ROYAL MONETARY AUTHORITY OF BHUTAN

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FOREIGN EXCHANGE RULES AND REGULATIONS 2020

In exercise of the powers conferred by Section 117 of the Royal Monetary Authority Act of Bhutan 2010, the Board of Directors of Royal Monetary Authority of Bhutan (RMAB) hereby adopts the Foreign Exchange Rules and Regulations 2020 during 161st Board meeting held on 27th May 2020 for the effective management of the foreign exchange reserves.

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CHAPTER I: PRELIMINARY

1. SHORT TITLE, EXTENT, AND COMMENCEMENT

These Rules and Regulations shall:

a) be cited as the Foreign Exchange Rules and Regulations 2020;
b) extend to the whole of the Kingdom of Bhutan;
c) Come into force with effect from 1st July 2020.

2. RULES OF CONSTRUCTION

In these rules and regulations unless the context indicates otherwise, the singular shall include plural and the masculine gender shall include the feminine gender hereafter.

3. REPEAL

a) Upon coming into force of this rule and regulation, the Foreign Exchange Rules and Regulation 2018 shall be considered repealed by this rule and regulation.
b) This rule and regulation shall supersede any circular, guideline or notifications that are inconsistent with this rule and regulation.

4. AUTHORITY AND INTERPRETATION

The RMA may establish limits, prescribe rule and procedure, and issue notification, order, guideline and clarification in respect of foreign exchange transaction as empowered under Section 117 of the RMA Act of Bhutan 2010.

Further, the power to interpret this rule and regulation shall vest with the RMA, which if warranted, may issue such instruction and clarification in the form of circular from time to time as may be necessary to give effect and implement this rule and regulation.

5. POWER TO MAKE RULE

The RMA shall formulate necessary operational guideline for the implementation of this rule and regulation.

CHAPTER II: IMPORT AND EXPORT OF BANK NOTE, CIRCULATION COIN, COMMEMORATIVE BANK NOTE, COMMEMORATIVE COIN, AND GOLD AND SILVER

6. IMPORT AND EXPORT OF BANK NOTE, CIRCULATION COIN, COMMEMORATIVE BANK NOTE, AND COMMEMORATIVE COIN

a) Except as otherwise specified in this rule and regulation, a person may:

(i) bring in or take out while travelling into or out of Bhutan any amount of commemorative coin and commemorative bank note; or

(ii) send in or out of Bhutan by way of post or courier or any other means, any amount of commemorative coin and commemorative bank note.

b) Notwithstanding Section 6a) above, a person may not send in or out of Bhutan any Ngultrum bank note or circulation coin through post or courier or any other means. However, a person may carry up to a total amount of 5000 Ngultrum in the form of bank note or circulation coin when travelling into or out of Bhutan;

c) A person,

(i) may send into Bhutan without limit, foreign exchange in any form other than traveller's cheque, bank draft or bank notes;

(ii) may bring into Bhutan from any place outside Bhutan, foreign exchange in the form of traveller's cheque, bank draft or bank notes without limit, subject to the condition that such person makes, on arrival in Bhutan, a declaration to the Customs. It shall not be necessary to make such declaration where the aggregate value of the foreign exchange in the form of traveller's cheque, bank draft or bank notes brought in by such person at any one time does not exceed US$10,000 or its equivalent in foreign currency.

d) A person,

(i) may send out of Bhutan, foreign exchange in any form other than traveller's cheque, bank draft or bank notes in accordance with this rule and regulation;

(ii) may take out of Bhutan, foreign exchange in the form of traveller's cheque, bank draft or bank notes up to US$ 10,000 or its equivalent in foreign currency at any one time. Any amount exceeding US$ 10,000 or more shall be subject to the condition that such person obtains clearance from the RMA and makes a declaration of the same at the Customs.

e) 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 coin, bar, or bullion, including jewelry in excess of the duty-free baggage allowance prescribed by the Ministry of Finance shall not be made except with the prior approval of the RMA; and

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

8. RECORDS AND REPORTING

Department of Revenue and Customs shall record and report all transactions under this Section to the RMA in accordance with the provision of Chapter IX of this rule and regulation.

CHAPTER IIIA: AUTHORIZATION TO DEAL IN FOREIGN EXCHANGE

Any person who has been licenced by the RMA under this rule and regulation including authorized bank shall be deemed as authorized dealers to deal in foreign exchange transactions. No other person shall deal in or transfer any foreign exchange to any person other than an authorized dealer.

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

9. AUTHORIZED BANKS

Authorized bank licenced by the RMA shall deal in foreign exchange transactions in accordance with the provisions under Section 10 of this rule and regulation.

