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# SECURITIES EXCHANGE

## REGULATION 1993



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# SECURITIES EXCHANGE REGULATIONS 1993

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# SECURITIES EXCHANGE REGULATIONS 1993

## PART 1

### GENERAL

#### Regulation 1

##### Short title, commencement and extent

- 1) These regulations are made by the Royal Monetary Authority (RMA) under article 70 of the Financial Institutions Act of Bhutan 1992.
- 2) These regulations may be cited as the Securities Exchange Regulations 1993.
- 3) These regulations shall come into operation on a day to be appointed by the RMA by notice in the official Newspaper of the Kingdom.

#### Regulation 2

##### Interpretation

- (1) In these Regulations, unless the context otherwise requires –

“articles of incorporation” means the articles of incorporation under the Companies Act;

“Board” means the governing body for the time being of a securities exchange;

“Board member” means a person who has been elected or appointed to be a member of the Board in accordance with the articles of incorporation of a securities exchange.

“business day” means any day during any part of which the facilities of the securities exchange are available to exchange members for trading purposes or would have been available but for a suspension of trading directed by the RMA under regulation 15.

“Companies Act” means the Companies Act of the Kingdom of Bhutan 1989;

“company” means a company incorporated under the Companies Act;

“court” means court having the necessary jurisdiction;

“debenture” means a document acknowledging indebtedness and includes debenture notes, bonds and any other securities of a company, whether constituting a charge on the assets of a company or not;

“Financial Institutions Act” means the Financial Institutions Act of Bhutan 1992;

“listing rules” means rules relating to the grant of a listing of and permission to deal in securities on a securities exchange and “listed” shall be construed accordingly;

“media” means the Bhutan Broadcasting Service and the Kuensel newspaper;

“member” means a company licensed as a broker under the Financial Institutions Act, incorporated under the Companies Act and which is admitted to membership of a securities exchange;

“person” has the same meaning as in section 2 of the Companies Act;

“prescribed” means prescribed by rules made by the RMA;

“RMA” means the Royal Monetary Authority of Bhutan;

“rules” in relation to a securities exchange, means the rules governing the conduct of a securities exchange or its members by whatever name called and wherever contained and includes rules contained in the articles of incorporation of the securities exchange;

“securities” means :-

- (a) debentures, or bonds issued or proposed to be issued by the Government;
- (b) shares, debentures, bonds or notes issued or proposed to be listed by a company;
- (c) any right or option in respect of any such shares, debentures, bonds or notes; or
- (d) any other instruments deemed to be securities by the RMA;

“securities exchange” means a company which has been approved as a securities exchange by the RMA under regulation 5;

“securities market” means a market, or other place at which, or a facility by means of which:-

- (a) offers to sell, purchase or exchange securities are regularly made or accepted;
- (b) offers or invitations are regularly being made, being offers or invitations that are intended, or may reasonably be expected, to result, whether directly or indirectly, in the making or acceptance of offers to sell. Purchase or exchange securities; or

- (c) information is regularly provided concerning the prices at which, or the consideration for which, particular persons, or particular classes of persons, purpose, or may reasonably be expected, to sell, purchase or exchange securities, but does not include the media: and

“share” means share in the share capital of a company, and includes preferred shares.

- (2) In these regulations, where the context so permits, words importing the singular number include the plural and vice versa and words importing the masculine gender shall include the feminine and neuter genders and vice versa.

### **Regulation 3**

#### **Application of Companies Act**

The provisions of the Companies Act shall apply to a securities exchange to the extent that they are not inconsistent with these regulations.

## **PART 2**

### **ESTABLISHMENT OF SECURITIES EXCHANGE**

#### **Regulation 4**

##### **Restricting on establishment of securities markets**

1. No person shall establish or assist in establishing or maintaining or hold himself out as providing or maintaining a securities market that is not the securities market of a securities exchange established and operated by a company which is approved for such purpose by the RMA.
2. Any person who contravenes section 1 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty five thousand Ngultrum and in the case of a second or subsequent conviction to a further fine of five thousand Ngultrum for each day during which the offence continues.

#### **Regulation 5**

##### **RMA to approve a securities exchange**

1. Application for approval as a securities exchange may be made to the RMA in the prescribed form and manner.
2. The RMA may, by notice in writing, approve a company as a securities exchange if it is satisfied that :-
  - a) the objects contained in the articles of incorporation of the company include, the establishment and operation of a securities market for the sole purpose of facilitating the collection and display of orders to facilitate trading in securities and shall not in any circumstances be involved (other than administratively), either directly or indirectly, in determining the price of any trade or the price of an issue of securities, which shall be a matter solely for the issuing company or other body issuing the securities and its advisors;
  - b) the provision and maintenance, to the satisfaction of the RMA, of adequate and properly equipped premises and systems for the conduct of the business of a securities market;
  - c) the rules of the company make satisfactory provision:-
    - (i) for efficient, honest, fair, competitive and informed trading in securities on the securities market; and

- (ii) generally for the carrying on of the business of the company with due regard to the interests of the public;
- d) the rules of the company make satisfactory provision:-
- (i) for the exclusion from membership of persons who are not of good character and high business integrity;
  - (ii) for the expulsion, suspension or disciplining of members for conduct inconsistent with just and equitable principles in the transaction of business or for a contravention of or failure to comply with rules of the securities exchange or the provisions of these regulations or the Financial Institutions Act and any regulations made thereunder;
  - (iii) with respect to the conditions under which securities may be listed for trading and quoted for trading in the market purposed to be conducted by the company;
  - (iv) with respect to the conditions governing dealings in securities by members;
  - (v) with respect to the clearing and settlement of dealings in securities that result from trading in securities on the securities market of the company;
  - (vi) with respect to the quotation of securities on, and the reporting of trading in securities on, the securities market of the company;
  - (vii) with respect to the monitoring of compliance with, and the enforcement of, the Exchange rules of the company; and
  - (viii) with respect to a fair representation of persons in the selection of its Board members and provide that one or more Board members shall be representative of listed companies and investors and not be associated with members.
3. Any changes to the items covered in section 2 of these regulations must be approved by the RMA.

## **Regulation 6**

### **Revocation of approval**

The RMA may revoke any approval granted under regulation 5 if :-

- a) the company ceases to operate a securities market;
- b) the company is being wound up; or
- c) the company is operating in a manner detrimental to the public.



## **PART 3**

### **MANAGEMENT, etc. OF SECURITIES EXCHANGE**

#### **Regulation 7**

##### **Management of securities exchange by Board**

The affairs of a securities Exchange shall be managed by a Board whose members shall comprise those elected or appointed in accordance with its articles of incorporation

#### **Regulation 8**

##### **Powers of Board**

Subject to the provisions of these regulations a Board shall have full power in all things to administer the affairs of the Securities exchange and provision of the Companies Act shall, unless the context otherwise requires, apply in all respect mutatis mutandis to the Board members, provided that the Board members shall at all times be entitled to have regard to the interest of the investing public in the management of the securities exchange in addition to the best interest of the members of the securities exchange.

#### **Regulation 9**

##### **Securities exchange may make rules**

Subject to the approval of the RMA a securities exchange may make such rules and listing rules as it deems necessary or desirable for the proper and efficient regulation, operation, management and control of the securities exchange and securities market operated by the securities exchange.

#### **Regulation 10**

##### **Amendment of securities exchange rules**

1. Where a securities exchange wishes to make an amendment, weather by way of rescission, alternation or addition, to the rules or the listing rules of the securities exchange, the Board of the securities exchange shall forward a written notice thereof to the RMA for approval.
2. The RMA may give notice in writing to the securities exchange that it approves the amendment or that it disapproves the whole or any specified part of the amendment in question and until such notice is given the amendment shall not have force and effect.

## **Regulation 11**

### **Securities exchange to provide assistance to RMA**

A securities exchange shall provide such assistance to the RMA as the RMA reasonable requires for the performance of its functions and duties, including the furnishing of such returns and providing such information relating to its business or in respect of such dealings in securities or any other specified information as the RMA may require for the proper administration of these regulations.

## **Regulation 12**

### **Notification to RMA of disciplinary action Taken by a securities exchange**

1. Where a securities exchange reprimands, fines, suspends, expels or otherwise takes disciplinary action against the member of the securities exchange, it shall, within 7 calendar days, give to the RMA particulars in writing of the name of the member, the reason for and nature of the action taken, the amount of the fine, if any, and the period of suspension, if any.
2. The RMA may review any disciplinary action taken by a securities exchange under section 1 and may affirm or set a aside a securities exchange's decision after giving the member and the securities exchange an opportunity to be heard.
3. Nothing in these regulations shall preclude the RMA, in any case where a securities exchange fails to act against a member, from itself suspending, revoking its licence or otherwise disciplinary a member of the securities exchange but before doing so the RMA shall give the member and the securities exchange an opportunity to be heard.

## **PART 4**

### **FUNCTIONS AND SPECIAL POWERS OF RMA**

#### **Regulation 13**

##### **Functions of RMA**

- (1) The RMA shall have the following functions under these regulations :-
  - (a) to be responsible for ensuring that the provisions of these regulations, the Financial Institution Act and any regulations made thereunder, and the provisions of any other Act or regulation so far as they relate to securities, are complied with ;
  - (b) to be responsible for supervising and monitoring the activities of any securities exchange, clearing house or securities depository ;
  - (c) to take all responsible steps to safeguard the interest of persons dealings in securities ;
  - (d) to promote and encourage proper conduct amongst members of a securities exchange ;
  - (e) to suppress illegal, dishonourable and improper practices in dealing in securities ;
  - (f) to promote and maintain the integrity of members of a securities exchange and encourage the promulgation by them of balanced and informed advice to their clients and to the public generally ;
  - (g) to consider and suggest reforms of the law relating to securities ;
  - (h) to encourage the development of the securities market in Bhutan and the increase use of such market by investors in Bhutan ; and
  - (i) to promote and develop self-regulation by a securities exchange.
- (2) The RMA may from time to time engage such consultants or advisors as it may consider necessary to assist the RMA in the performance of its functions.

#### **Regulation 14**

##### **Power of RMA to issue directions to securities exchange**

The RMA may, where it appears to be in the public interest, issue directions to a securities exchange:-

- a) with respect to trading on the securities market of the exchange or with respect to any securities listed or quoted on it ;
- b) with respect to the manner in which the exchange carries on its business ; or
- c) with respect to any other matters which the RMA considers necessary for the effective administration of these regulations, and the securities exchange shall comply with any such direction.

## **Regulation 15**

### **Power of RMA to direct suspension of trading**

1. The RMA may direct a securities exchange by written notice to suspend trading on the securities market of the exchange, either wholly or in part or in respect of specified securities, for a period not exceeding 5 consecutive business days if, in its discretion after consulting with the board of the exchange, it determines that the orderly conduct of such trading is being or is likely to be prevented by reason of force majeure, natural disaster, war, political upheaval or economic or financial crisis wherever occurring or by any other circumstances which are likely to prevent orderly trading on the exchange.
2. A notice under section 1 shall specify the reason for and the duration of the suspension and shall take effect upon its delivery to the securities exchange.
3. The RMA may, after consulting the Board, direct the securities exchange to extend the period of suspension of trading under section 1 for additional period not exceeding 5 business days in each case provided that it gives to the securities exchange 2 clear business days' written notice of such extension and specified the reason therefore.
4. A notice under section 3 shall take effect upon its delivery to the securities exchange.
5. The RMA shall, on the business day next following delivery to the securities exchange of a notice under section 1 or 3, provide an opportunity for the exchange to be heard on the need for a suspension of trading or an extension of suspension of trading.
6. The RMA may revoke, withdraw or modify a direction made under section 1 or 3 at any time prior to the expiration of the period suspension.

## **Regulation 16**

### **Power of RMA to require amendment to rules**

The RMA may in writing require a securities exchange to make or amend any rule or listing rule and, if the RMA shall do so, the securities exchange shall comply with the requirement as soon as practicable after its receipt by the securities Exchange.

## PART 5

### MISCELLANEOUS

#### Regulation 17

##### **Members not to deal in securities in a securities Market not operated by a securities exchange**

Any member who transacts a dealings in securities or through a securities market in Bhutan which is not operated by a securities exchange shall be guilty of an offence, and shall be liable on conviction to a fine of five thousand Ngultrum in respect of each such dealing.

#### Regulation 18

##### **Exemption from Taxes**

Trades executed through the facilities of the exchange are exempt from all taxes, including stamp duty tax and capital gains tax.

#### Regulation 19

##### **Restriction on use of title “securities exchange” , etc.**

1. No person other than a securities exchange shall :-
  - a) take or use the title “ securities exchange “ or “stock exchange” ; or
  - b) take or use, or have attached to or exhibited at any place, any title which resembles any of the titles referred to in a) or which so closely resemblance any of such titles as to be calculated to deceive.
2. Any person who contravenes section 1 shall be guilty of an offence and shall be liable on conviction to a fine of twenty five thousand Ngultrum and in, the case of a continuing offence, to a further fine of five thousand Ngultrum for each day during which the offence continues.