

PREAMBLE

In exercise of the powers conferred by Section 117 of the Royal Monetary Authority Act of Bhutan 2010, the Board of Directors of the Royal Monetary Authority of Bhutan here by adopt these Regulations during its XXh Board meeting held on [date] for the effective management of the foreign exchange reserves in accordance with the provisions of the RMA Act.

CHAPTER I: PRELIMINARY

1. SHORT TITLE, EXTENT, AND COMMENCEMENT

These Regulations shall:

- a) be cited as the Foreign Exchange Rules and Regulations 2017;
- b) extend to the whole of the Kingdom of Bhutan;
- c) come into force with effect from [date].

2. RULES OF CONSTRUCTION

In this regulation unless the context indicates otherwise, the singular shall include plural and the masculine gender shall include the feminine gender hereafter.

3. REPEAL

On the coming into force of these Regulations the Foreign Exchange Regulations 1997 and Foreign Exchange Regulations 2013 shall be considered amended and restated by the current regulations.

4. SUPERSESION

Regulations shall supersede the provisions of any other regulations in force at the time of entry into force of these regulations.

These Regulations shall supersede the provisions of any Rules, Circulars, Guidelines or Notifications that are inconsistent with these Regulations.

5. AUTHORITY AND INTERPRETATION

The RMA may establish limits, prescribe rules and procedures, and issue notifications, orders, guidelines and clarifications in respect of foreign exchange transactions as empowered under Section 117 of the RMA Act 2010. Further, the power to interpret these Regulations shall vest with the RMA, which if warranted, may issue such instruction and clarification from time to time as may be necessary to give effect and implement this regulation.

CHAPTER II: IMPORT AND EXPORT OF CURRENCY, GOLD, AND SILVER

6. IMPORT AND EXPORT OF CURRENCY

- a) A person may carry upto 5000 Ngultrum bank notes and circulation coins when travelling abroad and bring back upon return;
- b) A person may carry commemorative coins and commemorative bank notes without any limit when travelling abroad and bring back upon return;
- c) No person shall bring in or take out of Bhutan Ngultrum banknotes and circulation coins by way of post, courier or any other means, other than as allowed in (a). However, a person may bring in or take out of Bhutan commemorative coins and commemorative banknotes by way of post or courier;
- d) A person who is bringing into or taking out of Bhutan foreign exchange worth USD10,000 or more shall declare the value in the customs declaration form at the customs point of arrival or departure;
- e) Within the limit in (d) above, a person may bring in or take out of Bhutan to any country other than India or Nepal, foreign exchange in Indian Rupee not exceeding Indian Rupee 10,000; and
- f) A person may surrender to an authorized bank upon return from travel abroad the balance foreign currency cash.

7. IMPORT AND EXPORT OF GOLD AND SILVER

- a) Any import or export of gold and silver in the form of coins, bars, or bullions, beyond the duty free limit prescribed by the Ministry of Finance shall not be made except with the prior approval of the RMA;

- b) RMA approval of such transactions shall be provided in the form of clearance based on the recommendation letter from the Ministry of Finance.

8. IMPORT AND EXPORT OF NON-CONVERTIBLE CURRENCIES

No person, including authorized dealers, authorized money changers and authorized money transfer agents shall deal in non-convertible currencies in Bhutan.

CHAPTER IIIA: AUTHORIZATION TO DEAL IN FOREIGN EXCHANGE

Any person who have been licensed by the RMA under these regulations shall be deemed as authorized persons to deal in foreign exchange as authorized dealers and authorized money changers. No person except for dealers licensed under these Regulations shall deal in or transfer any foreign exchange to any person other than an authorized dealer.

CHAPTER III B: FOREIGN EXCHANGE TRANSACTIONS, EXCHANGE RATES, AND FOREIGN EXCHANGE HOLDINGS OF AUTHORIZED BANKS

9. AUTHORIZED BANKS

Authorized banks licensed by the RMA shall deal in foreign exchange in accordance with the provisions under Section 8 of these Regulations.

10. FOREIGN EXCHANGE TRANSACTIONS BY AUTHORIZED BANKS

Subject to these Regulations, authorized banks shall:

- i. buy or sell and accept deposits in foreign currencies;
- ii. make payments and transfers of foreign currencies on its own behalf or on behalf of other persons;
- iii. receive inward remittances of foreign currencies on its own behalf or on behalf of other persons;
- iv. hold balances of foreign currencies subject to such limits as maybe prescribed by the RMA from time to time;
- v. open and maintain foreign currency accounts abroad with their correspondent banks with the prior approval from the RMA; and

- vi. engage in such other foreign exchange transactions as maybe permitted by the RMA from time to time.

11. BUYING AND SELLING EXCHANGE RATES

- a) The RMA shall determine the buying and selling rates for the Bhutanese Ngultrum against convertible currencies that apply to bills of exchange, telegraphic transfers, travelers' cheques, banknotes and such other transactions. The RMA's determination shall be based on prevailing international market rates, taking into account the normal commercial costs and risks of exchange transactions and its obligations under the IMF Articles of Agreement;
- b) The RMA shall convey the rates for the next business day to the authorized banks by end of preceding business day. Authorized banks shall apply the buying and selling exchange rates so communicated by the RMA to the foreign exchange transactions of that particular day; and
- c) Unless otherwise specified by the RMA, the exchange rates on a day which is not a business day shall be the applicable on the last preceding business day.