10. FOREIGN EXCHANGE TRANSACTIONS BY AUTHORIZED BANKS

Subject to this rule and regulation, an authorized bank shall:

a) Buy or sell and accept deposit in foreign currency only;
b) Not deal in non-convertible currency bank notes;
c) Make payment, receive, or transfer in foreign currency on its own behalf or on behalf of another person;
d) Hold balance in foreign currency subject to such limits as may be prescribed by the RMA from time to time;
e) Seek written approval from the RMA prior to the introduction of any new product that entail foreign exchange outflow including for issuance of any international debit/prepaid/credit card;
f) Open and maintain foreign currency account abroad with their correspondent banks with the prior approval from the RMA;
g) Draft Standard Operating Procedure (SOP) and internal policy, including a comprehensive control procedure for implementing this rule and regulation;
h) Comply to Anti-money Laundering and Combating the Financing of Terrorism Act 2018 and relevant regulation thereto to the extent prevalent for executing any foreign exchange transactions;
i) Ensure that “Know Your Customer” guideline have been implemented in respect to any payment, receipt and transfer of foreign currency; and
j) Engage in such other foreign exchange transaction as may be permitted by the RMA from time to time.

11. BUYING AND SELLING EXCHANGE RATES

a) The RMA shall determine the buying and selling rate for the Bhutanese Ngultrum against foreign currency that apply to bills of exchange, telegraphic transfer, travelers' cheque, banknote and such other transaction. The RMA's determination shall be based on prevailing international market rate, taking into account the normal commercial cost and risk of exchange transaction and its obligation under the IMF's Articles of Agreement;
b) The RMA shall convey the rate for the next business day to the authorized banks by end of preceding business day. An authorized bank shall apply the buying and selling exchange rate so communicated by the RMA to the foreign exchange transactions of that particular day; and
c) Unless otherwise specified by the RMA, the exchange rate on a day which is not a business day shall be the applicable on the last preceding business day.

12. FOREIGN EXCHANGE HOLDING OF AUTHORIZED BANK

a) The RMA may prescribe limit on foreign exchange holding of an authorized bank, which maybe currency or entity-specific;
b) An authorized bank may make investment abroad in instruments prescribed by the RMA from time to time; and
c) In the event that the RMA determines that the balance of payments situations necessitates, it may require the authorized banks to withdraw specified foreign currency deposit, irrespective of their maturity, and transfer the proceed to the RMA.

13. RECORDS AND REPORTING

All authorized bank dealing in foreign exchange shall record and report all its foreign exchange transaction and operation including payment, receipt, settlement, holding and position, in accordance with the provision of Chapter IX of this rule and regulation.

CHAPTER III C: FOREIGN EXCHANGE LICENCE, TRANSACTION, AND BUYING RATE OF AUTHORIZED MONEY CHANGER

14. FOREIGN EXCHANGE LICENCE OF AUTHORIZED MONEY CHANGERS

a) Any person other than authorized bank may apply for a licence from the RMA to carry out money changing business in Bhutan;
b) The licence granted by the RMA shall be;
   (i) specific for specific location approved;
   (ii) valid for one year; and
   (iii) non-transferable.
c) Licence granted by the RMA shall be valid for one year and the renewal thereafter shall be based on the performance of the business. Application for renewal shall be received by the RMA within 30 days prior to the expiration of the current licence;
d) An authorized money changer shall inform the RMA on the closure of money changing business one month prior to closing the business; and
e) The RMA reserves the right to revoke authorized money changer's licence issued under this rule and regulation.

15. FOREIGN EXCHANGE TRANSACTION BY AUTHORIZED MONEY CHANGERS

Subject to this rule and regulation, an authorized money changer:

a) Is authorized to buy foreign currency in the form of bank note and traveler's cheque from any person visiting Bhutan;
b) May only deal in convertible currency and Indian rupee;
c) May be eligible for an exchange commission applicable on the foreign exchange transaction determined by the RMA from time to time;
d) To facilitate partial conversion of higher denomination banknote and to reimburse the value of the unconverted portion to the client, shall maintain sufficient working cash balance as determined by the RMA;
e) Shall sell proceeds in foreign currency except for sufficient working cash balance under Section 15(d) above by way of credit to the Authorized Money Changers account maintained with one of the authorized banks within five working days;

f) The bank slip against such deposit made must be retained for producing the record as and when required by the RMA;
g) Shall issue an Exchange Memo with the authentication seal both provided by the RMA for every foreign exchange transaction effected;
h) Shall put in place adequate infrastructure as specified by the RMA including adequate security measures for conducting money changing business;
i) Shall comply to Anti-money Laundering and Combating the Financing of Terrorism Act 2018 and relevant regulation thereto to the extant prevalent for executing any foreign exchange transactions; and
j) Ensure that “Know Your Customer” guideline have been implemented in respect to any receipt and payment of foreign currency.

