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ROYAL MONETARY AUTHORITY OF BHUTAN



**RULES AND REGULATIONS FOR ESTABLISHMENT
OF COMMERCIAL BANKS IN BHUTAN 2018**

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Preliminary

1. This rules and regulations have been formulated and promulgated in line with Sections 202 and 203 of the Financial Services Act of Bhutan 2011.

Short title and commencement

- 1.1 These rules and regulations shall:
- 1.2 be titled “Rules and Regulations for the Establishment of Commercial Banks in Bhutan 2018”; and
- 1.3 come into force on 22nd day of the May, 2018.

Applicability

- 1.4 The provisions of these Rules and Regulations shall be applicable to all Banks in Bhutan.

Rules of construction

- 1.5 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.

Interpretation

- 1.6 The authority to interpret this Rule and Regulation shall vest with the Authority, which if warranted, may issue such instruction and clarification from time to time as may be necessary to give effect and implement the provisions of this Rule and Regulation.

Amendment

- 1.7 This Rule and Regulation may be amended in part, or in whole, by the Board of the Authority

Licensing Requirement

2. In accordance with Section 18 of the Financial Services Act of Bhutan 2011, an applicant seeking for a licence to conduct the business of a bank is hereby required to comply with this rule and regulation by submitting the documents stipulated herein.
 - 2.1 An application for a licence to conduct a banking business shall be submitted in writing to the Authority and shall contain the following documents along with a non-refundable application fee as determined by the Authority from time to time:
 - i. Letter of Application (Annexure I);
 - ii. Licensing application form (Annexure II);
 - iii. Biographical report (Annexure III);
 - iv. Joint venture agreement, in case of foreign equity participation (including, but not limited to, the clearance from the Ministry of Economic Affairs and the home regulator); and
 - v. For a corporate promoter, Board resolution, Articles of Incorporation and by-laws, list of board directors and officers, list of shareholdings, audited financial statements for the latest two years, certified copies of the Articles of Association and Memorandum.
 - 2.2 Incomplete application in all respects and not conforming to the instructions specified in the Annexure II and III of this Rule and Regulation shall be given up to a maximum of sixty (60) days to complete the application in all respects and rectify the errors, if any. In case of non-submission within the above-specified period, the application shall be rendered invalid.
 - 2.3 Within six months from the date of receipt of a complete application, the application shall be approved or rejected by the Authority.

Capital Requirement

3. The initial minimum paid-up capital requirement for a bank shall be Nu. 600 million.

- 3.1 The promoters' contribution of the initial capital shall be locked in for a period of five years from the date of licensing of the bank.
- 3.2 The capital contribution by the promoters and subscribers of the proposed bank shall be deposited in the Authority and must be verified by the Financial Regulation and Supervision Department of the Authority.
- 3.3 It shall be a public company registered under the Companies Act of Bhutan 2016.

Restrictions on share ownership and investments

4. In line with Section 50 of the Financial Services Act of Bhutan 2011, no person shall hold more than the following percentage of interest in the shares of a bank:
 - i. In case of an individual, 20 percent;
 - ii. In case of a company not being a financial institution, 30 percent; and
 - iii. In the case of a company being a financial institution, 5 percent.
- 4.1 A bank shall float at least 40 percent of its shares to the general public through the initial public offer.
- 4.2 The ownership restrictions specified under Section 4.1 shall not apply to a bank where shares are held directly or indirectly by the Royal Government of Bhutan (Ministry of Finance) which shall be permitted to own 100 percent of the bank. These banks shall not be required to list on the stock exchange.
- 4.3 The foreign direct investment in banks shall not exceed 51 percent of the paid-up capital of bank at any point of time.
- 4.4 A bank shall not, directly or indirectly, without written approval from the Authority, own shares in a company in excess of 20 percent of its capital fund. The Authority shall, at no point of time permit a bank to invest in a company in excess of 25 percent of its capital fund.

Grant of Licence

5. The Authority shall grant a licence to an applicant, only if the Authority amongst others is satisfied that:
 - i. the managerial capacity of the applicant is adequate to conduct the proposed operations;
 - ii. the applicant will conduct its business in an honest and transparent manner and with the professional skills appropriate to the nature and scale of its proposed activities;
 - iii. the applicant will conduct its business in a sound and prudent manner so as not to jeopardize performance of financial obligations; and
 - iv. the applicant will maintain adequate accounting and other records of its business with adequate systems of control.
- 5.1 After consideration of the documents and other assessments, the Authority if satisfied may issue an “In-principle Approval”. This will be valid for the period stated in such letter which shall not exceed period of twelve months. During this period, the applicant shall take all necessary preliminary measures specified therein. The issue of “In-principle Approval” does not bind the Authority to issue a licence to conduct business.
- 5.2 A bank in respect of which an “In-principle Approval” has been given shall not commence business before the issuance of a licence. Every advertisement, notice, etc. issued prior to the issue of the licence shall specify that it has not been issued a licence to carry out a banking business.
- 5.3 An applicant upon complying with the conditions specified in the “In-principle Approval” may request the Authority to issue a licence. The Authority being satisfied may issue a licence to an applicant to carry out a banking business.
- 5.4 A bank shall commence business within three months of issuance of a licence.
- 5.5 A licence issued by the Authority to the applicant is non-transferable and shall be valid for a period of one year.

- 5.6 A bank shall pay an annual non-refundable renewal licence fee as determined by Authority from time to time.

Cancellation and Suspension of Licence

6. The licence of a bank may be cancelled or suspended, if it:
- i. violates the provisions of the Financial Services Act of Bhutan 2011 or any Rules and Regulations/Guidelines made thereunder;
 - ii. fails to maintain the capital requirements in accordance with the provisions of this Rule and Regulation;
 - iii. violates the terms and conditions of licence;
 - iv. does not carry out its obligations as specified in this Rule and Regulation;
 - v. has not commenced the business within three months of being granted a licence;
and
 - vi. has failed to comply with any other terms and conditions as determined by the Authority from time to time.

Governance

7. Provisions relating to governance have been removed from the Prudential Regulations 2017 and the same have been reflected under the Corporate Governance Rules and Regulations 2018. These provisions shall continue to have the same legal basis and enforcement despite removal from this Section.

Other requirements

8. All banks shall obtain the prior approval of the Authority to carry on their business in any place. All new banks shall open five branches during the first three years of operation. Currently Authority requires banks to open one branch in every region¹.

¹ Bhutan is divided into four region for this purpose namely, **Western Region**; Thimphu, Paro, Haa, Gasa and Punakha; **Central region**; Wangdue Phodrang, Tsirang, Trongsa, Bumthang, and Zhemgang; **Southern Region**; Samtse, Chukha, Dagana, Sarbang, and Samdrup Jongkhar and **Eastern Region**; Lhuntse, Mongar, Trashigang, Pema Gatshel and Trashy Yangtse.

Definition

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

“Act” means the Financial Services Act of Bhutan 2011 and any amendments thereof.

“Authority” means Royal Monetary Authority of Bhutan established under the Royal Monetary Authority Act of Bhutan 2010.

“Bank” means a company licensed to do banking business under the Act.

“Banking business” means the business of receiving deposits of money or other repayable funds from the public for the purpose of making loans or investments for the account of the entity receiving them but shall not include the business of an investment fund licensed under this Act.

“Branch” means an office of a company that is operating in a location other than company headquarters but is not a legal person separate from the company.

“Control person” means a director, shadow director, manager, and significant owner; including any person, or group of persons acting cooperatively, whose direct or indirect equity holdings in, or control over votes in the general meeting of, a company or its affiliate give it substantial influence over the conduct of the company’s business.

“Independent Director” means as defined in the Financial Services Act of Bhutan 2011 and further elaborated under the Corporate Governance Rules and Regulations 2018.

10. All other words and expressions used but not defined in this Rule and Regulation shall have the same meaning assigned to them in the Financial Services Act 2011, Prudential Regulations, and other relevant regulations, unless the context otherwise requires.

ANNEXURE I

Letter of Application

Date:

Hon'ble Governor
Royal Monetary Authority of Bhutan
Thimphu, Bhutan

Subject: Application to Establish of a Commercial Bank in Bhutan

Dear Sir/Madam,

In accordance with Chapter 3 of the Financial Services Act of Bhutan 2011, we would like to apply for a licence to establish a bank in Bhutan. The documents required by the Authority are enclosed herewith. We look forward to receiving your approval for the establishment of the proposed business.

Yours Sincerely,

Signature:

Name:

Address:

Telephone number:

Fax No.:

Email:

(Encl: documents/information pertaining to the application)

ROYAL MONETARY AUTHORITY OF BHUTAN

LICENSING APPLICATION FORM

1. *(Please ensure that this form is filled properly. In case of any clarification, please feel free to call or visit Financial Regulation and Supervision Department of AUTHORITY).*

In accordance with the Financial Services Act of Bhutan 2011, an application form is required to be submitted by the applicant to the Authority for a licence to conduct banking business.

2. Name of the Applicant :

3. Address :

Phone No :

Fax No :

E-mail address :

4. A copy of draft Articles of Incorporation *(final Articles of Incorporation to be submitted upon incorporation of the company with the Registrar of Companies)*

5. Details of Promoters *(use additional sheets if necessary)*

(a) Provide list of promoters with shareholding of the proposed company:

Name	No. of shares	Value of shares (in Nu.)	% of total Shares

(b) If some promoters mentioned in section 5(a) are natural persons, state their name, nationality and Citizenship ID card number and present address:

Name	Nationality	Citizenship ID card no.	Present address

(c) If some promoters mentioned in section 5(a) are legal entities, state their name, registration/license no. and nature of business:

Name	Registration/License no.	Nature of business

6. Capital Structure of the company:-

Amount of Authorized Capital and No. of Shares:

Amount of Paid Up Capital and No. of Shares:

7. Feasibility report on the proposed Banking Business, including an analysis of Bhutan's macroeconomic environment, financial system, a business plan for the proposed bank, financial projections and sensitivity analysis.

8. Internal Control System

Please provide us a copy each of the bank's manuals (Credit Manual, Banking Manual etc.) pertaining to the financial services offered by the bank.

9. DECLARATION

I, the undersigned, solemnly declare that the above information given in this application form on behalf of applicant company is true, complete and correct to the best of my knowledge and ability and can be verified any time.

Should Authority come across any inconsistencies on the information provided, I hereby agree to fully abide by the penalties empowered under the Financial Services Act of Bhutan 2011.

Further, I would like to pledge that if granted a licence to conduct the business, the company will not violate any laws and regulation of the Authority.

Name..... Position held.....

Signed..... Date.....

(Affix legal Stamp)

Witness:

Name :..... Citizenship ID No: No:.....

Current address:

Signature: Date.....

ANNEXURE III

BIOGRAPHICAL REPORT

1. Full Name:

2. Date of Birth:

3. Citizenship Identity Card No. *(Please attach a copy):*

4. Passport Number *(For foreigners) (please attach a copy of passport and work permit):*

Country of Issue:

Right-to-work in Bhutan: Yes () No ()

5. Present Address:

.....
.....

Occupation :.....

Institution/Organization :.....

Telephone no. :.....

Email address :.....

6. Permanent Address:

Village :..... Gewog:.....

Dzongkhag/District :.....

7. Marital Status: Single () Married () Divorced () Separated ()

If married,

Spouse's Name:..... Occupation :.....

Spouse's Citizenship ID/Passport Number:.....

Country of Issue:.....

8. Father's Name:..... Mother's Name:.....

Occupation:.....Occupation:.....

Address:..... Address:.....

9. Education

Name & Address of School	Date of Attendance	Major Area of Study	Degree Granted & Date Awarded
Undergraduate			
Graduate			
Masters/Professional			

10. Employment Record (*past 5 positions*)

Use additional sheets, if necessary and account for all gaps in employment.

Name & Address of Employer	Dates of Employment	Position Held & Duties	Immediate Superior	Reason for Leaving

11. Do you have a licence to practice any profession? Yes () No ()

If yes, give details:

- (a) Nature of license:.....
- (b) Nature of Business:.....
- (c) License number:.....
- (d) Issuing Authority:.....
- (e) Percentage of shareholding:.....

12.

Do you have any financial interest in any financial institution under the supervision of any Government authority? If “Yes”, give the name of the institution, address, and percentage of ownership. (<i>A copy of share certificate to be attached</i>)	Yes ()	No ()
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13.

Source of fund for capital contribution (<i>applicable to promoters</i>)	
a. Own Cash (<i>If yes, please provide the amount</i>)	Yes () No ()
b. Borrowings from a Financial Institution (<i>If yes, give name of institution and amount borrowed</i>)	Yes () No ()
c. Other sources (<i>If yes, give details including amount</i>)	Yes () No ()

14. Latest Income Tax clearance (Attach tax clearance certificate)

15. Please tick whichever is relevant for the following questions:

a. Are any arrests, indictments, criminal or other criminal proceedings now pending against you?	Yes () No ()
b. Do you have more than 5 years' experience in any financial services/finance/accounting?	Yes () No ()
c. Were you ever convicted for any violations of the law?	Yes () No ()
d. Have you or has any partnership of which you were a principal officer or major stockholder ever been declared bankrupt?	Yes () No ()
e. Are any of your loan account with financial institutions classified as non-performing during last 24 months?	Yes () No ()

16 DECLARATION

I certify that I am aware that it is an offence under the Article 138 of the Financial Services Act 2011 to provide the Royal Monetary Authority any information which is false or misleading in a material particular in connection with an application.

I certify that the information given in form above is complete and accurate to the best of my knowledge, information and ability and that there are no other facts relevant to this application of which the Royal Monetary Authority should be aware.

I undertake to inform the Royal Monetary Authority of any changes material to the application which arises while the authority is considering the application within 7 days of each change.

I also undertake that as long as I continue to be a Director/Shareholder of the bank, I will notify the Royal Monetary Authority of any material changes, or affecting the completeness or accuracy of, the information given above as soon as possible, but in any event no later than 10 days from the day the changes come to my attention.

Further, I would like to pledge that as long as I continue to be a Director/Shareholder of the bank, I will not violate any laws and regulations of the Authority.

Name..... Position held.....

Signed..... Date.....

(Affix legal Stamp)

Witness:

Name: Citizenship ID No :

Current address:
:

Signature: Date: