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CORPORATE REGULATORY AUTHORITY

**REGULATIONS FOR COMPANY SECRETARIES AND
FILING AGENTS, 2024**

ROYAL GOVERNMENT OF BHUTAN

MINISTRY OF INDUSTRY, COMMERCE AND EMPLOYMENT

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REGULATIONS FOR COMPANY SECRETARIES AND FILING AGENTS, 2024

In the exercise of the powers vested by sections 410 (b) and 413 of the Companies Act of Bhutan 2016, the Corporate Regulatory Authority of Bhutan hereby adopts the Regulations for Company Secretaries and Filing Agents, 2024. These regulations are designed to ensure that companies in Bhutan maintain adherence to professional standards and promptly fulfill compliance requirements.

PART I

PRELIMINARY

Title and Commencement

1. This Regulation shall
 - (1) be called the Regulations for Company Secretaries and Filing Agents of Bhutan, 2024.
 - (2) Come into force on September 1, 2024.

PART II

COMPANY SECRETARY

General Provisions

2. The following companies shall appoint a Company Secretary with prescribed qualifications:
 - (1) Every listed company.
 - (2) Every public company.
 - (3) Every private company has a paid-up share capital of Nu. 100,000,000 (hundred million) or more.

Appointment of Company Secretary

3. The Board of the company shall appoint a Company Secretary.
4. A Company Secretary shall be appointed for a term, with remuneration and upon such conditions as decided by the Board.

5. The company shall notify the Regulatory Authority of the appointment of the company secretary within 30 days after they are appointed.
6. A Company Secretary shall consent to his/her appointment in writing as prescribed in Annexure III.
7. The notice for appointment of the company secretary shall be conveyed using the consent form.
8. The office of company secretary shall not be left vacant for a period exceeding six months.
9. Within these six months, the board shall depute an existing officer as a substitute to ensure the continuity and effectiveness of the duties performed by the company secretary.

Qualification of Company Secretary

10. The individual appointed as a company secretary shall;

- (1) Be a resident of Bhutan.
- (2) Be a citizen of Bhutan.
- (3) Hold a degree in Law or Professional Accountant Certificate from a recognized university.
- (4) Have a certificate of company secretary issued by or recognized by the Regulatory Authority.
- (5) Stay informed on the requirements, and updates on rules and standards issued by the Regulatory Authority.
- (6) Not hold the position of Company Secretary for two companies simultaneously, except for functions identified for outsourcing in section 16 of this regulation.

Fit and Proper Considerations for Company Secretary

11. An individual applying for Company Secretary position is subject to the following conditions being met:

- (1) The individual has undergone professional training conducted or recognized by the Regulatory Authority;
- (2) The individual's previous conduct and compliance history are assessed as meeting expectations by the Board and Regulatory Authority;
- (3) The individual has not acted in a manner to constitute professional misconduct, breach of fiduciary duty, or serious negligence, or caused, contributed to, or facilitated the commission of professional misconduct, breach of fiduciary duty or serious negligence by some other person;
- (4) The individual has the capacity and capability to fulfill the obligations of a company secretary properly; and/or

- (5) It would not be contrary to the national or general public interest for the individual to be registered as a company secretary.

Process for Certification and Registration of a Company Secretary

12. The individuals seeking certification as a company secretary shall first undergo professional training that is either conducted or officially recognized by the Regulatory Authority.
13. The Registrar of Companies shall assign a unique professional number to the company secretary upon completion of professional training or on recognition of other training, for the purpose of carrying out any transactions or services with the Authority, using the registry system. The documents and prerequisites to be submitted to the Regulatory Authority shall be as follows;
 - (1) the certificate of company secretary, and
 - (2) Pay the prescribed registration and certification fee.

14. The registration or renewal of registration of a company secretary is valid for 3 years from the date of registration. An application to renew the registration of a company secretary shall be made within 60 days prior to the date of expiry and pay the prescribed renewal fee.