12. FOREIGN CURRENCY HOLDINGS OF AUTHORIZED BANKS

- a) The RMA may prescribe limits on foreign currency holdings of authorized banks, which maybe currency or entity-specific. For example, in the event that the RMA determines that the balance of payments situations necessitates, it may require the authorized banks to with draw specified foreign currency deposits, irrespective of their maturity, and transfer the proceeds to the RMA;
- b) Investments in fixed deposits and any other instruments abroad and its duration maybe prescribed by the RMA.

13. RECORDS AND REPORTING

Every authorized bank is required to record and report all its foreign exchange transactions and operations including payments, receipts, settlements, holdings and positions, in accordance with the provisions of Chapter IX of these Regulations.

CHAPTER IIIC: FOREIGN EXCHANGE TRANSACTIONS, EXCHANGE RATES, AND FOREIGN EXCHANGE HOLDINGS OF AUTHORIZED MONEY CHANGERS

14. FOREIGN EXCHANGE LICENSES OF AUTHORIZED MONEY CHANGERS

- a) Any establishment or person other than authorized banks shall apply for a license from the RMA to carry out money changing business in Bhutan;
- b) The license granted by the RMA shall be;
 - i. specific for specific location approved
 - ii. valid for one year
 - iii. non transferable

15. PERMITTED CURRENCIES

Authorized Money Changers may freely buy foreign currencies in the form of currency notes and travelers cheques from any persons visiting Bhutan.

16. BUYING RATE

An Authorized Money Changer shall:

- a) Obtain from the RMA or an authorized bank the daily exchange rates for the foreign currencies determined by RMA. The effective rates on holidays should be the rates prevailing on the last working day proceeding such holidays; and
- b) Conduct permitted foreign exchange transactions at the prescribed exchange rates.

17. CASH IN HAND

To facilitate partial conversion of foreign currency notes of higher denomination and to reimburse the value of the unconverted portion in hard currency to the client, the Authorized Money Changers shall maintain sufficient working cash balance as determined by the RMA in small denomination to meet the daily transaction.

18. EXCHANGE COMMISSION

The Authorized Money Changers exchange commission applicable on the exchange transactions shall be prescribed by the RMA from time to time.

19. EXCHANGE MEMO

Each Authorized Money Changers shall issue an Exchange Memo with the authentication seal both provided by the RMA for every transaction effected.

20. SALE OF FOREIGN CURRENCY

Except for sufficient working cash balances under clause 16 above, all collection of foreign currencies by the Authorized Money Changers must be sold to one of the authorized banks within five working days. The bank slips against such deposits must be retained for producing the records as and when required by the RMA.

21. RENEWAL OF LICENSE

License granted by the RMA is valid for one year. It shall be renewed based on the performance/operation of the business. Application for renewal should be received by the RMA within 30 days prior to the expiration of the current license.

22. IT INFRASTRUCTURE

Authorized Money Changers shall put in place adequate infrastructure as specified in the application forms (Annexure I), including adequate security measures for conducting money changing business.

23. CLOSURE OF THE ACTIVITY

- a) The RMA reserves the right to revoke any Authorized Money Changers license issued under this Regulation; and
- b) Authorized Money Changers shall obtain prior approval/inform the RMA to close down money changing business one month prior to closing the business.

24. DOCUMENTS AND REPORTING

Every person who is authorized by the RMA to engage in international money transfer services shall document and report to the RMA all cross border transactions in accordance with the provisions of Chapter IX of these Regulations.

CHAPTER IV: INTERNATIONAL MONEY TRANSFER SERVICES

25. INWARD REMITTANCES

- a) Authorized banks and authorized money transfer agents authorized by the RMA may receive inward remittances by means of money order and other acceptable international money transfer instruments in foreign currencies through an authorized bank; and
- b) Rules and regulations governing the inward remittance received by authorized banks and authorized money transfer agents shall be issued by the RMA from time to time.

26. OUTWARD REMITTANCES

- a) Subject to such conditions as may be prescribed by the RMA, authorized banks and authorized money transfer agents may make outward remittances in foreign currencies through normal banking channel for transactions allowed under this regulations; and
- b) Notwithstanding 26 a) authorized money transfer agent shall on behalf of its client's make remittances in Indian Rupees only within the limit prescribed by the RMA, and settle such amounts in Indian Rupees.

27. DOCUMENTS AND REPORTING

Every person who is authorized to make inward and outward remittances by the RMA shall document and report to the RMA all its foreign exchange transactions in accordance with the provisions of Chapter IX of this regulations.

CHAPTER V: PAYMENT ARRANGEMENTS

28. PAYMENTS AND TRANSFERS

- a) All payments, receipts and transfers between residents and between residents and non-residents within Bhutan shall be made in Ngultrum;
- b) All payments, receipts and transfers for trade in goods and services to and from India **including payment for hotel and tourism earnings** shall be made in Indian

Rupees unless otherwise approved by the RMA upon verification of bona fide of the transactions;

- c) All payments, receipts, and transfers for trade in goods and services to or from Nepal shall be made in foreign currencies;
- d) All payments, receipts, and transfers for trade in goods and services to other third countries including payment for hotel and tourism earnings shall be made in convertible currencies only;
- e) Payments and transfers of foreign currencies are not permitted for prohibited transactions with any country; and
- f) Payments, receipts and transfers with respect to capital transactions not explicitly provided for in these Regulations and in excess of the limit prescribed by the RMA shall not be made except with the approval of the Royal Government of Bhutan/RMA.

