

Regulations for public issue of Commercial Papers, 2022

These Regulations are issued pursuant to the power vested with the Regulatory Authority under section 410(b) of the Companies Act of Bhutan, 2016 and amendments thereto (herein after referred to as Companies Act). These Regulations shall govern the public issue of Commercial Papers organized under Companies Act.

PART I

PRELIMINARY

Short Title and Commencement:

1. These Regulations shall:
 - a) Be called Regulations for public issue of Commercial Papers, 2020.
 - b) Come into force on, 2020.

Repeal

2. These Regulations shall repeal the Guidelines for Issue of Commercial Papers, 2017.

PART II

PROSPECTUS APPROVAL COMMITTEE & FUNCTIONS

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

Functions of the Prospectus Approval Committee

3. 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 beside 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 & Member secretary

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

Meeting

- 6. 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

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

Decision

- 8. The decisions at the Prospectus Approval Committee shall be taken by 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 ISSUANCE OF COMMERCIAL PAPERS

Eligibility for issuance of commercial papers

9. All incorporated companies including financial institutions are eligible to raise short term finance through issuance of commercial papers, if:
 - (a) The paid-up capital share of the issues is not less than Nu. 10 million;
 - (b) The net worth of the company is not less than Nu. 10 million as per the latest audited balance sheet;
 - (c) The instrument is fully backed by collaterals such as time deposits and receivables, and other qualified assets alternatively as may be deemed acceptable by the Prospectus Approval Committee, of a value equivalent to 200% of the amount of the Commercial Paper;
 - (d) The issuer is able to arrange financial guarantee or standby credit facility from any financial institutions, if issuer is not able to fulfill the requirements under sub-section(b) and (c) of these Regulation;
 - (e) The issuer does not have loan overdue or default in the report obtained from the Credit Information Bureau for the past one year preceding the issue; and
 - (f) Issuer fulfills all other relevant requirements as stipulated in the Companies Act.

Registration of charges

10. The issuer shall register a charge on the title of the collaterals pledged for the issue of Commercial Paper within 10 days from the date of approval, if the Commercial Paper is issued for more than 6 months.

Eligibility to Invest in Commercial Papers

11. Individuals, financial institutions and incorporated entities in Bhutan and unincorporated Bhutanese private firms shall be eligible to invest in CP.

12. The Prospectus Approval Committee (PAC) shall review and monitor from time to time the eligibility conditions to invest in CPs, depending on the circumstances and market conditions.

Forms of the Instrument, Mode of Issuance and Tenure

13. Commercial paper shall be issued:

- (a) In a denomination of Nu. 100,000 and multiples thereof.
- (b) in dematerialized form.
- (c) at a discount, after deducting coupon at determined rate of issuer.
- (d) for a maximum maturity period of one year from the date of issue.

PART IV PROCEDURE FOR APPROVAL & CONTENTS OF PROSPECTUS

Approval and Registration of Prospectus

14. The application and the prospectus for issue of commercial papers shall be reviewed and approved by the Prospectus Approval Committee. 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. However, any application which requires no deliberation of the Committee may be approved by the Registrar of the Companies, on a case by case basis, with information to the Committee in the subsequent meeting.

Contents of Prospectus

- 15. 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.
- 16. The Prospectus shall contain all the elements contained in Annexure- II along with proper disclosure on use of funds raised through CPs.
- 17. The investors shall submit their applications to the Royal Securities Exchange of Bhutan for subscription. The issuer shall enter into agreement on the modalities with the RSEBL for the issuance of the CP.
- 18. The RSEBL shall allot the CPs to the successful applicant within T+1 after the date of subscription stipulated in the Prospectus.

19. The RSEBL shall intimate to the office of the Registrar of Companies on the amount of CP allotted, accompanied by both settlement and subscriber's details. However, if the issuer is a financial service provider, the Royal Monetary Authority shall also be furnished with the same information.

Documents to be submitted to Registrar of Companies

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

- (a) Recent credit information of an issuer from the Credit Information Bureau of Bhutan, for the past one year.
- (b) Recent Board resolution of the issuer company authorizing CP issue to the public.
- (c) Audited financial statements for the past 3 years.

