



RULES & REGULATIONS FOR REGISTERED PRIVATE MONEY LENDERS 2023

Table of Contents

	Page
Chapter 1: Preliminary	3
Short title, commencement and extent	3
Rules of Interpretation	3
Chapter 2: Purpose and Scope	3
Purpose	3
Registration and scope of these Rules and Regulations	3
Chapter 3: Reporting & Supervision	6
Duties of registered private money lender	6
Reporting, inspection and disclosure	7
Interest rate	7
Chapter 4: Offense and Customer Complaint Handling Unit	7
Penalty on Registered Money Lender	7
Penalty on Unregistered Money Lender	8
Customer Complaint Handling Unit	8
Chapter 5: General and Miscellaneous Provision	8
Authoritative text	8
Amendment	8
Definition	8
Annexure A	10
Annexure B	12
Annexure C	13

In pursuant to Sections 5, 202 and 362 (e) of the Financial Services Act of Bhutan 2011, the Royal Monetary Authority of Bhutan hereby adopts the Rules and Regulations for Registered Private Money Lenders 2023 and repeals the Rules and Regulations for the Registered Private Money Lenders 2021 for effective implementation of the Act as follows.

Chapter 1: Preliminary

Short title, commencement and extent

1. These Rules and Regulations shall:
 - 1.1 Be called “Rules and Regulations for Registered Private Money Lenders 2023” (fourth edition);
 - 1.2 Come into force on 1st day of the March month of 2023; and
 - 1.3 Apply to all persons as defined in these Rules and Regulations.

Rules of Interpretation

2. In these Rules and Regulations unless the context indicates otherwise, the singular shall include plural and the masculine gender shall include the feminine gender.

Chapter 2: Purpose and Scope

Purpose

3. The purpose of these Rules and Regulations is to:
 - 3.1 Regulate and supervise private money lending business in line with section 11 of Financial Services Act 2011;
 - 3.2 Minimize threat to the financial system and enhance the effectiveness of monetary policy and management; and
 - 3.3 Minimize adverse socio-economic consequences arising because of private money lending businesses.

Registration and scope of these Rules and Regulations

4. For the purposes of Section 11 of the Financial Services Act of Bhutan 2011, financial services shall include private money lending business.

5. A person is presumed, until the contrary is proved, to be carrying on a “private money lending business” if the person lends a sum of money in consideration of a larger sum being repaid, except for any of the following:
 - 5.1 A person who is licensed, approved, registered or otherwise regulated by the Authority under any other relevant law, to the extent that such person is permitted or authorized to lend money and is not prohibited from lending money under that relevant law;
 - 5.2 A person who lends an amount not exceeding Nu. 90,000.00 (Nu. ninety thousand) to a single borrower or an aggregate of Nu. 90,000.00 (Nu. ninety thousand) to multiple borrowers;
 - 5.3 A person who is exempted under Financial Services Act of Bhutan 2011 from obtaining a registration certificate in respect of carrying on a private money lending business; and
 - 5.4 A person who lends but does not charge interest on loan for profit-making.
6. A person intending to engage in private money lending business shall obtain a registration certificate from the Authority as per the provisions laid down in these rules and regulation by submitting an application in the prescribed format given under Annexure A.
7. An applicant for registration certificate shall declare source of income for private lending business along with the bank statement and tax returns for the last two years issued by the Department of Revenue & Customs and other relevant documents. However, an applicant shall not be allowed to borrow from the financial service providers for private lending business.
8. A registered private money lender, with a registration certificate from the Authority, shall lend a maximum of Nu. 500,000.00 (Nu. five hundred thousand) to a single borrower.
9. An applicant shall provide a non-refundable registration fee of Nu. 2,500.00 (Nu. two thousand five hundred) in cash/draft/cheque in favour of the Authority. The Authority shall review the quantum of fee from time to time.
10. An applicant after obtaining a registration certificate from the Authority shall apply for a trade licence to the Department of Trade, MoENR and upon receipt of a trade licence, an applicant shall submit a copy of the same to the Authority.
11. A registered private money lender shall commence its operation only upon submission of a copy of trade licence to the Authority.

12. The registration certificate under these Rules and Regulations shall be non-transferable to any person or authorize a registered private money lender to carry out business under more than one name or under any name which includes the word “bank”.
13. No intermediary shall be involved by a registered private money lender or a borrower either to lend or borrow the money.
14. The Authority may approve or reject an application within a period of twenty (20) working days from the date of submission of application with complete documents as provided under Annexure A.
15. The registration certificate shall be valid for one year. Application to renew the registration certificate along with the renewal fee of Nu. 1,000.00 (Nu. one thousand) shall be submitted thirty (30) days before the expiry of the current certificate.
16. If a registered private money lender fails to renew the registration certificate before the expiry date of the current registration certificate, the same shall be automatically canceled.
17. Any lending carried out between the period after the expiry of the registration certificate and before obtaining the approval for renewal of the registration certificate shall be illegal.
18. The Authority reserves the right to reject the Application for registration certificate based on the following grounds but not limited to:
 - 18.1 An applicant is not a citizen of Bhutan;
 - 18.2 An applicant is a public official;
 - 18.3 An applicant is incompetent, a minor or a person of unsound mind or is declared bankrupt, or who has a criminal record;
 - 18.4 The earlier registration certificate of the applicant has been canceled by the order of a Court;
 - 18.5 An applicant has availed loan from any of the financial service providers and the loan has become Non-Performing Loan (NPL);
 - 18.6 An earlier registration certificate has been canceled on the ground of being transferred to another person;
 - 18.7 Has failed to provide all the documents as required under Annexure A; and
 - 18.8 Has failed to fulfill any additional criteria as prescribed by the Authority from time to time.
19. The Authority shall publish a list of all registered private money lender on the RMA website. Any addition or alteration in the list shall be published from time to time.

20. The Authority shall Cancel the registration certificate based on the following:
 - 20.1 Failure to renew registration certificate;
 - 20.2 Declaration of bankruptcy by a Court of Law;
 - 20.3 Cancellation of registration certificate by a Court of Law; or
 - 20.4 Failure to fulfill other criteria specified by the Authority from time to time.
- 21 If the registration certificate has been canceled by a court of law or because it was transferred to another person, a registered private money lender shall not be eligible to apply for a registration certificate for a minimum period of two years.

Chapter 3: Reporting & Supervision

Duties of registered private money lender

22. A Registered Private Money Lender shall:
 - 22.1 execute a valid written contract with a borrower as per the provisions laid down in the Evidence Act 2005, Contract Act 2013 and any other relevant laws;
 - 22.2 carry out all due diligence exercises on the borrower's credit worthiness, including obtaining credit reports from the Credit Information Bureau (CIB);
 - 22.3 not accept any money deposit in the form of cash, cheque or any other negotiable instruments from any person, entity or the public;
 - 22.4 verify and confirm any property being pledged as security. He shall not transact or carry out any act which is deleterious to the secured property under his custody;
 - 22.5 keep all regular books of accounts and relevant documents for the purpose of personal income tax and regulatory purpose;
 - 22.6 open a dedicated current account for private lending business. All transactions, both lending and repayment shall be duly routed through the formal banking channels;
 - 22.7 undergo training on Credit Information Bureau and Central Registry upon obtaining the trade licence, before the commencement of its business operations;
 - 22.8 have its own office with a sign board and registered telephone number in the telephone directory;

22.9 appoint a dedicated focal person for contact and correspondence with the Authority; and

22.10 file the recovery suit before the court within 3 years from the date of the breach of contract.

Reporting, inspection and disclosure

23. A registered private money lender shall submit to the authority on a quarterly basis, information on loan portfolio, including but not limited to the number of borrowers, sanctioned amount, date of sanction and loan outstanding in the prescribed format (Annexure B). The report shall be submitted within 15 days of the end of the reporting period.

24. The Authority shall at any time, with or without prior notice conduct the inspection on the private money lending.

Interest rate

25. A loan contract document shall clearly stipulate the rate of interest on loan, failing which no interest shall be chargeable or recoverable.

26. A registered private money lender shall not charge interest rate of more than 18% per annum. However, it shall not include late fees or any administrative charges.

27. The interest shall be computed based on the simple daily product method (simple daily interest = principal x rate x time/100 x 365).

Chapter 4: Offense and Customer Complaint Handling Unit

Penalty on Registered Money Lender

28. If a registered private money lender is found making any form of fraudulent agreement in collusion with a borrower or fails to comply with any of the provisions under these Rules and Regulations, the Authority shall impose an appropriate penalty as per the Penalty Rules and Regulations 2022 or cancel the registration certificate.

Penalty on Unregistered Money Lender

29. No person shall offer financial services without obtaining the registration certificate or license as per Section 11 of the Financial Services Act of 2011.
30. An unregistered private money lender engaging in private money lending business shall be guilty of an offence as per Section 15 of the Financial Services Act of 2011.

Customer Complaint Handling Unit

31. The Authority shall have a dedicated Consumer protection Unit:
 - 31.1 To receive any related complaint against an individual carrying out a private money lending business.
 - 31.2 To receive any complaint against an individual carrying out private money lending, without a registration certificate from the Authority, in a written form as provided under Annexure C with a proper supporting document to the Consumer Protection Unit within the RMA.
 - 31.3 Upon completion of the review by the Consumer Protection Unit, after enough grounds are established, the case will be forwarded to the Office of Attorney General in accordance with the Section 166 of FSA 2011 for prosecution.

Chapter 5: General and Miscellaneous Provision

Authoritative text

32. The Authority shall have the power to interpret any provision under these Rules and Regulations and its interpretation shall be final and binding upon all parties.

Amendment

33. Any addition, changes or repeal of these Rules and Regulations shall be made by the RMA Board based on the recommendation of the Management.

Definition

34. Unless a contrary intention appears from the context, the following words and expressions shall mean:

- 34.1 “Authority” means the Royal Monetary Authority of Bhutan established by the Royal Monetary Authority Act of Bhutan 2010.
- 34.2 “Board” means the Board of the Authority established under section 28 of the Royal Monetary Authority Act of Bhutan 2010.
- 34.3 “Fraudulent agreement” means making and signing a bogus sale agreement or backdating the agreement between a registered Private Money Lender and the borrower to conceal the actual transactions in violation of these Rules and Regulations.
- 34.4 “Intermediary” means an agent, middle person or a broker.
- 34.5 “Person” means a natural or juridical person intending to engage in private money lending business as per the provisions of these rules and regulations, except for the public officials and companies, as defined in the Companies Act of Bhutan.
- 34.6 “Private money lending business” means carrying out money lending business involving the charging of interest as per the provisions of these Rules and Regulations.
- 34.7 “Private Money Lender” means a person who carries out a private money lending business.
- 34.8 “Public official” means a natural person employed in the civil service, armed forces, autonomous agencies, constitutional offices, Financial Institutions, DHI and its companies, State Owned Enterprises/other agencies funded by the Government, Judiciary, National Assembly and members of Parliament.
- 34.9 “Registration” means authorization by the Authority to carry out the private money lending as per the provisions of these Rules and Regulations.
- 34.10 “Registered Private Money Lender” means a person who is granted a registration certificate by the Authority to carry out the private money lending business.
- 34.11 “Rules and Regulations” shall refer to these Rules and Regulations for the Registered Private Money Lenders 2023 (fourth version).
- 34.12 “Security” means both movable and immovable properties taken as collaterals and mortgages for the purpose of these Rules and Regulations.

Annexure A

FORM A (Application to RMA)

(Please ensure that this form is filled properly. In case of any clarifications, please feel free to call or visit the Legal Services Division of RMA subject to prior appointment).

In accordance with clause 3 of the Rules and Regulations for the Registered Private Money Lenders 2023, application form is required to be submitted by the applicant to the Royal Monetary Authority for Registration Certificate to conduct the business of

(A) In case the applicant is a natural person:

1. Name
2. Date of birth:
3. Citizenship ID card no (attach a copy): .
4. Village:
5. Gewog:
6. Dzongkhag:
7. Present address:
8. Present occupation:
9. Place of business:
10. Total amount of capital to be invested:
11. Source of capital:

(B) In case the applicant is a juridical person:

1. Name of the institution:
2. Address:
3. Place of business:
4. Place of registration / incorporation
5. Registration number / license number
6. Total amount of capital to be invested:

(C) The completed application shall be addressed to the Governor, Royal Monetary Authority of Bhutan with the following documents/information:

1. Affidavit from a court of law indicating that the applicant does not have any monetary case for the past two years on money lending;

2. Security clearance certificate;
3. Copy of the credit report from the Credit Information Bureau (CIB) and Central Registry Report from the Authority;
4. Copy of tax return filed, if applicable; and
5. Any other necessary documents as prescribed by the Authority from to time to time.

I, the undersigned, solemnly declare that the above information given in this application form and other documents submitted on behalf of the proposed private money lending business are true, complete and correct to the best of my knowledge and ability.

Name.....Signed.....

(Affix legal stamp)

Witness

Name:.....

CID No.....

Address.....

Date.....

Annexure B

Details on Loans							
Sl no	Name of the borrower	CID No.	Sanctioned amount	Interest rate	Principal Outstanding	Interest Outstanding	Total Outstanding
	Total		0.00		0.00	0.00	0.00

Annexure C

COMPLAINT FORM

1. Complainant details

Name: _____

Identity document No.: _____ (CID/Passport)

Company's authorized representative (if applicable): _____

Correspondence address: _____

Contact Number: _____ Email: _____

2. Complaint:

Please describe precisely in point form all the matters you want to complaint against:

- _____
- _____
- _____

Please describe the incident(s) giving rise to your complaint, preferably in chronological order.

It will help us handle your complaint if you can provide us with relevant information such as the date, time, place, identities of the parties involved and a copy of the relevant documents.

3. Consent to disclose your information and personal data

I hereby give my consent to the RMA to consider and handle my complaint. I understand that:

- i. All information and personal data supplied by me will be used for purposes related to the handling and/or investigation of my complaint and the discharge of RMA's statutory functions;
- ii. The RMA may disclose or transfer the information and personal data supplied by me to third parties for:
 - a. the purposes related to the handling and/or investigation of my complaint, including the bank and/or its staff who are the subject of the complaint and other relevant regulators agencies; and
 - b. where permitted or required by law or subpoenaed by court.

- iii. Should I wish to request access to or correction of my personal data held by the RMA, I may do so in writing;
- iv. I am not obliged to supply the RMA with information and personal data and agree to do so on a voluntary basis; and
- v. If the information or personal data provided by me are not accurate or complete, the processing of my complaint may be affected.

1. If you wish to appoint a representative, please complete the following:

I authorize _____

Identity Document Number: _____

(CID/Passport)

Correspondence address/email: _____

Contact Number: _____ to submit information and to enquire about the progress of my complaint.

Signature:

Date

Signature of authorized representative (if applicable)

(If the complaint is made by a company, the complaint form must be signed by a director or representative of the company with authority to sign and to give the consent in part 3 on behalf of the company and stamped with the company seal)

Please submit this completed form and supporting papers in person to the drop box at the reception desk (lobby) of the Royal Monetary Authority office located on **Chhophel Lam, Kawajangsa, Thimphu.**

For further enquiries, please contact us at 02-330795