

# ROYAL MONETARY AUTHORITY OF BHUTAN



## Guidelines on Auction of Seized Properties 2023

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## **Preliminary**

The Royal Monetary Authority of Bhutan has adopted and issued these Guidelines as per Section 210 of the Financial Services Act of Bhutan 2011 to facilitate the auctioning of seized properties through the exercise of due diligence in the interest of both borrowers/property owners and Financial Service Providers (FSPs).

## **Short title, commencement and extent**

### **These Guidelines shall:**

- a) Be called as the “Guidelines on Auction of Seized Properties 2023”;
- b) Come into force from 8<sup>th</sup> of March 2023;
- c) Apply to all the Financial Service Providers licensed/registered as per the FSA 2011.

## **Part A: Objective and purpose**

The role of the Financial Service Providers (FSPs) is to intermediate between borrowers and savers through channelling smooth flow of credit in the economy. Financial intermediation is prone to credit risk, whereby borrowers may fail to repay their loan obligations which could potentially impact the capacity to further lend due to high Non-Performing Loans (NPLs), thereby threatening the stability of the financial system.

The role of the Royal Monetary Authority of Bhutan (Authority) is to ensure FSPs’ books are cleaned up on time whereby FSPs would need to initiate foreclosure of loans through collections of overdue amounts or seizure of mortgaged properties against the NPLs. The objective of these Guidelines is to provide minimum standards and principles for auctioning with the goals to:

- a) Facilitate the disposal of seized properties through a fair, transparent and efficient manner; and
- b) Protect the interest of both mortgaged property owners and FSPs.

## **Part B: Seizure of Mortgaged Properties**

1. As per the process and procedures of the Rules and Regulations of Foreclosure and Write-off of NPLs 2022 or Moveable and Immoveable Property Act of the Kingdom of Bhutan 1999 or the Land Act of Bhutan 2007 or any amendments thereof, the FSPs shall process to take over or seize properties mortgaged with the Non-Performing Loans or any account related to the Non-Performing Loans.

2. The FSPs shall freeze the interest on the loans after taking over the hypothecated and mortgaged properties based on court order or any arrangement made with the property owner.
3. Before auctioning the properties, the FSPs shall inform the property owner of the auction of the property and shall provide a final opportunity for negotiation or surrender of seized properties either in full or partial settlement for the loan outstanding.
4. The property owner with consent from the FSPs may also dispose-off the properties through private sale before the commencement of the auction provided that the loan outstanding is covered.

### **Part C: Auctioning of Seized Properties**

5. The FSPs should revalue seized property based on annexure I.
6. The auction committee shall fix the reserve price and floor price on the auction day.
7. The reserve price shall be fixed either with the following methods:
  - a) Reserve price should be equal to revalued property value (Reserve price = revalued property value);
  - b) Reserved price should be equal to less than 15% of the revalued property value (Reserve price = property value – <15%\* revalued property value).
8. In case, FSPs fail to auction the seized property after 3 consecutive auctions (As per section 7), the FSPs should submit an alternative method of fixing the reserve price to the Authority, following which the Authority may approve the proposed method or prescribe other methods.
9. The FSPs should determine the floor price based on the following factors:
  - a) Number of bidders;
  - b) Property value/Reserve price; and
  - c) Sale prospect.
10. The auction committee should determine the floor price on the day of the auction based on the following methods:
  - a) Floor price = reserve price - (variation up to 15%\*reserve price);
  - b) Floor price = Property value - (variation up to 25%\*property value).

11. The Auction Committee shall review and determine the reserve price which shall be kept confidential.
12. The Auction Committee shall be comprised of the following but not limited to:
  - a) Head, Credit Department;
  - b) Head, Legal Department;
  - c) Head, Administration/Finance Department;
  - d) Head, Risk Department;
  - e) The FSPs may invite observers from National Land Commission, Bhutan Construction and Transport Authority and Royal Bhutan Police depending on the nature of seized properties in the auction.
13. The Auction Committee shall appoint a Chairperson from amongst the members of the Committee.
14. The FSPs can also exercise the option to auction seized properties through an e-auction platform of the Royal Securities Exchange of Bhutan Ltd **OR** through an internally developed e-auction platform.
15. Employees or related parties of FSPs cannot participate in the auction of their respective FSPs.

#### **Part D: Auction Procedures**

16. The Auction Committee shall prepare the terms and conditions of the auction requirements and process.
17. The legal department should compile and document the seized property and forward it to the Engineering Division for revaluation.
18. The auction process flow shall be carried out as per annexure II
19. All interested bidders are required to register and deposit earnest money (bid security) as specified in the auction terms and conditions of respective FSPs.
20. The Chairperson shall lead the auction proceedings by announcing the floor price.

### **Part E: Adjustment of Auction Proceeds**

21. The FSP shall lay down the terms and conditions on the successful bid amount.
22. The auction proceeds shall first be adjusted against the loan outstanding.
23. Any deficit on loan balance shall be dealt by the respective FSPs, as per their credit policies, manuals and any other relevant Rules and regulations.
24. Any surpluses shall be refunded to the pledger/mortgagor or adjusted for any outstanding balances after informing the pledger/mortgager in writing.

### **Part F: Governance framework**

25. The FSPs shall be required to align respective auction policies to this Guideline within one month from the date of issuance. This Guideline shall serve as the minimum prudent practices expected by the Authority and shall not limit the FSPs following the additional prudent and sound practices as required from the institution's perspective.
26. The Board of the FSPs shall approve the internal auction policies and ensure its effective implementation by the Management.
27. If the Authority finds any issues from auctions of seized properties because of negligence or fraud or lapses within the FSPs, both the Board and Senior Management shall be accountable.
28. The Internal Audit of the respective FSPs shall audit the auction process and procedures, and submit the report to the Board Audit Committee. The records and documents shall be made available as and when required by the Authority or by any Law Enforcement Agencies based on existing laws of the Kingdom of Bhutan.

### **Part G: Auction Expenses and Prudential Requirements**

29. Any auction related expenses are recovery costs and shall be borne by the respective FSPs.
30. Any deposit of auction proceeds into the loan account shall not be treated as normal repayment of loans and shall not improve the asset classification of the loan.
31. Any deficit loan balance shall be treated as non-performing loans and shall be written off from the books of FSPs and the FSPs may decide to pursue further recovery or waive off the rights as per Rules and Regulations on Foreclosure and Write-off of NPLs 2022 or any amendments thereof.

## Annexure I

| Particulars                                       | Instructions                                                                                                                                                                                           | Sample-1 |
|---------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| <b>Structure/building value</b>                   |                                                                                                                                                                                                        |          |
| Type of structure                                 | 1. RCC Building, 2. Loadbearing Building                                                                                                                                                               |          |
| <b>Base Rate- Nu. /Sqm</b>                        | <b>BSR 2022</b>                                                                                                                                                                                        |          |
| Location of property-                             | Dzongkhag/ Main town                                                                                                                                                                                   |          |
| Cost Index-Transportation index + inflation index | Transportation- Varies with location; Derive based on distance upon a comparison of the distance between the base location and location of the subject property.<br>6% (average past 6 years data NSB) |          |
| <b>Adjusted plinth area rate-</b>                 | <b>Nu. / Sqm plinth area. Height in meter</b>                                                                                                                                                          |          |
| <b>Plinth area- Sqm</b>                           |                                                                                                                                                                                                        |          |
| <b>Room Ht.</b>                                   |                                                                                                                                                                                                        |          |
| <b>Estimated Cost- Nu.</b>                        | <b>Adjusted Rate x Plinth Area x Room Height</b>                                                                                                                                                       |          |
| <i>Add: Discretionary factors</i>                 |                                                                                                                                                                                                        |          |
| Internal finishings                               | Up to 20% for buildings<br>Up to 35% for hotels OR additional cost as evidenced by invoice                                                                                                             |          |
| External finishings                               | Up to 10%                                                                                                                                                                                              |          |
| <i>Add: additional cost</i>                       |                                                                                                                                                                                                        |          |
| Lift                                              | Lumpsum (proof through invoices)- Lift & Escalator                                                                                                                                                     |          |
| <b>Updated Estimated Cost- Nu.</b>                | <b>Estimated cost plus factors</b>                                                                                                                                                                     |          |
| Age of Building-                                  | Current year minus year of construction                                                                                                                                                                |          |
| <b>Subtract: Depreciation</b>                     | <b>Depreciation rate= (property value-salvage value)/Economic lifespan/useful life</b><br>(100-10)/70=1.3%                                                                                             |          |
|                                                   | For loadbearing structure- 50 years useful life, 10% salvage value                                                                                                                                     |          |
|                                                   | For RCC structure- 70 years useful life, 10% salvage value                                                                                                                                             |          |
| <b>Depreciated value of building</b>              | <b>Updated estimated cost minus depreciation</b>                                                                                                                                                       |          |
| <b>Plus, Market factor</b>                        |                                                                                                                                                                                                        |          |
| Located in commercial hub                         | Up to 25% for properties situated in Gyelyong Thromde                                                                                                                                                  |          |
| <b>Total value of building (A)</b>                | <b>Updated estimated cost minus depreciation</b>                                                                                                                                                       |          |
| <b>Land Value</b>                                 |                                                                                                                                                                                                        |          |
| Base rate- Nu. / Sft.                             | PAVA rate 2022- Urban Hub, Thimphu Thromde                                                                                                                                                             |          |
| Land area- Sft                                    | Net area (Registered area - land pooling if any)                                                                                                                                                       |          |
| <b>Land value- Nu.</b>                            |                                                                                                                                                                                                        |          |
| Additional/reduction in value                     | Allowable deviation from PAVA= +/- 25% depending on the Site development- Parking, landscaping, & shear wall                                                                                           |          |
| <b>Total land value (B)</b>                       |                                                                                                                                                                                                        |          |
| <b>Total (A+B)</b>                                |                                                                                                                                                                                                        |          |

- **Note:** Valuers should justify the rates applied and records properly documented.
- The RMA, on its own, or with the technical assistance of certified valuers, will compare FSP's valuation practices of seized properties.

# Annexure II

## Proposed auction process flow