Buyback of Commercial Papers

- 21. The issuer may buyback the commercial papers before maturity date, and such terms and conditions shall be defined in the Prospectus.
- 22. Issuers may buyback the CP issued, before maturity, subject to full payment of CP amount to the investors.
- 23. Such buyback shall be carried out through the facilities of RSEBL.
- 24. Issuer shall intimate the proposal to the Office of the Registrar of Companies of the buyback undertaken.

PART V

OFFENSES AND PENALTIES

Complaints

- 25. Investor's may submit complaints to the Regulatory Authority in relation to the commercial papers, if there is reasonable suspicion of violation of the provisions of these Regulations and Companies Act.
- 26. 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.

27. If there is any complaint or suspicion of insider trading on the commercial papers, the Prospectus Approval Committee may advise the Regulatory Authority to initiate investigation or appropriate legal actions on the allegation.

Offenses and Penalties

28. In the event of deliberate misrepresentation or omission of information and relevant documents for the purpose of obtaining approval for issue of Commercial Paper, 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.
29. If the issuer fails to fulfill its payment obligation at the time of maturity of Commercial Paper, the issuer shall be liable to pay a penalty at the highest prevailing rate of commercial borrowing computed on total value of the CP for the default period to the Office of the Registrar. In addition to the above penalty, the issuer shall be liable to pay the investors penal interest of 2% above the coupon rate as determined and disclosed in the prospectus.
30. If the issuer fails to register a charge in accordance with Clause 10 of these Regulations, the issuer and each director of the issuer shall be imposed a fine ranging from Nu. 20,000/- to 50,000/- for every failure, and Nu. 1000/- per day thereafter till the charge is registered.
31. 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

32. The issuer shall make an announcement to the general public for issuance of the CP at-least a week before the date of issue.

Review fees:

33. At the time of making application to the Registrar of Companies, the issuer shall also deposit a copy of draft memorandum for issuance of CP along with the non-refundable review fee of Nu. 50,000/- in the form of cheque to RSEBL.

Definitions:

The terms and phrases used in these Regulations, unless the context requires otherwise, shall mean:

- (1) **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 money at the time of maturity.
- (2) **Commercial Paper (CP):** is a money market instrument that is issued for a specified amount and is payable on a fixed date. The CP shall be issued for a maximum maturity period of one year.
- (3) **Issuer** means a Company incorporated under Companies Act.
- (4) **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.
- (5) **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.
- (6) **Prospectus** means an offer document for the issue of CP.
- (7) **Regulatory Authority** shall have the same meaning as defined in the Companies Act of Bhutan.
- (8) **Untrue statements** shall have the same meaning as referred under the Companies Act.

ANNEXURE - I

Date:.....

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

Sub: Application to issue Commercial Paper

Sir,

We intend to issue Commercial Paper amounting to Nu..... We confirm and declare that our application is in full compliance with the Regulations on Issuance of Commercial Paper, 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 issuer..... (**Name of the Issuer Company**)

Name:

Address:

Tel No:

Email ID:

Enclosed: Documents as prescribed in Section 20 of the Commercial Paper Regulations, and the Draft Prospectus (as per format prescribed in Annexure - II).

Prospectus for issue of Commercial Paper

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 Authority.

1. General Information:

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

2. Objective of the Issue:

3. Particulars of offer:

Issue Price per CP	Number of CPs offered	Subscription Date	Allotment Date
Face value Nu. 100,000			

4. Term of the Commercial Paper and Coupon Rate:

Term	Coupon Rate	Payment Amount

5. Maturity Period

6. Methods of Allocation:

7. Use of Fund (Details):

8. Payment of Coupon:

9. 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:

10. Present Capital Structure of the Company:

Authorized Capital:
Issued and paid up capital:

11. Eligibility of Investors:

12. Financial Highlights for last three years (Audited)- tabular format

13. Particulars of Present Board of Directors:

14. Statutory Dues and Pending Cases:

15. 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: