensed" means the bank and financial institution licensed by the Nepal Rastra Bank to operate banking transaction in Nepal pursuant to the law in force.
- (f) "Home country" means the home country where the foreign bank or financial institution licensed to operate banking transaction in a foreign country upon having established its central office therein is based in.

3. Permission to be obtained:

- (a) The foreign bank or financial institution willing to operate branch office in Nepal must compulsorily obtain approval from the Nepal Rastra Bank.
- (b) No foreign bank or financial institution shall operate branch office in Nepal without obtaining approval from the Nepal Rastra Bank.
- (c) The foreign bank willing to open branch office in Nepal must produce no-objection letter and a letter indicating regulation and supervision to be made in an integrated manner from the central bank or licensing authority of its home country. Moreover, the bank or financial institution must produce a letter indicating that its company has been rated at least BBB or Baa or equivalent to the same for three consecutive years.

Note:

For the purpose of rating at the international level, it means that it has been rated BBB by the Standard & Poor and Baa by the MOODY'S or rated equivalent to the same.

4. Application to be made:

- (a) The foreign bank or financial institution willing to operate branch office in Nepal must submit an application to the Bank and Financial Institutions Regulation Department, Nepal Rastra Bank, accompanied by the documents and fee as prescribed in Schedule 1 of this Manual, for prior approval.
- (b) The Nepal Rastra Bank shall make necessary studies of the documents, received in this context, pursuant to the prevailing policy provision and the law in force.
- (c) The foreign bank or financial institution must submit an application for establishment of one branch office for the first time, in order to operate branch office in Nepal.
- (d) In addition to the documents prescribed along with the application, an original voucher depositing in the US Dollar five per cent of the assigned capital structure as prescribed in No. 5 in the designated account of the Nepal Rastra Bank must be produced.
- (e) The Nepal Rastra Bank shall, if it determines appropriate and reasonable upon making studies of the received documents, grant a letter of intent to operate branch office in Nepal.
- (f) While granting the letter of intent, the Nepal Rastra Bank may specify terms and conditions.
- (g) The applicant must, within six months after obtaining the letter of intent, submit an application to the Nepal Rastra Bank for approval for operation of banking transaction upon completing the documents as prescribed in Schedule Nos. 2, 3 and 4 and fulfilling the terms and conditions.
- (h) Upon obtaining approval from the Nepal Rastra Bank, the applicant must obtain approval from / get registered with the concerned government authorities pursuant to the Nepal law in force.

- (i) Attested copy of the decision of the Board of Directors must be produced indicating commitment that if the license of the central office of the bank based in the home country is revoked and it is not allowed to carry on transaction in Nepal, the central office of the bank based in the home country shall be liable to pay and settle all the liabilities within and outside Nepal arisen while operating branch office of the foreign bank.

5. Capital structure:

The assigned capital must be **twenty** million US Dollar in minimum to operate branch office in Nepal by the foreign bank. **Moreover, the capital of the foreign branch shall also be increased in a similar proportion while increasing the capital level of existing domestic and joint venture banks.¹**

6. Remittance of assigned capital:

- (a) The cash amount equivalent to the rest 95 per cent must either be deposited in the designated account of the Nepal Rastra Bank or the Bank guarantee must be produced within thirty days after obtaining the letter of intent from the Nepal Rastra Bank. Provided, however, that, if the bank guarantee is to be produced, the bank guarantee equivalent to the said amount having validity for at least one year from the bank which has been rated BBB or Baa or at least equivalent to the same for at least three consecutive years under the international rating acceptable to the Nepal Rastra Bank may be produced.
- (b) Prior to obtaining license for financial transaction, voucher depositing the assigned capital designated by the Nepal Rastra Bank in the designated account of this Bank must be produced.
- (c) At the time of granting license to operate financial transaction, the assigned capital deposited in the Nepal Rastra Bank shall be released

¹ The provision was amended by the NRB BOD on 17/04/2014

authorizing the branch office of the foreign bank or financial institution to use it.

