



**CROWDFUNDING
RULES & REGULATIONS 2019**

Royal Monetary Authority of Bhutan

CONTENTS

PART I	4
Requirements on Issuers	4
Eligibility	4
List of Prohibited Issuers	4
Offer for Subscription of Securities	5
Limitation on offering	5
Early Closing of Offering	5
Advertisement and Subscription Promotion Activities	6
PART II	8
Requirements for Crowdfunding Portal	8
Approval for Crowdfunding Portal	8
Management Structure & Personnel of CF Portal	9
Business Conduct for Crowdfunding	10
Compilation and Assessment of Member Information	13
Conduct in Providing Services: Review of Issuers, Disclosures, and Submissions	13
Operation of Trust Account	16
Return of Funds	16
Reports	17
Remedial Measures	17
Definition & Interpretation	18

The Royal Monetary Authority of Bhutan, in exercise of the powers conferred by Sections 202 of the Financial Services Act of Bhutan 2011 and of all the powers enabling it in this behalf, hereby has formulated and promulgated these rules & regulations.

Short Title, Commencement and Application

1. These Rules & Regulations shall be called “**Crowdfunding Rules & Regulations 2019**”;
2. These rules & regulations shall come into force with effect from 1st July, 2019; and
3. These rules & regulations shall primarily govern the operation of donation-based, reward-based and equity-based crowdfunding (CF) and applies to a crowd funding portal, issuers and investors who participate in CF.

Interpretation & Amendments

4. If any issue arises in the interpretation of the provisions of these Rules & Regulations, the matter shall be referred to the Authority, and the decision of the Authority thereon shall be final and binding.

PART I **Requirements on Issuers**

Eligibility

5. An issuer can raise fund on a licensed crowdfunding portal through sale of securities, donations and rewards.
6. An issuer raising fund under these Rules & Regulations shall comply with the following:
 - i. be a business license holder; and
 - ii. have a clear business operation and intention to operate such business with the proceeds raised through crowdfunding portal.

List of Prohibited Issuers

7. The following entities are prohibited from raising funds through a CF portal:
 - (a) financial institutions & financial service providers;
 - (b) public-listed companies and their subsidiaries; and

(c) any other entity that is specified by the Authority.

Disqualification of Issuers

8. The issuer shall be disqualified from raising fund through CF portal if the issuer:
- i. has been judicially declared insolvent;
 - ii. has violated any of the provision of these Rules & Regulations, and/or any provisions of other regulations issued by the Authority;
 - iii. has been or is engaged in fraudulent transactions; and
 - iv. has made any false or misleading representation of material facts in any disclosure concerning the issuer or its securities;

Offer for Subscription of Securities

9. An issuer shall be allowed to make offer for subscription of securities in the following manner:
- i. An offer for subscription of securities to retail investors subject to following requirements:
 - a. Subscription by all retail investors shall not exceed Nu. **Five Million**.
 - b. Subscription by each retail investor shall not exceed Nu. **One hundred Thousand** in each company; and
 - c. Calculation of the aggregate value of such securities shall be based on the offer price.
 - ii. An offer for subscription of securities solely to institutional investor.

Limitation on offering

10. The limitation on the offering amount of a single issuer shall not exceed **Ngultrum Five Million** within the 12-months period.

Early Closing of Offering

11. An issuer may close the offering prior to the lapse of offering period if the securities are fully subscribed or if the required amount is met through donation and rewards. An issuer shall notify/inform the crowdfunding portal to close the offer at least 5 working days prior to the date on which the company intends to proceed with early close of offering. The allocation of securities will be on first-come-first basis.

Disclosure Requirements

12. An issuer shall prepare a prospectus which shall include the following information:

- i. Nature of its business, financial reports, historical reports of operation, if any;
- ii. Business plan with respect to CF offering; and
- iii. Risk factors of investing in its project.

Advertisement and Subscription Promotion Activities

13. An issuer intending to advertise its business shall have appropriate content, proportion of content and presentation approach in order to allow the member to receive necessary and useful information for the use of services provided by the crowdfunding portal or for investment decision making, provided that the advertisement shall comply with the following criteria:

- i. not containing information that is false, overstated or distorted and not concealing information or containing information;
- ii. not urging the member to make a decision to use the services or investment decision;
- iii. not implying or guaranteeing returns from investment;
- iv. having appropriate warning concerning risks associated with investment and shall notify the process for making inquiry for additional information on investment;
- v. in case of using or referring the information provided by other persons, such information shall come from reliable and up-to-date sources, and shall clearly identify such sources.

