



ROYAL MONETARY AUTHORITY OF BHUTAN

AGENT BANKING RULES AND REGULATIONS 2016

PART I PREAMBLE

1.1 Title- Agent Banking Rules & Regulations 2016

1.2 Authorization-In pursuant to the power vested with the Royal Monetary Authority of Bhutan under Sections 202 and 362 (e) of the Financial Services Act of Bhutan 2011, the Authority hereby issues the Agent Banking Rules & Regulations 2016. Agent banking is an additional delivery channel that can enhance the convenience and outreach of quality and affordable financial services in a more cost-efficient manner.

1.3 Short title, commencement and extent

This Rules & Regulations shall:

- 1.3.1 be called “Agent Banking Rules & Regulations 2016”;
- 1.3.2 come into force on 4th November 2016; and
- 1.3.3 apply to banks and their duly appointed agents.

1.4 Statement of Policy

These Rules & Regulations are intended:

- i. to increase financial services outreach and to promote financial inclusion to the un-banked and under-served population without undermining the safety and soundness of the banking system; and
- ii. to encourage the banks to use agents in the provision of banking services so as to reduce the cost of financial services.

1.5 Responsibility

1.5.1 The management/Board of each bank shall be responsible for formulating rules, policies, procedures and guidelines to ensure that:

- i. credible agents are identified and appointed;
- ii. risks associated with agent are properly identified, documented and mitigated; and;

- iii. activities of agent are constantly monitored to ensure full compliance with these Rules & Regulations and the terms and conditions specified in the agency contract.

1.5.2 It is the duty and responsibility of the management/Board of each bank to ensure full compliance with these Rules & Regulations.

PART II REGULATION AND APPROVAL PROCESS

2.1 Approval of agent business

- 2.1.1 A bank may conduct its business through an agent as long as it assumes the responsibility for the actions of its agent to the extent that they relate to the provision of its business and matters connected therewith.
- 2.1.2 A bank seeking to conduct its business through an agent shall apply and obtain a prior written approval of the Authority before commencing agent business.
- 2.1.3 The application process should contain the list of proposed agents and their KYC.
- 2.1.4 If a bank wishes to appoint further agents after the approvals, it shall submit the new agent list and their KYC to the Authority for information.
- 2.1.5 The duly completed application including the information specified in these rules & regulations together with a list of agents shall be submitted to the Royal Monetary Authority of Bhutan.

2.2 Information required for agent network approval

- 2.2.1 An applicant seeking to engage the services of an agent for carrying out this business shall, on a one off basis, submit the following information to the Authority:
 - a. The proposed number of agents per Dzongkhag along with proposed agent location.
 - b. The bank's agent due diligence policy and procedures.
 - c. A copy of the draft agency contract detailing amongst other things that the bank is wholly responsible and liable for commission or omission of any action by its agent. This responsibility extends to actions of the agent even if it is not authorized in the contract as long as they relate to its business or matters connected therewith.

- d. The policies and procedures applicable to the provision of financial services through agents, as well as a description of the technology proposed to be used.
- e. A risk assessment report of the operations to be performed through the agents, including the mitigating measures to be adopted in order to control the risks identified.
- f. Anti-money laundering/Counter Financing of Terrorism (AML/CFT) policies and procedures.
- g. Agent operational policies and procedures.
- h. Application should also mention any proposed fee/commission structure.
- i. Application should clearly mention fees structure payable by the Bank's customers.
- j. Application should mention the capability of the system to debit customer's fee directly from the bank account. This is enforced in order to avoid agents' collecting fee from the customers.
- k. Banks are encouraged to submit the objective of agent banking services such as the projected financial inclusion goals. The goals could be in terms of new banking users subscribed through agent banking services and in terms of cashless payments.

2.4 Processing of application for agent network approval

2.4.1 Upon receipt of application form together with the required documents, the Authority will appraise the application.

2.4.2 The bank shall be required to submit additional information, as and when the Authority deem necessary.

2.4.3 Where the Authority is satisfied that all application requirements have been met by the bank, the Authority within thirty (30) days from the date of submission of the complete application, shall approve the application.

PART III ASSESSMENT OF AGENTS

3.1 Suitability assessment of an agent who is an entity

3.1.1 A bank shall, before seeking the Authority's approval for an entity to be contracted as an agent, assess and satisfy itself as to the suitability of the proposed entity and shall establish that:

- i. The entity has an existing well established commercial activity;
- ii. The entity has not been classified as a non-performing borrower by a bank in the last twelve (12) months preceding the date of signing the contract. That status shall be maintained for the duration of the contract. A copy of CIB report has to be submitted to the bank;
- iii. The entity possesses an appropriate physical infrastructure and human resources to be able to provide the services with the necessary degree of efficiency and security; and
- iv. The entity's primary business activity is not an agent banking.

3.2 Suitability assessment of an agent who is an individual

3.2.1 A bank shall, before seeking the Authority's approval for an individual to be contracted as an agent, assess and satisfy itself as to the suitability of the proposed individual and shall establish that:

- i. An individual must be a Bhutanese national with a Bhutanese Citizenship Identity card;
- ii. An individual is competent, of sound mind, not declared bankrupt and not convicted for criminal offences;
- iii. An individual has not been classified as a non-performing borrower by a bank in the last twelve (12) months preceding the date of signing the contract. That status shall be maintained for the duration of the contract. A copy of CIB report has to be submitted to the bank.

3.1.2 Prior to the appointment as an agent, any entity or individual that seeks to be appointed as an agent by the bank shall furnish the bank with the following information as applicable:

- i. The name of the entity/individual proposed to be an agent;

- ii. The certificate of incorporation of the business;
- iii. The description of commercial activity the entity has been carrying on for the last 12 months immediately preceding the date of the application;
- iv. Valid business license;
- v. A copy of citizenship Identity card;
- vi. A copy of clearance from the Police;
- vii. Audited financial statements, if applicable;
- viii. Physical location, postal address and telephone numbers; and
- ix. Any other information as the bank may request.

PART IV AGENCY CONTRACT AND PERMISSIBLE ACTIVITIES

4.1 Establishment of agency relationship

- 4.1.1 A bank shall enter into a written contract with an agent to carry out the services specified in these rules & regulations.
- 4.1.2 Any contract entered into between a bank and an agent shall comply with the provisions of these rules & regulations and any other relevant law in force.

4.2 Agent Eligibility

- 4.2.1 Following shall be eligible for appointing as agents under these rules & regulations:
 - i. An individual
 - ii. Entities such as:
 - a. Government postal services and private courier services;
 - b. Agents of telecom operators;
 - c. Registered retail merchants;
 - d. Authorised Money Changers (AMCs);
 - e. Pharmacies and medical stores; and
 - f. Any other entity, which the Authority may prescribe.

4.3 Agent Banking Services

4.3.1 An agent may provide any of the following services within the limit specified under section 4.3.2 as may be specifically agreed between agent and the bank:

- i. Accepting cash deposits to the users' bank account;
- ii. Cash-withdrawals from users' account;
- iii. Loan application process, document collection and submission;
- iv. Loan disbursement services;
- v. Accepting cash towards loan repayments;
- vi. Government scheme fund disbursement to eligible users' account;
- vii. Accepting cash towards payments to various government services such as income/property tax etc.;
- viii. Accepting cash towards utility payments;
- ix. Payment of retirement and social benefits;
- x. Accepting cheque deposits (agents may send cheques to respective bank for clearance);
- xi. Balance enquiry print out of users' account; and
- xii. Provide the bank account statement for users' account.

4.3.2 Transaction/Operation Limits

- i. Bank shall establish limits for the provision of services agreed upon with the agents.
- ii. The limits must be prudent and bear a relation to the volume of cash moved by an agent and the risks associated with the agent's locality.
- iii. Bank shall set limits for each agent and where applicable, for each type of transaction.

4.4 Prohibited activities

4.4.1 An agent shall not:

- iv. Operate or carry out an electronic transaction, when there is a communication failure in the system;
- v. Carry out a transaction, when a transaction receipt or acknowledgement cannot be generated;
- vi. Levy any charge or fee directly to the customers;
- vii. Carry out agent business when, in the opinion of the bank the primary commercial activity has ceased or is significantly diminished;
- viii. Offer any type of guarantee in favor of any bank or customer;
- ix. Offer financial services on its own accord (provide on its own account services similar to those provided by it under an agency contract);
- x. Continue with the agency business, when it has a proven criminal record involving fraud, dishonesty, integrity or any other financial impropriety/criminal activity;
- xi. Provide, render or hold itself out to be providing or rendering any financial services which is not specifically permitted in the contract;
- xii. Open accounts and grant loans;
- xiii. Encashment of cheques;
- xiv. Except AMC, transact in any foreign currency;
- xv. Provide cash advances;
- xvi. Be run or managed by a bank's employee or its associate; and
- xvii. Subcontract another entity to carry out agent services on its behalf.

4.4.2 A bank may enter into any other contract specifying other activities, which the agent is prohibited from undertaking.

4.5 Mandatory provisions to be included in the contract between bank and agent

4.5.1 Every contract between a bank and an agent shall contain at a minimum, the following information:

- i. Specific banking services to be rendered by the agent;
- ii. The rights, expectations, responsibilities and liabilities of both parties.

- iii. Measures to mitigate risks associated with agent banking services including, limits, customer transactions, cash management, cash security, security of agent premises;
- iv. The Authority shall have free, full, unfettered and timely access to the internal systems, documents, reports, records, staff and premises of the agent in so far as the agency banking business is concerned and shall exercise such powers as it may deem necessary;
- v. AML/CFT requirements;
- vi. Duty by the agent to deliver transaction support documents;
- vii. A statement that all information or data that the agent collects in relation to agent banking services, whether from the customers, the institution or from other sources, is the property of the bank;
- viii. Adequate oversight safeguards for the bank to address instances of non-compliance by the agent with the stipulated obligations;
- ix. Business hours of the agent;
- x. Suitable limits on cash holding by the agent and also limits on individual customer payments and receipts;
- xi. Confidentiality of customer and user information;
- xii. Description of electronic devices/technology to be used;
- xiii. Remuneration for the agent as agreed by the Bank or the commission structure payable to the agent;
- xiv. Specify that the agent shall at all times ensure safe-keeping of all relevant records, data, documents and files or alternately, such records, data, documents or files are transferred to the bank at regular pre-specified intervals for safe-keeping;

- xv. A statement to the effect that employees of an agent shall not be treated as employees of the bank and the rights and duties of such shall be agreed upon between the a bank and the agent;
- xvi. A framework for changing the terms of the contract and provisions for termination of the contract and in particular the circumstances under which an bank and agent can terminate a contract;
- xvii. A transition clause on the rights and obligations of the bank and the agent upon termination or cessation of the agency contract; and
- xviii. The bank and the agent may provide for other terms, as they may mutually consider necessary for the better carrying out of the agent banking business.

4.6 Termination of agency contract

Where an agency contract is terminated, the bank shall cause a notice of the termination to be published/announced within the locality of the premises where the agent was operating or in any other way or manner so as to inform the general public of the cessation of the agency contract.

PART V RESPONSIBILITIES

5.1 Key Roles & Responsibilities of banks

5.1.1 A bank is wholly responsible and liable for commission or omission of any action by its agent and this responsibility shall extend to actions of the agent even if not authorized in the contract so long as they relate to agent services or matters connected therewith.

5.1.2 A bank shall be expected to make an explicit, informed and documented decision on the use of agents for the provision of services to its customers.

5.1.3 A bank shall maintain an effective system of internal control system and oversight of the agent's activities or functions.

5.1.4 A bank shall ensure that proper controls are incorporated into its system so that all relevant compliance issues are noted and fully addressed, particularly the identification, assessment, monitoring and reporting on the bank's compliance.

5.1.5 A bank shall ensure that it has proper internal security control policies to safeguard the information, communication and technology systems and data from both internal and external threats.

5.1.6 A bank shall incorporate risk-based review of critical agent processes to ensure that the policies, rules, regulations and operational guidelines are followed.

5.1.7 A bank shall provide agents with such operation manuals and risk management policy documents as shall be needed to ensure proper provision of services to customers.

5.2 Management of agent business

5.2.1 Effective management oversight shall encompass the review and approval of key aspects of the bank's security control programs and processes and security control policies and infrastructure.

5.2.2 A bank shall ensure that the scope and coverage of its internal audit function is expanded to be commensurate with the increased complexity and risks inherent in agent activities and that the audit department is appropriately staffed with personnel having sufficient technical expertise to perform the expanded role.

5.2.3 A bank shall provide agents with sufficient training to enable the agents adequately perform the operations and provide the services agreed upon, including training relating to the proper identification of customers, customer service, confidentiality of the information, cash security, record keeping and financial education.

5.3 Risk Management

5.3.1 A bank shall pay special attention to credit risk, operational risk, liquidity risk, and compliance with rules for combating money laundering and financing of terrorism.

5.3.2 A bank shall undertake due assessment of agent's credit worthiness and set limit structures for agent's various activities commensurate with this assessment.

5.3.3 Product programs, procedural manuals and customer limit structures shall be devised keeping in mind the implications for operational and liquidity risks for agents.

- 5.3.4 Wireless or electronic banking related risks shall be recognized, addressed and managed by banks in a prudent manner according to the fundamental characteristics and challenges of electronic banking services.
- 5.3.5 Technology risks regarding information and data security in wireless networks shall be properly identified and mitigated.
- 5.3.6 A business continuity management plan shall be developed to mitigate any significant disruption, discontinuity or gaps in agents' functions.
- 5.3.7 A bank shall be responsible for putting in place appropriate product and operations manuals, accounting procedures and systems and for designing necessary forms/stationary to be used by the agents.
- 5.3.8 A bank shall have in place systems and personnel to adequately monitor and control agent operations on an ongoing basis.

PART VI AGENT OPERATIONS

6.1 Non-exclusivity

- 6.1.1 No contract between a bank and an agent shall be exclusive.
- 6.1.2 An agent may provide services for one or more banks provided that:
 - i. The agent has separate contracts for the provision of such services with each bank and
 - ii. The agent has the capacity to manage the transactions for the different banks.
- 6.1.3 A bank seeking to enter into a contract with an agent that has already been contracted by another bank to carry out agent business shall assess the capacity of the agent to manage transactions for different banks. Due regard shall be taken to the space, technological capacity and adequacy of funds or float of the agent.

6.2 Supervision of agents

- 6.2.1 A bank shall be responsible for monitoring and supervising the activities of its agents.

- 6.2.2 A bank shall have proper information on the numbers and volumes of transactions carried out for each type of service by each agent, which has to be submitted to the Authority on a half-yearly basis. It shall also monitor effective compliance with set limits and establish other prudential measures in each case.
- 6.2.3 A bank shall implement measures to control operating risks, including having clause (s) in the contract establishing the liabilities of the agent vis-à-vis the bank.
- 6.2.4 Periodic physical visits by bank's staff or authorized persons shall be carried out to ensure that agents operate strictly within the requirements of the laws, rules & regulations and as per the terms and conditions of the contract.
- 6.2.5 Notwithstanding the responsibility imposed on a bank to monitor and supervise its agents, the Authority may at any time request for such data or information or carry out such inspection, as it deems necessary.

6.3 Publication of list of agents and locations

- 6.3.1 A bank shall publish an updated list of all their agents (active, inactive, blocked, suspended, terminated) on their website and such other publications, as they may deem appropriate. The publications containing the list of their agents shall be disseminated to all their branches.
- 6.3.2 A bank shall designate particular branches to be responsible for the agents operating in the locality of the respective branches.

6.4 Relocation, transfer and closure of agent premises

- 6.4.1 An agent shall not relocate, transfer or close its agent premises without the prior written consent of the bank.

PART VI SETTLEMENT OF TRANSACTIONS AND THE TECHNOLOGY

7.1 Real time transactions

- 7.1.1 A bank shall ensure that all transactions by its agents are conducted on a real-time basis and within the business premise of the agent. A bank shall also ensure robustness, reliability and security of systems to support agent-banking activities, subject to the operational requirements.

7.1.2 An agent's transactions shall be in real time, implying that the transactions done at the agent's channels via mobile, USSD or PoS machines is reflected in the core-banking systems of banks instantly.

7.1.3 A bank may implement real time transactions via mobile applications provided to agents or mobile SMS, USSD, via PoS machines or via any other channel of choices.

7.1.4 A bank shall provide the details of the process of real time transactions to the Authority.

PART VIII ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM (AML/CFT)

8.1 A bank shall train their agents on anti-money laundering (AML) and combating of financing of terrorism (CFT) requirements.

8.2 In the fulfillment of AML/CFT requirements, a bank shall comply with the requirements of the AML/CFT regulation 2015.

8.3 A bank shall be liable for agent compliance with AML/CFT regulation.

PART IX CONSUMER PROTECTION

9.1 As a minimum, the following requirements shall be complied with at all times:

9.1.1 A bank shall establish mechanisms that will enable their customers or users to appropriately identify their agents and the services provided through such agents.

9.1.2 An agent shall issue receipts for all transactions undertaken through them. Accordingly, electronic receipts or acknowledgements are permissible.

9.1.3 Where an agent acts as a receiver and deliverer of documents, an acknowledgement shall be provided for all documents received or delivered by the agent to or from the customer.

9.1.4 A channel for communication of customer complaints to the bank shall be provided.

9.1.5 A bank shall establish a complaint redressal mechanism and shall ensure proper communication of this mechanism to their customers.

9.1.6 All customer complaints shall be addressed within a reasonable time and in any case not later than thirty days from the date of reporting or lodging the complaint with the bank. A bank shall keep record of all customer complaints and how such complaints are redressed.

9.1.7 An agent shall have signs that are clearly visible to the public indicating that it is a provider of services of the bank with which it has an agency contract. The agent shall not however represent to the public that it is a bank.

9.1.8 In the provision of agent services, a bank shall use secure systems that ensure customer information confidentiality.

9.1.9 The customer shall be made aware of the fact that he is not supposed to carelessly store his PIN and other critical information or share such information with other parties including agents.

9.1.10 A bank may establish contact centers to facilitate proper communication between a customer and the bank.

9.2 Disclosures

9.2.1 An agent shall disclose to the bank's customers in a prominent place on the agent's premises:

- i. The name of the bank it is working for and the bank's logo;
- ii. A list of services offered by the agent;
- iii. A written notice to the effect that if the electronic system is down, no transaction shall be carried out;
- iv. A written notice to the effect that services shall be provided, subject to availability of funds;
- v. List of charges or fees applicable for each service which are payable to the bank by the customers;
- vi. The name, telephone numbers and location of the bank's branch to which the agent reports its agent activities; and

- vii. On request by a customer, an agent shall show a copy of the appointment letter from the bank. This document shall be readily available within the agent premises.

PART X REPORTING REQUIREMENTS

10.1 Submission of data and statistical returns to the Authority

10.1.1 A bank shall submit data and other information on agent operations, including the following as prescribed in the Schedules I, II & III to the Authority on or before the last day of the following month:

- i. Incidents of fraud, theft or robbery;
- ii. Customer complaints;
- iii. Remedial measures taken to address customer complaints;
- iv. Reports for AML/CFT purposes;
- v. A bank shall submit half-yearly reports of transactions through agents to the Authority;
- vi. A bank shall provide reports of AML incidents to the Authority as and when the incident occurs.

10.2 Administrative sanctions

10.2.1 If a bank or its agent fails to comply with these rules & regulations, the Authority may pursue any or all of the following administrative sanctions against a bank, its board of directors, officers or agents:

- i. Prohibition from engaging in any further agent business;
- ii. Prohibition from contracting new agents;
- iii. Revocation of earlier agent approval.

10.3 Definitions

“Act” means the Financial Services Act of Bhutan 2011;

“Agent” means an entity/individual that has been contracted by a bank to provide the services on behalf of the bank in the manner specified in this Rules & Regulations;

“Agent banking” refers to the provision of financial services to customers by a third party (agent) on behalf of a bank;

“Authority” means the Royal Monetary Authority of Bhutan established as per the provisions enshrined under the Royal Monetary Authority Act of Bhutan, 2010;

“Bank” means commercial banks and Deposit Taking Microfinance Institution;

“Real time” means the electronic processing of transactional data instantaneously upon data entry or receipt of a command.

Letter of Application

Date:

Hon’ble Governor
Royal Monetary Authority of Bhutan
Thimphu

Bhutan

Subject: Application for the Approval of Agent Banking Business/Network

Hon'ble Dasho,

.....(Bank Name) would like to seek an approval to engage the services of agent(s) to conduct our business under sections 362 (e) of Financial Services Act of Bhutan 2011. The bank hereby would like to confirm and declare that all applications made by us are in full compliance with the Agent Banking Rules & Regulations 2016 and other applicable laws, rules and regulations in Bhutan issued by the Authority. The Bank further confirms and declares that to the best of our knowledge, it is satisfied that there is no omission that would make our application false or misleading. The Bank hereby undertakes to provide to the Authority such information and documents as the Authority may reasonably require in relation to the application.

For and on behalf of the bank,

Yours faithfully,

(Chief Executive Officer)

Name:

Address:

Telephone number:

Fax No.:

Email:

Schedule I

Application for the approval of agent network

Part I: General Information

1. Name of the Bank:.....

4. Type of Services:

.....
.....
.....
.....

Name of the Chief Executive Officer:.....

Signed:.....

Date:.....

Note: The first application must be accompanied by all the relevant documents and requirements here below:

- i. Agent due diligence policy and procedures;
- ii. Services to be provided through agents;
- iii. A copy of the draft standard agency contract;
- iv. The policies and procedures applicable to the provision of services through agents, as well as a description of the technology to be used;

- v. Anti-money laundering/Counter Financing of Terrorism (AML/CFT) policies and procedures;
- vi. Agent operational policies and procedures;
- vii. Feasibility study/report;
- viii. Business and delivery channels strategies.

Schedule II

NATURE & VOLUME OF TRANSACTIONS (half-yearly)

Bank:

Financial Year:

Sl. No.	Agent	Type of services	Number of transactions	Value of transactions

INCIDENTS OF FRAUD (monthly)

Bank:

Financial Year:

Sl. No.	Nature of fraud/ complaint	Name of the agent	Address	Amount involved	Follow-up

Schedule III

CUSTOMER COMPLAINTS AND REMEDIAL ACTIONS

Bank:

