

REGULATIONS FOR ISSUE OF CORPORATE BOND, 2022

These Regulations are issued pursuant to the power vested with Regulatory Authority under section 410(b) of the Companies Act, 2016 and amendments thereto (hereinafter referred to as Companies Act). These regulations shall govern the issuance of Corporate Bond within Bhutan:

PART I PRELIMINARY

Short Title and Commencement

1. These Regulations shall:
 - (a) Be called the Regulations for Public issue of Corporate Bond, 2022.
 - (b) Come into force on, 2022.

Repeal

2. These regulations shall repeal The Regulations for issue of Corporate Bond, 2012.

PART II PROSPECTUS APPROVAL COMMITTEE & FUNCTIONS

3. There shall be a Prospectus Approval Committee established under these Regulations to carry out the functions delegated by the Regulatory Authority in these Regulations.
4. The Prospectus Approval Committee shall consist of:
 - (a) Registrar of the Companies;
 - (b) One representative from the Royal Monetary Authority;
 - (c) One representative from the Royal Security Exchange of Bhutan (RSEBL);
 - (d) One representative from the Accounting Industry;
 - (e) Member secretary from the Office of the Registrar of Companies

Functions of the Prospectus Approval Committee

5. The Prospectus Approval Committee shall:
 - (a) Approve or reject the prospectus or abridged prospectus proposed by the issuer after reviewing it in accordance with the conditions and criteria set

- forth in these Regulations;
- (b) Set criteria for approval of prospectus or abridged prospectus from time to time, in addition to the criteria provided in these Regulations;
 - (c) Review eligibility criteria of the issuer;
 - (d) Enforce applicable provisions of the rules and Companies Act, before and after approval;
 - (e) Review financial health of the issuer to issue remedial measures and sanctions;
 - (f) Advise the Regulatory Authority on adoption of new policies, rules and procedures for the issue of securities into the capital market;
 - (g) Address complaints relating to the bonds; and
 - (h) Ensure compliance to provisions of these Regulations.

Chairman and Member secretary

- 6. The Registrar of Companies shall convene and chair the meeting of the Prospectus Approval Committee.
- 7. The Office of the Registrar of Companies shall serve as the Secretariat to the Prospectus Approval Committee.

Meeting

- 8. The meeting of the Prospectus Approval Committee shall be convened by the Registrar of the Companies, when deemed necessary based on application and agendas received.

Quorum

- 9. There shall be a minimum of three members to constitute a quorum for the meeting.

Decision

10. The decisions at the Prospectus Approval Committee shall be taken by the majority of members voting in favor of any resolution and, in case of equality of votes, the Chairperson of the Committee shall have a casting vote.

PART III CONDITIONS FOR CORPORATE BOND ISSUE

Conditions

11. The Prospectus Approval Committee may approve the issuance of bonds upon fulfillment of the following, among others:
 - (a) Net worth requirement;
 - (b) Earned profit for three consecutive years;
 - (c) No loan liability;
 - (d) Not exceed the maximum debt ratio;
 - (e) Production of security;
 - (f) Placement of corporate bonds; and, or
 - (g) Presence of guarantor.

Net worth

12. The net-worth of the issuer shall not be less than Nu.100 million and the paid-up capital shall not be less than Nu.200 million at the time of issuance of corporate bond. In the event that the issuer does not meet the required level of paid-up Capital prescribed above, the issuer shall obtain a financial guarantee from a bank, any other financial institution or any form of corporate guarantee to support the corporate bond.
13. The minimum requirement under Clause 12 of these Regulations may be revised by the Prospectus Approval Committee, when deemed appropriate from time to time.

Track Record

14. The issuer shall have a track record of profits earned in the immediate two financial years preceding the date of application, and the issuer should have been in commercial operation for the three preceding financial years.

No overdue liability

15. The issuer shall not have overdue loan or defaults in the report obtained from the Credit Information Bureau (CIB) for the past one year preceding the issue.

Debt Ratios

16. The total indebtedness including the proposed issue of Corporate bond shall not exceed 300% of the issuer's net worth as of the latest date of financial statements. The debt ratio shall be disclosed in the annual report of the issuer. The frequency of the report of the issuer may be changed by the Prospectus Approval Committee, when deemed appropriate.