- (d) If a foreign bank or financial institution withdraws its application for any reason, the amount as referred to in No. 4(d) above shall be refunded.

7. Extension of branch office:

The aforesaid **twenty** million US Dollar shall be valid for one branch office and thereafter, additional five million US Dollar shall be needed for each new branch office.

8. Rating shall be required:

- (a) The foreign bank which has been rated more than or at least BBB or Baa or equivalent to the same from the international level credit rating agencies may only operate branch office in Nepal.
- (b) For the purpose as above, rating the concerned foreign bank by the international level credit rating agencies such as MOODY's, Fitch and Standard & Poor shall only be recognized for the time being.

9. Provision on banking transaction and other service:

- (a) The foreign bank or financial institution may only carry on wholesale banking transaction relating to deposit, loan, credit, other service and facilities through the branch office in Nepal.

For the purpose as above, wholesale banking transaction and other services mean the following transactions:-

(i) Acceptance of deposit and collection of financial resource:

- (1) It shall collect at least one hundred million rupees once from the corporate body / associations registered in Nepal as fixed deposit (FD) for more than one year.

- (2) It may collect at least one hundred million rupees once from the corporate body / associations by issuing certificate of deposit (CDs) for more than one year.
- (3) In the case of collection of financial resource, it may issue commercial paper (CPs) requiring per person / association to purchase such a paper worth one hundred million rupees or more.

(ii) Loan, credit / facilities:

- (1) It may lend loan to the public corporation, enterprise, public / private company and corporate body / associations for the project relating to physical infrastructure development worth at least **two**² hundred million rupees or more for a period more than one year subject to the single borrower's credit limit. The computation of the single borrower's credit limit shall be made on the basis of core capital of the principal company. Moreover, the consortium loan must also be lent subject to the said limit.
- (2) It may lend loan / channel investment for the projects worth **two** hundred million rupees or more including on all the production based industries in economic sector of the country, all the facilities relating to development under physical infrastructure sector such as hydro-power, hydro-power transmission line, cable-car, road and railway, tunnel way, airport, construction of extended and multi family residential building, irrigation, mine, etc., all the facilities relating to the social and service sectors such as hospital, school, college and university, all the businesses relating to tourism and communication sector, and lease financing of aeroplane, equipment and machine to be operated from the fuel (thermal plants).

² The provision was changed by the NRB BOD on 17/04/2014

- (3) Commercial transactions including letter of credit, guarantee and financial instruments / derivative instruments worth **two** hundred million rupees or more in convertible foreign currency subject to the prevailing provisions. However, in the case of the projects where the branch office of foreign bank or financial institution has on its own lent loan, credit and provided other facilities, this limit shall not be applicable.
- (4) No loan, credit and any other facilities shall be allowed to be channeled for any purpose of sale / purchase of land, margin lending / loan against shares, gold and silver and against the collateral of financial securities.
- (5) It may lend loan for the deprived sector under poverty alleviation program if it so wishes. For this purpose, the minimum credit limit of **two** hundred million rupees shall not be applicable.
- (6) It may provide financial service and facilities as are only required to the project for which it has lent loan. No credit limit shall be applicable to the transaction of such service and facilities.

(iii) Investment:

- (1) Investment may be made in the securities having maturity for one year or more issued by the Government of Nepal, Corporations run by the Government of Nepal, Nepal Rastra Bank, bank and financial institutions licensed by the Nepal Rastra Bank.
- (2) It may purchase and sell money market instruments such as Repo, Reverse Repo and operate inter bank transactions for fifteen days and no credit limit shall be applicable to this transaction.

(iv) Service:

- (1) It may provide financial consultation service such as merger and acquisition fund management to be provided to the corporate entity.

- (2) It may open agent / agency account in a local bank for transaction relating to the international trade / service only.
- (3) It may invest in restructuring of problem bank / financial institution or as the strategic investment partner upon obtaining approval from the Nepal Rastra Bank.
- (4) The branch office of foreign bank shall not be allowed to operate such an account which issues cheque committing to on-demand payment in Nepal.
- (5) Foreign bank or financial institution which has incorporated a bank or financial institution in Nepal as the subsidiary company holding joint or cent per cent shares shall not be allowed to open branch, sub-branch or agent or contact office within Nepal.