16. EXCHANGE RATE

An authorized money changer shall:

a) Obtain from the RMA the daily buying exchange rate determined by the RMA for all foreign currency;
b) The effective rate on a holiday shall be the rate prevailing on the last working day proceeding such holiday; and
c) Conduct permitted foreign exchange transaction at the determined exchange rate.

17. DOCUMENTS AND REPORTING

An authorized money changer authorized by the RMA to deal in foreign exchange and an authorized bank dealing in money changing business shall document and report to the RMA all foreign exchange transaction allowed under this Section shall record and report in accordance with the provisions of Chapter IX of this rule and regulation.

CHAPTER IV: INTERNATIONAL MONEY TRANSFER SERVICES

18. INWARD REMITTANCES

a) An authorized bank and other persons authorized by the RMA to carry out remittance activities as authorized money transfer agent may receive inward

remittance by means of money order and other acceptable international money transfer instrument in foreign currency through an authorized bank; and

b) Rules and regulations governing the inward remittance shall be issued by the RMA from time to time for compliance by authorized bank and authorized money transfer agent.

19. OUTWARD REMITTANCES

Subject to such condition as may be prescribed by the RMA, an authorized bank and authorized money transfer agent may make outward remittance in foreign currency through normal banking channel.

20. DOCUMENTS AND REPORTING

An authorized bank and an authorized money transfer agent carrying out inward and outward remittance activities shall document and report to the RMA all its foreign exchange transaction in accordance with the provisions of Chapter IX of this rule and regulation.

CHAPTER V: PAYMENT ARRANGEMENTS

21. PAYMENTS AND TRANSFERS

a) Any payment, receipt and transfer between resident, and between resident and non-resident within Bhutan shall be made in Ngultrum;
b) All payment, receipt and transfer for trade in goods and services to and from India shall be made in Indian Rupee or unless otherwise approved by the RMA upon verification of bona fide of the transactions;
c) Any payment, receipt, and transfer for trade in goods and services to or from Nepal shall be made in convertible currency or Indian Rupee;
d) All payment, receipt, and transfer for trade in goods and services to third country shall be made in convertible currency only;
e) Any payment, receipt, and transfer of foreign currency shall not be permitted for trade in prohibited goods;
f) Payment and transfer of foreign currency for trade in restricted goods shall be made upon submission of permit to import issued by relevant agency; and

g) Payment, receipt and transfer with respect to current and capital transactions not explicitly provided for in this rule and regulation and in excess of the limit prescribed by the RMA shall not be made except with the approval of the RMA/Government. RMA's approval of such transaction shall be provided upon verification of the bona fide of the transaction.

22. ELECTRONIC FUND TRANSFER CARDS

a) An authorized bank may independently or in association with credit and debit card company, international bank or financial institution abroad, issue international credit or debit card to their account holder;
b) The RMA shall set the credit or spending limit that will apply to any international credit, debit or prepaid card issued from time to time;
c) 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
d) An authorized bank issuing international credit or debit card may settle any outstanding balance with their international counterparty in foreign currency through normal banking channel.

23. DOCUMENTS AND REPORTING

An authorized bank shall document and report all foreign exchange transactions including inflow and outflow of foreign exchange on account of all international cards issued under this regulation in accordance with the provisions of Chapter IX of this rule and regulation.

CHAPTER VIA: GENERAL CONDITIONS FOR CURRENT TRANSACTIONS

a) Payment, receipt, and transfer for current transaction specified under Chapter VI B may be made and received freely through normal banking channel with the resident of India and third country, subject to the underlying condition;

b) Any other current transactions payment not explicitly provided under this chapter and in excess of the limit prescribed shall not be made except with the prior approval of the RMA. RMA's approval of such transactions shall be provided upon verification of the bona fide of the transaction;

c) Payment, receipt, and transfer for prohibited transaction by the Royal government shall not be allowed.

