



ROYAL MONETARY AUTHORITY OF BHUTAN

**PENALTY RULES AND REGULATIONS 2018**

# PART -I PRELIMINARY

## 1. Short Title

These rules and regulations shall be called the Penalty Rules & Regulations, 2017

## 2. Authorization

In pursuant to the power vested under Chapter 11 of the Financial Services Act 2011, the Authority hereby issues the rules & regulations for imposition of penalty for violations of the provisions specified under these rules and regulations.

## 3. Application

These rules and regulations shall be applicable to all financial institutions licensed and any other financial services providers licensed by or registered with the Authority.

## 4. Commencement

These rules and regulations shall come into effect from …….2017

## 5. Supersession

These rules and regulations shall supersede the provisions of the existing rules and regulations circulars, guidelines or notifications issued by the authority.

## 6. Amendment

These rules and regulations may be amended in part, or in whole, by the Board based on the recommendation of the Management.

## 7. Interpretation

The authority to interpret these rules and regulations shall vest with the RMA, which, if warranted, may issue such instruction and clarification from time to time.

## 8. Definitions

In these rules and regulations, unless the context otherwise requires:

1. “Authority” means the Royal Monetary Authority of Bhutan; and
2. Financial Institutions as defined in the Financial Services Act 2011

## 9. Waiver

The Executive Committee has the right to waive the penalty.

## 10. Proviso

Any violation to the rules and regulations issued by FRSD which is not covered under these penalty rules and regulation shall be subjected to penalties as per the decision of the Authority

# PART II - PENALTIES

## 9. Penalty framework for Non-compliance – Financial Services Act 2011

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| **Violation** | **Area of Irregularity** | **Penalty** |
| Section 34 | **Chief Executive Officer**  Every licensed institution shall appoint a chief executive officer who shall be  (a) A natural person; and  (b) Resident in Bhutan during the period of his appointment. | *(a) The FI’s shall be given a grace period of 90 days for compliance.*  *(b) Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day for a maximum of another 90 days.*  *(c)Thereafter any non compliance shall lead to suspension of business license*. |
| Section 50 | **Restrictions on ownership of financial institution and investments by financial institutions**  No person shall hold more than the following percentage of interest in shares of a financial institution:  (a) In case of an individual, 20 percent,  (b) In the case of a company not being a financial institution, 30 percent,  (c) In the case of a company being a financial institution, as per the limit provided under section 56 below, and  (d) In case of a foreign financial institution, as per the RMA regulations in line with the foreign direct investment policy. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b) The FI’s shall be given a grace period of 90 days for compliance.*  *(c)Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day.* |
| Section 62 | **Audit Committee, Risk management function and corporate governance**  Each financial institution shall have an audit committee and shall also maintain an internal audit and risk management function of a size and capability appropriate to its business or as specified in regulations adopted by the Authority. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b) The FI’s shall be given a grace period of 90 days for compliance.*  *(c)Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day.* |
| Section 63 | **Board of Directors& Independent directors**  d) Every financial institution shall have Board of Directors comprising of not more than 7 directors including the chairman.  e) Two Independent Directors. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b) The FI’s shall be given a grace period of 90 days for compliance.*  *(c) Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day.* |
| Section 92 | **Disaster Recovery Plan & Business Continuity Plan**  b) Each financial institution shall maintain and submit to the Authority an adequate and appropriate Disaster Recovery Plan and Business Continuity Plan indicating its procedures to assure the preservation of its records and provide for the continuation of Section 10.1 its operations in emergency circumstances. | *(a) The FI’s shall be given a grace period of 180 days for compliance.*  *(b) Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day.* |
| Section 138 | **Penalties for misinformation**  Any person who knowingly provides the Authority or any other person with information which, in a material particular, is false, misleading or incomplete in purported compliance with a requirement imposed by or under this Act, or otherwise in circumstances in which the person  providing the information intends, or could be reasonably be expected to know, that the information would be used by the Authority for the purpose of exercising its functions under this Act, commits an offence and is liable to an appropriate fine specified by the Authority in the regulations issued by the Authority. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.* |
| Section 247 | **Restriction on payment of dividend**  A financial institution shall not pay any dividend on its shares until all its capitalized expenditure (including preliminary expenses, organization expenses, shares  selling commission, brokerage, amount of losses incurred, and any other item of expenditure not represented by tangible assets) has been completely written off and the conditions set out in Section 82 has been fulfilled. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.* |
| Section 248 | **Advances against securities**  A bank must not grant credit, give any guarantee or incur any  other liability, against the security of:  (a) its own shares, the shares of a subsidiary, or the shares of a parent company;  or  (b) the shares of a subsidiary of a parent company. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b) The FI’s shall be given a grace period of 90 days for compliance.*  *(c)Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day.* |

## 10. Penalty framework for Non-compliance – Prudential Regulation

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| **Violation** | **Area of Irregularity** | **Penalty** |
| Section 1.4 (i) & (ii) | **Minimum Capital Adequacy Ratios**  (i) Every financial institution shall maintain at all times a Capital Adequacy Ratio (CAR) of not less than 10%; and  (ii) Every financial institution shall in addition maintain at all times a core capital adequacy ratio of not less than 5%. | *(a) Authority shall impose a fine of .05 % of the minimum paid up capital.*  *(b) The FI’s shall be given a grace period of 90 days for compliance.*  *(c) Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day.* |
| Section 1.13  Section 1.13.3 | **Minimum Leverage Ratio**  Financial institutions shall maintain a minimum leverage ratio of 5%. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b) The FI’s shall be given a grace period of 90 days for compliance.*  *(c) Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day.* |
| Section 2.4.1 (a) (b) (c) and (d) | **Restrictions on transactions with related parties**  An exposure to any individual firm or company included in the definition of related party in section 2.2.1, exceeding 10% of the institution’s total capital;  An exposure to any individual natural person specified in section 2.2.1 exceeding 5% of the institution’s total capital;  Aggregate exposure to all related persons of the financial institutions, excluding those specified in (c ), (e), (g), and (i) of section 2.2.1, exceeding 30% of its total capital fund: and  Aggregate exposure to all those persons specified in (c ), (e),(g) and (i) of section 2.2.1 above, exceeding 10% of total capital. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b) The FI’s shall be given a grace period of 90 days for compliance.*  *(c) Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day.* |
| Section 3.5  Section 3.5.1 | **Limit on credit to a single counterparty**  Exposure limit as a % of Financial Institution's Capital Fund  For any Single Counterparty 25 %  For Group of Counterparties defined as Single Counterparty 30% | *(a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b) The FI’s shall be given a grace period of 90 days for compliance.*  *(c) Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day.* |
| Section 3.6 | **Limit on credit to ten largest counterparties**  The aggregate of the ten largest exposures of a financial institution to any counterparty or persons defined as single counterparty, shall not at any time, exceed 30% of its total loans (including off-balance sheet exposure). | *(a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b) The FI’s shall be given a grace period of 90 days for compliance.*  *(c) Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day.* |
| Section 3.7  Section 3.7 (b) | **Consortium Financing**  The amount of loan sanctioned shall not, in anyway, exceed the 30% of total capital fund in this regulation, except that where the consortium financing arrangement was entered into before the commencement of these rules and regulations. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b) The FI’s shall be given a grace period of 90 days for compliance.*  *(c) Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day.* |
| Section 4.10.3 | **Method of Interest Calculation**  Simple Daily Product Method | (*a) Authority shall impose a fine of .025% of minimum paid up capital.* |
| Section 5.5.2 | **Statutory Liquidity Requirement Ratio**  Every financial institution shall, at all times, maintain minimum liquidity in the form of quick assets, in a ratio not less than that set out below:-  (a) Banks - 20% of total liabilities  excluding capital fund and liabilities  to the RMA.  (b) Non-bank financial institutions - 10% of total liabilities excluding capital fund and liabilities to the RMA. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b) The FI’s shall be given a grace period of 90 days for compliance.*  *(c) Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day.* |
| Section 9.2 | In the event of a financial institution making any withdrawals from General Reserves or Share Premium Account, it must seek RMA’s approval. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.* |
| Section 10.7 | **Financing Limit**  A financial institution shall not finance more than three fourths of the cost of the project, and the borrower shall be required to meet the remaining one fourth of the project cost from primary sources. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b) The FI’s shall be given a grace period of 90 days for compliance (ratification).*  *(c) Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day.* |
| Section 10.9 | **Loans against shares or Loans for purchase of shares**  No financial institution shall grant loan against shares or for the purchase of shares exceeding 50 % of the existing market price. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b) The FI’s shall be given a grace period of 90 days for compliance (ratification).*  *(c) Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day.* |
| Section 12.2 | **Launching of new products**  All financial institutions must seek written approval from the RMA prior to the  Introduction of new products to the public. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.* |
| Section 14.2 | **Compliance Officer**  Any change in the appointment of the Compliance Officer shall be notified  immediately to the RMA. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.* |
| Section 16  Section 16.2 | **Reporting Requirements**  **Reporting Date and Date of Submission**  a) The reporting date for the reports is the last working day of the period to which  it pertains. The head office of each financial institution must consolidate the branch accounts up to the reporting date, and submit correct consolidated report to the RMA on or before the last day of the following month.  b) All financial institution shall draw up and submit to the RMA a copy of the Audited report. | *(a) Late Reporting Authority shall impose a fine of Nu. 10,000 per day.*  *(b) Wrong/incomplete Reporting:*  *i. Authority shall impose a fine of Nu. 10,000 per day.*  *ii. The FI’s shall be given a grace period of 15 days for correction.*  *ii. Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day.* |

## 11. Penalty framework for Non-compliance – Corporate Governance Regulation 2011

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| **Violation** | **Area of Irregularity** | **Penalty** |
| Section 5 ii (c) | **Composition of Board of Director**  Each director must meet the requirements on fitness and propriety established in regulations of the Authority and must be approved by the Authority prior to assuming office (appointment & re-appointment). | *(a) Authority shall impose a fine of .025% of minimum paid up capital.* |
| Section 6 | **Restrictions on Directors of Affiliated Financial Institutions**  i. A director or an employee of a financial institution must not serve as a member of the board of directors of another financial institution. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.* |

## 12. Penalty framework for Non-compliance – Microloan Institutions Regulation 2014

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| **Violation** | **Area of Irregularity** | **Penalty** |
| Section 6 | **Reporting, Inspection and Sanctions.**  Reporting  (1) Every microloan institution shall get its books of accounts audited and submit a copy of the annual audited accounts to the Authority within three months of the close of the financial year. | *(a) Authority shall impose a fine of Nu.1000.* |
|  | **Report Submission to the Authority**  (2) Every microloan institution shall, quarterly and within one month of the end of the reporting period, submit to the Authority in the prescribed form information regarding: 1) its loan portfolio including, but not limited to, the number of borrowers, aggregate outstanding loan portfolio, and a breakdown of loans by size; 2) donors/sponsors, with detail of the funds  Received. | *(a) Authority shall impose a fine of Nu.1000.*  *(b)The MFI’s shall be given a grace period of 15 days for compliance.*  *(c) Thereafter, any non compliance after the grace period shall be imposed a fine of Nu. 500 per day.* |
|  | **Changes in senior management**  (3) Changes in the senior management and significant owners shall be submitted for approval to the Authority. | *(a) Authority shall impose a fine of Nu.1000.*  *(b)The MFI’s shall be given a grace period of 15 days for approval.*  *(c) Thereafter, any non compliance after the grace period shall be imposed a fine of Nu. 500 per day.* |

## 13. Penalty framework for Non-compliance – Rules and Regulation for Deposit- Taking Microfinance Institutions in Bhutan 2016

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| **Violation** | **Area of Irregularity** | **Penalty** |
| Section 2 (k) | **Loan Limit**  Loan Limit exceeding Nu.500,000 and/or provided for personal consumption purposes. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b)The DMFI’s shall be given a grace period of 30 days for compliance.*  *(c)Thereafter, any non compliance after the grace period shall be imposed a fine of Nu. 1,000 per day.* |
| Section 4.1.3 | **Capital Adequacy Ratio**  A DMFI shall maintain a minimum capital adequacy ratio of at least 15%. | *(a) Authority shall impose a fine of .05% of minimum paid up capital.*  *(b)The DMFI’s shall be given a grace period of 90 days for compliance.*  *(c)Thereafter, any non compliance after the grace period shall be imposed a fine of Nu. 1,000 per day.* |
| Section 4.2.3 | No DMFI can have ownership in another DMFI exceeding 5 percent of the paid-up capital of another DMFI. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b)The DMFI’s shall be given a grace period of 90 days for compliance.*  *(c)Thereafter, any non compliance after the grace period shall be imposed a fine of Nu. 1,000 per day.* |
| Section 5.5 | **Credit to Related Party**  A DMFI shall not extend credit to any of its related party. The related party shall have the same meaning as defined in the Prudential Rules and Regulations 2016. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b)The DMFI’s shall be given a grace period of 90 days for compliance.*  *(c)Thereafter, any non compliance after the grace period shall be imposed a fine of Nu. 1,000 per day.* |
| Section 10.2 | **Maximum Exposure**  Limit on exposure to a single borrower:  The maximum number of microloans outstanding to a single borrower and its immediate family members at any time is two. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b)The DMFI’s shall be given a grace period of 90 days for compliance.*  *(c)Thereafter, any non compliance after the grace period shall be imposed a fine of Nu. 1,000 per day.* |
| Section 12 | **Liquidity Requirement**  All DMFIs shall maintain a Statutory Liquidity Ratio (SLR) of 10 percent of total liabilities excluding capital funds | (*a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b)The DMFI’s shall be given a grace period of 90 days for compliance.*  *(c)Thereafter, any non compliance after the grace period shall be imposed a fine of Nu. 1,000 per day.* |
| Section 16 (ii) (iii) | **Investments of Funds in Securities**  ii) DMFI may also acquire or hold shares of any corporate body. The maximum investment in a company shall not exceed 10% of paid-up capital of the DMFI. For making investment in excess of the 10% limit, prior permission from the Authority shall be obtained  iii) In the aggregate, such investments shall not exceed 25 percent of the paid-up capital of the DMFI | *(a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b)The DMFI’s shall be given a grace period of 90 days for compliance.*  *(c)Thereafter, any non compliance after the grace period shall be imposed a fine of Nu. 1,000 per day.* |
| Section 19 | **Reporting Requirements**  19.1 Audit and submission of Accounts  The DMFI shall get its books of accounts audited and submit a copy of the annual audited accounts to the Authority within three months of the close of the financial year.  19.2 Submission of Financial Returns  For off-site surveillance, the DMFI shall submit the report to the Authority as per the format prescribed by the Authority. | (*a) Late Reporting Authority shall impose a fine of Nu. 1,000 per day.*  *(b) Wrong/incomplete Reporting:*  *i. Authority shall impose a fine of Nu. 1,000 per day.*  *ii. The FI’s shall be given a grace period of 15 days for correction.*  *ii. Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 1,000 per day.* |

