

ROYAL MONETARY AUTHORITY OF BHUTAN



PENALTY RULES AND REGULATIONS 2022

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1. PRELIMINARY

It is crucial that the Royal Monetary Authority of Bhutan (hereafter referred to as the Authority) continues to take timely and appropriate action when the Financial Service Providers (FSPs) fail to comply with the regulatory requirements that are imposed on them in order to ensure the safety, soundness, and stability in the financial system in the overall national interest.

In order to ensure transparency and impartiality of the Authority's decisions, these amended rules and regulations are issued in pursuant to Section 167 of the Financial Services Act of Bhutan 2011 (referred to as FSAB 2011 hereafter) to provide overall principles and methodologies to determine and impose administrative penalties on the FSPs for violating any provision of rules, regulations, guidelines, directives, circulars, notifications, observations, and timelines set out and issued by the Authority from time to time in line with the Acts (the Royal Monetary Act of Bhutan 2010 and Financial Services Act of Bhutan 2011, whichever is applicable).

2. TITLE, COMMENCEMENT, AND APPLICATION

This framework shall:

- a) Be called the Penalty Rules and Regulations 2022;
- b) Come into force on **1st July 2022**; and
- c) Shall apply to all:
 - i. Financial institutions licensed by the Authority under the Acts;
 - ii. Financial services providers licensed/registered with the Authority under the provisions of the Acts; and
 - iii. Any person who is governed by these rules and regulations framed and enforced by the Authority.

3. REPEAL AND SAVING

Upon adoption of the amended rules and regulations by the Board (RMA):

- a) The Penalty Rules and Regulations 2019 shall stand repealed;
- b) Supersede any circular, guideline, references or notifications that are inconsistent with these rules and regulations; and
- c) All actions taken by the Authority under the Penalty Rules and Regulations 2019 shall stand until appropriate remedies or rectifications are carried out by the FSPs.

4. AUTHORITY

In pursuant to the power vested under Section 167 of FSAB 2011, the Authority hereby issues the amended rules and regulations to impose appropriate penalty/ies on the FSPs for violations specified under Section 9 of these rules and regulations.

5. INTERPRETATION

The Authority shall interpret any provision of the rules and regulations and its interpretation shall be final and binding on the FSPs.

6. REVIEW AND AMENDMENT

The Authority shall review the rules and regulations including the penalty matrix from time to time and make amendments where necessary.

7. DEFINITIONS

- a) Unless otherwise specified, the terms and terminology used in the rules and regulations shall bear the same meaning defined in the Acts;
- b) The term “Authority” means Royal Monetary Authority of Bhutan as defined in the RMA Act 2010;
- c) The term “Acts” means Royal Monetary Authority of Bhutan Act of Bhutan 2010 and Financial Services Act of Bhutan 2011; and
- d) The term “Board” means the Board of the Authority established under Section 28 of the RMA Act of Bhutan 2010.

8. OBJECTIVES

The objective of these rules and regulations is to provide broad provisions for assessing and imposing monetary penalties, mainly to:

- a) Enhance the integrity and credibility of the FSPs by ensuring that violations specified under Section 9 of the rules and regulations are detected early, strictly monitored and contraventions, if any, are accordingly penalized;
- b) Provide guidance for the assessment of the nature of administrative and quantum of administrative penalties and corrective actions to be directed by the Authority; and

- c) Deter the FSPs for violating any provisions of the of rules, regulations, guidelines, directives, circulars, notifications, observations, and timelines issued by the Authority in line with the Acts.

9. VIOLATIONS

The Authority shall consider violations eligible for monetary penalties including, but not limited to, the following:

- a) Violation of the Acts, rules, regulations, guidelines, directives, circulars, and notifications issued by the Authority and specified in *Appendix B*;
- b) Non-compliance with the observations/findings/corrective actions within the timelines prescribed by the Authority;
- c) Contraventions that are tantamount to offence and not covered by these rules and regulations; and
- d) Notwithstanding the above provisions, offences that are clearly stipulated with a penalty in the Acts shall be dealt with as per the provisions of the respective Acts.

10. FACTORS

The following factors shall be considered for determining the quantum of penalties as stipulated in the Matrix (refer to Appendix A)

- a) Severity;
- b) Intent;
- c) History and frequency of violations; and
- d) Effectiveness of internal control and compliance management systems.

11. PROCEDURES AND TIMELINES

The Authority shall administer the following procedures sequentially and the specified timeline to identify and impose a monetary penalty on FSPs:

a) Identification and Assessment of Violations:

- i. The departments concerned of the Authority shall identify the violation/s through its oversight, monitoring and other supervisory and surveillance mechanism;

- ii. The departments concerned shall document its recommendation/s and include the completed Penalty Matrix (*refer to Appendix A*) along with the supporting documents to determine the level of action required;
- iii. The departments concerned shall refer to the Guide (*Appendix A*) to complete the Penalty Matrix to ensure that the penalty is imposed consistently and equitably; and
- iv. The findings and recommendations along with the necessary supporting document shall be submitted to the Legal Services Department for consultation and imposition of penalties.

b) Written Notice

- i. If a decision is made by the department concerned to impose penalty on the FSP, the decision shall be communicated through a written notice (14-day notice as per Section 157 of FSA 2011) to the FSP by the Legal Services Department;
- ii. The written notice shall be served within seven (7) working days from the date of identification of violation(s) through off-site surveillance and within thirty (30) days from the date of completion of the examination for violation(s) identified through on-site supervision; and
- iii. The written notice issued to FSP concerned, among other things, shall include the following:
 - a. Seek explanation and or additional documentary evidence from the FSP concerned within fourteen (14) days from the date of issuance;
 - b. Inform the intent of the Authority to impose appropriate penalties; and
 - c. Provide an opportunity to FSPs for submitting additional documentary evidence to the Authority for review and consideration of the penalties as per the timelines set out.

c) Penalty or No-Penalty Order

- i. Based on the receipt/non-receipt of explanations from the FSPs within the fourteen (14) day notice, the Legal Services Department shall decide the next course of action;
- ii. If satisfactory explanations not to impose penalties are furnished by the FSP, the the Legal Services Department may issue No-Penalty Order or reprimand letter in lieu of penalty to the FSP;

- iii. If the department concerned is not satisfied with the explanations furnished by the FSP, a Penalty Order with the amount of penalty and the penalty matrix prepared for the purpose shall be issued to the FSP;
- iv. The Penalty Order may include corrective actions with specific timelines for compliance/rectification; and
- v. The above procedure to issue a Penalty or No-Penalty Order shall be completed within seven (7) working days from the receipt of explanations/reasons to that effect.

d) Payment of Penalty:

- i. The penalty imposed on an FSP shall be payable to the Authority within a period of thirty (30) days from the date of issue of Penalty Order;
- ii. In the case of FSPs that maintain a current account with the Authority, the Department of Banking shall debit the account of the FSP concerned upon receipt of an order of the same from the Legal Services Department;
- iii. The Department of Banking shall maintain a specific account for this purpose; and
- iv. In case of failure in payment of penalty amount, the Authority shall initiate appropriate action to impose an additional penalty not exceeding twice the amount of the penalty as per Section 168 of FSAB 2011.

e) Appeal

- i. In pursuant to Section 162 of FSAB 2011, the FSP concerned issued with Penalty Order may appeal to the Authority's Board in writing within fourteen (14) days of the issue of order;
- ii. The appeal shall be routed through the Board of FSP;
- iii. The Board of Authority shall affirm, reverse, modify or maintain status quo the decision and state its legal and factual grounds; and
- iv. The decision made by the Board may be appealed within twenty one (21) days to a court of jurisdiction if the FSPs so wish.

f) Public Disclosure

- i. The Authority shall disclose the name of the FSP on the Authority's websites or any media channels deemed appropriate including the amount and contravention after a Penalty Order is issued to the FSP.

APPENDIX A

PENALTY MATRIX

Penalty Matrix						
	Factors	0	1	2	Factor weight¹	Factor score
1	Concealment	None, or self-disclosure of violation	Disclosure upon request	Actively took steps to conceal misconduct or relevant facts	5	
2	Continuation after Notification	Violation ceased before notification	Bank took steps to correct the violation within 24 hours or the timeline provided, but the violation continued after the notification	No timely corrective action, violation continued after notification	5	
3	Repetition of violation from previous years	No repetition	Repetition of Similar violation	Repetition of Same violation	5	
4	Duration and frequency of violations before notifications	Isolated violations	Several violations or violations continued for up to 1 year	Practice, or violations outstanding for more than 1 year	5	
5	Impact on Financial Stability/Systemic Risk	No impact	Indirect Impact	Direct Impact	5	
6	Financial Gain (or loss) as a result of the violation	None	Indirect gain (or loss) to the FSP	Substantial direct gain (or loss) to the FSP	5	
7	Impact or harm other than the financial loss to the FSP	None	Moderate impact or moderate harm to the FSP	Substantial impact or substantial harm to FSP	5	
8	Effectiveness of Internal controls (IC) and or Compliance Management Systems	Strong	Moderately weak	Substantially lacking or not there	5	

¹ Factor weight from 0 to 3 shows level of severity in progressive order

	Subtotal	40	
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For FSPs with a minimum paid-up capital up to 50 million (e.g., Microfinance Institutions (MFIs and other FSPs))	
Factor Score	Penalty Amount
0	No penalty
1 - 40	50,000+0.0025% of assets size
41 - 80	100,000+0.005% of assets size
For FSPs with Minimum paid-up capital above 50 million (eg: Banks and Insurance)	
Factor Score	Penalty Amount
0	No penalty
1 - 40	600,000+0.0025% of assets size
41 - 80	1,200,000+0.005% of assets size

PENALTY CALCULATION METHODOLOGY

Guide for using the Penalty Matrix for FSPs

A. Number of matrices: One matrix shall be completed per FSP for all or one violation.

When there are several violations included in one matrix, the highest severity level applicable for any of them will be recorded for each factor in the matrix.

B. The following **definitions** apply when using the matrix:

1. Violations include violations of Acts, rules, regulations, guidelines, directives, circulars, and notifications issued by the Authority from time to time.

C. Factors:

1. Concealment: This factor pertains to the concealment of a violation or reckless unsafe or unsound practice from the Authority, FSP's board of directors, internal and external auditors, or other regulatory agencies.
2. Continuation after notification: "notification" in this factor includes notice issued by the Authority, other regulatory agencies, internal and external auditors, containing information, but not limited to the existence of a violation, unsafe practice, etc.
3. Repetition of violation from previous years: "Similar violation" may refer to previous violations of the same statute or regulation, for example, a previous Capital Adequacy Ratio requirement violation and a current Capital Adequacy Ratio requirement violation. Violations that were identified in earlier examinations should be considered in applying this factor, even if they have been corrected. If a previously corrected violation or deficiency resurfaces later, this may indicate a weakness in the bank's compliance management system or internal controls.
4. Duration and frequency of violations before notification: This factor refers to the time period during which the violation(s) at issue continued and the number of the violations at issue. "Notification" in this factor means the same as that under "Continuation after notification." Under severity level 2, "practice" includes if the conduct of violations is prescribed in the FSP's internal policies and procedures.
5. Financial gain or loss to the FSP as a result of violation: Includes any direct or indirect monetary gain or loss to the FSP.
6. Impact or harm other than the financial loss to the FSP: Impact or harm other than financial loss can be any possible negative impact or harm such as

increased reputation risk, operational risk, or compliance risk to the FSP. It can also include harm to consumers or to the public resulting from the violations.

7. Effectiveness of Internal Controls and Compliance Management systems: This factor is to evaluate whether and how a bank's internal controls or compliance programs, or lack thereof, contributed to the violation or deficiency in question. Internal control systems or compliance programs that are so lacking as to permit the violation or deficiency to occur and remain undetected should be accorded the most severe score. Internal control systems or compliance programs that identified the violation or deficiency, which allowed the bank to initiate timely corrective measures, may receive a lower score.

APPENDIX B

Specific Provisions eligible for administrative penalty under the purview of:

1. Department of Financial Regulation and Supervision

a) Financial Services Act of Bhutan 2011:

Violation	Area of Irregularity
Section 34	Chief Executive Officer Every licensed institution shall appoint a chief executive officer who shall be (a) A natural person; and (b) Resident in Bhutan during the period of his appointment.
Section 50	Restrictions on ownership of financial institutions and investments by financial institutions No person shall hold more than the following percentage of interest in shares of a financial institution: (a) In the case of an individual, 20 percent, (b) In the case of a company not being a financial institution, 30 percent, (c) In the case of a company being a financial institution, as per the limit provided under section 56 of the FSAB 2011, and (d) In the case of a foreign financial institution, as per the RMA regulations in line with the foreign direct investment policy.
Section 54	Restrictions on ownership of financial institutions and investments by financial institutions A financial institution shall not, directly or indirectly, without written approval from the Authority, own shares in a company in excess of 20% of its capital fund.
Section 56	No financial institution can have ownership in another financial institution exceeding 5% of the other financial institution's paid-up capital.
Section 138	Penalty for misinformation Any person who knowingly provides the Authority or any other person with information which, in a material particular, is false, misleading or incomplete in purported compliance with a requirement imposed by or under this Act, or otherwise in circumstances in which the person providing the information intends, or could be reasonably be expected to know, that the information would be used by the Authority for the purpose of exercising its functions under this Act, commits an offence and

	is liable to an appropriate fine specified by the Authority in the regulations issued by the Authority.
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b) Prudential Regulations 2017

Violation	Area of Irregularity
Section 1.4 (i) & (ii)	<p>Minimum Capital Adequacy Ratios</p> <p>(i) Every financial institution shall maintain at all times a Capital Adequacy Ratio (CAR) of not less than 10%; and</p> <p>(ii) Every financial institution shall in addition maintain at all times a core capital adequacy ratio of not less than 5%.</p>
Section 1.14 Section 1.14.3	<p>Minimum Leverage Ratio</p> <p>Financial institutions shall maintain a minimum leverage ratio of 5%.</p>
Section 2.3	Restrictions on transactions with related parties
Section 3.3	Single Borrower Limit
Section 3.5	<p>Limit on credit to the ten largest counterparties</p> <p>The aggregate of the ten largest exposures of a financial institution to any counterparty or persons defined as a single counterparty, shall not at any time, exceed 30% of its total loans (including off-balance sheet exposure).</p>
Section 3.6 Section 3.6 (b)	<p>Consortium Financing</p> <p>The amount of loan sanctioned shall not, in any way, exceed 25% of the total capital fund of a financial institution, except where the consortium financing arrangement was entered into before the commencement of these rules and regulations.</p>
Section 4.6.2	Rescheduled Credit Facility
Section 4.10.4	<p>Project Gestation Period</p> <p>Financial institutions shall give project gestation period in line with their credit policies approved by the Board, subject to a maximum of the following limit:</p> <ol style="list-style-type: none"> i. Housing: Maximum 3 years ii. Hotel Construction: Maximum 5 years iii. Manufacturing and Service: Maximum 5 years iv. For any other loans which require gestation period: Maximum 2 years.

Section 5.4.2	<p>Statutory Liquidity Requirement Ratio</p> <p>Every financial institution shall, at all times, maintain minimum liquidity in the form of quick assets, in a ratio not less than that set out below:</p> <p>(a) Banks - 20% of total liabilities excluding capital fund and liabilities to the RMA.</p> <p>(b) Non-bank financial institutions - 10% of total liabilities excluding capital fund and liabilities to the RMA.</p>
Section 9.3	<p>Regulations on Dividends and Reserves</p> <p>A financial institution must observe that any proposed total dividend, shall be approved by its Board and subsequently by the RMA. Such approval shall be accorded only upon examination and verification of full compliance of prudential norms relating to proper recognition of income, asset classification and loan loss provisioning. Declaration of any dividends must be from the current year's profit only.</p>
Section 10.3	<p>Registration of Mortgages and Collateral</p> <p>A financial institution shall ensure that their claims on assets provided as mortgage or collateral against their loans are registered with the appropriate authorities. While a financial institution may, with the written consent of a third party, accept assets belonging to the third party as mortgage or collateral, they shall ensure that the assets are the registered property of the third party and that there are no outstanding claims on the assets. In addition, a financial institution shall, at their discretion, require a third party to guarantee the loan. A financial institution shall, as a matter of routine, require their borrowers to furnish a periodic written statement confirming that the assets mortgaged or pledged as collateral is still in his/her possession, or in the possession of the third party who agreed to place the assets as security against the loan.</p>
Section 10.4	<p>Insurance of Collateral</p> <p>A financial institution shall ensure that fixed assets pledged as collateral or mortgaged against loans are properly insured. The loan agreement must include a condition stipulating that in the event of the borrower's failure to insure or to renew the insurance policy, a financial institution will insure or renew the insurance policy, as the case may be, and debit the cost of the insurance to the borrower's loan account or recover accordingly.</p>
Section 10.5	<p>Substitution of collateral</p>

	<p>In the case of regular loans, the exchange of collateral may be permitted by a financial institution, only if the value of the replacement collateral covers the loan outstanding amount. A financial institution shall also allow its clients to substitute their collateral in case of non-performing loans, provided that the value of the collateral is better than the existing collateral and can cover the entire loan outstanding amount which has become non-performing loans.</p>
Section 10.6	<p>Third-Party Guarantees While a financial institution accepts a guarantee issued by a third party for a loan, they shall ensure that the guarantor does not have any record of loan defaults with any other financial institution and that the guarantee is fully backed by the guarantor's unencumbered assets.</p>
Section 10.8	<p>In terms of Section 248 of the Financial Services Act of Bhutan 2011, a bank/financial institution shall not grant credit, give any guarantee or incur any other liability, against the security of: (a) its own shares, the shares of a subsidiary, or the shares of a parent company; or (b) the shares of a subsidiary of a parent company.</p>
Section 10.9	<p>Loan Against Shares or Loans for the Purchase of Shares No financial institution shall grant a loan against shares or for the purchase of shares exceeding 50 percent of the existing market price.</p>
Section 12.1 Section 12.1.2	<p>Establishment of Branches, Agencies, and other such offices of Financial Institutions In accordance with Chapter 7 of the Financial Services Act of Bhutan 2011, no financial institution shall, without the prior permission of the RMA, establish branches, agencies, and other such offices.</p>

Section 12.2	<p>Launching of New Products</p> <p>A financial institution shall seek written approval from the RMA prior to the introduction of new products to the public. Further, a financial institution is required to fulfill the prerequisite conditions listed below for the launching of the new products and furnish the details to RMA accordingly:</p> <p>i. Board’s approval on launching of new products;</p> <p>ii. Adherence to principles on fair treatment of consumers which would include:</p> <p>a. Disclosure to customers on terms and conditions associated with the product.</p> <p>b. An adequate and effective system for resolving and monitoring customer complaints. Suitably trained staff to educate the customer on the product.</p> <p>iii. Required to put in place adequate policies and procedures designed to ensure that the customer has practical understanding of products so as to meet the client’s objectives.</p>
Section 16	Reporting Requirements

c) Microloan Institutions Regulations 2014

Violation	Area of Irregularity
Section 2.1 (e)	<p>Loan Limit</p> <p>Loan Limit exceeding Nu.500,000 and/or provided for personal consumption purposes.</p>
Section 6	<p>Reporting, Inspection and Sanctions.</p> <p><i>Reporting</i></p> <p>(1) Every microloan institution shall get its books of accounts audited and submit a copy of the annual audited accounts to the Authority within three months of the close of the financial year.</p>
	Report Submission to the Authority

	<p>(2) Every microloan institution shall, quarterly and within one month of the end of the reporting period, submit to the Authority in the prescribed form information regarding:</p> <ul style="list-style-type: none"> i. its loan portfolio including, but not limited to, the number of borrowers, aggregate outstanding loan portfolio, and a breakdown of loans by size; ii. donors/sponsors, with detail of the funds received.
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d) Rules and Regulations for Deposit- Taking Microfinance Institutions in Bhutan 2016

Violation	Area of Irregularity
Section 2 (k)	<p>Loan Limit Loan Limit exceeding Nu.500,000 and/or provided for personal consumption purposes.</p>
Section 4.1.3	<p>Capital Adequacy Ratio A DMFI shall maintain a minimum capital adequacy ratio of at least 15%.</p>
Section 5.5	<p>Credit to Related Party A DMFI shall not extend credit to any of its related party. The related party shall have the same meaning as defined in the Prudential Rules and Regulations 2016.</p>
Section 10.2	<p>Maximum Exposure Limit on exposure to a single borrower: The maximum number of microloans outstanding to a single borrower and its immediate family members at any time is two.</p>
Section 12	<p>Liquidity Requirement All DMFIs shall maintain a Statutory Liquidity Ratio (SLR) of 10 percent of total liabilities excluding capital funds</p>
Section 18	<p>Places of business of DMFIs 18.1 No DMFI shall, without prior written permission of the Authority, open branches and other places of business</p>
Section 19	<p>Reporting Requirements</p> <p>19.1 Audit and submission of Accounts The DMFI shall get its books of accounts audited and submit a copy of the annual audited accounts to the Authority within three months of the close of the financial year.</p> <p>19.2 Submission of Financial Returns</p>

	For off-site surveillance, the DMFI shall submit the report to the Authority as per the format prescribed by the Authority.
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e) Credit Information Bureau Regulations 2017

Violation	Area of Irregularity
Section 4 (vi, vii, viii)	<p>Functions and Responsibilities of a CIB</p> <p>The CIB shall:</p> <p>Ensure confidentiality of information relating to a borrower/client at all times;</p> <p>Not share the information reported to a CIB, outside the territory of Bhutan, except provided by the law; and</p> <p>Not Collect, record or process any sensitive personal data, unless authorized by the Authority.</p>
Section 5	<p>Reporting of data to a CIB</p> <p>A data provider shall report to a CIB the information and data set out in a file format as defined by a CIB.</p>
Section 6	<p>Frequency of Reporting</p> <p>The data provider shall report to a CIB the complete information and the credit data as prescribed by a CIB in the following manner:</p> <p>i. Financial Institutions:</p> <p>a. Active loans, irrespective of nature and amount of loan: within 5 working days of the following month; and</p> <p>b. Closed loans, newly sanctioned loans or any change in the loan account information (credit facility segments) of a client: as soon as possible but not later than 7 working days of the change.</p>
Section 7	<p>Responsibility of Data Providers as to Accuracy and Completeness of Data</p> <p>i. Data provider shall be responsible for the accuracy and adequacy of the information and credit data;</p> <p>ii. In the event the data provider discovers that any information or credit data reported is inaccurate or inadequate, the data provider shall immediately notify the CIB, and submit the corrected data; and</p> <p>iii. In the event a CIB discovers that any of the reported or stored data is inaccurate, the CIB shall seek an explanation from the data provider on the cause of the inaccuracy and shall ensure that the data provider takes all necessary measures for the rectification and</p>

	resubmission of corrected data within five working days.
Section 10	Prohibited use of CIB data Data User (as defined in Section 8 of CIB Regulations) shall not obtain and use CIB data, for reasons of offerings or advertising to a potential borrower as to a past borrower.

f) Macro-Prudential Rules and Regulation 2018

Violation	Area of Irregularity
Section 3	Loan to value and loan to income restrictions
Section 4	Disclosure Requirements The annual disclosures shall comprise of all items as per section 96 (a) of FSA, 2011 and items specified by section 3.2.2 and section 3.2.3 and format attached in MPR regulation 2015.

g) Guidelines on Housing Loan, Consumer Loan and Transport Loan

Violation	Area of Irregularity
Section 5.1 (iv) & Section 5.2 (iv) of Directive on Commercial Housing Loans & Home Loans	CHL/HL shall have a maximum loan term of 30 years (excluding gestation period)
Section 7.1 & 7.2 and Section 8.1 & 8.2 on Directive on Commercial Housing Loans & Home Loans	LTV/LTI Violations
Section 4.2 & Section 5.4 of Directive on Vehicle Loans	LTV/LTI Violations
Section 6 (i) of Directive on Vehicle Loans	The term of the vehicle loan shall be a maximum period of 5 years. However, electric

	vehicles and passenger buses shall have a maximum loan term of 7 years.
Section 4 (ii) of the Directive on Personal Loans	PL shall have a maximum loan limit of Nu.500,000.00 with a maximum loan term of 5 years.

h) Rules and Regulations for Insurance & Re-insurance Companies 2018

Violation	Area of Irregularity
Section 7.1	Fund solvency and capital adequacy requirement For the purposes of Section 262 (b) of the Act, the solvency requirement in respect of an insurance fund established and maintained by a licensed insurer or reinsurer under Part 5 of these Rules & Regulations shall at all times be such that the financial resources of the fund are not less than the total risk requirement of the fund.
Section 7.2	For the purposes of section 262 (b) of the Act, the capital adequacy requirement of a licensed insurer or reinsurer shall at all times be such that the financial resources of the insurer/reinsurer are not less than the aggregate of the total risk requirement of all insurance funds established and maintained by the insurer/reinsurer under these Rules & Regulations, and the total risk requirement arising from the assets and liabilities of the insurer/reinsurer that do not belong to any insurance fund established and maintained under these Rules & Regulations.
Section 22.1	Every licensed insurer or reinsurer shall establish and maintain a separate insurance fund for each class of insurance business carried on by the insurer/reinsurer. The Authority shall require the insurer/reinsurer to establish and maintain separate insurance funds for other businesses carried on by the insurer/reinsurer.
Section 28	Assets of an insurer are not to be mortgaged or charged Assets of an insurer or reinsurer shall not be mortgaged or subject to any other form of charge or encumbrance without the consent of the Authority. In the absence of this consent being given, any mortgage or charge purportedly registered against the assets shall be void against the rights of a liquidator or creditor in the event of insolvency.
Section 38.1	Where it is proposed to carry out a scheme under which the whole or part of the life business carried on by an insurer (“the transferor company”) is to be transferred to another insurance company licensed under the Act (“the transferee company”) the

	transferor company or the transferee company (“the applicant”) shall apply to a Court for an order sanctioning the scheme.
Section 39.1	Where it is proposed to execute an instrument by which the non-life business of an insurer authorized under the Act (“the transferor company”) is to be transferred to another insurer authorized under the Act (“the transferee company”) all of its rights and obligations under such general policies, or such general policies of such description as may be specified in the instrument, the transferor shall apply to the Authority for their approval of the transfer.

i) Agent Banking Rules and Regulations 2016

Violation	Area of Irregularity
Section 2.1.2	Regulation and Approval Process A bank seeking to conduct its business through an agent shall apply and obtain a prior written approval of the Authority before commencing agent business.
Section 4	Agency contract and permissible activities
Section 10	Reporting requirements Submission of data and statistical returns to the Authority

j) Directives on the Financial Institution’s Employee Incentive Loan 2021

Violation	Area of Irregularity
Section 2 (ii)	The employee incentive loans shall be sanctioned only for the following specific purposes: a. Home Loan (construction of house, purchase of flat or purchase of land for construction of dwelling home); b. Vehicle loan (purchase of a personal vehicle); and c. Education loan (employees’ self-education or education of their spouse/children). d. Personal Loan to Staff (PLST) subject to the following conditions; <ul style="list-style-type: none"> ● Loan amount – Nu.500,000.00 (Ngultrum Five Hundred Thousand Only) ● Loan tenure – 5 years ● Personal Loan to Staff shall be availed by employees in lieu of the commercial “personal loan”. In other words, an employee shall not

	be eligible to avail a personal loan at the commercial rate if he/she has availed of PLST
Section 2(iii)	There shall be zero tolerance on Non-Performing Loans (NPL) under the incentive loan scheme and no new incentive loans shall be sanctioned by the FIs if the existing incentive loans have become NPL.
Section 2(v)	If an employee of the FIs resigns/ superannuates from the services before the liquidation of the loan, such outstanding balance shall be adjusted with the post-service benefits payable to him/her or shall be immediately converted to a commercial loan at the applicable interest rate.
Section 2(vii)	Employee incentive loan repayment shall be based on the monthly salary. The maximum aggregate Loan to Income (LTI) ratio for employee incentive loans shall not exceed 50 % of the net pay.
Section 2(ix)	The maximum loan amount permissible under the employee incentive loan shall be as follows: a. Home loan - Nu. 10 million; b. Vehicle loan - Nu. 1 million; c. Personal loan - Nu. 0.5 million; and d. Education loan - Based on the tuition fees and LTI limit
Section 2(x)	Maximum tenure permissible under the employee incentive loans shall be as follows: a. Home loan - 30 years b. Vehicle loan - 5 years c. Education loan - 7 years
Section 2(xi)	An employee can avail new vehicle loans: a. Upon liquidation of the loan as per the specified term; or b. In case of liquidation before maturity the minimum, a cooling period of three months shall be applicable
Section 2(xii)	FIs shall sanction home loans to its employees only once during their entire service
Section 2(xiv)	No new commercial loans to the employee and their related parties shall be sanctioned from their respective FIs with effect from 1 st January 2020. This provision shall not apply to loans against term deposits and credit card facilities availed by the employees.

k) Rules and Regulations for Cottage and Small Industries (CSI) Banks in Bhutan 2018

Violation	Area of Irregularity
Section 10.1	Capital Adequacy Requirements In view of the inherent risk of a CSI bank, it shall be required to maintain a minimum Capital Adequacy Ratio (CAR) of 15 percent of its Risk-Weighted Assets (RWA), subject to any higher percentage as may be prescribed by RMA from time to time. Tier I or Core Capital Ratio shall be at least 7.5 percent of RWAs

Section 10.2	Statutory Liquidity Requirement Ratio A CSI bank shall, at all times, maintain a minimum liquidity in the form of quick assets, in a ratio not less than that set out below: -
Section 10.2.1	Deposit-taking CSI bank - 15 percent of total liabilities excluding capital fund and liabilities to the RMA. Non-deposit-taking CSI bank - 7.5 percent of total liabilities Excluding capital fund and liabilities to the RMA
Section 10.4	Restriction on Facilities to Related Parties A CSI bank shall not take any exposure on CSI borrowers in which, any of its Directors, significant owner holding 10 percent or more of the share capital of a CSI bank or its CEO, or an employee or any family member of these persons, is interested

l) Crowdfunding Rules and Regulations 2019

Violation	Area of Irregularity
Section 7	List of Prohibited Issuers The following entities are prohibited from raising funds through a CF portal: . financial institutions & financial service providers; a. public-listed companies and their subsidiaries; and b. any other entity specified by the Authority
Section 10 (i)	Offer for Sale of Securities An offer for the sale of securities to retail investors is subject to the following requirements: . Subscription by all retail investors shall not exceed Nu. Five Million. a. Offer for sale of securities to each retail investor shall not exceed Nu. One hundred Thousand in each company
Section 11	Limitation on Offering The limitation on the offering amount of a single issuer shall not exceed Ngultrum Ten Million within the 12 month period.
Section 27	Prohibited Activities A crowdfunding portal shall be prohibited from operating the following businesses: i. offering investment advice; ii. soliciting purchases, subscriptions or offers to buy securities displayed on their portals; iii. compensating other persons for the solicitations or based on the subscription of securities offered on their portals; iv. holding, managing, possessing or handling investors funds or securities; and

	v. any other activity as may be determined by the Authority.
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m) Fund Management Rules and Regulations 2019

Violation	Area of Irregularity
<p>Section 22(vi)</p> <p>Section 22 (vii)</p>	<p>Duties and Responsibilities</p> <p>A Fund Management Company shall: Not directly or indirectly guarantee any return. Not grant loans out of or against the fund’s assets.</p>
<p>Section 29</p>	<p>Control of Related Party Transaction</p> <p>A Fund Management Company shall not grant personal loans out of the funds to any of its officer or director or any related parties;</p>
<p>Section 31</p> <p>Section 33</p> <p>Section 34</p> <p>Section 35</p> <p>Section 36</p>	<p>Offering and Advertising of Fund</p> <p>The Fund Management Company is required to seek approval from the Authority prior to raising every Fund.</p> <p>A Fund Management Company shall secure the written consent of the Authority prior to making any material change in the prospectus of an offering of units of a Fund.</p> <p>No advertisement or promotional material for a Fund may be used unless the fund’s prospectus has been approved by the Authority;</p> <p>All promotional material used to promote a Fund must be honest and factual and not misleading or deceptive and must include information on the risk and objectives of the investments.</p> <p>A fund management company shall ensure that the subscription/redemption form with the investors are duly signed, as set out in Annexure IV</p>

Section 45	<p>Investments Conditions and Restrictions</p> <p>A Fund Management Company shall be subjected to the following conditions:</p> <p>i. The maximum investment of a fund in any single company shall not exceed 25 percent of the fund’s total assets. This limitation shall not apply to a Venture Capital Fund.</p> <p>ii. The maximum aggregated investments of a fund in all related companies shall not exceed 25 percent of the fund’s total assets.</p>
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n) Guidelines on the Reclassification of old non-performing loans, 2022

Violation	Area of Irregularity
Section 13	The accrual of interest on these NPL accounts shall be frozen once it is reclassified.
Section 16	Financial institutions shall develop a clear strategy to resolve these NPLs during the three year period from the date of reclassification in-line with Rules and Regulations for Loan Restructuring and Rules and Regulations on Foreclosure and write-off of NPLs, High-level committee decisions and any directives issued by the Authority.
Section 19	To ensure accountability and transparency, FIs shall submit a separate report on asset pending foreclosure as per the prescribed template (<i>Refer to Annexure 1</i>) on a monthly basis to the Authority.
Section 21	Financial institutions shall disclose the details on the assets pending foreclosure including the total number of accounts, amount as part of the notes to its financial statements.

o) Rules and Regulations for Loan Restructuring by Financial Service Provider(s), 2022

Violation	Area of Irregularity
Section 7	A borrower who has been determined as a ‘wilful defaulter’ shall not be eligible for a loan restructuring facility.
Section 21	The asset classification of restructured NPL accounts shall remain in the same category for a period of 6 months. The accounts can be classified as performing ‘Standard’ only when the repayment term under the revised loan agreement has been regular for 6 months.
Section 22	Any partial repayment (including interest only payment under loan restructuring facilities) shall not be treated as full repayment to reclassify the loans as performing.
Section 24	FSPs shall be permitted to provide a restructuring facility or facilities mentioned under sections 18, 19 and 20 of these rules and regulations for an account, only once every two years and not more than two times during the loan tenure.

Section 30	With the implementation of said measures, the report of all restructured loans along with the documentary evidence (including the minutes of the committee meetings) shall be submitted to the RMA monthly in the prescribed format as per <i>Annexure 2</i> .
Section 31	The FSP shall disclose the details on the total number of accounts and amount as part of the notes to its financial statement in the annual reports.

p) Rules and Regulations on Foreclosure and Write-off of Non-Performing Loans 2022

Violation	Area of Irregularity
Section 13	When an FSP does not foresee any viability to reach a settlement through a negotiation with the borrower during the pre-litigation foreclosure, an FSP shall initiate recovery proceedings in the court of law for the foreclosure of collateral/mortgage within 180 days from the day of the loan account becoming non-performing loan.
Section 28	All loans that have been 100% provisioned and in the loss category (loan default by more than 365 days) shall be written off from the balance sheet of FSPs within a time period of 180 days.
Section 32	The FSPs shall continue submitting the details of the loan written-off to the Credit Information Bureau (CIB) until the loan outstanding is liquidated/closed.
Section 36	The FSP shall seek Authority's written approval before writing off any loans granted to its related parties. The write-off of loans to related parties shall be carried out at an arm's length basis.

2. Department of Foreign Exchange & Reserve Management

a) Foreign Exchange Rules and Regulations 2020

Violation	Area of Irregularity
Chapter II: Section 6 Section 7	Import and export of currency, gold, and silver Import and export of bank note, circulation coin, commemorative bank note, and commemorative coin Import and export of gold and silver
Chapter IIIA	Authorization to deal in foreign exchange
Chapter IIIB Section 10 Section 11	Foreign exchange transactions, exchange rates, and foreign exchange holdings of authorized banks Foreign exchange transactions by authorized banks Buying and selling exchange rates

Section 12	Foreign exchange holding of the authorized bank
Chapter IIIC Section 14 Section 15 Section 16	Foreign exchange licence, transaction, and buying rate of authorized money changer Foreign exchange license of authorized money changers Foreign exchange transactions by authorized money changers Exchange rate
Chapter IV Section 18 Section 19	International money transfer services Inward remittances Outward remittances
Chapter V Section 21 Section 22	Payment arrangements Payments and transfers Electronic fund transfer cards
Chapter VIA Section 24 Section 25	General conditions for current transactions Current transactions with India Current transactions with third countries
Chapter VIB Section 26 Section 27 Section 28 Section 29 Section 30 Section 31 Section 32 Section 33 Section 34 Section 35	Current transactions Freight and transportation cost Air tickets for travel Official travel Business travel Medical-related travel Education-related travel Private travel Family remittances Insurance services Payment for Invisibles

Section 36	Payment for communication/information and telecommunication services
Section 37	Import of permissible raw materials and capital goods in convertible currency
Section 38	Current transactions of the royal government of Bhutan and its agencies and public sector entities
Section 39	Current transactions for external commercial borrowing and foreign direct investment
Chapter VII	Capital transactions
Section 40	Inward foreign direct investment
Section 41	External commercial borrowing
Section 42	Other inward investment
Section 43	Immoveable property
Chapter VIII	Bank accounts in Bhutan and abroad
Section 45	Foreign currency accounts in Bhutan
Section 46	Domestic currency accounts in Bhutan
Section 47	Foreign currency accounts abroad
Chapter IX	Records, reporting, provisions of information and inspections
Section 49	Maintenance of records
Section 50	Reporting by authorized banks
Section 51	Reporting by authorized money changers
Section 52	Reporting by authorized money transfer agents
Section 53	Reporting by others

3. Department of Payment and Settlement Systems

a) Payment and Settlement System Rules and Regulations 2018

Violation	Area of Irregularity
Section 2.1 and subsection thereof	Licensing principle
Section 2.4.and subsection thereof	Determination of an application
Section 2.7.and subsection thereof	Authorization and issuance of payment instruments
Section 2.9 and subsection thereof	Power to approve changes in the system
Section 2.11 and subsection thereof	Renewal of license
Section 2.12. and subsection thereof	Settlement
Section 3 and subsection thereof	Oversight and supervision
Section 4 and subsection thereof	Powers to determine minimum standards and controls.
Section 5 and subsection thereof	Powers to issue warnings and directions
Section 6 and subsection thereof	Powers to call for returns, documents, or other information.
Section 8 and subsection thereof	Duties of Payment Services Provider or System Provider.
Section 9 and subsection thereof	Duties of a system participant – suspension of participation on prudential grounds.
Section 5 and subsection thereof	Application and licensing fees

b) E-Money Issuers Rules and Regulations 2019

Violation	Area of Irregularity
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Section 2.1 and subsection thereof	Licensing Principle
Section 3.2 and subsection thereof	Determination of an application
Section 3.3 and subsection thereof	Authorization and issuance of e-Money
Subsection 3.5 and subsection thereof	Power to approve changes in a system
Section 3.6	Renewal of license
Section 4.1 and subsection thereof	Fund Isolation and safeguard requirements
Section 4.2 and subsection thereof	Issuance and redeemability
Section 4.3 and subsection thereof	Permissible Transactions and limits
Section 4.4 and subsection thereof	Cash in and Cash out
Section 4.5	Dormant Accounts
Section 4.6 and subsection thereof	Liquid Assets Requirements
Section 4.7 and subsection thereof	Permitted and Prohibited Activities
Section 4.8 and subsection thereof	Powers to issue warnings and directions
Section 4.9 and subsection thereof	Powers to call for returns, documents or other information
Section 4.11	Consumer Protection
Section 5.1 and Subsection thereof	Approval of agency business
6.1 and subsection thereof	Oversight and supervision
Section 7.1 and subsection thereof	Application and license fee

c) Data Residency Policy for Payment System Data 2021

Violation	Area of Irregularity
Part III: System Requirements	General provisions
Part III: System Requirements	On-premise
Part III: System Requirements	On cloud
Part IV: Miscellaneous	Transitional Provision
Part IV: Miscellaneous	Reporting

d) Guideline for Bhutan QR Payments 2020

Violation	Area of Irregularity
Subsection 8	Authorization
Subsection 11	Responsibilities of Member Banks
Subsection 14	Dispute Handling
Subsection 15	Dispute Redressal
Subsection 17	AML/CFT compliance
Subsection 18	Confidentiality

e) Guideline for Trade Receivables Discounting System (TReDS) 2020.

Violation	Area of Irregularity
Section 9 and subsection thereof	Authorization
Section 15 and subsection thereof	Responsibilities of the TRDS operator
Section 16	Settlement process and Subsection thereof
Section 17 and subsection thereof	Reporting
Section 19	AML/CFT Compliance
Section 20	Confidentiality

f) Aggregators and Payment Gateways Guideline 2020

Violation	Area of Irregularity
Subsection 8 and thereof	Authorization
Section 12 and Subsection thereof	Power to approve changes in a system.
Section 13 and subsection thereof	Prohibition of Issuance of Payment aggregator service
Section 14 and subsection thereof	Governance
Section 15 and subsection thereof	Safeguards against Money Laundering (KYC/AML/CFT) provisions.

Section 16 and subsection thereof	Merchant on-boarding
Section 17 and subsection thereof	Settlement and Escrow Account
Section 18 and subsection thereof	Customer Grievance Redressal
Section 19 and Subsection thereof	Security, fraud prevention, and risk management framework
Section 20 and subsection thereof	Oversight and supervision
Section 21 and subsection thereof	Reports

g) Guideline for Automated Teller Machines (ATM) and Point of Sale (PoS) 2020

Violation	Area of Irregularity
Section 7 and subsection thereof	Technology and specification
Section 8 and subsection thereof	Deployment
Section 9 and subsection thereof	Operation
Section 10 and subsection thereof	Maintenance
Section 11 and subsection thereof	Safety and security
Section 13 and subsection thereof	Technology and specification
Section 14 and subsection thereof	Roles and Responsibilities
Section 15, 16, and subsection thereof	Interoperability of ATM and POS Terminals
Section 17 and subsection thereof	Customer Protection
Section 18 and subsection thereof	Reporting and Monitoring

h) Bhutan Financial Switch Operating Procedural Guideline 2018

Violation	Area of Irregularity
Section 4 and subsection thereof	Membership structure
Section 5 and subsection thereof	Security aspects
Section 6 and subsection thereof	BFS Network Operations
Section 8	Oversight
Section 9 and subsection thereof	Settlement
Section 10 and subsection thereof	Maintaining transaction records
Section 11 and subsection thereof	Settlement Reports and Reconciliation
Section 12 and subsection thereof	Network cutover time
Section 13 and Subsection thereof	Issuer Member Bank
Section 14 and Subsection thereof	ATM and PoS Services

Section 15 and Subsection thereof	PoS services
Section 16 and subsection thereof	Criteria for termination and suspension of member banks
Section 17, 18, 19, and Subsection thereof	Dispute Management System
Section 20	Records

i) Procedural Guidelines for Bhutan Immediate Payment Service (BIPS) and Payment Gateway 2017

Violation	Area of Irregularity
Section 5 and subsection thereof	Coverage
Section 6 and subsection thereof	Member Bank, and merchant
Section 7 and subsection thereof	Customer Care
Section 8	Service Charges
Section 10	AML/CFT Compliance
Section 11	Non- Disclosure
Section 13 and subsection thereof	Dispute Management

j) Procedural Guideline for Bhutan Inter-Bank Real-Time Fund Transfer System 2022

Violation	Area of Irregularity
Section 7	Eligibility
Section 8 and subsection thereof	Procedure
Section 10 and subsection thereof	Types of payment services
Section 12 and subsection thereof	Settlement window
Section 13 and subsection thereof	Process flow
Section 15 and subsection thereof	The operation, Settlement, Reports, Security, and Service Charges
Section 17 and subsection thereof	Dispute Handling & Redressal
Section 18 and subsection thereof	Withdrawal
Section 21	Confidentiality

4. Department of Banking

Violation	Area of Irregularity
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Section 125 -131, RMA Act 2010 Section 5.4.1 of Prudential Regulations 2017	CRR shortfall
Issue directive: The CRR report shall be submitted not later than 1st three working days of the reporting month.	Late reporting
As per the directive issued by RMA (RMA/DB/094/2018-2019/3419 dated January 11, 2019).	Negative Balance on Current account
As per the directive issued by RMA (RMA/DB/094/2018-19/2378 dated November 14, 2018) - effective from December 1, 2018.	Failing to Report on new accounts
Issue a directive on charging a penalty for wrong reporting	Wrong Reporting
Issue a directive on reporting time	Late Reporting

