



**THE ROYAL MONETARY AUTHORITY OF BHUTAN
ACT, 1982**

**56TH SESSION OF NATIONAL ASSEMBLY OF BHUTAN
TASHICHO DZONG, THIMPHU**

THE ROYAL MONETARY AUTHORITY OF BHUTAN ACT 1982

(As amended by the Financial Institutions Act of Bhutan, 1992)

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THE ROYAL MONETARY AUTHORITY OF BHUTAN ACT, 1982

An Act to provide for the establishment of the Royal Monetary Authority of Bhutan and for matters connected therewith and incidental thereto.

Be it enacted by National Assembly as follows:

Part I – Preliminary

Short title and commencement 1. This Act may be cited as the Royal Monetary Authority of Bhutan Act, 1982, and shall come into force upon such date as may be officially notified; provided, that different dates may be prescribed for the coming into force of different Sections or subsections of this Act.

Interpretation 2. In this Act, unless the context otherwise requires:

- (a) "Authority" means the Royal Monetary Authority of Bhutan established by this Act;
- (b) "Financial institutions" shall mean persons engaged in one or more of the following services:
 - (i) depository banking:
receiving financial resources from the public, including money deposits creating liabilities of the institution taking deposits, whether in the form of demand or time deposits or debt instruments in another form, and extending credit or investing in securities for the account of the institution.
 - (ii) development or merchant banking:
extending credit or investing in securities with funding obtained primarily from institutional investors.
 - (iii) commercial or consumer finance:
extending credit or providing lease finance with funding obtained primarily from institutional investors.
 - (iv) insurance:

the provision of life and general insurance in consideration of the payment of premiums, which activity may include the investment of premium proceeds and investment income.

(v) asset management:

the investment or control of money or securities by persons for the account of third parties.

(vi) investment advice:

carrying on the business of giving advice about investment.

(vii) securities underwriting:

arranging or guaranteeing the purchase of debt or equity or convertible securities for an issuer.

(viii) securities dealing:

purchase and sale of securities for one's own account.

(ix) securities brokerage:

the purchase or sale of securities on the order and for the account of third parties.

(x) investment company activities:

investment by more than 25 persons through ownership of shares in a company which has as its primary activity the holding of securities for investment.

(xi) other financial services:

any service other than those described above that the RMA classifies as financial services by virtue of the activity of financial intermediation or the public interest in regulation of such services.

(xii) "Bank" means a company engaged in whole or in part in the financial services (banking activities) described in (i) above.

(xiii) "Securities business" means any of the activities described in subsections (vii), (viii), (ix), or (x).

- (c) "Board" means the Board of Directors of the Authority;
- (d) "demand liabilities of the Authority" means currency in circulation issued or deemed by the Authority to have been issued by it, together with demand deposits held by the Authority;

Part II - Constitution

- Establishment of Authority** 3. There is hereby established an Authority known as the Royal Monetary Authority of Bhutan to do business in accordance with the provisions of this Act.
- Status** 4. The Authority shall be a body corporate with perpetual succession and a common seal.
- Powers** 5. The Authority shall have the power to:
- (a) enter into contracts and issue obligations;
 - (b) sue and be sued in its own name;
 - (c) acquire, hold, and dispose of property, whether movable or immovable and to pledge and mortgage the same; and
 - (d) exercise all powers specifically granted by the provisions of this Act to the Authority, and such incidental powers as shall be necessary to carry out the powers so granted.
- Purposes of the Authority** 6. The purposes of the Authority are:
- (a) to regulate the availability of money and its international exchange;
 - (b) to promote monetary stability;
 - (c) to supervise and regulate banks and other financial institutions subject to the Financial Institutions Act of Bhutan of 1992; and
 - (d) to promote credit and exchange conditions and a sound financial structure conducive to the balanced growth of the economy.
- Offices, agents and correspondents** 7. The Authority shall have its Head Office in Thimphu and may:
- (a) establish branches within Bhutan;
 - (b) appoint agents and correspondents within Bhutan and abroad; and

- (c) upon the unanimous vote of all the members of the Board, establish offices abroad.

Service of documents

- 8. The service of any document upon the Authority shall be deemed to be effected by delivering the same or by sending it by registered post to the Managing Director.

Part III - Capital, Profits and Reserves

Capital

- 9. (1) The authorized capital of the Authority shall be Ngultrum one hundred million and may be increased by such amounts as may be proposed by the Board and approved by the Government. There shall be paid-up by the Government Ngultrum one million five hundred thousand upon the establishment of the Authority and such further amounts as may be proposed by the Board and approved by the Government. All the paid-up capital shall be subscribed and held exclusively by the Government and shall not be transferable or subject to encumbrance.

No reduction of capital shall be effected except by an amendment to this Act.

(2) The Government, notwithstanding any other provision of this Act, shall cause to be transferred to the ownership of the Authority non-negotiable, non-interest bearing securities issued by the Government from time to time for such an amount as in the judgement of the Board is necessary for the purpose of preserving the paid-up capital from any impairment.

Profits

- 10. The net profits of the Authority for each financial year shall be determined after allowing for the expenses of operation for that year and after providing:
 - (a) for bad and doubtful debts, depreciation in assets, and contributions to staff funds and pension funds; and
 - (b) with the approval of the Government, for such other purposes as the Board may deem necessary.

General Reserve

- 11. (1) The Authority shall establish a General Reserve to which shall be allocated at the end of each financial year of the Authority an amount equal to fifty percent of the net profits until the General Reserve amounts to three times the paid-up capital of the Authority. With the approval of the Government, the amount to be transferred to the General Reserve may be increased to exceed that annual proportion, or the total amount of the General Reserve may be increased beyond three times the paid-up capital of the Authority.

(2) After transfers to the General Reserve have been made under subsection (1) fifty percent of the remainder of the net profits for the financial year shall be applied to the redemption of any securities of the Government held by the Authority which have been issued under Section 9(2).

(3) The balance of the net profits for the financial year remaining after all deductions under subsections (1) and (2) have been made shall be paid to the Government as soon as practicable after the end of the financial year.

(4) No deduction authorized under subsection (1) and (2) shall be required to be made if, in the judgement of the Board, the assets of the Authority are, or after the deduction or payment, will be, less than the sum of its liabilities and paid-up capital.

**Revaluation
Reserve
Account**

12. (1) The gains arising from any change in the valuation of the Authority's assets or liabilities in, or denominated in, gold, foreign currencies or other units of account as a result of alterations of the value of the ngultrum, or of any change in the value or exchange rates of such assets with respect to the ngultrum shall be credited to a Revaluation Reserve Account and neither they nor the losses arising from any such change shall be included in the computation of the annual profits and losses of the Authority.

(2) The losses arising from any such change shall be set off against any credit balance in the Revaluation Reserve Account and, notwithstanding any other provisions of this Act, if such balance is insufficient to cover such losses, the Government shall issue to the Authority non-negotiable, non-interest bearing securities to the extent of the deficiency.

(3) Any credit balance in the Revaluation Reserve Account at the end of each financial year of the Authority shall be applied first, on behalf of the Government, to the redemption of any outstanding securities issued under subsection (2) and outstanding; and if thereafter the remaining balance exceeds five percent of the Authority's liabilities on account of currency issued, or deemed to have been issued by it, and remaining outstanding the greater of:

(a) one fifth of the remaining balance; or

(b) five percent of the said liabilities, as at the end of the past preceding financial year of the Authority shall be paid to the Government; provided, that when the remaining balance does not exceed five percent of the aforesaid liabilities the entire amount of the balance shall be paid to the Government.

(4) No credits or debits shall be made to the Revaluation Reserve Account except in accordance with provisions of this Section.

Part IV - Administration

Board of Directors

13. (1) The powers of the Authority shall be vested in a Board of Directors which shall be responsible for the policy and general administration of the Authority.
- (2) The Board shall have the power to make, alter, or repeal by-laws, regulations and orders for the purpose of giving effect to the provisions of this Act.
- (3) The Board shall consist of five members, namely the Minister of Finance and the Secretary of Finance, both of whom shall serve by virtue of their offices; the Managing Director and two other appointed Directors.
- (4) The Managing Director and the other appointed Directors shall be persons of recognized experience or standing in financial matters and shall each be appointed by the Government for a term of three years and shall be eligible for reappointment. They shall be appointed on such terms and conditions which may not be altered to their disadvantage during their tenure of office, as may be set out in their respective letters of appointment. They shall not, during their tenure as members of the Board, be employees or share holders in any financial or credit institution under the regulatory jurisdiction of the Authority.
- (5) The Minister of Finance shall be the Chairman of the Board and during his absence or disability, the Secretary of Finance as Vice Chairman, shall preside at the meetings of the Board, and in the absence of both the Chairman and the Vice-Chairman, the Board shall elect its own Chairman.

