



**RULES AND REGULATIONS FOR ACCOUNTABILITY OF
KEY RESPONSIBLE PERSONS OF REGULATED ENTITIES,**

2022

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1. PRELIMINARY

- 1.1 Sound corporate governance is critical for the safety, stability and soundness of the financial system. The Royal Monetary Authority (Authority) has put in place several prudential regulations, corporate governance rules and regulations and other regulatory frameworks and standards to ensure sound governance in the regulated entities.
- 1.2 The comprehensive corporate governance framework set by the Corporate Governance Rules and Regulations (CGRR 2020) covers the detailed responsibilities of the board of directors, the board's oversight responsibilities over the senior management, the accountability of the board of directors, the fit and proper requirement, the whistle-blowing policies, and a Code of Conduct and Ethics.
- 1.3 However, there is a need to strengthen the regulatory framework for ensuring responsibility and accountability of the persons in the key positions in the regulated entities. To this end, the RMA has formulated and adopted the **Rules and Regulations for Accountability of Key Responsible Persons of Regulated Entities 2022**.
- 1.4 These Rules and Regulations are issued in pursuant to Section 202 of the Financial Services Act of Bhutan 2011.

2. APPLICABILITY AND COMMENCEMENT

- 2.1 These Rules and Regulations shall be applicable to the key responsible persons of the regulated entities as defined in these rules and regulations.
- 2.2 These Rules and Regulations shall be read in conjunction with the Corporate Governance Rules and Regulations (CGRR), Fit and Proper Guidelines, and Penalty Rules and Regulations and other relevant by-laws in force.

2.3 These Rules and Regulations shall come into effect from 28th October 2022.

3. OBJECTIVES

The main objectives of the Rules and Regulations are to:

- i. promote responsibility and accountability of the persons in the key positions of the regulated entities; and
- ii. strengthen corporate governance in the regulated entities for financial integrity and stability.

4. KEY ELEMENTS OF THE ACCOUNTIBILITY

The accountability framework consists of following three key elements:

- i. Identification of key responsible persons who hold key positions in the regulated entity including those persons who serve in roles that pose material risks to the entity;
- ii. Allocation of responsibilities and accountabilities to the key responsible persons; and
- iii. Fixation of accountabilities for breaches of duties and responsibilities

The requirements under each key element of the framework are stipulated in the following sections.

5. IDENTIFICATION OF KEY RESPONSIBLE PERSONS

5.1 Identification of Key Responsible Persons

- 5.1.1 A regulated entity shall identify, based on their organizational structure, the list of the “Key Responsible Persons”.
- 5.1.2 The “Key Responsible Person” is defined as a person who holds the following positions in key functions of a regulated entity:

- i. **Board** – means the chairman, members of the board and company secretary;
- ii. **Senior Management** –means the Chief Executive Officer (CEO) and senior officers appointed by the Board or management for the day-to-day management of the regulated entity. The senior officers shall generally be one or two levels below the CEO and shall include but not limited to: heads of finance and accounts, operations, information management/information technology, human resources, legal, and key business areas (credit, investment, insurance etc., depending on the nature of business of the regulated entity); and
- iii. **Control Functions**- head of risk management, head of internal audit and head of compliance.

5.1.3. The regulated entity shall include other officers as key responsible persons where their roles may pose material risk to the regulated entity.

5.1.4. The regulated entity shall notify the Authority within fifteen (15) days when the person ceases to be a key responsible person due to transfer, resignation, termination or any other reason.

5.2 Fit and Proper of Key Responsible Persons

5.2.1 A regulated entity shall ensure that all key responsible persons are fit and proper for the job.

5.2.2 The regulated entity shall assess the fit and proper of the key responsible persons as per the Authority's *Fit and Proper Guidelines for Key Responsible Persons of Regulated Entities* in force.

5.2.3 The regulated entity shall obtain *No Objection Letter (NOL)* from the Authority before appointment or reappointment of key responsible persons.

5.2.4 The regulated entity shall ensure that due diligence for the fit and proper is completed before applying to the Authority for *NOL*.

6. ALLOCATION OF RESPONSIBILITIES TO THE KEY RESPONSIBLE PERSONS

6.1 Allocation of Responsibilities

6.1.1 A regulated entity shall allocate responsibilities of main functions of the entity to key responsible persons.

6.1.2 The responsibilities to the key responsible persons shall be allocated mainly based on the broad responsibilities of the functional departments, divisions, or appropriate units depending on the organizational structure and the specific Terms of Reference (ToR) of the position that the key responsible person is appointed to.

6.2 Responsibility and Accountability Statement

6.2.1 A regulated entity shall require the key responsible persons including the members of the board to complete and sign a *Responsibility and Accountability Statement (RAS) form given in Annexure 1*.