14. An issuer shall arrange to have the statement, warning or any other information in the advertisement to be clearly heard or noticeable and suitable for the presentation. Besides, the crowdfunding portal shall emphasize on the expressing any warning in the similar manner as most of the other statements or information contained in the advertisement.

15. An issuer may launch subscription promotion activities under the following criteria:

- i. Not enticing or urging the member by using subscription promotion activities to decide to use the crowdfunding portal services or make investment decision without taking into consideration fundamental information necessary for investment decision;

- ii. Not being a lucky draw or a drawing lots for a gift, a right or any other benefits;
- iii. Having criteria and conditions for entitlement to a gift, a right or any other benefits which are fair and comprehensive while not misleading; and
- iv. Having generally notified the member in advance of subscription promotion activities in appropriate period.

PART II

Requirements for Crowdfunding Portal

Approval for Crowdfunding Portal

16. An entity intending to operate a crowdfunding portal shall file an application with the Authority in accordance with *Form A* together with the documents specified in the application form.

17. An application for crowdfunding portal operation shall be approved by the Authority subject to fulfillment of the following conditions:
 - i. be an incorporated company under the Companies Act of Kingdom of Bhutan;
 - ii. have a minimum paid-up capital of Nu. Five Million;
 - iii. not having a reasonable ground to believe that the applicant has financial condition that is likely to cause damage or any other circumstances indicating the applicant's financial hardship. In addition, there shall not have reasonable ground to believe that the applicant has any deficiency or is not appropriate regarding internal control and business conduct;
 - iv. demonstrate that the control persons which includes directors, manager or persons with management authority shall comply with the fit and proper criteria of CGRR 2018;
 - v. have systems to operationalize the crowdfunding portal business as required under these rules & regulations. In case the applicant has other business operations prior to the date of filing an application, the other businesses shall be related, beneficial or supportive to undertake the crowd funding portal business and shall not have potential conflict of interest with the proposed business, except where the applicant is able to demonstrate that there shall be an effective system to prevent such conflict;
 - vi. manage risks associated with its business and operation including demonstrating the processes and contingency arrangement in the event the applicant is unable to carry out its operations;
 - vii. establish and maintain policies and procedures to monitor crowdfunding activities on its portal and ensure compliance with these Rules and Regulations; and
 - viii. appoint at least one lead (focal or compliance) person.

18. Before the applicant is allowed to fully operationalize the portal, the Authority may require among others:

- i. a written declaration by the applicant confirming that the applicant has, in relation to the crowdfunding portal:
 - a. sufficient resources to carry out operations;
 - b. adequate security measures, systems capacity, business continuity plan and procedures, risk management, data integrity and confidentiality, record-keeping and audit trail, for daily operations and to meet emergencies;
 - c. sufficient IT systems and technical support arrangements.

19. The Authority shall approve or reject the application within 90 days from the date of receipt of complete application.

Management Structure & Personnel of CF Portal

20. A crowdfunding portal shall have management structure, operating system and personnel, which are appropriate and sufficient to operate its business efficiently with responsibility and in compliance with applicable laws and regulations, including relevant standards of business operation. In considering appropriateness and sufficiency, nature, scale, quantity, complexity and diversity of businesses and services, as well as level of risks relevant to such businesses and services shall be taken into consideration.

21. A crowdfunding portal shall notify the issuer to agree and acknowledge that the scope of services provided by the crowd funding portal is merely the provider of electronic system or network that the company making offer for subscription of securities shall use the electronic system or network for subscription of its own securities.

Operating System and framework

22. A crowdfunding portal shall put in place the following:

- i. a system for examining the identity and qualification, source of fund of members;
- ii. a system for providing investment information;
- iii. a system for keeping the member's assets, provided that the procedures or process for managing subscription money is managed by crowdfunding portal;
- iv. a system for disclosure of sufficient and reliable information through system or network;

- v. a system for electronic communication between members and a company making offer for subscription of securities, provided that the crowdfunding portal shall monitor such system to prevent the members from making offer for subscription of their own securities;
- vi. a system for information back-up on the reliable system or network, provided that the information relating to offer for subscription of securities through the crowdfunding portal and post offering disclosure shall be kept for at least two years;
- vii. a system for automatic transmission of information by means of electronic;
- viii. a system supporting adequate and appropriate Disaster Recovery and Business Continuity plan; and
- ix. a system for the member's complaint handling for effective dispute settlement.

23. The operation manual of the portal shall make satisfactory provisions:

- i. for the protection of investors;
- ii. to ensure proper functioning of the market;
- iii. to promote fairness and transparency;
- iv. to manage any conflict of interest that may arise;
- v. to promote fair treatment of its users or any person who subscribe for its services;
- vi. to ensure proper supervision/surveillance of its users, or any person utilizing or accessing its portal, including suspension and expulsion of such persons; and
- vii. to provide an avenue of appeal against the decision of the crowdfunding portal.

Management of Conflict of Interest

24. A crowdfunding portal provider must establish a framework, which sets out policies and procedures to effectively and efficiently manage conflicts of interest, which may arise in the course of carrying out its functions. Such conflicts must be managed in a timely manner.

Business Conduct for Crowdfunding

25. A crowdfunding portal shall comply with the following business conducts:

- i. conducting the business and providing services for the member with honesty, expertise and proficiency, including due diligence and care in the manner that a professional would exercise in the similar circumstances;
- ii. operating the business by maintaining corporate image and reputation of the crowdfunding portal including credibility of capital market primarily, as well as operating the business with reasonable awareness by taking account of time, business manner or circumstance, and providing services;
- iii. providing quality services and treating the member in a fair and equitable manner by taking into consideration the types, nature and conditions of the member;
- iv. refraining from any action that will cause the member to breach or fail to comply with the restrictions or duties as stipulated by any law in case where the member had notified the crowdfunding portal of such restrictions or duties;
- v. not taking any action which may cause conflicts of interest or cause business operation to be non-compliant with the standards or the conducts that the professional of the same nature would have done, unless it is the action performed under the criteria and conditions as prescribed by the Authority;
- vi. not receiving or giving reward or any other benefits, whether in form of cash, things or services, more than the consideration or benefit that should be received or rewarded in normal course of business but shall not include holding of securities in the company making offer for subscription of securities to which it provides services; and
- vii. to ensure proper use of the crowdfunding portal resources.

Prohibited Activities

26. A crowdfunding portal shall be prohibited from operating the following businesses:

- i. offering investment advice;
- ii. soliciting purchases, subscriptions or offers to buy securities displayed on their portals;
- iii. compensating other persons for the solicitations or based on the subscription of securities offered on their portals;

- iv. holding, managing, possessing or handling investors fund or securities;
and
- v. any other activity as may be determined by the Authority.

Acceptance, Communication and Providing Service to Member

- 27. A crowdfunding portal shall at least arrange the member to enter into an agreement. The agreement and acknowledgment shall include amongst others the use of the benefits from the system provided by the crowd funding portal aims for seeking investment opportunities and that providing of any services by the crowdfunding portal shall not be deemed as a broker or an agent of such member;
- 28. The crowdfunding portal is obliged to provide the services to the member in accordance with the provisions of these rules & regulations.
- 29. While providing services to the members for the consideration on whether to use the services and risks associated, the crowdfunding portal should provide the following information:
 - i. General information of the crowd funding portal;
 - ii. Characteristic, scope and condition of the services offered to the member;
 - iii. Channel for providing the services and for communication;
 - iv. Rights, duties, liabilities and conditions on the member side or any obligations for the member to comply upon the use of services;
 - v. Conflicts of interest (if any); and
 - vi. Practices between the crowdfunding portal and the member in accordance with laws, relevant regulations and rules of practice specified by the crowdfunding portal.
- 30. In case of changes in the information set forth in Section 29, the crowdfunding portal shall disclose such changes to the member prior to the subscription of securities.
- 31. For communication with or providing of services to the member, warnings or arrangements with the member to sign the acknowledgement or acceptance of the services or risks associated with the use of services. A crowd funding portal shall be allowed to arrange the aforementioned in electronic form which shall be able to be stored and inspected as specified by the Authority.
- 32. A crowdfunding portal shall put in place a communication channel with the member with proper monitoring system and in a timely manner, providing that the information so communicated shall be clear, reliable and not misleading.

Compilation and Assessment of Member Information

33. Prior to providing the services to a member, a crowdfunding portal shall compile and assess the member's information for the following purposes:

- a) knowing the member/Customer due diligence/ Know your customer;
- b) categorizing type of members; and
- c) considering ability of the member to comply with the service agreement.

34. With respect to knowing the member, a crowdfunding portal shall consider the information received under Section 33 (a) to identify the identity of the members or beneficial owner.

In case where the member refused to give information or the information in possession is insufficient or not up-to-date in materiality or there is reasonable suspicion likely to cause the identification of the real identity of the member or beneficial owner not feasible, the crowdfunding portal shall deny to provide the services.

35. For the purpose of categorizing type of a member, a crowd funding portal shall consider the information received under Section 33 (b) in order to provide the services corresponding to the type of member. When the categorization of the member has been made, the crowdfunding portal shall notify the member of the result of the member categorization including rights and restrictions for each member.

36. A crowdfunding portal shall review the information received under Section 33 to be up-to-date in a timely manner. The crowdfunding portal shall put in place a record keeping system for such information in the manner that enable to retrieve the information in the course of providing the services to the member without delay.

Conduct in Providing Services: Review of Issuers, Disclosures, and Submissions

37. A crowdfunding portal must carry out due diligence exercise and risk assessment on prospective Issuers intending to use its portal.

38. The scope of the due diligence exercise by a crowd funding portal shall include taking reasonable steps to:

- i. conduct background checks on the issuer to ensure fit and properness of the issuer, its board of directors, senior management and controlling owner;
- ii. verify the business proposition of the issuer; and

- iii. carry out assessment on the issuer's creditworthiness based on Credit Status Report issued by the CIB.
39. The crowdfunding portal must ensure that the issuer's disclosure document lodged with the portal is verified for accuracy and made accessible to investors through its portal.
40. A crowdfunding portal monitors and ensures compliance, by itself, its officers and staff, the issuers and users.
41. A crowdfunding portal must immediately notify the Authority of:
- i. any irregularity or breach of any provision of the regulatory requirement, including any alleged or suspected violations of any law or guidelines in relation to money laundering and terrorism financing by its participants;
 - ii. any material change in the information submitted to the Authority; and
 - iii. any matter which adversely affects or is likely to adversely affect its ability to meet its obligations or to carry out its functions under these Rules and Regulations.
42. A crowdfunding portal shall exercise due care while considering the issuer making offer for subscription of securities as follows:
- i. Examine the identity of an issuer by ensuring that the issuer do not:
 - a. make false disclosure or incomplete disclosure in materiality;
 - b. fail to facilitate the crowdfunding portal in disclosing information on the portal concerning use of proceeds raised from offer for subscription of securities through the crowd funding portal; and
 - c. fail to disclose sufficient information on the crowd funding portal continuously after the offer for subscription of securities.
 - ii. Provide advice on compliance of the criteria relating to the offer for subscription of securities through the crowdfunding portal under these Rules & Regulations;
 - iii. Review the manner of offer for subscription of securities as per these rules and regulations and in case where the crowdfunding portal has suspicious ground to believe that the offer for subscription of securities will violate or fail to comply with the provisions of the Rules & Regulations, the crowd funding portal shall refuse to provide the services and notify the Authority of such matter without delay;
 - iv. Entering into agreement with an issuer which shall at least require an issuer to act as follows:

- a. To disclose sufficient information on the crowdfunding portal before and continuously after offer for subscription of securities which can be presented in electronic forms but shall be clear, easy to understand and not misleading;
- b. Giving right to the member to cancel the subscription at any time, except where the offering period remains less than forty-eight hours;
- c. In case of significant changes concerning the information disclosed, an issuer shall notify the crowd funding portal without delay in order to allow the crowdfunding portal to disseminate such information in a timely manner;
- d. In case of change in information when the offering period remains less than 48 hours, an issuer shall give the members the right to cancel the subscription of securities within 5 days as from the date on which the crowd funding portal notifies such information to the members;
- e. Disclose information on progress of using the proceeds raised from offer for subscription of securities through the crowdfunding portal.
- f. The crowdfunding portal shall monitor an issuer to comply with the Section 38 of these rules and regulations.

43. Examine investment value of each member eligible to invest.

44. In undertaking for the member, a crowdfunding portal shall at least have the following duties:

- i. To update information to educate the member about offer for subscription of securities through crowdfunding portal which shall at least contain the following information;
 - a) Process and method for securities subscription through the crowd funding portal;
 - b) Risks associated with the securities offered for subscription and risks arising from types of the securities offered for subscription;
 - c) Disclosure of information concerning offer for subscription of securities through the crowd funding portal;
 - d) Limitation on investment value of each member;
 - e) Right to cancel subscription of securities;
 - f) Information on securities offered through CF portal is illiquid due to the fact that there is no secondary market or the securities may be

subject to transfer restriction.

- ii. To notify at least the following information to the member subscribing securities immediately upon receiving the subscription form:
 - a. Features of securities;
 - b. Value of the securities purchased, subscription money to be paid and fees or any expenses (if any);
 - c. Securities prices (if any);
 - d. Name of the issuer making offer for subscription of securities; and
 - e. Right to cancel the subscription of securities.
- iii. To confirm the member when the securities have been subscribed in full amount, provided that the confirmation shall at least contain the following information:
 - a) Date of confirmation on subscription of securities; and
 - b) Features, prices and amount of securities subscribed by the members including the total amount of securities offered for subscription.

Operation of Trust Account

45. A crowdfunding portal must establish systems and controls for maintaining accurate and up-to-date records of investors' monies held.
46. The portal must ensure that investors' monies are properly safeguarded from conversion or inappropriate use by its officers.
47. The portal shall establish and maintain in a licensed bank, one or more accounts designated for the funds raised through portal and shall only release the funds to the issuer after the following conditions are met:
 - i. the targeted amount sought to be raised has been met;
 - ii. there is no material adverse change relating to the offer during the offer period; and
 - iii. the cooling-off period of at least five (5) business days have expired.

Return of Funds

48. If an issuer does not complete an offering, a CF portal must within five business days:

- i. Give or send each investor/member a notification of the cancellation, disclosing the reason for the cancellation, and the refund amount that the investor is expected to receive; and
- ii. Direct the refund of investor's money.

Reports

A crowdfunding portal shall prepare and file a report to Authority, summarizing the transactions through the crowdfunding portal on a quarterly basis with the following details:

- i. date of offer for subscription of the securities;
- ii. type, characteristics and specific title of the securities (if any);
- iii. total number of securities offered for subscription;
- iv. price of the securities;
- v. name, contact address, telephone number and website of the crowd funding portal;
- vi. names and addresses of the subscribers along with the number of the securities subscribed; and
- vii. name, contact address and telephone number of the person filing the report.

Remedial Measures

49. In the event crowdfunding portal fails to comply with the criteria specified under these Rules & Regulations, the Authority shall take any of the following requirements:

- a) Require the crowdfunding portal for explanation along with relevant documents or evidence;
- b) The crowdfunding portal for rectification to comply with the criteria within the specified period;
- c) The crowdfunding portal to take any action or refrain from taking any activities; and
- d) Impose suspension or revocation of the approval/license.

Definitions or Interpretations

50. When used in these Regulations and, where applicable, in the guidelines, the following expressions shall, unless the context otherwise requires, have the meanings herein below specified:

- (a) **“Authority”** means the Royal Monetary Authority of Bhutan.
- (b) **“Issuer”** means any business license holder or incorporated company.
- (c) **“Companies Act”** means Companies Act of the kingdom of Bhutan 2016 and amendments thereon.
- (d) **“Member”** means Institutional Investors and Retail Investors registered with the portal.
- (e) **“Provider of Electronic System or Network” (Crowdfunding Portal)** means provider of electronic system or network for raising funds through equity, donation & reward crowdfunding.
- (f) **“Electronic System or Network”** means website or other electronic media having the similar nature supporting offer for subscription of securities through electronic system or network.
- (g) **“Securities”** means equity for the purpose of these rules and regulations.
- (h) **“Institutional Investor”** means Banks, Non-Bank Financial Institutions, Pension Funds, Insurance Companies, Trust Funds or any institution that has the ability to assess the risk of the companies.
- (i) **“Retail investor”** means investor who purchases securities for his or her own personal account and does not include Institutional Investors.

Letter of Application

Date:

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

Subject: **Application to Establish a Crowdfunding Portal in Bhutan**

Hon'ble Governor,

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

Sincerely yours,

Signature:

Name:

Address:

Telephone number:

Fax No.:

Email:

(Encl: documents/information pertaining to the application)

Application for Approval as Crowdfunding Portal

I, the Company namely _____
intends to apply for approval as a crowdfunding portal which is:

- A new application
- An application of renewal of approval which will expire on _____
- Others (please specify reasons) _____

Part 1 General Information

1.1 Name of the Company _____

1.2 Company's address:

Street: _____
_____ Post Box: _____

District _____

Telephone number _____

Fax number _____

Website _____

Contact person _____

E-mail _____

Part 2 Nature of Business Activity

Establishment of the Company

Date of establishment _____

Promoters _____

Objective of establishment of the Company _____

Year of commencing business _____

2.3 Shareholding Structure

Fill in the names of shareholders with 5% or more of total voting right of the Company. The most recent information as of _____ which shall not be longer than 30 days prior to the date of filing the application.

Name of Shareholder(s)	Shareholding Proportion

Organizational Structure

1. (Attach file) Organizational chart.
2. Describing details of directors, managers or persons with management authority responsible for business operation of the crowdfunding portal as of ____
—

Name	CID No#	Qualification	Shareholding (%)	Work Experience

Criteria and Procedures for Providing Services as Crowdfunding Portal

1. Attach file that describe details of system.

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 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 belief and that there are no other facts relevant to this application of which the Authority should be aware.

I undertake to inform the 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 crowdfunding portal, I will notify the Authority of any material changes to, 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 crowdfunding, 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 :