29. ELECTRONIC FUND TRANSFER CARDS

- a) Authorized banks may independently or in association with credit and debit card companies, international banks or financial institutions abroad, issue international credit or debit cards to their account holders;
- b) The RMA shall set the credit or spending limits that will apply to any international credit, debit or prepaid card issued;
- c) The RMA shall also provide a framework of rules and regulations to the credit, debit, and prepaid card issuing banks to ensure that the same are in alignment with the best customer practices and are run on sound, prudent and customer friendly manner;
- d) Any amount owed on international credit, debit or prepaid cards must be settled in full in Bhutanese Ngultrum except for those international credit, debit, or prepaid cards issued against foreign currency accounts which shall be settled by debit to the respective foreign currency account maintained with the issuing authorized bank; and
- e) Authorized banks issuing international credit or debit cards may settle any outstanding balances with their international counterparties in foreign currencies through normal banking channels.

30. DOCUMENTS AND REPORTING

Authorized banks shall document and report foreign exchange transactions in accordance with the provisions of Chapter IX of these Regulations.

CHAPTER VI: CURRENT TRANSACTIONS

31. CURRENT TRANSACTIONS WITH INDIA

- a) Payments, receipts, and transfers for underlying current transactions may be made and received freely through normal banking channels with residents of India, subject to any conditions as maybe specified by the RMA from time to time;
- b) Receipts and payment for current transactions with India must be received and paid in Indian Rupees through normal banking channels within 91 days from the date of export and import of the goods or services;
- c) Any payment not executed in 91 days shall not be made except with the prior approval of the RMA. RMA approval of such transactions shall be provided upon the verification of the bona fide of the transaction; and
- d) Authorized banks may execute advance payments for import of goods or services from India, where the contract so requires. For such payments, importers must submit evidence of the goods having entered Bhutan within 91 days to the authorized banks at the time of making full payment

32. CURRENT TRANSACTIONS WITH THIRD COUNTRIES

- a) Payments, receipts, and transfers for underlying current transactions with third countries may be made and received freely through normal banking channels, subject to any conditions as may be specified by the RMA from time to time;
- b) Subject to such limitations as may be imposed by the RMA from time to time, persons who have been granted an import license or any other document issued in lieu of an import license by the Royal Government shall remit convertible currency through normal banking channel;
- c) Persons importing goods from third countries may apply to the authorized banks to remit convertible currency by filling in the forms provided by the banks

accompanied by the import license or any other document issued in lieu of an import license, and the supplier's invoice or other documentary evidence showing the c.i.f. value of the goods to be imported;

- d) Proceeds from export of goods and services to third countries shall be received in convertible currencies through normal banking channels within 91 days from the date of export;
- e) The exporter and the concerned authorized bank must exercise due diligence in realizing the full export proceeds within the stipulated period; and
- f) Notwithstanding the above references to "convertible currencies", payments, receipts and transfers for goods and services to and from Nepal shall be in terms of Section 28(c).

33. FREIGHT AND TRANSPORTATION COST

- a) Importers holding valid business license and or import licenses for import from third countries to import may remit foreign currency to pay for actual freight and transportation costs incurred in connection with such imports through normal banking channel;
- b) Exporters holding valid business license to export may remit foreign currency to pay for actual freight and transportation costs incurred in connection with their exports through normal banking channels;
- c) Authorized banks shall remit the foreign currency upon verifying prior receipts/payments made in relation to the export/import of goods by the importer/exporter from the bank; and
- d) Any other related payments for purpose not explicitly provided for in subsections a) and b) above shall not be made except with the prior approval of the RMA. RMA approval of such transactions shall be provided upon verification of the bona fide of the transaction.

34. AIR TICKETS FOR TRAVEL

- a) Air tickets purchased for resident and non-resident in Bhutan shall be paid in Ngultrum;

- b) Notwithstanding 34 a), air tickets purchased from abroad for foreign nationals and in Bhutan by Bhutanese travel agents on their behalf on behalf shall be received in foreign currency from abroad through the banking channel; and
- c) Residents may remit foreign currency to any valid travel agent/ticketing agent abroad to pay for air tickets/tour purchased for travel abroad.

35. OFFICIAL TRAVEL

- a) Travel by officials or members of official delegations of the Royal Government including its ministries, departments, and agencies which is financed by the Royal Government, external donors or sponsors, or out of the funds of externally financed projects, shall be regarded as official travel for purposes of these Regulations;
- b) Officials may obtain from Authorized banks foreign currency in cash, daily subsistence allowance (DSA) computed based on the DSA rate approved by the Ministry of Finance for the duration of the travel. For related costs such as air fare, living expenses, and etc. an official may make the payment directly abroad through the normal banking channel or obtain a bank draft at the time of leaving Bhutan; and
- c) Payment in Ngultrum for purchase of the approved foreign currency for official travel may be made against a letter signed by an authorized signatory of the concerned ministry, department or agency or by way of a cheque drawn on such account.

36. BUSINESS TRAVEL

- a) Business travel shall mean travel by Bhutanese/resident abroad for carrying on registered business activities in Bhutan or employed by a Bhutanese firm, company or organization, for purposes associated primarily with the business such as export promotion, market studies, attending seminars, conferences, trade fairs, or exhibitions or for selection or import of capital goods, machinery and raw materials, etc and that is not official travel;

- b) Officials/resident may apply to the authorized banks to obtain travel allowance in foreign currency cash for the duration of their travel computed based on the DSA rate approved by the Ministry of Finance;
- c) Non-resident foreign currency account holder shall obtain the travel allowance by debit to their Foreign currency account maintained with the bank; and
- d) For related costs such as air fare, living expenses, and others, an official may make the payment directly abroad through banking channel or obtain a bank draft at the time of leaving Bhutan.

37. MEDICAL-RELATED TRAVEL

- a) Medical-related travel shall mean travel outside Bhutan by residents for purposes of medical treatment or examination, accompanied by one able escort, if necessary, on the recommendation of a medical specialist;
- b) Resident may apply to obtain foreign currency in cash to meet en-route expenses within the limit prescribed by the RMA from time to time;
- c) For payment of treatment and associated living expenses related to medical treatment including medicines, resident may make the payment directly abroad or obtain a bank draft at the time of leaving Bhutan upon submitting required documents to the bank;
- d) If the cost of treatment exceeds the amount availed initially, the balance amount due to the hospital may be transferred directly to concerned hospital's bank account based on the letter of cost estimate and bank account details provided by the hospital. Any family member of the patient in Bhutan can submit the documents to the banks to process the payment; and
- e) Authorized banks may remit the additional amount approved directly to medical service providers account abroad through normal banking channels.

38. EDUCATION-RELATED TRAVEL

- a) Education-related travel shall be understood to mean travel outside Bhutan by residents for the purpose of undertaking or resuming a course of study or training in India or third country;

- b) Students including Government sponsored students may apply to obtain foreign currency in cash to meet en-route expenses within the limit prescribed by the RMA from time to time; and
- c) Payment for tuition fees, living allowances and additional educational related expenses such as rent, mess fees and etc, resident may make the payment directly abroad or apply for international student debit/prepaid card issued by the authorized banks or obtain a bank draft at the time of leaving Bhutan;

39. PRIVATE TRAVEL

Resident may apply to the authorized banks to obtain foreign currency in cash as per the limit prescribed by the RMA as part of travelling allowance when travelling abroad;

40. INSURANCE SERVICES

- a) Insurer licensed by the RMA may obtain foreign currency through authorized banks to make payments for current transactions related to insurance, reinsurance or retrocession products and services;
- b) Notwithstanding 40 a), for insurer incorporated as FDI business in Bhutan, such payments related to insurance, reinsurance or retrocession products and services shall be met from the foreign exchange receipts of the business;
- c) No resident citizen shall insure abroad for any insurance business emanating within Bhutan except for the following persons:
 - i. diplomatic or consular missions of Bhutan located abroad and their staff who are citizens of Bhutan;
 - ii. insurer licensed by the RMA for current transactions related to the insurance, reinsurance or retrocession products and services as allowed under Section 250 of the FSA 2011; and
 - iii. citizens who are stationed abroad for higher studies, training, or employment abroad.

41. REMITTANCES BY RESIDENTS AND NON-RESIDENTS:

- a) Subject to such conditions as may be prescribed by the RMA from time to time, residents and non-residents employed in Bhutan may remit to their family

members abroad foreign currency up to the limit prescribed by the RMA from time to time; and

- b) Notwithstanding 9 a) above, residents and non-residents who are Indian National employed in Bhutan for short term (construction worker, day worker) may obtain Indian Rupee in cash at the time of leaving the country as per the limit prescribed by the RMA from time to time.

42. PAYMENT FOR INVISIBLES

Any person residing in Bhutan may remit foreign currency from the authorized banks to pay for the following fees upon submission of the documentary evidence:

- i. subscriptions to foreign journals and publications;
- ii. consultancy, technical, and legal fees;
- iii. visa fees;
- iv. brand marketing fees;
- v. application fees to educational and training institutions abroad including testing fees;
- vi. membership fees in professional and trade bodies; and

43. PAYMENT FOR COMMUNICATION / INFORMATION AND TELECOMMUNICATION SERVICES

Authorized Communication/information and telecommunication service providers may remit abroad foreign currency from the authorized banks for import of related goods and services upon submission of endorsement from the relevant ministry/agencies and other documentary evidence.

44. IMPORT OF RAW MATERIALS AND CAPITAL GOODS

- a) Local manufacturing industries with earnings in convertible currencies shall be allowed to obtain convertible currency for import of raw materials and packaging materials from third countries as follows:

- i. upto six months import requirement of raw materials and packaging materials as a startup support with the convertible currency used being replaced by the industries within six months of the date of purchase;
 - ii. the industry shall apply to the RMA with the recommendation letter from the relevant authority and necessary documents for approval;
 - iii. subsequent import of raw materials shall be met from its convertible currency earnings through export of their finished products manufactured from the imported raw materials. Convertible earnings of preceding one year shall be allowed to use for import of raw materials for the current year; and
 - iv. in the event, local manufacturing industries have converted the convertible currency receipts into Ngultrum, reconversion shall be allowed to the extent of convertible currency converted net of payments made in convertible currency.
- b) In accordance with the Foreign Direct Investment Policy as announced by the Royal Government of Bhutan from time to time, Bhutanese companies which have foreign shareholdings shall be entitled to remit foreign currencies through normal banking channel balances of foreign currencies brought in by the foreign shareholders to pay for initial and subsequent imports of goods, intermediate goods and raw materials;
- c) Notwithstanding 44 b) FDI local investor may apply to the RMA to obtain initial capital investment requirements in foreign currency for purchase of capital goods in cases where the foreign investor's equity in the project is insufficient to meet its foreign exchange requirement. The foreign currency approved shall not exceed the equity obligation of the local investor;
- d) FDI businesses shall be allowed to obtain additional convertible currency as follows:
- i. upto two months' import requirement of raw materials as a startup support with the convertible currency used being replaced by the business within six months of the date of purchase;
 - ii. subsequent import of raw materials shall be met from its convertible currency receipts;

- iii. convertible currency earnings of preceding one year shall be allowed to be used for import of raw materials for the current year; and
- iv. in the event, the FDI have converted the convertible currency receipts into Ngultrum, reconversion shall be allowed to the extent of convertible currency converted net of payments made in convertible currency.
- a) Subject to such limitations as may be imposed by the RMA from time to time, local industries and FDI companies may freely make payments for import of raw materials, packaging materials, and capital goods from India in Indian Rupee through banking channels as allowed under this regulation.

45. REMITTANCES ON BEHALF OF THE ROYAL GOVERNMENT AND ITS AGENCIES AND PUBLIC SECTOR ENTITIES

- a) For the purpose of this section, Public sector entities shall mean Government Owned Corporations, Bhutanese NGO's, Civil Society Organizations, and any other agencies specified by RMA for this purpose;
- b) The Royal Government and its agencies and public sector entities shall seek prior approval/consent of the RMA before appointing foreign entities as its agent or contractor to execute certain project and or for any transactions that entails substantial inflow/outflow of foreign exchange;
- c) The Royal Government and its agencies and public sector entities may remit convertible currency for current transactions (for its own) from one of the authorized banks in Bhutan upon submission of a necessary documents signed by an authorized signatory indicating the amount, currency, purpose of the remittances, name of the beneficiary abroad, and any other documentary evidence requested by the bank; and
- d) Prior to making such remittances, the authorized bank must receive the value of such remittances in Ngultrum through valid instruction to debit the account of the remitting institution or upon receipt of a crossed cheque or pay order drawn on the bank account.

46. REMITTANCES RELATED TO FOREIGN DIRECT INVESTMENT AND EXTERNAL DEBT

- a) Any convertible currency required for operational expenses including the following shall be met from the convertible currency earnings of the business;
 - i. repatriation of dividends payable except to the service activities in the priority list of the FDI policy, the RMA shall provide foreign exchange irrespective of the currency of earnings ;
- b) Notwithstanding 46 a) FDI businesses may remit convertible currency from the authorized bank payment for the underlying current transactions as follows:
 - i. up to 2 months import requirement of raw materials as a startup support. The convertible currency used shall be replaced within a period of 6 months;
 - ii. payment of interest and amortization on foreign currency loans in accordance with the Guidelines for ECB; and
 - iii. payment of royalties, technical service or management fees and charges in accordance with the respective agreements for such payments as approved by the Royal Government of Bhutan.
- c) Entities approved by the Ministry of Finance to borrow from non-resident lenders shall meet its repayment obligations in the currency in which the ECB is raised from its earnings in foreign exchange.

47. OTHER CURRENT TRANSACTIONS

Any other related payments to current transactions not explicitly provided under Chapter VI of this regulation and in excess of the limit prescribed shall not be made except with the prior approval of the RMA. RMA approval of such transactions shall be provided upon verification of the bona fide of the transaction.

CHAPTER VII: CAPITAL TRANSACTIONS

48. FOREIGN DIRECT INVESTMENT

Bhutanese companies with foreign shareholding approved by the Royal Government of Bhutan and subject to the terms and conditions of the FDI policy, as announced by the RGOB from time to time, may:

- a) Receive the foreign investment in foreign currency through normal banking channels in accordance with the Foreign Direct Investment Policy as amended from time to time;
- b) Repatriate capital and realized capital gains in foreign currency, net of taxes on capital gains through authorized banks on the sale or partial sale of the foreign direct investment in Bhutan or on liquidation of the entity incorporated or registered in Bhutan, with the prior approval of the RMA;
- c) Apply to the RMA for remittances of capital or capital gains associated with inward foreign direct investment accompanied by supporting documentation, including if applicable:
 - i. A copy of the foreign direct investment approval;
 - ii. executed contract of sale, in the case of repatriation of capital and capital gains on full or partial sale of the foreign direct investment;
 - iii. decision of the foreign direct investor to liquidate the investment or the court order of liquidation, in the case of repatriation of capital and capital gains on liquidation of the entity incorporated or registered in Bhutan;
 - iv. certificate issued by the company's auditor verifying payment of all obligations pertaining to the sale or liquidation and the net share available on sale or for distribution; and
 - v. proof of payment of the taxes applicable to the amounts being remitted.
 - vi. Upon receipt of RMA approval, the concerned person may remit the foreign currency through normal banking channels.

49. EXTERNAL COMMERCIAL BORROWING

- a) Capital transactions pertaining to External Commercial Borrowing (ECB) shall be as per the ECB guidelines issued by the Royal Government of Bhutan from time to time;
- b) ECBs approved by the Royal Government of Bhutan shall be registered with the RMA as per the ECB Guidelines;
- c) ECB proceeds shall be immediately remitted to Bhutan to the eligible borrower's foreign currency account with commercial banks in Bhutan;
- d) Eligible borrowers shall submit regular reports to the RMA in the form and as specified by the RMA from time to time; and
- e) Remittances of installments of interest and other charges on the ECB must be routed through the banking channel based on the net balancing principal.

50. IMMOVEABLE PROPERTY

- a) Payments in connection with leases or similar transactions related to immoveable property in Bhutan by non-residents may only be made in Ngultrum, except with the prior approval of the RMA; or
- b) Payments, receipts or transfers of currency for residents to own, acquire or hold immoveable property outside Bhutan, may only be made if the Royal Government of Bhutan has approved such acquisition or holding of property.