10. Submitting the proof of authenticity:

The foreign bank or financial institution operating branch office in Nepal must produce the following documents for its authenticity.

- (a) The foreign bank or financial institution operating branch office in Nepal must produce the documents which prove that it has been licensed to carry on financial transactions pursuant to the law in force of its home country and it has also been legally recognized upon being registered accordingly.
- (b) The foreign bank or financial institution operating branch office in Nepal must have received a letter of approval or the letter of intent for operation of branch office as well as for remitting necessary capital to Nepal as designated by this Bank from the competent authority of its country.

11. Regulation and supervision:

- (a) The Nepal Rastra bank and the regulatory and supervisory authority of the home country shall be vested with the powers to regulate and

supervise all the transactions of the branch offices of the foreign bank.

The concerned foreign bank or financial institution shall perform the role of facilitator for exchanging memorandum of understanding, letter of exchange / agreement relating thereto between the Nepal Rastra Bank and the regulatory and supervisory authority of the home country.

- (b) The directives, circular, guidelines, etc. issued to the bank and financial institution licensed by the Nepal Rastra Bank shall also be applicable to the branch office of the foreign bank or financial institution (unless otherwise mentioned therein).
- (c) If any special arrangement or concession is to be made for the branch office of the foreign bank or financial institution in respect of the issued directives, circular and guidelines, the Nepal Rastra Bank may do so.
- (d) As the Nepal Rastra Bank shall also have the jurisdiction over the branch offices of the foreign bank or financial institution just like other licensed bank and financial institution of Nepal, the act of off-site and on-site supervision shall be regularly and periodically carried out pursuant to the prevailing system and directives of the Nepal Rastra Bank.
- (e) As the supervision of the branch offices of the foreign bank or financial institution is usually made pursuant to the provision as laid down in the Basel Committee on Banking Supervision, the annual report of the concerned foreign bank or financial institution must also be forwarded to the Nepal Rastra Bank.
- (f) It shall be the duty of the branch office of the concerned foreign bank or financial institution to observe the directives issued by the Nepal Rastra Bank in the course of regulation and supervision.

- (g) If the policy directives of the Nepal Rastra Bank and the Nepal law in force are not observed, an action shall be taken and punishment and fine shall be imposed pursuant to the prevailing national and international rules and practices.

12. Branch Office In-charge to be responsible :

- (a) The Branch Office In-charge of the bank based in Nepal and the concerned bank as well shall be held accountable and liable to the transactions carried on by the branch office of the foreign bank or financial institution.
- (b) The Branch Office In-charge of the foreign bank or financial institution may leave Nepal only after informing the Nepal Rastra Bank.

13. Additional approval to be obtained :

- (a) The branch office of the foreign bank or financial institution must obtain approval from the concerned Department / Office of the Nepal Rastra Bank for carrying on transaction in foreign currency in Nepal.
- (b) If the branch office of the foreign bank or financial institution wishes to repatriate the amount out of the profit earned in Nepal to the country where its head office is based in upon paying tax and fee and settling other liabilities, if any, pursuant to the law in force, it may repatriate such an amount upon obtaining approval from the Nepal Rastra Bank.
- (c) If the branch office of the foreign bank or financial institution closes its transaction or if it returns back upon closing the branch office, it must obtain necessary approval from the Nepal Rastra Bank and the concerned authority of the Government of Nepal.

14. Submission of financial statements:

- (a) The branch office of the foreign bank or financial institution must submit financial statement to the Nepal Rastra Bank in the format as prescribed by this Bank.
- (b) The branch office of the foreign bank or financial institution must publish the statement of its financial transaction in the format as prescribed by the Nepal Rastra Bank in the national daily newspaper for the information of the general public within 15 days after expiry of each trimester pursuant to the Nepali calendar.
- (c) The branch office of the foreign bank must produce financial statements to be produced to the Nepal Rastra Bank in Nepali currency on the basis of calendar of the Nepali fiscal year.

15. Revocation of license and settlement of assets and liabilities:

- (1) The license of the branch office of foreign bank operated in Nepal may be revoked in the following circumstances:
 - (a) If the Nepal Rastra Bank Act, Banks and Financial Institutions Act and Rules and Bye-laws issued there under are not found to be observed,
 - (b) If the manuals, directives, circulars, procedures, orders, etc. issued by the Nepal Rastra Bank from time to time are not found to be observed,
 - (c) If the central office of the bank based in the home country is dissolved / liquidated.
- (2) The settlement of assets and liabilities and forfeiture of assets of the branch office of the foreign bank of which license has been revoked shall be made as follows:-
 - (a) If the branch office of the foreign bank is not allowed to carry on transaction in Nepal upon revocation of its license as referred to in sub-section (1) above, it shall be the responsibility of the central

office of the bank based in the home country to pay and settle all the liabilities arisen within and outside Nepal while operating branch office of that foreign bank or financial institution.

- (b) If it appears that it may take some time for payment and settlement of liabilities arisen in Nepal by the central office of the bank based in the home country in such a situation where the license is revoked, the Nepal Rastra Bank may also withhold assets of the branch office of the foreign bank immediately after revocation of license.
- (c) The Nepal Rastra Bank shall release the assets withheld by it only after the central office of the bank based in the home country has paid and settled all the liabilities of the branch office.
- (d) The Nepal Rastra Bank shall withhold all the assets of the branch office of the foreign bank immediately after the Nepal Rastra Bank came to know that the central office of the bank based in the home country is liquidated and the assets so withheld shall also be used for the purpose of payment and settlement of liabilities arisen in Nepal.

16. Alteration may be made:

The Nepal Rastra Bank may make alteration and amendment to this Policy Provision as and when so required.

Schedule : 1

Documents to be produced by the foreign bank or financial institution, willing to open branch, sub-branch or agent or contact office in order to operate banking and financial transaction in Nepal, for approval prior to opening such a branch, sub-branch or agent or contact office.

- (a) Copies of the Memorandum of Association and Articles of Association of the foreign bank and the certificate of incorporation of the bank or financial institution in the concerned country and the capital structure,
- (b) Copy of license of the foreign bank obtained to operate banking and financial transaction in the concerned country,
- (c) Copies of the audited balance-sheet and profit loss account of the foreign bank for the last three fiscal years,
- (d) Letter of approval / permission granted by the central bank or regulatory authority of the concerned country to open bank or financial institution in Nepal pursuant to the law of the home country,
- (e) The description of the main place carrying on financial transaction in Nepal if such a place is confirmed,
- (f) Documents and statement of the possible office-bearers of the proposed branch or office of the foreign bank as prescribed,
- (g) Statement on plan, commercial strategy, type of transaction to be operated, internal control and risk management of the proposed business in Nepal,
- (h) Written commitment made by the Board of Directors of the bank of the home country to make on-demand payment to the Nepal Rastra Bank of the amount necessary for settlement of all its liabilities with regard to the

commercial transaction made by the branch office, based in Nepal, of the foreign bank and settle any other liabilities,

- (i) Statement indicating that any office-bearer of the foreign bank is qualified as prescribed to fulfill his/her responsibilities,
- (j) Self-declaration made pursuant to the international standard relating to Know Your Customer (KYC), and the Anti-money Laundering Act (For instance: other statements along with Wolfsburg Format),
- (k) Other statements and documents as prescribed by the Nepal Rastra Bank from time to time,
- (l) Attested copy of the decision of the Board of Directors indicating commitment on the matter that it shall be the responsibility of the central office of the bank based in the home country to pay and settle all liabilities within and outside Nepal arisen while operating branch office of the foreign bank if such a branch office is not allowed to carry on transaction in Nepal upon revocation of license of the central office of the bank in the home country,
- (m) Original voucher depositing a non-refundable sum of 10,000 US Dollar in Na. No. Aa. Hi. Miscellaneous Account of the Banking Office, Thapathali of the Nepal Rastra Bank for the fee for application.

