

ROYAL MONETARY AUTHORITY OF BHUTAN

<insert date>

RULES AND REGULATIONS FOR E-MONEY ISSUERS IN BHUTAN

Pursuant to the power vested with the Royal Monetary Authority of Bhutan under Section 362 (e) of the Financial Services Act of Bhutan 2011 and in conjunction with section 11 of the Act, all E-Money Issuers shall comply with this rules and regulations.

**CHAPTER 1:**

**PRELIMINARY**

# Short Title, Extent and Commencement

1. These regulations will be called the Rules and Regulations for E-Money Issuers, \_\_\_\_\_\_\_\_.
2. They are applicable to all E-Money Issuers licensed by the Royal Monetary Authority.
3. These regulations come into effect from …………….

**CHAPTER II:**

**PERMISSION TO ISSUE E-MONEY**

# Scope of Rules and Regulations

1. Pursuant to section 362 (e) of the Act, no person shall issue e-money other than a bank or a DTMFI authorized by the Authority, or an e-money institution licensed under these Rules and Regulations.
2. These rules and regulations apply to:
	1. all issuers of e-money other than banks or DTMFIs;
	2. Banks and DTMFIs which are permitted to conduct the business of an e-money institution by the Act.
3. These rules and regulations do not apply to payment instructions that can be used to acquire goods or services only in the premises used by the issuer or under a commercial contract with the issuer either within a limited network of service providers or for a limited range of goods or services;
4. E-money does not constitute a deposit and hence e-money institutions are not members of the deposit protection agency. The issuance of e-money does not constitute banking business pursuant to the Act.
5. These rules and regulations designate the issuing of e-money as a financial service pursuant to section 371 of the Act and an e-money institution as licensee pursuant to the same section of the Act.
6. These rules and regulations designate an e-money institution as a reporting entity for purposes of financial offences, money laundering and financing of terrorism regulations pursuant to section 371 of the Act.

# Licensing of E-Money Institutions

1. Persons who intend to conduct business as e-money institutions must apply to the Authority for a licence in the prescribed form and accompanied by a non-refundable application fee of Nu. 50,000 (Ngultrum fifty thousand only).
2. An application under this clause must set out the nature and functionality of the proposed e-money payment system that will be made available to e-money holders and must contain sufficient information to enable the Authority to evaluate the requirements.
3. Without limiting the generality of the foregoing and of section 18 of the Act, the application must contain:
	1. identifying information about the applicant and his business organization;
	2. contain a list of the current or proposed significant owners of the applicants, and the percentages of shares owned or to be owned by each applicant;
	3. biographical information on the board of directors and executive officers;
	4. proposed services to be offered;
	5. proposed locations where money services will be conducted;
	6. a business plan for building the agent network;
	7. identifying information for bank accounts used in the conduct of e-money operations;
	8. a certification signed by the applicant to the effect that the proposed e-money institution has complied with the minimum requirements as provided for in this regulation; and
	9. a business plan covering at a minimum of three subsequent years.
4. The Authority may not grant authorization if the following requirements are not met:
	1. the person is established and incorporated as a limited company under the Companies Act;
	2. the material owners and ownership structure are suitable;
	3. the board of directors adequately reflects the balance of interests represented by the e-money institution, in particular that the company will hold funds in trust on behalf of e-money holders;
	4. the person engages only in the business of an e-money institution. A person engaged in activities not related or incidental to e-money but wishing to be authorized as an e-money institution, must do so through a separate entity duly incorporated exclusively for this purpose;
	5. the person is financially sound; and
	6. the persons proposed to manage or control the e-money institution are fit and proper and have the necessary experience and qualifications to perform their functions.
5. Without limiting the generality of the foregoing and of section 25 of the Act, the Authority may reject the application for a license on any of the following grounds:
	1. the applicant or any of its significant owners have been convicted of a offence involving a financial transaction in any jurisdiction within the past 10 years;
	2. the application contains any false information;
	3. the applicant fails to respond to a request from the Authority for additional information within 10 days of a third request for the same information; and
	4. the documents submitted are incomplete, deceptive or misleading.
6. Any applicant for a licence as EMI whose application has been refused under sub-sectionor suspended, restricted or revoked under section 150 of the Act may, within thirty (30) days from the date on which the order is communicated to him or her, appeal against the decision under section 162 of the Act.

# Systems and Controls

1. E-money institutions must ensure that the following minimum systems and controls are in place:
	1. sound and prudent management, administrative and accounting procedures and adequate internal control systems;
	2. appropriate and tested technology systems;
	3. appropriate security policies and measures intended to safeguard the integrity, authenticity, and confidentiality of data and operating processes;
	4. an adequate business continuity and disaster recovery plan; and
	5. an effective audit function to provide periodic review of the security control environment and critical systems.
2. The e-money institution must establish a board of directors with a minimum of four members. The board shall be responsible for strategic decisions, effective oversight, compliance and internal control functions.
3. The senior management of the e-money institution must remain responsible for maintaining an effective system of operations.

**CHAPTER III:**

**PROVISIONS FOR E-MONEY ISSUERS**

# Issuance and Redeem-ability

1. E-money issuers must issue e-money at par value on the receipt of funds.
2. E-money issuers must, upon request by the e-money holder, redeem, at any moment and at par value, the monetary value of e-money held.
3. Notwithstanding sub-section 2, redemption may be subject to a fee only if stated in the contract between the e-money issuer and e-money holder.
4. E-money issuer is prohibited from granting of interest or any other benefit related to the e-money balance or the length of time during which an e-money holder holds the e-money.

# Compliance Requirements

1. Every e-money account issued must be subject to a maximum balance limit that must not exceed Nu. 25,000.00 (Ngultrum twenty five thousand only) and an aggregate daily transaction limit of Nu. 20,000.00 (Ngultrum twenty thousand only) and an aggregate monthly load limit of Nu. 60,000.00 (Ngultrum sixty thousand only), provided that the Authority may approve higher limits for specific categories of e-money accounts. Should an e-money issuer issue more than one e-money account to an e-money holder, the total amount loaded/credited into all the e-money accounts must not exceed the aggregate monthly load limit.
2. An e-money issuer must put in place systems that have built-in control mechanisms for complete audit verification (trail?). These control mechanisms include, but are not limited to:
	1. complete records of e-money accounts opened;
	2. identifying e-money holders;
	3. tracking and monitoring of all e-money transactions undertaken by e-money holders and the individual and aggregate balances held by e-money holders;
	4. automatic alerts and flags on suspicious transactions; and
	5. detection of patterns of transactions.
3. E-money issuers must ensure that they and their agents comply with the applicable provisions of the Anti-Money Laundering and Combating the Financing of Terrorism Regulations, <year> issued under the Act.
4. An e-money issuer must keep records of every e-money transaction processed by it for a period of five years.
5. E-money issuers must ensure that they have systems that provide adequate data protection and data integrity.

# Fund Isolation Requirements

The e-money float of every e-money issuer must:

* 1. not be commingled (what does this word mean?) at any time with the funds of any natural or legal person other than the e-money holders on whose behalf the funds are held; and
	2. be held in an escrow account as defined in the Act that secures the preference of the claims of the e-money holders against the claims of other creditors of the e-money issuer, in particular in the event of insolvency of the e-money issuer.

**CHAPTER IV:**

**PROVISIONS FOR E-MONEY INSTITUTIONS**

# Capital Requirements

The e-money institutions’ capital funds must not fall below the amount required under sub-section 1 and 2 of this section: -

1. At the time of licensing and at any point thereafter, an e-money institution has minimum paid up capital of Nu.20,000,000 (Ngultrum twenty million only) or such other amount as may be required by the Authority.
2. The paid-up capital of an e-money institution must amount to at least 2% of the average outstanding e-money.

# Liquid Assets Requirements

1. E-money institutions shall maintain liquid assets equal to the amount of outstanding e-money issued. The liquid assets must remain unencumbered and may take the form of:
	1. balances held at banks in Bhutan provided that such balances must be held separately from balances relating to any other operations of the e-money institution; or
	2. any other liquid asset prescribed by the Authority from time to time.
2. E-money institutions must on a daily basis, by no later than 4.00 p.m. Bhutan Standard Time each day, reconcile the liquid assets held by them for the redemption of e-money with the e-money float. Any deficiencies in the amount of liquid assets held shall be rectified by 12.00 pm the next day.
3. The Authority may, in the interest of protecting e-money holders, require an e-money institution to keep its liquid assets in more than one bank.
4. The interest earned by e-money institutions on liquid assets under this clause may be used at the discretion of the e-money institution, except for paying it to e-money holders.
5. Records pertaining to the above liquid assets as well as reconciliations must be made available to the Authority for verification and inspection at any time.

# Permitted and Prohibited Activities

In addition to issuing e-money, e-money institutions may be entitled to engage in any of the following activities:

* 1. the operation of payment systems listed in the Payment and Settlement Systems Regulations, <year>, where the conditions of those rules and regulations are met;
	2. the provision of operational services and closely related ancillary services in respect of the issuing of e-money or to the operation of payment systems referred to in point (a); and
	3. any other activity permitted by the Authority.
1. E-money institutions shall not engage in any of the following activities:
	1. taking deposits or any other repayable funds from the public within the purview of section 371 of the Financial Services Act of Bhutan 2011;
	2. engage in any lending or investment activity; and
	3. any other activity prohibited by the Authority.

**CHAPTER V:**

**USE OF AGENTS**

# Approval of agency business

1. An e-money institution may utilize agents to provide services to its customers, subject to it is willing to take the responsibility for the actions of the agent to the extent that they relate to the conducting of the business of an e-money institution through agents and matters connected therewith.
2. Every e-money institution seeking to use agents must apply and obtain a prior written approval of the Authority before commencing agency business.
3. Every e-money institution seeking to engage in agency business must, on a one off basis, submit the following information to the Authority:
	1. the proposed number of agents;
	2. the adoption of internal controls performed in readiness for agency business;
	3. anti-money laundering/countering financing of terrorism (AML/CFT) policies and procedures as they relate to agency business; and
	4. agent operational policies and procedures.
4. Agents may not charge directly any fee to the e-money holders for services rendered by them on behalf of the e-money issuer.

# Appointing specific agents

1. The e-money institution shall provide the Authority with the following information about an entity appointed as agent within two weeks of appointing it:
	1. the name of an gent;
	2. the physical location, GPS co-ordinates, postal address, and telephone number of an agent;
	3. description of the commercial activities the agents have been carrying out for the last twelve months immediately preceding the date of the application;
	4. variations in terms and conditions to the standard agency contract, if any; and
	5. financial services to be provided by an agent and the limits to which it will be subject.
2. The e-money institution shall notify the Authority about any change of the information mentioned in sub-section 1 within two weeks of such a change occurring.

**CHAPTER VI:**

**REPORTING, OVERSIGHT, AND SANCTIONS**

# Oversight

The Authority is to have the oversight and supervisory powers and functions conferred on it by these rules and regulations derived from Chapter 8 of the Act.

# Reporting and Notification

1. Notwithstanding anything contained in chapter 8 of the Act, every e-money issuer shall, within 10 working days of the end of every calendar month, submit to the Authority in the prescribed form information regarding:
	1. the number of e-money accounts issued by it;
	2. the volumes and values of its e-money transactions;
	3. the total of outstanding e-money balances held by it;
	4. its liquid assets;
	5. incidents of fraud, theft or robbery, including at its agents;
	6. number of complaints received and analyzed by category and agent location;
	7. material service interruptions and major security breaches;
	8. detailed information about agents as prescribed under section above; and
	9. such other information as may be required by the Authority from time to time.
2. Every e-money issuer 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.
3. Any substantial change or enhancement in the e-money payment system which an e-money issuer intends to introduce must be subject to the approval of the Authority and the e-money issuer must notify the Authority in writing 30 days prior to the proposed implementation of the change or enhancement. A substantial change or enhancement is one that will expand the scope or change the nature of the e-money payment system and may include, among others, the following:
	1. additional functionality of the e-money payment instrument such as accessing new e-channels; and
	2. changing the payment service providers and other major partners in the business.
4. Notwithstanding anything contained in section 119 to 140 of the Act, the Authority shall be allowed access to review the e-money systems and databases of the e-money issuer. Whenever the circumstances warrant, such access must extend to the agents, partners, service providers or outsourced entities of the e-money issuers in view of their participation in the business of issuing e-money.

# Penalties and Sanctions

1. Notwithstanding anything contained under section 165 to 171 of the Act, the Authority may prescribe fines and late fees for non-compliance with the provisions set forth in these rules and regulations.
2. The Authority may by notice in writing to an authorized e-money issuer, revoke or suspend an authorization for such period as it may specify, if the authorized e-money issuer:
	1. ceases to carry on business in Bhutan or leads to liquidation, is wound up, or is otherwise dissolved; or
	2. fails to comply with the provisions of these rules and regulations.
3. Before revoking or suspending an authorization under section 16 of these rules and regulations, the Authority may give an e-money issuer not less than fourteen days notice in writing and may consider any representations made to it in writing by the e-money issuer within that period.

**CHAPTER VII:**

**CONSUMER PROTECTION**

# Duties of E-Money Issuers

1. Every e-money issuer must ensure uninterrupted, high quality performance of the system. It must promptly inform the e-money holders about any disruption or anticipated disruption in the system.
2. E-money issuers must enter into a written agreement with every e-money account holder for whom they open an e-money account. The agreement must at a minimum:
	1. clearly identify the e-money account holder;
	2. if the payment system utilizing the e-money account is operated by a person other than the e-money issuer, clearly identify the name of the payment system provider;
	3. provide clear guidance on the e-money holders’ right of redemption, including conditions and fees for redemption, if any;
	4. state the fees and service charges for all products and services;
	5. state that e-money is not a deposit with the meaning of the Act and is not subject to any deposit protection or payment of interest;
	6. include information on available redress procedures for complaints together with the address and contact information of the e-money issuer.
3. Each-money issuer shall provide a list of its customer service points and its products and services including the applicable charges on its website.
4. All service charges for e-money transactions shall be prominently displayed at its head office, branches as well as the premises of its agents.

# Complaint Procedures

1. E-money issuers must set up effective procedures that allow e-money holders to submit complaints of its customers. At a minimum, these procedures shall:
	1. provide easily understood information about the customer care system, including the customer care contact number that should be easily accessible at least during normal business hours;
	2. allow for complaints to be lodged orally or in writing, but in each case the complaint must be lodged within a period of 30 days from the date of occurrence;
	3. be provided free of charge; and
	4. provide for complaints to be resolved within sixty days of lodging.
2. E-money issuers must acknowledge all complaints filed with them.
3. At the time of making a complaint, the complainant shall be advised of the expected actions and timing for investigating and resolving the issue.
4. E-money issuers must put in place processes to provide complainants with sufficient information and the means to inquire on the progress of complaints and such processes may include complaint reference numbers or other identifiers in order to facilitate timely and accurate responses to subsequent inquiries by complainants.
5. Complainants shall be advised of the outcome of the investigation of their complaint, and any resulting decision by the e-money issuer.
6. Where a complainant is not satisfied with a decision reached pursuant to a complaint, the e-money issuer shall give the complainant the option of pursuing an identified escalation process by which the decision may be examined by a suitably qualified person in the e-money issuer’s organization.

# Definition

1. In these rules and regulations, unless the context otherwise requires:
	1. “Act” means the Financial Services Act of Bhutan 2011;
	2. “agent” means an entity that has executed a contract with an e-money issuer consenting to provide services to the customers of an e-money issuer on behalf of the e-money issuer under a valid agency contract;
	3. “aggregate monthly load limit ”means the total amount of e-money transferred into an e-money account held by an e-money holder over the period of a calendar month;
	4. “DTMFI” means a deposit-taking microfinance institution licensed under the Regulations for Deposit-Taking Microfinance Institutions, <year>;
	5. “electronic money” or “e-money” means electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions and which is accepted by a natural or legal person other than the e-money issuer;
	6. “e-money account” means the account held by an e-money holder with an e-money issuer for conducting e-money transactions;
	7. “e-money float” means the total outstanding e-money liabilities of the e-money issuer to its customers at any point in time;
	8. “e-money institution” means a legal entity that has been licensed under these rules and regulations;
	9. “e-money issuer” means an entity issuing e-money and could be either an e-money institution licensed under these regulations or a bank or DTMFI licensed by the Authority; and
	10. “e-money holder” means a person who has a claim on an e-money issuer for e-money issued by the same.
2. All other words and expressions used but not defined in these rules and regulations shall have the same meanings assigned to them in the Financial Services Act of Bhutan, unless the context otherwise requires.