CHAPTER VIII: BANK ACCOUNTS IN BHUTAN AND ABROAD

51. FOREIGN CURRENCY ACCOUNTS IN BHUTAN

- a) The following persons may open and maintain foreign currency accounts with authorized banks in Bhutan under this regulation:
 - i. Permanent diplomatic or consular missions of foreign governments and international organizations in Bhutan and their staff who are remunerated in convertible currencies;
 - ii. representative offices of donor agencies and their staff who are foreign citizens;

- iii. third country contracting firms engaged to execute projects approved by the Royal Government and financed by donor agencies, and their staff who are foreign citizens; and
- iv. Bhutanese manufacturing industries earning convertible currencies for import of raw material;
- v. exporters of goods and services;
- vi. FDI companies;
- vii. third country persons receiving grants, donations or similar inward remittances in convertible currency for projects that have been approved by the Royal Government;
- viii. Bhutanese citizen or non-resident earning in foreign currency;
- ix. any other person or category of persons specified by the RMA; and
- x. abide by the terms and conditions issued by the RMA from time to time.

52. GENERAL CONDITIONS:

- a) Foreign currency accounts opened and maintained with authorized banks in Bhutan shall be denominated in any one of the foreign currencies approved by the RMA;
- b) There shall be three types of foreign currency account namely
 - i. FC1 for foreign nationals;
 - ii. FC II for company/firm incorporated/registered in Bhutan; and
 - iii. FC III for account opened under Inward Remittance Rules and Regulations 2016.
- c) The account opened must be funded through inward remittances only. No credit/transfer between the foreign currency accounts shall be allowed to be made except in Ngultrum in Bhutan;
- d) All receipt and payment emanating from the business and related to the establishments authorized line of business including loan proceeds received on account of ECB shall be made and routed through foreign currency account
- e) Authorized banks shall ensure all payment and receipts in any currency by the foreign currency account holder is routed through the foreign currency account maintained with the bank;

- f) All foreign currency accounts shall be opened with prior approval of the RMA.
- g) A person may be allowed to open multiple foreign currency account in different convertible currencies determined by the RMA with different authorized banks in Bhutan with prior approval from the RMA;
- h) Cash deposit of foreign currencies into the foreign currency account shall not be permitted;
- i) No cheque facility shall be allowed for any foreign currency account opened under these Regulations;
- j) Withdrawal in Bhutan shall be in Ngultrum only;

53. FOREIGN CURRENCY ACCOUNTS ABROAD

- a) Bhutanese citizens may not open and maintain foreign currency accounts abroad except for the following persons:
 - i. diplomatic and consular missions of Bhutan located abroad and their staff;
 - ii. authorized banks;
 - iii. citizens who are stationed outside Bhutan for higher studies, training, or employment abroad; and
 - iv. public corporations and trust funds approved by the Royal Government with regular operations abroad.
- b) The foreign currency accounts opened by the persons described under regulation 49(a) shall be closed upon completion of their term.

54. DOMESTIC CURRENCY ACCOUNTS IN BHUTAN

- a) Residents and non-residents who are legally employed in Bhutan may open and maintain domestic currency accounts in authorized banks in Bhutan;
- b) Balances held in domestic currency accounts of residents/non-residents maybe:
 - i. withdrawn by the account holder in Bhutanese Ngultrum; or
 - ii. converted into foreign exchange and remitted abroad for transactions allowed under this regulation by the account holder through authorized banks up to the extent of its salary/wages earned.
- c) Upon closure of a domestic currency account, the account holder may:
 - i. withdraw in foreign currencies upto the ATS limit prescribed by the RMA; or

- ii. transfer abroad, in whole or in part in foreign exchange the closing balance through banking channel from an authorized bank.

55. DOCUMENTATION AND REPORTING

Each authorized bank shall maintain records and report to the RMA in accordance with the provisions of Chapter IX of these Regulations:

CHAPTER IX: RECORDS, REPORTING, PROVISION OF INFORMATION AND INSPECTIONS

56. MAINTENANCE OF RECORDS

- a) The following persons shall maintain foreign exchange transaction records for a minimum period of five years:
 - i. Authorized Banks;
 - ii. Authorized Money Changers;
 - iii. Authorized Money Transfer Agents;
 - iv. FDI Companies;
 - v. Local Industries;
 - vi. FC Account holders; and
- b) Other persons that engage in foreign exchange transactions in Bhutan; and
- c) Records required to be maintained under these Regulations maybe maintained in a secure electronic form or in paper form, provided that the person required maintaining the records shall be fully responsible for producing the records as and when required by the RMA.

57. REPORTING BY AUTHORIZED BANKS

- a) The authorized banks shall input all foreign exchange transactions effected by the bank in the foreign exchange inflow/outflow system developed by the RMA. Simultaneously, banks shall report on the following matters to the RMA:
 - i. Daily Indian Rupee balances (opening and closing), and credits and debits;
 - ii. Weekly third country currency balances (opening and closing), and credits and debits;

- iii. Monthly statements on international credit and debit cards issued;
- iv. All receipts and payments for exports and imports of goods and services to and from India;
- v. all receipts and payments for exports and imports to and from third countries;
- vi. Monthly information on the closing of any foreign currency accounts in Bhutan;
- vii. Monthly information on the closing of any domestic currency accounts of non-residents or foreign citizens in Bhutan;
- viii. Quarterly data on aggregate balances held in foreign currency accounts in Bhutan and in domestic currency accounts of non-residents or foreign citizens in Bhutan;
- ix. Weekly data on authorized bank holdings in foreign currency accounts in Bhutan and abroad, showing Indian Rupee and convertible currency holdings separately; and
- x. monthly reports on advance payments for imports and evidence of goods having entered into Bhutan.

58. REPORTING BY AUTHORIZED MONEY CHANGERS

- a) The Authorized Money Changers shall input all the transactions relating to purchase of foreign currency in the AMC system developed by the RMA. Simultaneously, report the following matters to the RMA no later than 15th day of the following month:
 - i. Monthly consolidated Statement of Foreign Exchange Purchases made on a daily basis shall be submitted to the RMA on a monthly basis as per Annexure II;
 - ii. Bank deposit slips evidencing the deposit of foreign exchange purchased shall be submitted to the RMA on a monthly basis; and
 - iii. Reports shall be submitted to the RMA using the most efficient channels, such as secure file transfer and electronic real-time reporting systems.

59. REPORTING BY OTHERS

Other entities not described under Sections 38 and 39 of these Regulations shall report on the following matters:

- a) Bhutanese companies with approved foreign direct investment shall provide annual data on royalties, technical and management fees, profits and dividends paid, and any other inflows;
- b) Quarterly data from the insurance companies/re-insurance companies on foreign currency payments and receipts;
- c) The Trust Fund for Environmental Conservation to provide audited annual financial statements; and
- d) Department of Revenue and Customs shall provide a report on outflow as per 5(b) and 6(a).
- e) Authorized Money transfer agents

CHAPTER X: MONITORING AND INSPECTION

The Department shall carry out periodic inspections of the entities mentioned in 52 a) in the form of off-site and/or on-site inspection. The entities shall furnish the details and documents, if required, to the inspection team deputed by the Department in accordance with the provisions of clause IX of the Foreign Exchange Regulation 2013.

60. PROCEDURES FOR ON-SITE INSPECTION

- a) The Department shall depute a team of officials with an official letter of engagement for on-site inspection;
- b) The team is required to submit the findings in the form of report within seven working days after the inspection; and
- c) The Department may issue a directive to the entities subject to inspection in case there is any shortcoming or observations reflected in the report. It is the duty of the entities to comply with the directives issued by the Department from time to time.

61. PROCEDURES FOR OFF-SITE INSPECTION

- a) The Department shall conduct off-site inspection of the transaction detail submitted by the entities; and
- b) In case any shortcoming is observed during the off-site inspection, the Department may direct the inspection team to conduct an on-site inspection or it may take necessary additional measures, in accordance with the prevailing rules and regulations.

CHAPTER XI: OFFENCES AND PENALTIES

62. PENALTIES

- a) A person shall be liable to a fine or any other penalties prescribed under these Regulations for his or her contravention as follows:
- b) If an individual fails to declare the source and the purpose as required under regulation 5(b), 6(a), and 6(b) of these regulations, the amount involved shall be confiscated;
- c) If a person fails to comply with regulations 7 and 8 of these regulations, the amount involved shall be confiscated and may be prosecuted by the relevant agencies, if his or her act is an offence under the laws of the kingdom of Bhutan;
- d) A person shall be guilty of an offense if he/she contravenes with Chapter IIIA of these regulations, and shall be liable to a fine not exceeding two times the amount involved in contravention;
- e) It shall be an offense if an authorized moneychanger fails to comply with regulations 14 (b) and (c) of these Regulations and shall be imposed a fine of Nu.5,000 per incident;
- f) It shall be an offence if an authorized money changer fails to comply with the regulations 15 (a) and 15 (b) of these Regulations. An authorized moneychanger shall be imposed a fine of Nu.5,000 per incident. The RMA may revoke authorized moneychanger's license in addition to a fine, if such contravention occurs three or more times by an authorized moneychanger;

- g) It shall be an offence if an authorized moneychanger fails to comply with regulation 16 (e) of these Regulations and shall be imposed a fine of Nu.5,000 per incident;
- h) If an authorized person fails to comply with regulation 20(d) of these Regulations, he/she shall be imposed a fine of Nu5,000 per incident for his or her failure to report to the RMA;
- i) If a person fails to comply the requirements under the regulation 24(a-f) of these Regulations, he or she shall be imposed a fine equivalent to the amount involved in the contravention;
- j) If a person fails to comply the requirement under regulations 27(b) and 43(a) of these Regulations, he or she shall be imposed a fine equivalent to [...];
- k) If an individual or a person is not a person described under regulations 48(a)(i-iv) of these Regulations, the concerned authorized bank shall be imposed a fine of Nu.50,000 per incident and maybe prosecuted by the relevant agencies, if his or her act is an offence under laws of the Kingdom of Bhutan;
- l) If a person described under regulations 48(b) (i-vi) of these Regulations, opens and maintain foreign currency accounts in authorized banks in Bhutan without the prior approval of the RMA, the concerned authorized bank shall be imposed a fine of Nu.50,000;
- m) It shall be an offence if a Bhutanese citizen or a person not described under regulation 49(a) (i-iv) opens and maintain foreign currency account abroad. A person in contravention under this regulation 49(a) shall be imposed a fine of Nu.100,000;
- n) A Bhutanese citizen eligible to open the foreign accounts abroad shall close the foreign account upon completion of their term. A person failing to comply with Regulations 49(b) shall be imposed a fine of Nu.50,000;
- o) If an individual or a person is not a person described under regulation 50(a)(i-iv) of these Regulations, the concerned authorized bank shall be imposed a fine of Nu 100,000 and his or her account shall be cancelled;

- p) If a person described under section 52(a) and (b) of these Regulations fails to comply with regulations under Chapter IX of these Regulations, a fine of Nu.5000 shall be imposed per incident for late reporting or non-reporting;
- q) If a person fails to pay the fine imposed under these Regulations, a fine shall be recovered through the Court of competent jurisdiction;
- r) If no penalty is expressly provided for the offence under these Regulations, he or she shall be liable to a fine under these Regulations; and
- s) An individual or a person imposed with a fine under these Regulations shall not be immune from prosecution by the relevant agencies, if his or her act constitutes a crime punishable under the laws of the Kingdom of Bhutan.

CHAPTER XI: MISCELLANEOUS

63. IMMUNITIES OF GOVERNMENT AGENCIES AND MARKET PARTICIPANTS.

- a) The RMA, members, officers, employees of the RMA shall enjoy immunity in the exercise of their duties under these Regulations, as provided in the RMA Act; and
- b) Government entities other than the RMA, their members, officers and employees along with authorized persons, their members, officers and employees shall not be liable to any action in damages for anything done or omitted to be done in the exercise of performance of any power or duty conferred or imposed under these Regulations unless the Act or omission is shown to have been in bad faith.

64. DEFINITIONS

In these Regulations, unless the context otherwise requires:

- a) “Authorized bank” means commercial bank licensed by the Royal Monetary Authority of Bhutan;
- b) “Authorized Money Changer” means a person for the time being authorized under Chapter III B to deal in foreign exchange;
- c) “Authorized Money Transfer Agent” means any legal entity other than authorized bank approved by the RMA to carry out remittance activities;

- d) "Person" means an individual or juridical entity, whether incorporated or not;
- e) "Board" means the Board of the Royal Monetary Authority of Bhutan;
- f) "Capital account transactions" mean transactions for the purpose of transferring capital including transactions involving foreign direct investment, portfolio investment, acquisition of real estate or interest in real estate, and loans, guarantees and deposits of other normal short term banking and credit facilities;
- g) "Convertible Currency" means foreign currency denominated in Australian Dollars, Canadian Dollars, Danish Kroner, Euros, Hong Kong Dollars, Japanese Yen, Norwegian Kroner, Singapore Dollars, Swedish Kroner, Swiss Francs, United Kingdom Pound Sterling, or United States Dollars;
- h) "Currency earnings" as used in the Foreign Direct Investment Policy, 2010 shall be understood to mean "foreign exchange earnings" as used in these Regulations;
- i) "Current account transactions" means a transaction other than a capital account transaction and without prejudice to the generality of the foregoing such transaction includes:
 - i. Payments due in connection with foreign trade, other current business, service, and short term banking and credit facilities in the ordinary course of business;
 - ii. Payments due as interest on loans and as net income from investments;
 - iii. Remittances for living expenses of parents, spouse and children residing abroad; and
 - iv. Expenses in connection with foreign travel, education and medical care of parents, spouse and children.
- j) "Debt" means loans, overdrafts or other credit facilities, including by way of leases, but does not include short-term trade or supplier credits or other normal short-term banking and credit facilities;
- k) "Exchange Certificate" means certificate issued by Authorized Money Changers/Authorized banks upon each sale/purchase of foreign currencies;
- l) "Foreign Currency" is any currency other than Bhutanese Ngultrum namely "convertible currencies" and "Indian Rupee)

- m) "Foreign currency account" means a bank account denominated in convertible currencies and permitted foreign currencies;
- n) "Foreign Exchange" means any foreign currency and includes cheques, drafts, letters of credit, bills of exchange, promissory notes, deposits, and credits and balances expressed or drawn in any foreign currency;
- o) "Foreign Exchange" means bank notes, coins, cheques, drafts, letters of credit, bills of exchange, promissory notes, deposits, and credits and balances expressed or drawn in foreign currency;
- p) "Foreign Exchange Earnings" means proceeds from export of goods and services of a country, and the returns from its foreign investments, denominated in convertible currencies and permitted foreign currencies;
- q) "Hard currency" as used in the Rules and Procedures for Industrial Projects Requiring Hard Currency for Import of Raw Materials(dated June 4, 2004), and the term "convertible currency" as used in the Foreign Direct Investment Policy, 2010 shall be understood to mean convertible currencies;
- r) "International credit or debit card" means a credit or debit card capable of being used abroad that has been issued by an authorized bank;
- s) "Inward foreign direct investment" means foreign direct investment as defined in the Royal Government's Foreign Direct Investment Policy, 2010;
- t) "Money Order" shall mean money order services to and from India only;
- u) " Non-resident" means a person who is not a resident of Bhutan and includes (i) branches, offices, and agencies in Bhutan of non-residents; and (ii) diplomatic and consular missions of foreign governments and international organizations located in Bhutan and their staff who are not citizens of Bhutan;
- v) "Outward foreign direct investment" means outward foreign direct investment as specified in the Royal Government's Regulations Relating to the Possession of Assets and Properties outside Bhutan by Bhutanese Citizens, 1993;
- w) "Prohibited transactions" shall mean transactions prohibited under the Rules and Procedures for Imports from Third Countries Issued by the Ministry of Economic Affairs and listed in Foreign Exchange Guidelines for commercial banks issued by the RMA;

- x) "RMA" means Royal Monetary Authority of Bhutan;
- y) "Resident" means (i) an individual who stays in Bhutan for a period of 180 days or more (ii) a person that is either registered or incorporated in Bhutan and includes any office, branch or agency of such person located in Bhutan or abroad; and (iii) diplomatic or consular missions of Bhutan located abroad and their staff who are citizens of Bhutan
- z) "Third country" means a foreign country other than India;