Individual statement of high level managers to be engaged in the branch office of the foreign bank to be opened in Nepal

1. Name / family name :
 - (1) Name and surname (in Nepali)
 - (2) Name (in English).....
 - (3) Name (in other language)
2. Date of BirthAge Year
3. Nationality
4. Passport No....Date of issuance Issuing country / place
5. Contact address No. Street District
6. Marital status
- (1) Name of wife
- (2) Number of son/daughter

Place of work of the son / daughter if they work

- 2.1 Name Date of birth
- Place of work Designation
- 2.2 Name Date of birth
- Place of work..... Designation
- 2.3 Name Date of birth
- Place of work Designation

7. Academic qualification

Academic institution	Degree and main subjects	Year of securing qualification
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_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Working experience:

9. Main responsibilities performed in the past:

Name of organization	Designation	From – to	Reason for leaving Organization
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

10. Work experience of any post of other organizations, if any:

Company / Organization	Address	Designation
_____	_____	_____
_____	_____	_____
_____	_____	_____

11. High level managerial role performed in other financial organization because of undertaking 10 per cent share ownership on the date of application :

.....

12. I hereby certify that I have met qualifications necessary to establish branch office of the foreign bank pursuant to the Banks and Financial Institutions Act, 2006, Nepal law in force and the policy and guidelines of the Nepal Rastra Bank and have no adverse characteristics. I have enclosed herewith

the photocopies of individual identity card and/or passport and certificates of academic qualification.

I hereby certify that information as above is true and the enclosed documents are authentic.

Signature: (Representative of the Company)

Date:

Signature: (Director authorized by the Company)

(.....)

(Seal of the Institution)

Date

Commercial plan of the branch office of the foreign bank:

- 1. Commercial strategy**
 - 1.1 Purpose, policy and strategies of the transaction
 - 1.2 Commercial grounds and main services
 - 1.3 Targeted customers
 - 1.4 Competitive strategy
- 2. Overall strategy**
- 3. Commercial policy**
 - 3.1 Extension of credit
 - 3.2 Other investment
 - 3.3 Target and extension
 - 3.4 Possible loss management policy
- 4. Competitive analysis**
 - 4.1 Overall financial condition and sectoral analysis
 - 4.2 Analysis of strength / weakness, opportunities / threats (SWOT)
- 5. Financial data and main norms undertaken while formulating financial plan:**

Gross domestic production (per cent), inflation rate (per cent), limit of loan flow rate (per cent), limit of interest to be accrued in deposit (per cent)
- 6. Comprehensive statement of the purposed branch office**
 - 6.1 Location of the branch office
 - 6.2 Description of the proposed capital
 - 6.3 Number of foreign employees.

Application for approval for operation of the branch office of the foreign bank

..... Bank Limited

Nepal Rastra Bank

Central Office

Bank and Financial Institutions Regulation Department

Re: Application for approval for operation of the branch office of the foreign bank

As per the letter of intent received from the Nepal Rastra bank on, the persons having signature here under,

Name of the bank

Address of the branch office

have submitted this application for approval for operation of the branch office.

The following documents necessary for this application are enclosed herewith:

- (1) Documents necessary for management of the branch office
- (2) Organizational structure, modus operandi, method and staffing framework
- (3) Amount deposited in the Nepal Rastra Bank as the proof of depositing the assigned capital (..... in word) photocopy of certificate
- (4) Evidence / grounds which show the competency of the immediate operation:
 - (a) Inventory of the fixed capital and balance,
 - (b) Description of the possible location of office,
 - (c) Picture of office building and inner decoration,
 - (d) Specimen signature, form, format of form,
 - (e) Permanent account Number (PAN) and association registration No.
- (5) Individual statement of manager of the branch office and the statement indicating that he/she has not held any other post.

We hereby extend thank for granting approval.

Signature

.....

(Director authorized on behalf of the Company)

(.....)

Seal of the Institution