Duties of Company Secretary

15. The company secretary shall:

- (1) Provide support and advice to the board of directors.
- (2) Ensure the effective maintenance of the statutory registers in accordance with section 228 of the Companies Act and their availability for inspection in accordance with section 229 of the Companies Act.
- (3) Ensure the effective maintenance of books of account in accordance with section 232 of the Companies Act.
- (4) Ensure effective communication with shareholders of the company;
- (5) Ensure the timely delivery to the relevant authority of any return, account, or other document required under the provisions of this Act or any other law;
- (6) Ensure all legal compliance by the company.

- (7) Act as a focal officer for all official communications and regulatory calls for documents from the Regulatory Authority.
- (8) Comply with the terms and conditions as adopted by the Regulatory Authority.

16. A company secretary's services mentioned in sections 15 (2), (3), (5), (6), (7) and (8) of this regulation shall be allowed as outsourced services from a qualified individual or firm.

PART III

FILING AGENTS

Issue of Professional Numbers

17. The Registrar of Companies shall issue to each registered filing agent:

- (1) A unique professional number for the purpose of carrying out any transactions or services with the Authority, using the registry system.; and
- (2) A notice of registration to the public, in such form as the Registrar of Companies may determine.

18. A professional number issued to a registered filing agent shall be used in conjunction with such authentication code as the Registrar of Companies may determine.

Qualification of Registered Filing Agents

19. The individual appointed as a registered filing agent shall;
- (1) Be a resident of Bhutan.
 - (2) Be a citizen of Bhutan.
 - (3) Hold a degree in Law and Business Studies from a recognized university or equivalent certification.
 - (4) Have a certificate of filing agent issued by or recognized by the Regulatory Authority.
 - (5) Stay informed on the requirements, and updates on rules and standards issued by the Regulatory Authority.

Fit and Proper Considerations for Registered Filing Agents

20. An individual applying for registration or renewal as a registered filing agent shall be considered fit and proper by the Regulatory Authority, subject to the following conditions being met:

- (1) The individual have undergone professional training conducted or recognized by the Regulatory Authority;
- (2) The individual's previous conduct and compliance history are assessed as meeting expectations by the Regulatory Authority and their customer;
- (3) The individual has acted in a manner not to constitute professional misconduct, breach of fiduciary duty, or serious negligence, or caused, contributed to, or facilitated the commission of professional misconduct, breach of fiduciary duty, or serious negligence as adjudged by a competent authority;
- (4) The individual has the capacity and capability to properly fulfill the obligations of a registered filing agent and the terms and conditions of registration; and
- (5) It would not be contrary to the national or general public interest for the applicant to be registered as a registered filing agent.

Process for Certification and Registration of Registered Filing Agents

21. The individuals seeking certification as a registered filing agent shall first undergo professional training conducted or recognized by the Regulatory Authority.
22. The documents and prerequisites to be submitted to the Regulatory Authority shall be as follows;
 - (1) the certificate of Filing Agent to the Regulatory Authority.
 - (2) Pay the prescribed registration and certification fee.
23. The registration or renewal of registration of a Filing Agent is valid for 1 year from the date of registration. An application to renew the registration of a Filing Agent shall be made within 60 days prior to the date of expiry and pay the prescribed renewal fee.
24. A registered Filing Agent and Company Secretaries providing outsourced services, shall comply with the terms and conditions set out in Annexure III.

25. The terms and conditions are applicable to registered Filing Agents and Company Secretaries providing outsourced services, irrespective of the transactions being carried out for the customer, using the electronic transaction system or by other means specified or as directed by the Registrar of Companies, if the electronic transaction system is unavailable.

Duties of Filing Agent

26. The Filing Agent shall:

- (1) Provide company incorporation advisory services and representation to the Regulatory Authorities.
- (2) Submit applications for company incorporation, any regulatory approvals, permission or licenses to the Regulatory Authority and relevant government agencies.
- (3) Provide filing services to companies, including filing documents for change transactions and statutory reporting to the Regulatory Authorities.
- (4) Act as a focal officer for all official communications and regulatory calls for documents from the Regulatory Authority.

- (5) Comply with the terms and conditions as adopted by the Regulatory Authority.

Application for services

28. The application for registry services prescribed in section 26 (1) to (4), shall be submitted only by certified filing agents using their unique professional number. However, certified company secretaries may apply using their unique professional number, on behalf of their employing companies.

29. The Registrar of Companies shall assign the registered filing agents or company secretaries to assist any customer who is unable to identify or appoint on their own. The applicable fee shall be assigned by the Registrar of Companies.

False Information

27. A registered Filing Agent and Company Secretaries providing outsourced services, who under the terms and conditions of registration, is required to produce any document, or to provide any information or explanation

to the Registrar of Companies or an officer authorized by the Regulatory Authority, shall not:

- (1) produce any document or provide any information or explanation which the registered filing agent knows to be false, does not believe to be true or is reckless as to whether the document, information or explanation is false; or
- (2) intentionally suppress any material fact.

Refusal to Register or Renew

28. The Registrar of Companies may refuse to register or renew the registration of a person as a registered Filing Agent and Company Secretary, if:

- (1) the applicant has been convicted, whether in Bhutan or any other jurisdiction, of any offence involving fraud or dishonesty punishable with imprisonment up to 3 years or more; or
- (2) the applicant is an undischarged bankrupt, whether in Bhutan or any other jurisdiction;
- (3) The Registrar of Companies is not satisfied that the applicant is a fit and proper person to be so registered, or that any of its directors or partners or any individual directly or indirectly taking part in or concerned in the management of the applicant, is a fit and proper person;

- (4) That person's previous registration as a registered Filing Agent or Company Secretary had been canceled because of :
- (a) a breach of a prescribed term or condition of registration; or
 - (b) a failure to pay a financial penalty imposed because of a breach of a prescribed term or condition of registration; and
 - (c) 2 years have elapsed from the date of expiry or cancellation of their registration.

Personal Liability of Company Secretary and Filing Agent

29. The company secretary and filing agent owes a fiduciary duty to the company in a similar way to that owed by directors.

30. A company secretary and filing agent shall be accountable to the company for any secret profit or gain made as a result of his position with the company.
31. A company secretary and filing agent entering into a contract, on behalf of the company, shall make it clear that he does so as the company's agent, and upon authorization from the company.

Penalty for Non-compliance

32. If a Company Secretary or any other person contravenes the provisions of sections 15, 16, 27, 29, 30 and 31 of this regulation, they shall be liable for a fine of up to Nu. 100,000 with an additional fine of Nu.1000 per day until the default is rectified.
33. If the Filing Agent contravenes with sections 26, 27, 29, 30 and 31 of this regulation, they shall be liable for a fine of up to Nu. 100,000 with an additional fine of Nu.1000 per day until the default is rectified.

34. The Company Secretaries and Filing Agent in violation of the provisions of this regulation may also be prosecuted under relevant laws, if the conduct of the agent constitutes an offense under penal code of Bhutan.

PART IV

MISCELLANEOUS

Definitions

35. In this Regulation, unless the context otherwise requires:

- (1) **“Board of Directors”** or **“Board”** in relation to a Company means directors collectively acting as the Board of directors of the Company.
- (2) **“Company”** means a company incorporated under this Act, any other legislative provision of the Kingdom of Bhutan or by Royal Charter and which is included in the register of companies maintained under section 401.
- (3) **“Companies Act”** means the Companies Act of Bhutan, 2016.
- (4) **“Company Secretary”** means a full-time officer appointed by the Board of Directors for a fixed term and for a remuneration agreed therein.

- (5) **“Regulatory Authority”** shall mean “Corporate Regulatory Authority” as defined in section 416 (37) of the Companies Act; and
- (6) **“Customer”** means any person who employs or engages a registered Filing Agent and Company Secretary providing outsourced services, to carry out any transactions with the Regulatory Authority using the electronic transactions system on their behalf.
- (7) **“Degree”** shall mean any undergraduate or postgraduate Course, recognized by the Regulatory Authority as an accredited course from a recognized University.

- (8) A **“Filing Agent”** is a person who, in the course of his or her business, carries out on behalf of any other person any transactions with the Regulatory Authority using the electronic transactions system or any other means permitted or as prescribed by the Regulatory Authority if the electronic transactions system is unavailable.
- (9) **“Paid up share capital”** means the capital paid up and allotted to the shareholders of a company.
- (10) **“Prescribed”** means prescribed in regulations, guidelines or schedules adopted by the Regulatory Authority.
- (11) **“Transaction”** with Regulatory Authority means:
- I. Filing, lodging, submitting, producing, delivering, furnishing, or sending of any document with or to Regulatory

Authority under the laws administered by Regulatory Authority;

- II. Making any application, submission, or request to the Regulatory Authority under the laws administered by the Regulatory Authority;
- III. Providing any undertaking or declaration to the Regulatory Authority under the legislation administered by the Regulatory Authority; and
- IV. Extracting, retrieving, or accessing any document record or information maintained by the Regulatory Authority under the legislation administered by the Regulatory Authority.

ANNEXURE

ANNEXURE I

Official notification of appointing Filing Agent and Company Secretary

Date:.../...../...

The Registrar of Companies,

Corporate Regulatory Authority

Ministry of Industry, Commerce and Employment,

Thimphu, Bhutan

**Sub: Application to appoint a Filing Agent/Company
Secretary**

Sir,

We have appointed Mr/Mrs.....as Filing
Agent/Company Secretary of our Company w.e.f.....

We confirm and declare that our application is in full
compliance with the Regulations for Company Secretaries
and Filing Agents, 2024 issued by the Regulatory Authority.

We further confirm and declare that the relevant documents including the resolutions are passed/obtained following due procedures under the Companies Act. We undertake to provide any 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(Company Name) pursuant to the authority granted to by a written resolution of the Shareholders/Board of Directors passed on (Date.....).

Faithfully yours,

For and on behalf of the Company.....

(Name of the Company)

Name: Address:

Tel No:

Fax No:

Email:

Enclosed: *Documents as prescribed in Section 13 and 26 of this Regulation*

ANNEXURE II

Board Resolution for Appointment of Secretary

RESOLVED THAT THE BOARD/SHAREHOLDERS OF Private Limited/Limited(Company name) decided to appoint Mr/Mrs/Miss, having the requisite qualification as prescribed by Regulatory Authority, be and is hereby appointed Company Secretary/ Filing Agent of the Company at a remuneration of Nu..... per month/year to perform all such duties that may be prescribed by the Regulatory Authority or any modification thereto from time to time and any other executive or administrative duties that may be assigned by the Chief Executive Officer or Board of Directors.

Signed

Chairman/CEO

ANNEXURE III

Consent to act as Company Secretary/Filing Agents

Name of Company.....Private Limited/Limited

To,

The Registrar of Companies,

The Corporate Regulatory Authority

Thimphu: Bhutan

I, the undersigned, having consented to act as Company Secretary/Filing Agent of the company, Private Limited/Limited and confirm that I am qualified to act as Company Secretary/Filing Agent, as per section 10/19 of the Regulations for Company Secretaries and Filing Agents, 2024

Date of appointment:

Name in full:

Address:

Date of birth:

Signature:

Date/Place:

TERMS AND CONDITIONS FOR COMPANY

SECRETARIES AND FILING AGENTS

PART 1

DUTY OF NOTIFICATION AND USE OF PROFESSIONAL NUMBER

Duty to report changes in registered particulars

1. A registered filing agent must notify the Registrar, in such manner as the Registrar may specify, of any change in any particulars furnished in its application for registration as a registered filing agent under regulation for Company Secretaries and Filing Agent, 2024, or any particulars furnished under this paragraph, within 14 days after the date of change.