## 14. Penalty framework for Non-compliance – Credit Information Bureau Regulation, 2015

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| **Violation** | **Area of Irregularity** | **Penalty** |
| Section 4 (vi,vii,viii) | **Functions and Responsibilities of a CIB**  The CIB shall ;  Ensure confidentiality of information relating to a borrower/client at all times ;  Not share the information reported to a CIB, outside the territory of Bhutan, except provided by the law ; and  Not Collect, record or process any sensitive personal data, unless authorized by the Authority | *(a) Authority shall impose a fine of Nu 100,000.* |
| Section 5 | **Reporting of data to a CIB**  A data provider shall report to a CIB the information and data set out in a file format as defined by a CIB. | *(a) Late Reporting Authority shall impose a fine of Nu. 10,000 per day.*  *(b) Wrong/incomplete Reporting:*  *i. Authority shall impose a fine of Nu. 10,000 per day.*  *ii. The FI’s shall be given a grace period of 15 days for correction.*  *ii. Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day.* |
| Section 7 (i) | **Responsibility of data providers as to accuracy and completeness of data**.  Data provider shall be responsible for the necessary for the accuracy and adequacy of the information and credit data. | *(a) Late Reporting Authority shall impose a fine of Nu. 10,000 per day.*  *(b) Wrong/incomplete Reporting:*  *i. Authority shall impose a fine of Nu. 10,000 per day.*  *ii. The FI’s shall be given a grace period of 15 days for correction.*  *ii. Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day.* |
| Section 10 | **Prohibited use of CIB data**  Data User (as defined in Section 8 of CIB Regulations) shall not obtain and use cib data, for reasons of offerings or advertising to a potential borrower as to a past borrower. | *(a) Authority shall impose a fine of Nu 100,000.* |

## 15. Penalty framework for Non-compliance – Guidelines on Commercial Housing Loan and Home Loan/ Motor Vehicle Loans/ Consumer Loan 2014

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| **Violation** | **Area of Irregularity** | **Penalty** |
|  | In case of any non-compliance to the requirements of these Guidelines | *(a) Authority shall impose a fine of .025% of minimum paid up capital.*  *(b) The FI’s shall be given a grace period of 90 days for compliance.*  *(c)Thereafter any non compliance after the grace period shall be imposed a fine of Nu. 10,000 per day.* |

## 16. Penalty framework for Non-compliance – Marco Prudential Rules and Regulation 2015

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| **Violation** | **Area of Irregularity** | **Penalty** |
| Section 3.2 | **Annual Disclosure**  The annual disclosures shall comprise of all items as per section 96 (a) of FSA, 2011 and items specified by section 3.2.2 and section 3.2.3 and format attached in MPR regulation 2015. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.* |
| Section 3.3 | **Quarterly Disclosure**  The items laid down in this section shall be disclosed every quarterly on the financial institution’s website, within 45 days of the end of a quarter. | *(a) Authority shall impose a fine of .025% of minimum paid up capital.* |