24. CURRENT TRANSACTIONS WITH INDIA

a) Payment, receipt, and transfer for underlying current transaction to or from India may be made and received freely through normal banking channel, subject to any condition prescribed by the RMA from time to time;

b) Receipt and payment for trade in goods and services with resident of India must be received and paid in Indian Rupee through normal banking channel within 180 days from the date of export and import of the goods or services or as per the letter of credit;

c) Any payment not executed in 180 days shall not be made except with the prior approval of the RMA. RMA's approval of such transaction shall be provided upon the verification of the bona fide of the transaction; and

d) An authorized bank may execute advance payment for import of goods or services from India, where the contract so requires. For such payment, an importer must submit evidence of the goods and services having entered Bhutan within 180 days to the authorized bank at the time of making full payment.

25. CURRENT TRANSACTIONS WITH THIRD COUNTRIES

a) Payment, receipt, and transfer for underlying current transaction to or from third country may be made and received freely through normal banking channel, subject to any condition prescribed by the RMA from time to time;

b) Subject to such limitation as may be imposed by the RMA from time to time, a person who have been granted an import licence or any other document issued in lieu of an import licence by the Royal Government shall remit convertible currency through normal banking channel for any import of goods and services from third country;

c) A person importing goods and services from a third country may apply to an authorized bank to remit convertible currency by filling in the forms provided by the bank accompanied by the import licence or any other document issued in lieu of an import licence, and the supplier's invoice or other documentary evidence showing the c.i.f. value of the goods to be imported;
d) Foreign exchange earnings from export of goods and services to a third country shall be received in convertible currency through normal banking channel within 180 days from the date of export or as per the letter of credit;
e) An authorized bank may execute advance payment for import of goods or services from third country, where the contract so requires. For such payment, an importer must submit evidence of the goods having entered Bhutan within 180 days to the authorized bank at the time of making full payment or on arrival of goods whichever is earlier; and
f) Notwithstanding the above references to "convertible currency", payment, receipts and transfers for goods and services to and from Nepal shall be in terms of Section 21(c).

CHAPTER VI B: CURRENT TRANSACTIONS

26. FREIGHT AND TRANSPORTATION COST

a) An importer holding valid business licence and or import licence to import from third country may remit foreign currency to pay for actual freight and transportation cost incurred in connection with such import through normal banking channel;
b) An exporter holding valid business licence to export may remit foreign currency to pay for actual freight and transportation cost incurred in connection with their exports through normal banking channel;
c) Notwithstanding, Section 26(a) and 26(b), a person authorized to import and export goods and services to and from India may apply to obtain Indian Rupee in cash from one of the authorized bank in Bhutan upon submission of documentary

evidence including such as trade licence, agreement, award letter, invoice, customs declaration and etc.

27. AIR TICKETS FOR TRAVEL

a) Air ticket purchased for resident and non-resident in Bhutan shall be paid in Ngultrum;
b) Notwithstanding 27(a), air ticket purchased for a foreign national abroad and in Bhutan by Bhutanese travel agent shall be received in foreign currency from abroad through banking channel; and
c) A person residing in Bhutan may remit foreign currency from an authorized bank to any valid travel agent/ticketing agent abroad to pay for air ticket/tour purchased for travel abroad from an authorized bank.

28. OFFICIAL TRAVEL

a) Travel by official or member of official delegation of the Royal Government including its ministry, department, and agency which is financed by the Royal Government, external donor or sponsor, or out of the fund of externally financed project, shall be regarded as official travel for purpose of this rule and regulation;
b) An official may obtain daily subsistence allowance (DSA) computed based on the DSA rate approved by the Ministry of Finance in foreign currency cash, for the duration of the travel from an authorized bank. For related cost, 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) Release 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.

29. BUSINESS TRAVEL

a) Business travel shall mean travel by resident abroad, for carrying on registered business activity in Bhutan or employed by a Bhutanese firm, company or organization, for purposes associated primarily with the business such as export promotion, market study, attending seminar, conference, trade fair, or exhibition

or for selection or import of capital good, machinery and raw material, etc. and that is not official travel;

b) An official 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) Foreign currency account holder shall obtain travel allowance by debit to their foreign currency account maintained with the bank; and
d) For related cost such as air fare, living expense, and others, an official may make the payment directly abroad through banking channel or obtain a bank draft at the time of leaving Bhutan.

30. MEDICAL-RELATED TRAVEL

a) Medical-related travel shall mean travel outside Bhutan by resident for purpose of medical treatment or examination, accompanied by one escort, if necessary, on the recommendation of a medical specialist;
b) Resident may apply to obtain foreign currency in cash to meet en-route expense within the limit prescribed by the RMA from time to time;
c) For payment of treatment and associated living expense related to medical treatment including medicine, 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 hospital's bank account based on the letter with cost estimate and bank account details provided by the hospital. Any family member or representative of the patient in Bhutan can submit the document to the bank to process the payment; and
e) An authorized bank may remit the additional amount approved directly to medical service provider's account abroad through normal banking channel.

31. EDUCATION-RELATED TRAVEL

a) Education-related travel shall mean travel outside Bhutan by resident for the purpose of undertaking or resuming a course of study or training;

b) Any student including Government sponsored student may apply to obtain foreign currency in cash, to meet en-route expense within the limit prescribed by the RMA from time to time; and

c) Payment for tuition fee, living allowance and additional educational related expense including, such as rent, mess fees and etc. resident may make the payment directly abroad or apply for international student debit/prepaid card issued by an authorized bank or obtain a bank draft at the time of leaving Bhutan.

32. PRIVATE TRAVEL

Resident may apply to an authorized bank to obtain foreign currency as part of travelling allowance when travelling abroad either in cash or in international debit/credit card as per the limit prescribed by the RMA from time to time.

33. FAMILY REMITTANCES:

Resident individual may apply to an authorized bank to make family remittance as per the limit prescribed by RMA from time to time;

34. INSURANCE SERVICES

a) Insurer licenced by the RMA may apply to remit foreign currency to make payment for current transaction related to insurance, reinsurance or retrocession product and service as allowed under Section 251 of the Financial Services Act of Bhutan 2011; and

b) Bhutanese resident shall not insure abroad for any insurance business emanating within Bhutan except for the persons specified by the RMA from time to time;

35. PAYMENT FOR INVISIBLES

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

a) Subscription to foreign journal and publication;
b) Consultancy, technical, and legal fees;
c) Visa fee;
d) Brand marketing fee;

e) Application fee to educational and training institutions abroad including testing fee;
f) Membership fee in professional and trade body; and
g) Any other fee determined to be bona fide by the RMA.

36. PAYMENT FOR COMMUNICATION / INFORMATION AND TELE-COMMUNICATION SERVICES

Authorized communication/information and telecommunication service provider may remit abroad foreign currency from an authorized bank for import of related service in accordance with the conditions prescribed by the RMA from time to time.

37. IMPORT OF PERMISSIBLE RAW MATERIALS AND CAPITAL GOODS IN CONVERTIBLE CURRENCY

a) Following entity with earning in convertible currency may be allowed to obtain convertible currency for import of raw material from a third country with prior approval of the RMA:
   i. Local manufacturing industries with earning in convertible currency through the export of their finished products or earning resulting from the sale of products originating from Bhutan; and
   ii. Foreign Direct Investment (FDI) companies with earnings in convertible currencies through the export of their finished products.
b) RMA shall provide convertible currency requirement for the import of raw materials for newly established companies as a start-up support and proprietary raw materials approved by RGoB.
c) RMA's approval shall be particularly based on the convertible currency earning capacity of an entity and as per conditions prescribed by RMA from time to time; and
d) An entity shall open and maintain a foreign currency account with an authorized bank in Bhutan to receive export proceeds and related income accruing from the entity's line of business in convertible currency.

38. CURRENT TRANSACTIONS OF THE ROYAL GOVERNMENT AND ITS AGENCIES AND PUBLIC-SECTOR ENTITIES

a) Public sector entity shall mean Government Owned Corporation, Bhutanese NGO's, Civil Society Organization, and any other agency specified by RMA for this purpose;

b) The Royal Government and its agency and public-sector entity may remit foreign currency for its own current transaction from an authorized bank upon submission of necessary document signed by an authorized signatory indicating amount, currency, purpose of the remittance, name of the beneficiary abroad, and any other documentary evidence required by the authorized bank;

c) Prior to making such remittance, an authorized bank must receive the value of such remittance 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;

d) For any capital-intensive project that is externally funded, requiring substantial foreign exchange payment, the Government and its agency and public-sector entity shall inform the RMA prior to granting approval; and

e) Notwithstanding Section 38 d) above, if the capital-intensive project is self-financed by an entity, the Government and its agency and public-sector entity shall obtain prior approval of the RMA before approving the project.

39. CURRENT TRANSACTIONS FOR EXTERNAL COMMERCIAL BORROWING AND FOREIGN DIRECT INVESTMENT

a) Entity approved by the Government to avail external commercial borrowing from non-resident lenders shall meet its repayment obligations from its earnings in foreign currency;

b) FDI companies shall meet all its operational expenses in convertible currency from its own convertible currency earning of the business and same will be applicable for operational expenses in Indian Rupee; and

c) Payment for underlying current transactions may be remitted from an authorized bank with the prior approval of the RMA;

(i) payment of interest and amortization on foreign currency loans in accordance with the ECB Guidelines2019 and amendment thereof ;
(ii) payment of royalty, technical service or management fee and charges in accordance with the respective agreement for such payment as approved by the Royal Government of Bhutan;
(iii) repatriation of dividend as per the FDI Policy 2019; and
(iv) any other payment in line with the FDI Policy 2019 and amendment thereof.

CHAPTER VII: CAPITAL TRANSACTIONS

40. INWARD FOREIGN DIRECT INVESTMENT

Bhutanese company 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) Open and maintain foreign currency account in the currency of investment with an authorized bank in Bhutan with prior approval from the RMA;
b) The account opened shall be used for debit and credit of only related transaction accruing to the entity;
c) Receive the foreign investment in the approved currency of investment through normal banking channel within 6 months up to a maximum period of 3 years from the date of opening of foreign currency account; and
d) Repatriate capital and realized capital gain in foreign currency, net of tax on capital gain through an authorized bank 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.

41. EXTERNAL COMMERCIAL BORROWING

An eligible borrower who has been approved by the Royal Government of Bhutan under External Commercial Borrowing (ECB) guideline to borrow from non-resident lenders shall;

a) Register with the RMA within 15 days from the date of approval with the copy of loan agreement including terms of loan and repayment structure thereof;
b) Open and maintain foreign currency account in the currency of borrowing with an authorized bank in Bhutan with prior approval from the RMA;
c) Use the foreign currency account opened for the purpose of remitting all proceed of ECB and repayment of borrowing and related transaction accruing to the ECB;
d) Remit all proceed of ECB to Bhutan immediately to the borrower's foreign currency account in Bhutan within 6 months upto a maximum period of 3 years from the date of approval of ECB or as per the terms in the approved contract agreement;
e) Utilize the ECB proceeds only to make capital expenditure as specified in the ECB guideline issued by the Royal Government of Bhutan from time to time; and
f) Notify the RMA for any draw down on the ECB including remittance of installment of principle, interest and other charges on the ECB.
g) Prepayment of ECB would be permitted in line with ECB guidelines 2019 and amendment thereof.

42. OTHER INWARD INVESTMENT

a) Bhutanese entity may receive investment into funds in convertible currency as approved by the RMA from time to time in accordance with the relevant Rules and Regulations either adopted or to be adopted by the RMA hereafter ;
b) Bhutanese entity shall open and maintain foreign currency account for the fund with an authorized bank in Bhutan with prior approval from the RMA;
c) All transactions related to the fund shall be routed from this foreign currency account maintained with an authorized bank in Bhutan ;
d) Repatriation of return on investment and initial investment in currency of investment shall be routed through an authorized bank with the prior approval of the RMA.

43. IMMOVEABLE PROPERTY

a) Payment in connection with lease or similar transaction related to immoveable property located in Bhutan by non-resident may only be made in Ngultrum, except with the prior approval of the RMA; or

b) Payment, receipt or transfer of foreign currency for resident 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.

44. INVESTMENT ABROAD

a) Bhutanese citizen shall not make any payment to acquire, hold or dispose off any foreign security which is issued or payable outside Bhutan except with the prior approval of the RMA;

b) Payment payable to set up and maintain overseas offices by any Bhutanese citizen, firm, and company shall not be made except with the prior approval of the RMA; and

c) Payment in connection to set up or participate in any concern outside Bhutan engaged in any activity of trading, commercial or industrial nature, whether such concern is a body corporate shall not be made except with the prior approval of the RMA.

CHAPTER VIII: BANK ACCOUNTS IN BHUTAN AND ABROAD

45. FOREIGN CURRENCY ACCOUNTS IN BHUTAN

a) The following person may be permitted to open and maintain foreign currency account with authorized banks in Bhutan under this rule and regulation:

   (i) permanent diplomatic or consular missions of foreign government and international organization in Bhutan and their staff who are remunerated in convertible currency;

   (ii) representative office of donor agency and their staff who are foreign citizen;

(iii) contracting firm engaged to execute project approved by the Royal Government and financed by donor agency, and their staff who are foreign citizen;

(iv) Bhutanese manufacturing industry earning convertible currency;

(v) Bhutanese exporters exporting goods and services to India and third country;

(vi) FDI company approved by the Royal Government of Bhutan;

(vii) person receiving grant, donation or similar inward remittance in convertible currency for project that have been approved by the Royal Government;

(viii) Bhutanese citizens stationed outside Bhutan for higher study, training, or employment abroad or having earning in foreign currency; and

(ix) any other person or category of person specified by the RMA;

b) Non-Government Organizations approved by the Civil Society Organization Authority and Dratshang Lhentshog for raising funds outside Bhutan shall receive the collected funds in their account maintained with the authorized bank in Bhutan.

c) The foreign currency account opened by the person described under Section 44(a) of this rules and regulations shall be closed upon expiry of contract period or when the entity ceases to operate.

46. DOMESTIC CURRENCY ACCOUNTS IN BHUTAN

a) The following foreign individual or an entity may open and maintain domestic currency account with authorized banks in Bhutan:

(i) foreign national legally employed in Bhutan;

(ii) diplomatic and consular mission of foreign government and international organization located in Bhutan and their staff who are not citizens of Bhutan;

(iii) a person that is either registered or incorporated in Bhutan and their staff who are not citizens of Bhutan; and

(iv) Foreign Individuals married to Bhutanese citizen.

b) The domestic currency account opened by the foreign individual or an entity described under section 45(a) of this rules and regulations shall be closed upon expiry of contract period or when the entity ceases to operate.

47. FOREIGN CURRENCY ACCOUNTS ABROAD

a) A Bhutanese person may not open and maintain foreign currency account abroad except for the following:
   (i) diplomatic and consular mission of Bhutan located abroad and their staff;
   (ii) authorized bank with prior approval of the RMA;
   (iii) Bhutanese citizens stationed outside Bhutan for higher study, training, or employment abroad;
   (iv) public corporation and trust fund approved by the Royal Government with regular operation abroad; and
   (v) Any other person specified by the RMA.
b) The foreign currency account opened by the person described under Section 46 (a) of this rules and regulation shall be closed upon completion of their term.

48. DOCUMENTATION AND REPORTING

Each authorized bank and foreign currency account holders shall maintain records and report to the RMA in accordance with the provisions of Chapter IX of this rule and regulation and other specific provisions.

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

49. MAINTENANCE OF RECORDS

a) The following persons shall maintain foreign exchange transaction records for a minimum period of ten years:
   (i) Authorized Banks;
   (ii) Authorized Money Changers;
   (iii) Authorized Money Transfer Agents;
   (iv) RMA's Exchange counter
   (v) FDI Companies;
   (vi) ECB borrowers;
   (vii) Local Industries; and
   (viii) FC Account holders;

b) Other persons authorized by the RMA to engage in foreign exchange transactions in Bhutan; and

c) Records required to be maintained under these rule and regulation 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.

50. REPORTING BY AUTHORIZED BANKS

a) An authorized bank shall input all foreign exchange transactions effected by the bank in the foreign exchange inflow/outflow system developed by the RMA or in the reporting format provided in the Foreign Exchange Operational Guidelines 2018. The banks shall report on the following matters to the RMA;

(i) Daily/ Weekly Indian Rupee balances (opening and closing), and credits and debits;

(ii) Daily/ Weekly third country currency balances (opening and closing), and credits and debits;

(iii) All receipts and payments for exports and imports of goods and services to and from India;

(iv) All receipts and payments for exports and imports to and from third countries;

(v) Monthly information on the opening and closing of any foreign currency accounts in Bhutan;

(vi) Monthly information on the closing of any domestic currency accounts of non-residents or foreign citizens in Bhutan;

(vii) Monthly statements on international credit and debit cards issued; and

(viii) Monthly cash releases made for current transactions namely, education, medical, private travel, business travel, official travel, etc.

51. REPORTING BY AUTHORIZED MONEY CHANGERS

An authorized money changer shall input all transaction 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:

a) 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;
b) Bank deposit slips evidencing the deposit of foreign exchange purchased shall be submitted to the RMA on a monthly basis; and
c) Reports shall be submitted to the RMA using the most efficient channel, such as secure file transfer and electronic real-time reporting systems.

52. REPORTING BY AUTHORIZED MONEY TRANSFER AGENTS

Money transfer agents and banks authorized by the RMA to carry out remittance activities under Inward Remittance Rule and regulation 2016 shall record and report to the RMA in accordance with the provisions of Chapter VII of Inward Remittance Rule and Regulation 2016.

53. REPORTING BY OTHERS

Other entities not described under Sections 49 and 50 of this rule and regulation shall report on the following matters:

a) Department of Revenue and Customs shall report to the RMA with the list of individuals who have declared at the customs point of entry having carried foreign currency more than the limit prescribed under Section 6a) of this rule and regulation as an required;
b) All foreign currency account holders except individuals to provide statement on foreign currency receipt and payment;
c) 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;
d) Persons approved to avail External Commercial Borrowing shall submit documentary evidence of the receipt of the ECB proceed and any draw down on the ECB proceeds to the RMA within 15 days from the date of receipt;
e) Quarterly data from the insurance companies/re-insurance companies on foreign currency payments and receipts;
f) The Trust Fund for Environmental Conservation to provide audited annual financial statements; and

g) Government agencies approved to carry out capital intensive projects.

CHAPTER X: MONITORING AND INSPECTION

The RMA shall carry out periodic inspection of the entity carrying out foreign exchange transaction in Bhutan including person specified under Section 48 in the form of off-site and/or on-site inspection. The entity shall furnish detail and document, if required, to the inspection team deputed by the RMA in accordance with the provision of Chapter IX of this rule and regulation.

54. PROCEDURES FOR ON-SITE INSPECTION

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

55. PROCEDURE FOR OFF-SITE INSPECTION

a) The RMA 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 RMA may direct the inspection team to conduct an on-site inspection or it may take necessary additional measures, in accordance with this rule and regulation.

CHAPTER XI: OFFENCES AND PENALTIES

PENALTIES

A person shall be liable to a fine or any other penalty prescribed under Penalties Rules and Regulation 2019 and amendment there to.

CHAPTER XII:MISCELLANEOUS

56. 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 this rule and regulation, 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 this rule and regulation unless the Act or omission is shown to have been in bad faith.

57. GENERAL CLAUSE

The authority reserves the right to issue any directives/notifications to the licensees or to the financial services providers of the general public in the overall national interest.

58. DEFINITIONS

In this rule and regulation, unless the context otherwise requires:

a) “Authorized bank” means commercial bank licenced 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 in Bhutan;

c) “Authorized Money Transfer Agent” means any legal entity other than authorized bank approved by the RMA to carry out remittance activities in Bhutan;

d) “Board” means the Board of the Royal Monetary Authority of Bhutan as defined by the RMA Act 2010;

e) “Bank note” and “Circulation coin” means currency note and coin which are legal tender in Bhutan;

f) “Capital account” transactions mean transactions for the purpose of transferring capital including transactions involving foreign direct investment, portfolio investment, the acquisition of real estate or interest in real estate, and loans,

guarantees and deposits other than normal short term banking and credit facilities;

g) “Commemorative bank note” and “Commemorative coin” means currency note and coin issued by the Royal Monetary Authority of Bhutan from time to time to cater to collectors and particularly to commemorate significant events;

h) “Convertible Currency” means foreign currency denominated in Australian Dollar, Canadian Dollar, Danish Kroner, Euros, Hong Kong Dollar, Japanese Yen, Norwegian Kroner, Singapore Dollar, Swedish Kroner, Swiss Franc, United Kingdom Pound Sterling, or United States Dollar;

i) “Current account” transactions mean 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 Memo” means a memo issued by Authorized Money Changers / Authorized banks dealing in money changing business upon each sale/purchase of foreign currencies;

l) “Foreign Currency” is any currency other than Bhutanese Ngultrum;

m) “Foreign currency account” means a bank account denominated in foreign currency.

n) “Foreign Exchange” means bank note, coin, cheque, draft, letter of credit, bills of exchange, promissory note, deposit, and credit and balance expressed or drawn in foreign currency;

o) “Foreign Exchange Earning” means proceed from export of goods and services to a country, and returns from foreign investment, denominated in convertible currency and Indian Rupee;

p) “Fund” includes investment fund, venture capital fund and any other funds.

q) “International credit or debit card” means a credit or debit card capable of being used abroad that has been issued by an authorized bank;

r) “Inward foreign direct investment” means foreign direct investment as defined in the Royal Government’s Foreign Direct Investment Policy, 2010;

s) “Import licence” means a document issued by Ministry of Economic Affairs permitting import of goods from a third country

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) “Non-convertible currency” means any foreign currency other than convertible currency and Indian Rupee

w) “Outward foreign direct investment” means outward foreign direct investment as specified in the Royal Government’s Rule and regulation Relating to the Possession of Assets and Properties outside Bhutan by Bhutanese Citizens,1993;

x) “Person” means an individual or juridical entity, whether incorporated or not;

y) “Prohibited goods” means any good, for which the import or export is not allowed under the Customs Act of Bhutan 2017 and any other laws in force;

z) “Restricted goods” means goods on which limitations shall apply to the quantity or quality of the imported or exports of goods under the Customs Act of Bhutan 2017 or any other laws in force;

aa) “RMA” means Royal Monetary Authority of Bhutan;

bb) “Resident” means:

(i) an individual who stays in Bhutan for a period of 183 days or more during a 12-month period;

(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.

cc) “Third country” means a foreign country other than India;