6.2.2 A regulated entity shall ensure that the *RAS* form clearly specify the responsibilities and accountabilities with clear reporting lines of each key responsible person.

6.2.3 A regulated entity shall ensure that the key responsible person concerned has read, understood and accepted the responsibilities and accountabilities in the *RAS* form.

6.2.4 A regulated entity shall issue a copy of the signed *RAS form* to the key responsible person concerned.

- 6.2.5 The regulated entity shall submit a copy of the signed *RAS form* of key responsible person for new appointment or reappointment to the Authority with the application for NOL for fit and proper.
- 6.2.6 Generally, a regulated entity shall assign one key responsible function to one key responsible person. However, there may be cases where an individual may be assigned to more than one key function. When an individual is assigned more than one key responsible function, he/she shall sign *RAS form* separately for each role assigned as key responsible person.
- 6.2.7 A person appointed to a key function of the regulated entity as an interim/officiating head shall be held accountable for the actions and breaches of duties that occur during the period that he/she serves as an interim/officiating head. However, the interim/officiating head shall be required to sign *RAS forms* only if he/she serves in the post for more than one month.

6.3 Duties of Key Responsible Persons

- 6.3.1 In addition to the provisions related to the Code of Conduct and Ethics under CGRR in force, regulated entities shall have a code of conduct to promote ethical practices of its key responsible persons and employees.
- 6.3.2 The duties of key responsible persons shall include but not limited to the following:
- i. conduct regulated entity's business professionally, honestly, ethically and with integrity;
 - ii. conduct its business with due care and diligence, and take appropriate steps to prevent or effectively manage conflicts of interest;
 - iii. take reasonable steps to ensure that the activity for which they are responsible complies with relevant legal and regulatory requirements;

- iv. provide adequate oversight of those they manage;
- v. take reasonable steps to ensure that any delegation of their responsibilities is to an appropriate person and that they oversee the discharge of the delegated responsibility effectively; and
- vi. not use their position, or any information obtained by virtue of their position, to benefit themselves or any other person, or to cause harm to the regulated entity or any other person.

7 BREACHES OF DUTIES AND ADMINISTRATIVE ACTIONS

7.1 Accountabilities for Breaches of Duties

- 7.1.1 The key responsible persons shall take reasonable steps to conduct their duties with integrity, care and diligence and comply with the relevant legal and regulatory requirements.
- 7.1.2 The key responsible person shall be held accountable for:
 - i. breaches of legal and regulatory requirements by the regulated entity and the breach occurs in the line of business or function of the key responsible person;
 - ii. breaches of legal and regulatory requirements directly by the key responsible persons;
 - iii. failure to discharge responsibilities and duties that are prescribed in the signed *RAS form* of the key responsible person concerned, regulated entity's Service Rules and Regulations, code of conduct etc.; and
 - iv. commits misconducts, fraud, corrupt and other acts that may cause harm to the regulated entity or other persons while serving in the regulated entity.
- 7.1.3 The board of directors of the regulated entity is collectively accountable for the governance of the regulated entity. The directors shall be individually accountable for his/her actions as a board of directors for commission or omission of their duties and responsibilities.

7.1.4 The board as a whole shall be held accountable when the Authority imposes penalty for regulatory breaches and the breaches are not attributed to a particular line of business or functional area.

7.2. Administrative Actions for Breaches of Duties

7.2.1 The Authority shall be responsible for taking appropriate administrative actions on the board of the regulated entity.

7.2.2 The Authority shall take appropriate administrative actions on the regulated entity's board as a whole or individually commensurate with the gravity of breaches committed.

7.2.3 The board or a committee delegated by the board shall be responsible for fixing accountability of key responsible persons of the regulated entity.

7.2.4 The board or a committee delegated shall take appropriate administrative actions against the key responsible persons commensurate with the gravity of the breaches committed collectively or individually.

7.2.5 A regulated entity shall generally impose administrative actions as per the entity's Service Rules and Regulations, Code of Conduct or other appropriate legal frameworks to hold accountability and penalize the key responsible persons for the breaches of duties and responsibilities.

7.2.6 Notwithstanding section 7.8 above, the Authority shall reserve the right to impose the administrative actions and the penalties for the breaches of regulatory requirements and other breaches of duties by the regulated entity and its key responsible persons.

7.3. Notification to the Authority

7.3.1 A regulated entity shall notify the Authority about the breaches of duties and responsibilities by the key responsible persons as soon as the regulated entity becomes aware about the breaches.

- 7.3.2 A regulated entity shall notify the Authority about the administrative actions taken on the key responsible persons for breaches of duties within **five (5) days** of the actions taken.
- 7.3.3 The Authority shall review the administrative actions taken by the regulated entity. The Authority shall direct the regulated entity to review their administrative actions if it is found lenient vis-à-vis the breaches established.
- 7.3.4 The Authority shall maintain negative list of key responsible persons who have been penalized for breaches of duties and shall share the information to relevant agencies and bodies as and when required.
- 7.3.5 When the regulated entity applies for NOL for the appointment or reappointment of key responsible persons, the Authority shall review whether or not the individual was previously imposed administrative actions or penalties for breaches of duties in the regulated entity concerned or other regulated entities.
- 7.3.6 The Authority shall disqualify such persons for appointment as key responsible persons or other positions in the same or other regulated entities.

8 WHISTLEBLOWER POLICY

- 8.1 The regulated entity shall develop whistleblower policy to provide avenue for employees and other individuals to report on wrong-doings, misconducts, irregularities, corrupt practices, violation of regulatory and legal requirements and non-compliance to provision of applicable laws in the regulated entity.
- 8.2 The whistleblower policy shall have safe channels for reporting the complaints or concerns and the process for investigating and acting on the complaints or concerns raised.
- 8.3 The policy shall have provisions for maintaining anonymity and protection of whistleblowers who report in good faith and on reasonable grounds the wrongdoing in the regulated entity.

9. ENFORCEMENT

- 9.1 The Authority shall monitor the adherence to the provisions of these Rules and Regulations through its regular onsite- inspection and off-site surveillance of the regulated entities.
- 9.2 The Authority shall take supervisory actions and impose penalties against the regulated entities that have not corrected the weaknesses or non-compliance to the issues identified by the Authority.

10. REVIEW AND AMENDMENT

These Rules and Regulations shall be reviewed periodically and amended.

11. DEFINITIONS

In these Rules and Regulations, the following terms shall have the meanings indicated unless the content clearly indicates otherwise.

- i. **“Authority”** means the Royal Monetary Authority of Bhutan established under the Royal Monetary Authority Act of Bhutan 2010.
- ii. **“Board”** or **“Board of directors”** means the body that supervises management of regulated entity;
- iii. **“CEO”** means Chief Executive Officer as defined in sections 34 and 35 of the Act;
- iv. **“Control function”** means internal audit, risk management and compliance functions.
- v. **“Material risk personnel”** means individuals who have the authority to make decisions or conduct activities that can significantly impact the regulated entity’s safety and soundness, or cause harm to a significant segment of the entity’s customers or other stakeholders.

- vi. **“Senior Management”** means Chief Executive Officer and senior officers appointed by the Board for the day-to-day management of the regulated entity.

- vii. **“Regulated Entity”** means bank, insurance company, pension and provident fund, fund management or any other entity as specified by the Authority as per the Financial Services Act 2011.

ANNEXURE 1. RESPONSIBILITY AND ACCOUNTABILITY STATEMENT FORM

The Key Responsible Persons of the regulated entity shall complete this **Responsibility and Accountability Statement** form.

It shall be the responsibility of the regulated entity and the key responsible person to:

- clearly articulate the responsibilities that the key responsible person is accountable for;
- the responsibilities may be based on the Terms of Reference (TOR) of the person and the core functions of the functional units such as department, division, unit etc;
- the key responsible person concerned should have read, understood and accepted the responsibilities and accountabilities; and
- the key responsible person to acknowledge and sign the form.

Name of the Key Responsible Person	
Name of the Regulated Entity	
Title of the Role (Designation/Position Title):	
Start date of the Role:	
Reports to:	
Key Responsibilities that the person shall be accountable for (List the key responsibilities of the person)	Add rows as many as required

DECLARATION

I (**Insert name of the key responsible person**) acknowledge that I have read, understood and accept:

- i. The areas of responsibilities and accountabilities included in this **Responsibility and Accountability Statement**;
- ii. My obligation to follow standards of conduct and duties in carrying out the roles and responsibilities by:
 - i. acting professionally, honestly, ethically and with integrity;
 - ii. conducting business with due skill, care and diligence,
 - iii. taking appropriate steps to prevent or effectively manage conflicts of interest;
 - iv. taking reasonable steps in conducting responsibilities to prevent matters from arising that would adversely affect the prudential standing or prudential reputation of (*inset the name of the regulated entity*); and
 - v. dealing with the Authority in an open, constructive and cooperative manner.
- iii. I am cognizant that I shall be accountable for the breaches of my duties and responsibilities and liable for administrative actions and applicable sanctions.

Signature (signature of the Key Responsible Person
(*Affix legal Stamp*))

Name

Date

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