Notification of registered qualified individual

2. A registered filing agent must, within such time and in such manner as the Registrar may specify —
 - (a) where the registered filing agent is a registered qualified individual and the registered filing agent proposes to carry out any transaction with the

Registrar by himself or herself, notify the Registrar of that fact;

(b) where the registered filing agent is a partnership or firm, in which one or more partners are registered qualified individuals and the registered filing agent proposes to carry out any transaction with the Registrar by one or more of those partners, notify the Registrar of the names and particulars of those partners; and

(c) notify the Registrar of the name and particulars of each registered qualified individual employed, appointed or engaged by the registered filing agent to carry out, or to supervise the carrying out of, any transaction with the Registrar.

3. A registered filing agent must notify the Registrar of any change to any information or particulars notified under sub-paragraph (1) within 14 days after the date of change.

Internal policies, procedures and controls

4. A registered filing agent must develop and implement internal policies, procedures and controls to ensure that —

(a) the registered filing agent’s professional number is not used to carry out any transaction with the Registrar, unless the transaction relates to a customer of the registered filing agent and the transaction is authorised by that customer;

(b) the registered filing agent’s professional number is not used to access the electronic transaction system

(i) for any purpose prohibited by the Registrar; or

(ii) for any illegal purpose;

(c) the registered filing agent’s professional number is not used to carry out any transaction with the Registrar except by, or under the supervision of, a qualified individual;

(d) only fit and proper persons are permitted to use the registered filing agent's professional number to carry out any transaction with the Registrar;

(e) any registered qualified individual employed, engaged or appointed by the registered filing agent complies with this terms and conditions: and

(f) any employee of the registered filing agent who carries out any transaction with the Registrar under the supervision of the registered filing agent (if the registered filing agent is also a registered qualified individual), or under the supervision of a registered qualified individual employed, engaged or appointed by the registered filing agent, complies with

(i) the Registrar's directions;

(ii) the registered filing agent's internal policies, procedures and controls; and

(iii) the instructions of the registered filing agent or the registered qualified individual, or both,

regarding access to, and use of, the electronic transaction system.

Duty to assess, report and remedy, etc.

5. (1) A registered filing agent must —
 - (a) regularly assess; and
 - (b) if the Registrar requires, demonstrate to the Registrar, the effectiveness of the internal policies, procedures and controls referred to in paragraph 3.
- (2) A registered filing agent must report to the Registrar if the registered filing agent is aware or has reasonable grounds to believe that
 - (a) the registered filing agent's professional number has been used to carry out any transaction with the Registrar which does not relate to a customer of the registered filing agent or which is not authorised by that customer;

(b) the registered filing agent's professional number has been used to access the electronic transaction system —

(i) for any purpose prohibited by the Registrar; or

(ii) for any illegal purpose;

(c) the registered filing agent's professional number has been used to carry out any transaction with the Registrar by a person who is not a registered qualified individual or a person supervised by a registered qualified individual;

(d) persons other than fit and proper persons were permitted to use the registered filing agent's professional number to carry out any transaction with the Registrar;

(e) a registered qualified individual employed, engaged or appointed by the registered filing agent

has failed to comply with the terms and conditions set out in the Second Schedule; and

(f) an employee of the registered filing agent who carries out any transaction with the Registrar under the supervision of the registered filing agent (if the registered filing agent is also a registered qualified individual), or under the supervision of a registered qualified individual employed, engaged or appointed by the registered filing agent, has failed to comply with —

- (i) the Registrar's directions;
- (ii) the registered filing agent's internal policies, procedures and controls; and
- (iii) the instructions of the registered filing agent or the registered qualified individual, or both, regarding access to, and use of, the electronic transaction system.

(3) A registered filing agent must comply with such directions of the Registrar as the Registrar considers necessary or desirable to remedy or rectify any of the occurrences referred to in sub-paragraph (2)(a) to (f) and to prevent such occurrences from happening in the future.