Managing Director and the other appointed Directors

14. (1) The Managing Director shall serve as chief executive officer of the Authority to be in charge of, and responsible to the Board for the implementation of the policy and the day-to-day management of the Authority.
- (2) The Managing Director shall have power to act, contract, and sign instruments and documents, on behalf the Authority. He may, pursuant to resolution of, and to the extent deemed appropriate by the Board, delegate such power to other officers.

(3) The Managing Director, while holding office, shall not without the prior approval of the Government engage in any business, profession, or employment, whether remunerated or not; provided, that he may:

- (a) act as member of any Board or Commission appointed by the Government;
- (b) become Governor, Alternate Governor, Director, or member of any organ by whatever name called, of any international monetary authority, established under any agreement or convention to which the Government shall have adhered or given support or approval;
- (c) become member of the Board of any corporation organized by the Government for the purpose of insuring deposits in financial institutions.

(4) The Managing Director shall not receive any salary, or contribution to, or supplementation thereof, from any source other than the Authority: provided, that this restriction shall not bar him from receiving remuneration in respect of any teaching post or equivalent position which he occupies during his term of office.

(5) Fees and allowances to be received by the other members of the Board shall be determined by the Board.

(6) The Managing Director or any one of the other appointed Directors may resign his office on giving notice in writing to the Government. Such resignation will be effective upon its acceptance by the Government.

(7) The Managing Director or any one of the other appointed Directors shall be removed from his office by Government only upon a finding by a majority of the members of the Board of:

- (a) permanent incapacity; or
- (b) serious misconduct in office substantially prejudicing the interest of the Authority.

(8) If the Managing Director or any one of the other appointed Directors dies, or resigns, or otherwise vacates his office before the expiry of the term for which he has been appointed, as soon as may be practicable another shall be appointed in his place for the un-expired period.

(9) The Board shall make provision in the by-laws for the cases of temporary absence or disability of the Managing Director or any one of the other appointed Directors.

Meeting of the Board

15. (1) The Board shall meet as often as the Chairman may consider that the business of the Authority may require but not less frequently than once every two months. Pursuant to its by-laws, the Board may provide for regular meetings for which no notice shall be necessary and special meetings to be convened at the written request of two Directors for which adequate notice shall be required.
- (2) Three members of the Board shall form a quorum at any meeting and, unless otherwise provided in this Act, decisions shall be adopted by a simple majority of the votes of the members present, and in the event of an equality of votes, the Chairman shall have a casting vote.

Power to appoint officer and employees

16. (1) The Board may appoint and employ, at such remuneration and on such terms and conditions as it may prescribe, such officers and employees, agents and correspondents as the Board may consider necessary for the efficient functioning of the Authority.
- (2) No salary, fee, wage or other remuneration, or allowance paid by the Authority shall be computed by reference to the net or other profits of the Authority.

Conflict of interest

17. (1) No appointed member of the Board shall act as a delegate of any commercial, financial, agricultural, industrial, or other business interest, or receive or accept directions therefrom in respect of duties to be performed under this Act.
- (2) The members of the Board shall fully disclose to the Board any commercial, financial, agricultural, industrial, or other business interests with which they or members of their families may at any time directly or indirectly be interested and shall refrain from voting on any matter related thereto which becomes the subject of Board action; provided that such an interest, if so disclosed, shall not disqualify the interested party for the purpose of constituting a quorum.
- (3) The disclosure referred to in the preceding subsection shall be made at the commencement of Board discussion of matters concerning which a member is an interested party.
- (4) Neither the members of the Board nor any officers or employees of the Authority shall receive any gift or advantage for themselves or persons with whom they have family, business, or financial connections if the acceptance thereof would result, or give the appearance of resulting, in the diminishing of their impartial devotion to their duties under this Act.
- (5) Any person who contravenes the provisions of this Section shall be guilty upon conviction in a court of law of an offense and liable to a fine of

not more than Nu. 5,000 or to imprisonment for not more than three months, or to both such fine and imprisonment.

Secrecy

18. (1) Except for the purpose of the performance of his duties, or the exercise of his functions, or when required to do so by any court, or under the provision of any law, no member of the Board, officer or employee of the Authority shall disclose to any person any material information relating to the affairs of the Authority or of any financial institution, or other person, firm, company or organization which he has acquired in the performance of his duties or the exercise of his functions.

(2) Any person contravening the provision of subsection (1) of this Section shall be guilty upon conviction in a court of law of an offence and liable to a fine of not more than Nu. 5,000 or to imprisonment for not more than three months, or to both such imprisonment and fine.

Part V - Currency

Monetary unit

19. The monetary unit of Bhutan shall be the Ngultrum which shall be divided into one hundred Chetrums, with such external value as may from time to time be declared in accordance with Section 20 of this Act.

External value

20. (1) The Government may, by order, at any time, on the recommendation of the Board, declare an external value for the Ngultrum, having due regard for the obligations which Bhutan has assumed in accordance with the provisions of any international monetary agreement to which it is a party, or to which it has adhered.

(2) Notice of any change in the external value of the Ngultrum made in accordance with subsection (1) shall be notified to the public.

Issue of currency

21. (1) The Authority shall have the sole right of issuing currency notes and coins in Bhutan.

(2) No other person shall issue currency notes, bank notes or coins, or any documents or tokens payable to bearer on demand having the appearance of or purporting to be currency without the prior approval of the Authority.

(3) Any person contravening the provisions of subsection (2) shall be guilty upon conviction in a court of law of an offense and liable to a fine of not more than Nu. 20,000 and to imprisonment for not more than sixty months.

(4) Subject to the provisions of subsection (5), currency notes and coins issued or deemed by the Authority to have been issued by it shall be the

only legal tender in Bhutan for the discharge of public and private obligations.

(5) A tender of payment of money if made in currency notes and coins referred to in subsection (4), shall be legal tender:

- (a) in the case of currency notes, for the payment of any amount;
- (b) in the case of coins, for each denomination of coins for the payment of an amount not exceeding twenty times the face value of that denomination.

(6) Notwithstanding paragraph (5) of this Section, a currency note or coin issued or deemed to have been issued by the Authority shall not be legal tender:

- (a) if, in the case of a currency note, it has been altered in any material way;
- (b) if, in the case of a coin, it has been tampered with.

(7) (a) A currency note shall be deemed to have been altered, in a material way, if it has been mutilated or has been defaced by having any name, work, device, or number stamped or engraved thereon.

(b) A coin shall be deemed to have been tampered with if it has been impaired, diminished or lightened otherwise than by fair wear and tear, or has been defaced.

(8) The penalties for counterfeiting and alteration of currency notes and counterfeiting, mutilating, and defacement of coinage shall be those established in the Penal Code.

(9) The conditions under which mutilated or otherwise damaged currency may be exchanged or refunded at partial or face value shall be determined by regulations issued by the Authority.

(10) No person shall be entitled to recover from the Authority the value of any lost or stolen currency, except as may be provided under the terms of a waiver expressly executed in respect of the assumption by the Authority of risks incident to shipments of currency.

(11) Currency, which has hitherto been issued by the Government, and currency, which may hereafter be issued by the Authority, shall be interchangeable in Bhutan at their face values.

(12) The Authority may arrange for the printing of currency notes and the minting of coins and for all matters relating thereto, and for the security and safekeeping of un-issued currency and for the custody and destruction, as necessary, of plates, dies, and retired currency.

(13) Currency notes issued by the Authority shall be in such denominations and of such composition, form, and design and authenticated in such manner as shall be approved by the Government on the recommendation of the Board.

(14) Coins issued by the Authority shall be of such denominations and of such weight, form, and design and made of such metal or metals as shall be approved by the Government on the recommendation of the Board.

(15) The characteristics of currency notes and coins to be issued by the Authority shall be published by any means it deems appropriate.

(16) The Authority shall issue, reissue, and exchange on demand and without charge currency which it has issued or which is deemed by the Authority to have been issued by it: provided, that in the event of the temporary unavailability of a requested issue of denomination, the Authority may deliver currency of available issues and denominations which most near approximate those requested.

Power of the Authority to withdraw currency from circulation

22. The Authority shall have power, on giving notice by any means it deems appropriate, to call in, for the purpose of withdrawing from circulation, and currency issued by the Authority or deemed by the Authority to have been issued by it on payment of the face value thereof. Any currency so recalled shall, in accordance with the terms of the notice, cease to be legal tender: provided, that the holders of currency shall be entitled, at any time within a period of not less than five years as may be specified in the notice, to claim payment from the Authority in accordance with such regulations as it may issue.

Evidence of genuineness of currency notes

23. In any proceeding in which the genuineness of any currency note or coin purporting to have been issued by the Authority, or deemed by the Authority under Section 21 (4) to have been issued by it shall be in question, a certificate the hand of a duly authorized officer of the Authority to the effect that such currency note or coin is or is not spurious shall be received in all courts of law as presumptive evidence of the status of such currency note or coin.

Part VI - External Reserve

External

24. (1) The Authority shall maintain an External Reserve consisting of all or

Reserve

any of the following on such terms and conditions as the Board may prescribe:

- (a) gold;
- (b) foreign exchange in the form of currency or bank balances held abroad;
- (c) any internationally recognized reserve asset, including:
 - (i) the reserve tranche position of Bhutan in the International Monetary Fund;
 - (ii) the holding of any Special Drawing Rights by Bhutan in the Special Drawing Rights Department of the International Monetary Fund;
- (d) bills of exchange and promissory notes denominated in foreign currency and payable at any place outside Bhutan;
- (e) treasury bills issued by foreign governments or international financial institutions specified from time to time by the Board;
- (f) Securities issued or guaranteed by foreign governments or international financial institutions specified from time to time by the Board.

(2) The Authority shall use its best endeavours to maintain the External Reserve at a level adequate for the international transactions of Bhutan.

(3) If the External Reserve has declined or in the judgement of the Board appears likely to decline in such a way as to jeopardize the adequacy of such reserve in light of subsection (2) the Authority shall submit to the Government a report on the reserve position and the causes which have led or may lead to such a decline together with recommendations concerning the measures that may be deemed necessary to forestall or otherwise remedy the situation. The Authority shall make further reports and recommendations at intervals not to exceed six months until such time as, in its judgement, the situation is rectified.

Part VII - Foreign Exchange Operations

Depository of official external assets

25. The Authority shall be the depository of the official external assets of Bhutan: provided, that the Authority may designate such agents as it may select in which these assets may be held.

Operation in gold and foreign exchange 26. The Authority may:

- (a) buy, sell, or deal in gold coins or bullion or other precious metals;
- (b) buy, sell, or deal in foreign exchange, using for these purposes any of the instruments commonly used by bankers;
- (c) purchase and sell treasury bills and other securities issued or guaranteed by foreign governments, international institutions;
- (d) open and maintain accounts abroad;
- (e) open and maintain accounts and act as agent or correspondent for foreign central banks, foreign financial institutions, foreign governments, foreign government agencies and institutions, and international institutions.

Limitations on operations of foreign exchange 27. The Authority shall deal in connection with the operations enumerated in Section 26 only with financial institutions operation in Bhutan, the Government and its boards and agencies, local government bodies, foreign central banks, foreign financial institutions, foreign governments, foreign government agencies and institutions, and international institutions.

Determination of buying and selling rates of gold and foreign exchange 28. The Authority shall from time to time determine the rates at which it will buy, sell, or deal in gold and foreign currencies. The Authority may also determine the rates at which financial institutions will buy, sell, or deal in gold and foreign currencies provided, that in making such determinations, the Authority shall have due regard for the obligations which Bhutan has assumed in accordance with the provisions of any international monetary agreements to which it is a party or which it has adhered.

Part VIII - Relations with Financial Institutions

Opening accounts for financial institutions 29. The Authority may open accounts for, and accept deposits from financial institutions doing business in Bhutan under such terms and conditions, including the payment of interest and the establishment of charges thereon, as the Board may from time to time determine.

Operations with account holders 30. The Authority may:

- (a) purchase from, sell to, discount and rediscount for financial institutions bills of exchange and promissory notes drawn or made for bona fide commercial, industrial, or agricultural purposes, bearing two or more good signatures, at least one of which shall be that of a financial institution, and maturing within ninety days from the date of their acquisition by the Authority: provided, that

bills of exchange and promissory notes drawn or made for the purpose of financing seasonal agricultural operations or marketing of crops may mature within one hundred eighty days from the date of their acquisition;

- (b) purchase from, sell to, discount and rediscount for financial institutions any treasury bills of the Government forming part of a public issue and maturing within ninety days from the date of their acquisition by the Authority;
- (c) grant to financial institutions advances, whether by loans or overdrafts, for periods not exceeding ninety days:
 - (i) secured by:
 - (A) instruments specified in paragraphs (a) and (b);
 - (B) warehouse warrants and documents of title issued in respect of staple commodities or other goods duly insured: provided, that the Authority shall determine from time to time the maximum percentage of advances in relation to the current value of such commodities or goods;
 - (C) holdings of any of such assets as the Authority is permitted to buy, sell, or deal in under paragraphs (a), (b) and (c) of Section 26;
 - (ii) unsecured by such assets, on terms and conditions which the Board may prescribe: provided, that no advance shall be made available under this paragraph for an amount in excess of twenty percent of the deposit liabilities of the borrower.

Determination of Authority rates

31. The Authority shall fix and publicly announce from time to time its rates for discounts, rediscounts, advances, loans or overdrafts. It may establish differential rates and ceilings for various classes of transactions or maturities.

Requirement of reserves

32. (1) The Authority may, from time to time, prescribe by any means of notification it deems appropriate and by written notice to the main office in Bhutan of each financial institution the maintenance of required reserves, including marginal required reserves, against deposit and other similar liabilities which may be specified for this purpose. Such reserves shall be maintained by way of cash holdings with the financial institution or by way of deposits in current account with the Authority or both in proportion as the Authority may prescribe.

(2) The Authority may prescribe different reserve ratios for different classes of deposit and other similar liabilities and may prescribe the method of their computation: provided, that:

- (i) the total amount of reserves which the financial institutions are required to hold shall not exceed forty percent of the total deposit and other similar liabilities to which reserve ratios have been made applicable;
- (ii) the reserve ratios shall be uniform for all banks and all financial institutions although the ratios may differ between the two classes;
- (iii) any such prescription of, or increase in, the required reserve ratios shall be effective only after reasonable notice thereof has been communicated to the financial institution.

(3) Required reserves held with the Authority may, under such regulations and subject to such charges as may be prescribed by the Authority, be withdrawn by the financial institutions for the purpose of meeting their existing liabilities and may further serve as a basis for the clearance of cheques and the settlement of balances among financial institutions.

(4) The Authority may impose on any financial institution which fails to maintain required reserves in the appropriate ratio prescribed under this Section a charge at an annual rate not in excess of twice the highest rate fixed at the time by the Authority pursuant to Section 30 for any of its operations on the amount of the deficiency for as long as the deficiency continues. Such interest charge shall be payable to the Authority on such date as may be prescribed by it and may be recovered by deduction from any balance of the financial institution with the Authority.

Computation of, and minimum and maximum interest rates

33. (1) The Authority may, from time to time, prescribe by any means of notification it deems appropriate and by written notice to the main office in Bhutan of each financial institution,

- (a) the method of computation and minimum and maximum rates of interest payable in respect of deposit and other similar liabilities;
- (b) the permissible purposes, aggregate ceilings, maximum amounts beyond which the Authority's approval is necessary, maximum maturities, and maximum interest chargeable, and minimum cash, margin or security required, in respect of:

- (i) the making of advances, whether by loans or overdrafts, and investments;
- (ii) the discounting of bills and notes;
- (iii) the issuing of letters of credit;
- (iv) the granting of acceptances and other credit.

(2) The provisions of subsection (1) may be made applicable by the Authority, through publication by any means it deems appropriate and by written notice to every person, having as a principal object the extension of credit to the public generally or to particular members thereof, that, in the ordinary course of business, during any calendar year extends an amount to be determined from time to time by the Board. The Authority shall have power to examine the accounts, books, and papers of any person that it has reason to suspect is extending or has extended credit in violation of this subsection.

(3) Notices issued under this Section shall apply uniformly in Bhutan and shall come into effect on such date specified not earlier than thirty days after the issue date; provided, that the Authority in its notices may differentiate, according to the nature of their business, between banks, credit institutions, and other creditors or classes thereof in respect of the items set out in subsection (1).

(4) Any financial institution in violation of subsection (1) may be required to pay to the Authority for each such violation a penalty charge not to exceed Nu. 1,000 for every day during which such violation continues.

(5) Any person to whom the provisions of subsection (1) have been made applicable pursuant to subsection (2) shall be guilty of an offence if :

- (a) it is in violation of this Section; or
- (b) it supplies false information or fails to furnish within a reasonable time, and before the expiration of a request so to furnish, any information required by the Authority to satisfy the Authority that it is complying with this Section.

(6) Any person who commits an offence under subsection (5) shall be liable upon conviction in a court of law to a fine of not more than Nu. 1,000 for every day during which the contravention continues.

Provision of information

34. (1) Every financial institution shall furnish to the Authority, at such time and such manner as the Authority may prescribe, such information and data as the Authority may require for the proper discharge of its functions

and responsibilities; provided, that in order to verify compliance with directions issued under Section 31 and 32 the Authority may require any person who is or has been made subject thereto open its books for inspection.

(2) The Authority may publish in whole or in part in aggregate form for classes of financial institutions determined in accordance with the nature of their business at such times as it may decide the information or data furnished under subsection (1) : provided, that no information shall be published which would disclose the affairs of any person who is a customer of a financial institution unless the consent of such interested party has been previously obtained in writing.

(3) Any director, officer or employee of a financial institution or any person who may be subject to the provisions of this Act under Section 33 (2) who:

- (a) fails, refuses or neglects to supply information or data under (1), or
- (b) in complying with such requirements furnishes any information or data which he knows to be false in any material respect, shall be guilty upon conviction in a court of law of an offense and liable to a fine of not more than Nu. 3,000 or to imprisonment for six months, or to both such imprisonment and fine.

**Inspection of
financial
institutions**

35. (1) The Authority may periodically or at its discretion cause an inspection to be made by any of its officers or by any other qualified person appointed to that effect by the Authority of any financial institution and to inspect its books, records, documents and accounts for the purpose of ascertaining the nature of its business and the condition of its affairs and to ascertain whether such financial institution is complying with the provisions of this Act.

(2) Any person authorized under this Section to inspect a financial institution shall be subject to the provisions of Section 18 and may:

- (a) require any director, officer or employee of any financial institution to furnish such information as he may consider necessary for the purpose of the inspection; or
- (b) require any such director, officer or employee to produce for inspection any books, records, or other documents in his possession containing or likely to contain any such information.

(3) Any person who:

- (a) fails, refuses or neglects to comply with any requirement of an authorized person made under subsection (1) or (2); or
- (b) in complying with any such requirement, furnishes any information or produces any book, record or other document which he knows to be false in any material respect, shall be guilty upon conviction in a court of law of an offense and liable to a fine of not more than Nu. 3,000 or to imprisonment for six months, or to both such imprisonment and fine.

Foreign working balances

36. The Authority may prescribe the maximum amount of the working balances which financial institutions may hold in foreign currencies generally or in any specified currency or currencies.

Establishment of clearing house

37. The Authority may at a suitable time in conjunction with the banks organize a clearing house in Thimphu in premises provided by the Authority and in such other place or places as may be desirable.

Part IX - Relations with the Government

Authority to be banker, adviser, fiscal agent and depository to the Government

38. (1) The Authority shall be the banker, fiscal agent and adviser to the Government on monetary and financial matters and shall be the depository of Government funds; provided, that in such cases, for such periods of time, and on such other terms and conditions as may be agreed between the Government and the Authority,
- (a) the Authority may act in such capacities to government institutions, agencies and local government bodies; and
 - (b) the Government may maintain working balances with and generally use the services of other financial institutions.
- (2) The Government may request the Authority to render advice and to furnish reports on matters relating to the purposes of the Authority.
- (3) It shall be the duty of the Authority to inform and advise the Government concerning any matter, which in the opinion of the Authority is likely to affect the achievement of its purposes.

Depository and fiscal agent of international institutions

39. The Authority shall, upon designation by the Government, serve as the depository and fiscal agency of, and the institution through which dealings shall be conducted with, international financial institutions of which Bhutan is a member.

Credit to the Government, its institutions

40. Except in accordance with Section 30 (b), 30 (c) (i), 41 and 42, the Authority shall not, directly or indirectly, make advances to, acquire the notes, bills, securities or other evidences of debt of, or guaranteed by,

and agencies the Government, its institutions, agencies and local government bodies: provided, that this Section shall not operate to prevent the acquisition by the Authority of securities transferred to it by the Government in accordance with Section 9 or 12.

Advances to the Government 41. (1) The Authority may make temporary advances, subject to repayment within three months following the end of the financial year in which they were granted, at such rates of interest as may be agreed between the parties:

- (a) to the Government;
- (b) with the approval of the Government, to government institutions, agencies and local government bodies.

(2) Without limiting the generality of the provisions of subsection (1), the Authority is expressly authorized to make advances to the Government, on such terms and conditions as may be agreed; in respect of subscriptions and other payments resulting from, or incidental to, the membership of Bhutan in any international bank or international monetary authority established under governmental auspices, the participation of Bhutan in any account thereof, and any transactions and operations undertaken in connection therewith.

Acquisition and issuance of evidence of indebtedness 42. The Authority may:

- (a) purchase, hold and sell notes, bills, securities and other evidences of indebtedness issued or guaranteed by the Government bodies, which were publicly offered for sale or form part of an acquisition by the Authority; and
- (b) itself issue notes, bills, securities, and other evidences of indebtedness, whether in Ngultrum or in other currencies and may hold, sell, or purchase the same.

Consultation on budget and credit operations 43. The Authority shall be consulted by:

- (a) the Government on the occasion of the preparation of the Government's budget to the end of reaching an understanding on the total amount of credit that may be expected to be extended by the Authority to the Government during the Government's following financial year through the acquisition of evidences of indebtedness under Sections 30(b) and 42, the acceptance of securities as collateral under Section 30 (c) (i), and the making of advances under Section 41.

- (b) the Government, its institutions and agencies, and local government bodies at any time that either domestic or foreign credit operations are contemplated. In the event that, in the opinion of the Board, such operations individually or collectively appear to be of a magnitude inappropriate to prevailing economic conditions, the Authority shall report to the Government, drawing attention to the situation and recommending measures to remedy the situation.

Report to the Government

- 44. Whenever in the opinion of the Board, the volume of credit being extended by the Authority to the Government, its institutions, agencies and local government bodies by advances under Section 41 the acquisition of evidences of indebtedness under Section 30 (b) and Section 42, and the acceptance of securities as collateral under Section 30 (c) (i) threatens to endanger the ability of the Authority to achieve its purposes as provided for in this Act, the Authority shall submit a report to the Government, drawing attention to the situation, analyzing the causes which have led thereto, and, at its discretion, recommending measures which it deems necessary to forestall or otherwise remedy the situation.

Part X - Accounts

Financial year

- 45. The financial year of the Authority shall coincide with the financial year of the Government.

Accounts and annual statement

- 46. (1) The Board shall cause to be kept proper books of account and other books and records in relation thereto in which shall be recorded all the financial transactions of the Authority.

(2) The Authority shall, as soon as may be after the end of every month, make up a statement of the condition of the Authority as at the close of business on the last business day of each month and publish the same by any means it deems appropriate.

(3) The Authority shall, within three months after the end of each calendar year, submit to the Government a copy of its annual accounts certified by the auditor together with a report on its operations during the year and shall publish the said accounts and report once they have been approved by the Government.

Audit

- 47. The accounts of the Authority shall be audited at least once every financial year by a suitably qualified auditor appointed by the Board.

Part XI - Miscellaneous Provisions

Prohibited transactions

48. The Authority shall not:
- (a) engage in trade or participate directly or indirectly in the ownership of any financial, agricultural, commercial, industrial or other enterprises, except to the extent provided in paragraph (d) (i);
 - (b) purchase or retain ownership of real estate except in so far as is necessary for the conduct of its business and for the housing of its officers and employees.
 - (c) make unsecured advances, whether by loans or overdrafts, except as provided in Section 30 (c) (ii) and Section 41;
 - (d) make advances whether by loans or overdrafts, secured otherwise than as laid down in this Act; provided, that:
 - (i) should any debts due to the Authority be in jeopardy, the Authority may secure such debts on real or other property, and, if the security is enforced, acquire and hold such property, but with a view to the sale thereof as soon as is practicable.
 - (ii) subject to terms and conditions to be prescribed by the Board, the Authority may grant advances to any of its officers or employees:
 - (A) for the purchase, construction or repair of one residential house for his personal use against the security of the said house; and
 - (B) for other purposes in an amount not to exceed during the time they are outstanding the annual remuneration received by the borrower from the Authority;
 - (e) accept shares as collateral security, except as provided in clause (d) (i).

Exemption from taxes

49. The Authority shall be exempt from all Government and local taxes, stamp duties, fees, excise and all other taxes on its profits, operations, capital, property and documents.