Security for Corporate Bond

17. The issuer shall produce collateral in its name, or its guarantor's name to secure the issue of corporate bond at the time of application for issue of corporate bond. The value of collateral pledged shall be at least two times the proposed corporate bond issue and shall be free of all encumbrances or prior charge. The value of collateral may be assessed by PAC based on acceptable valuation standards. The value of the collateral and changes therein shall be disclosed in the issuer's annual report. The requirement under this clause may be amended from time to time, when deemed appropriate by the Prospectus Approval Committee.

Registration of Charges

18. The issuer shall register a charge on the title of the collaterals pledged for the issue of corporate bond within 10 days from the date of approval.

Guarantor to the issue

19. Where there is a Guarantor to the issue, the issuer shall be exempted from the conditions under sections 12, 13, 14, 15, 16, 17 and 18 of these Regulations. However, all these conditions shall be fulfilled by the Guarantor.

20. In addition, the Guarantor shall provide financial capability statements duly certified by the Guarantor's Auditor and the same shall be endorsed by the Board of Directors.
21. When the Guarantor is a State Owned Enterprises, consent of the Ministry of Finance shall be obtained by the issuer.
22. In case of Sovereign Guarantee, the Guarantor shall also be exempted from the conditions under sections 12-18 of these Regulations.

Placement of Corporate Bond

23. The issuer may exercise, the right to place the corporate bond privately to any person approved by the issuer, based on mutually agreed terms and if there is public issue following the private placement, then the following conditions shall apply:
 - (a) Such approval shall precede the public issue of corporate bond;
 - (b) Investors approved for private placement shall deposit the subscription money with the broker within 7 working days from the date of approval of issue by the PAC. The Registrar shall be notified of the deposit of subscription money for private placement by the broker;
 - (c) The investors allotted corporate bonds through private placement, may not participate in the public subscription of the same bond;
 - (d) Corporate bonds so approved, may be listed on the exchange, provided the terms & conditions of the issue remain same as publicly issued bonds;
 - (e) The issuer shall obtain endorsement for private placement in Annual General Meeting or Extraordinary General Meeting.

PART IV PROCEDURE FOR APPROVAL & CONTENTS OF PROSPECTUS

Approval and Registration of Prospectus

24. The prospectus for corporate bond issue shall be reviewed and approved by the Prospectus Approval Committee (PAC). The Registrar of Companies shall register the Prospectus after the approval of the same by the PAC, as per the provisions of these regulations and the Companies Act.

Contents of Prospectus

25. The issuer shall submit the draft Prospectus as prescribed in Annexure - II, along with Application Form prescribed in Annexure - I, to the Office of the Registrar of Companies. The prospectus must be accompanied by:

- (a) The auditor's report covering at least three years audited accounts;
- (b) The following ratios, for three financial years preceding the issue;
 - (i) Earnings Before Interest and Taxes;
 - (ii) Net profit margin;
 - (iii) Debt to Equity ratio;
 - (iv) Gearing Ratio;
 - (v) Debt Service Coverage Ratio; and
- (c) Projected balance sheet, a profit and loss accounts for three years subsequent to the issue.

Documents to be submitted to Registrar of Companies

26. The following documents shall be submitted along with the Prospectus:

- (a) Permission from RSEBL, for the corporate bond to be listed for transaction through the exchange if applicable.
- (b) The resolution of the Annual General Meeting or Extraordinary General Meeting, approving the issue of corporate bond, together with the documents and reports presented to the meeting.
- (c) Summary of audited financial statements for the last three years, preceding the issue or for the period from the date of incorporation to the date of issue, whichever is lesser.
- (d) Detailed statement of the corporate bond including coupon rate, tenure and terms for redemption.
- (e) Credit information report from Credit information bureau for past one year.
- (f) Statement of purpose, terms and expenses of the issue.
- (g) Any additional statements required by the Companies Act.

Other requirements

27. The issuer shall also fulfill the following requirements, prior to the issue of corporate bond:
- (a) Submit a clearance or approval from their respective regulators or regulatory authorities.
 - (b) Shall be rated by credit rating agency, upon establishment of credit rating agency.
 - (c) The Corporate bond shall be fully secured.
 - (d) The Corporate bond shall be listed with RSEBL, if issued to public or through private placement fulfilling the terms and conditions for public issue of bond.

PART V

GENERAL PROVISIONS FOR BONDS

Size of issue

28. The minimum size of issue shall be Nu. 50 million carrying a face value of Nu. 1,000/- each.

Timing

29. The Corporate bond shall open for subscription within 7 working days from the date of approval by the PAC. The issue for public subscription shall be open for a period not exceeding 30 days and it shall be allotted within 30 days from the closing date for subscription.

Redemption Fund

30. The issuer shall create a corporate bond redemption reserve of an amount equivalent to the issue size of corporate bond issued. The redemption reserve of 20% of the corporate bond amount shall be created annually, in the last five years of the corporate bond tenure.
31. The issuer shall disclose the redemption reserve created in its annual report. At any time during the period of the corporate bond, if the company is unable to maintain the reserve, the office of the Registrar will take appropriate actions to ensure adequate liquidity for redemption of the corporate bond upon maturity.

Lock-in period and Right to Redeem

32. The issuer and the bondholders have the right to redeem before maturity date, subject to completion of lock-in period of three years and such terms and conditions shall be defined in the Prospectus.

Custodians of Bonds

33. RSEBL shall act as depository of all types of corporate bonds issued under these regulations.

PART VI

OFFENSES AND PENALTIES

Complaints

34. Investors may submit complaints to the Regulatory Authority in relation to the corporate bonds, if there is reasonable suspicion of violation of the provisions of the Regulations and Companies Act.

35. If an investor is aggrieved by the untrue statement of prospectus, the Regulatory Authority may advise the investor to approach the court in accordance with section 111 of the Companies Act.

36. If there is any complaint or suspicion of insider trading on the bonds, the Prospectus Approval Committee may advise the Regulatory Authority to initiate investigation or appropriate legal action on the allegation.

Offenses and Penalties

37. In the event of deliberate misrepresentation or omission of information and relevant documents for the purpose of obtaining approval for issue of Bond, the applicant or issuer shall be punishable with fine of Nu. 1,000,000/-. And if such omission or commission is proven to be committed by the issuer with the knowledge of all or any of its Board Directors, every such director shall be punishable with fine up to Nu. 1,000,000/-.

38. If the issuer fails to fulfill its payment obligation at the time of maturity of Bond, the issuer shall be liable to pay a penalty at the highest prevailing rate of commercial borrowing computed on total value of the bond for the default period to the Office of the Registrar. In addition to the penalty above the issuer shall be liable to pay the investors penal interest of 2% above the coupon rate as determined and disclosed in the prospectus.
39. If the issuer fails to register a charge in accordance with clause 18 of these Regulations, the issuer and each director of the issuer shall be imposed a fine ranging from Nu. 20,000/- to Nu. 50,000/- for every failure, and Nu. 1000/- per day thereafter till the charge is registered.
40. Any person who violates any provision of these Regulations, the PAC may impose financial sanctions not exceeding Nu. 100,000/- per violations, or such other appropriate orders, if not expressly provided in these Regulations.

Announcement

41. The issuer shall make a public announcement in the media at least a week before the issue date. The contents of such announcement shall be in the form of an Abridged Prospectus as prescribed by the RSEBL.

Prospectus Review Fees

42. The issuer shall submit a copy of the draft prospectus along with the application as prescribed in **Annexure I**, to the Registrar of Companies for approval and simultaneously deposit a draft prospectus along with prescribed non-refundable review fees of Nu. 100,000 to the RSEBL.

Definitions

43. The terms and phrases used in these regulations, unless the context requires otherwise, shall mean:
- (a) **Abridged prospectus** is a summary of the contents in prospectus.
 - (b) **Charge** means an interest or right which a subscriber or creditor obtains in the property of the issuer by way of security that the issuer will pay back the bond money at the time of maturity.

- (c) **Corporate Bond** is a long term debt sold to the investors by an issuer and also includes subordinated debt.
- (d) **Insider trading** shall have the same meaning as defined by the provisions of the Companies Act.
- (e) **Institutional Investors** means a legal person devoted to holding and managing financial assets either for clients or itself, such as Fund Managers and Investment Advisors, financial institutions, pension funds and trust funds.
- (f) **Issuer** means an issuing Company which shall be a Company incorporated under Companies Act.
- (g) **Net worth** means the net tangible asset. For the purposes of these regulations net tangible assets are to be computed as total assets less total liabilities and intangible assets.
- (h) **Prospectus** means offer documents as prescribed in Companies Act.
- (i) **Redemption Reserve** is a reserve maintained by a company to meet the payment obligation towards the bondholders at the time of maturity of the corporate bond.
- (j) **Regulatory Authority** shall have the same meaning as defined in the Companies Act.
- (k) **Untrue statements** shall have the same meaning as defined in the Companies Act.

ANNEXURE - I

Date:.....

The Registrar of Companies,
Office of the Registrar of Companies,
Ministry of Economic Affairs,
Thimphu: Bhutan

Sub: Application for issue of corporate bond

Sir,

We intend to issue a Corporate bond amounting to Nu..... We confirm and declare that our application is in full compliance with the Regulations on Issuance of Corporate bond, 2022 issued by the Regulatory Authority under Companies Act.

We further confirm and declare that the company is incorporated under the Companies Act and we are satisfied to the best of our knowledge and belief, that there is no information or statement nor is there any omission in the draft Prospectus, which would make our statements false or misleading. We undertake to provide such information and documents as the Regulatory Authority may reasonably require in relation to the application.

This application is made by the undersigned authorized person of (*Issuer Company Name*) pursuant to the authority granted to by a written resolution of our Board of Directors passed on (Date.....).

Faithfully yours,

For and on behalf of the issuer..... (**Name of the Issuer Company**)

Name:

Address:

Tel No:

Email ID:

Enclosed: Documents as prescribed in Section 26 of the corporate bond Regulations, and the Draft Prospectus (as per format prescribed in Annexure II).

ANNEXURE II

Prospectus for issue of Corporate Bond

The following constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by the Companies Act and in line with the relevant provisions of the Regulatory Authorities.

1. General Information:

- a) Name of the company:
- b) Registered Office:
- c) Auditors:
- d) Bankers:
- e) Registration/License Number:

2. Objective of the issue (Purpose of Issue):

3. Particulars of offer:

Issue Price per Unit	Number of Units Offered	Opening Date	Closing Date	Allotment Date
Face value Nu. 1,000				

4. Terms of the Bond, Coupon Rate and interval of payment:

Term	Coupon/ Interest Rate	Coupon payment interval	Payment of Coupon Amount

5. **Redemption:** (The issuer shall create a corporate bond redemption reserve of an amount equivalent to the issue size of corporate bond issued. The redemption reserve of 20% of the corporate bond amount shall be created annually, in the last five years of the corporate bond tenure).

6. Basis of Allotment:

7. Private Placement:

8. **Conditions for Premature redemption:** (same conditions shall apply to both the issuer and bondholders):

9. **Lock-in period and Right to Redeem:** (The issuer and the bondholders have the right to redeem before maturity date, subject to completion of lock-in period of three years and such terms and conditions shall be defined in the Prospectus).
10. **Risk Factors (Disclose all the risk associated with the business):**
 - a) Credit Risk/Loan Delinquency Risk:
 - b) Operational Risk:
 - c) Interest Rate Risk:
 - d) Market/Economy Risk:
11. **Present Capital Structure of the Company:**
Authorized Capital:
Issued and paid up capital:
12. **Eligibility of Bondholders:**
13. **Financial Highlights:**
 - a) Last three years (Audited)
 - b) Projected Financial statements for three years
14. **Particulars of Present Board of Directors:**
15. **Details of the Previous Bonds issued if any:**
16. **Sole Manager to the issue (Broker, Underwriter, issue manager):**
17. **Other Information (litigations or any material information of the issuer):**
18. **Declaration:** *We hereby declare that most of the relevant provisions of the Companies Act and the Prudential Regulation 2017 issued by the Royal Monetary Authority and Royal Securities Exchange have been complied with and no statement made in the prospectus contrary to the provisions of Companies Act.*

Chief Executive Officer

Director

Place- Thimphu

Date: