

**ROYAL GOVERNMENT OF BHUTAN
MINISTRY OF ECONOMIC AFFAIRS**



REGULATIONS FOR PUBLIC ISSUE OF SHARES, 2015

COMPANY REGISTRY DIVISION

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དཔལ་ལྷན་འབྲུག་གཞུང་ བསྟན་ཀླུས་ལྷན་ཁག།
MINISTRY OF ECONOMIC AFFAIRS
ROYAL GOVERNMENT OF BHUTAN
TASHICHHO DZONG
THIMPHU



བསྟན་ཀླུས་ལྷན་ཁག་གི་
MINISTER

19th January 2015

FORWARD

The Ministry of Economic Affairs is pleased to issue the *Regulations for Public Issue of Shares, 2015*, in accordance with section 138 of the Companies Act of the Kingdom of Bhutan, 2000. The primary objective of this Regulation is to facilitate public issue of shares by the Companies in Bhutan. In recent years the companies in Bhutan have increasingly taken interest in raising funds from the capital market through Initial Public Offering (IPO). To this end, it has become essential to adopt a transparent regulation with clear provisions on eligibility criteria of issuer companies and procedure for issuing equity securities to the general public. This regulation lays down the clear criteria and the procedure for issuance of equity shares to the general public through the automated IPO system of a Stock Exchange.

The regulation will guide both the regulators and the issuer companies to issue shares to the general public in a fair and transparent manner. It is also aimed at protecting the interest of the investors from exploitation.

Finally, with the adoption of this Regulation, funds can be sourced from the capital market by any potential business entities. It will also foster a culture of professional investment and risk taking among the investors. This Regulation will go a long way in achieving a vibrant and sound capital market in the country and in removing some of the barriers to accessing funds by business entities.

Tashi Delek!

(Norbu Wangchuk)

REGULATIONS FOR PUBLIC ISSUE OF SHARES, 2015

These Regulations are issued in pursuance to the power vested with the Ministry of Economic Affairs, under section 138 of the Companies Act, 2000. These regulations shall govern the public issue of shares by all the companies incorporated under the Companies Act of Bhutan:

1. Short Title and Commencement:

- (a) These Regulations shall be called, "REGULATIONS FOR PUBLIC ISSUE OF SHARES, 2015".
- (b) These Regulations shall come into force on 1st day of 1st Month of the year 2015.

2. Definitions:

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

- (1) **Follow-on Public offer** is an issuance of securities subsequent to the company's initial public offering.
- (2) **Issuer** means an issuing Company incorporated under Companies Act of the Kingdom of Bhutan, 2000 and amendment thereto.
- (3) **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 and pension funds.
- (4) **Initial Public Offering (IPO)** means first sale of securities by an issuer company to the general public.
- (5) **Issue Price** means the amount at which an issuer offers its shares to the general Public.
- (6) **Prospectus** means offer document as prescribed in Companies Act of the Kingdom of Bhutan, 2000 and amendment thereto.
- (7) **Person** includes a natural person, registered companies, registered Civil Society Organizations and body of persons recognized as a separate legal entity by law.

3. Public offer of Shares:

- (1) An Issuer shall make Public offer of shares, if it intends to issue its shares to more than fifty persons at a time.
- (2) The Issuer shall have a minimum paid-up capital of Nu.20 million prior to IPO.
- (3) If the Issuer is making public offer pursuant to sub-section (1), the concerned Issuer shall, unless otherwise prescribed by law, set aside the issue, as follows:
 - (a) atleast twenty five percent of its issued capital for subscription by general public, and;
 - (b) atleast ten percent to the institutional investors.
- (4) In case of offer for sale of shares by an issuer, the offer size shall be at least thirty percent of the paid-up capital of issuer.
- (5) When an issuer making public offer pursuant to subsection (1), is other than entities licensed by RMA, it shall offer its shares to the public only upon completion of three years of commercial operation.
- (6) The debt to equity ratio of the issuer shall be maintained at 2:1.
- (7) The issuer shall obtain permission for listing of its shares on the Securities Exchange.
- (8) Any existing partly paid-up equity shares of the issuer have to be fully paid-up or forfeited therein, prior to the proposed issue.
- (9) No private placement of shares shall be made during the IPO by any issuer Company.

4. Public Issue of shares at premium:

An issuer intending to offer its shares to the public may offer its shares at premium, subject to following conditions:

- (1) The issuer shall have track record of profitability, for atleast two of the last three financial years preceding the date of application."

- (2) it has a net worth of at least Nu.10 million in each of the last three financial years preceding the date of application;
- (3) if it has changed its name within the last one year, at least fifty per cent of the revenue for the preceding one year has been earned by it from the activity indicated by the new name.

5. Minimum subscription to qualify for allotment:

- (1) The minimum subscription to be received in an issue shall not be less than than fifteen percent of the issued capital, subscribed by atleast fifty investors.
Provided that the issuer fulfils the minimum thirty percent general public shareholding within a period of three years from the date of IPO.
- (2) In the event of non-receipt of minimum subscription referred to in subsection (1), all application moneys received shall be refunded to the applicants within the period specified in section 37 of the Companies Act, 2000.
- (3) The offer document shall contain adequate disclosures regarding minimum subscription.

6. Oversubscription and Under-subscription:

- (1) The maximum subscription period from the date of opening till the date of closing subscription shall be thirty working days.
- (2) **Oversubscription:**
In the event of oversubscription of the issue, the issuer may provide an option to allot additional shares to ensure that the demand for securities is met in an efficient manner and to stabilize the price volatility immediately after listing. However, the issue in such an event shall be subject to following conditions:
 - (a) The issuer is authorized by the shareholders to exercise the option in such an event,
 - (b) The draft prospectus shall contain all disclosures related to the option, and;

(c) A maximum of fifteen percent of the issue size shall be permitted to be allocated under the arrangement.

(3) **Under-subscription:**

If the issue is not fully subscribed during the subscription period, the issuer may apply for follow on offer after three months from the closing date of application for the initial offer. The subscription money shall be refunded as per section 5 (2) of these regulations.

7. Restrictions on the Promoters:

- (1) The promoter's shareholding in the issuer company shall not be less than twenty percent of the post issue capital after IPO, except in case of an occurrence of an event stipulated in section 6 (2) of these regulations.
- (2) Subject to subsection (1) above, the promoter's shares held before the IPO shall be locked in for a period specified hereunder:
 - (a). Minimum promoter's contribution held before IPO shall be locked in for period of three years from the date of allotment of the public offer.
 - (b). The promoter's contribution in excess of the minimum contribution mentioned in subsection (1) above, shall be locked in for a period of one year from the date of allotment of the public offer.
- (3) Any shares, other than the promoter's contribution issued prior to the IPO, shall be locked in for a period of one year from the date of allotment of public offer, provided nothing contained in these regulation shall apply to equity shares allotted to the employees under an employee stock option or employee stock purchase scheme of the issuer prior to the initial public offer, if the issuer has made full disclosures in the offer document.

8. Allotment procedure and basis of allotment:

- (1) The allotment of shares to the public shall be on proportionate basis and the number of shares allotted shall be rounded off to the nearest integer, subject to minimum allotment being equal to the minimum application size as determined and disclosed by the issuer in the prospectus.
- (2) The Securities Exchange along with the broker appointed by the issuer to the issue shall ensure that the basis of allotment is finalized in a fair and proper manner in accordance with the allotment procedure.

9. Subscription:

Any person desirous of subscribing to the public offer of shares shall subscribe only through a bank account in his own name. The subscribers may also use an alternative mode of payment such as application amount blocked in his/her own bank account till the allotment is made, provided such option is made available by the issuer's bank or the broker. However, such disclosure on the mode of payment shall be made in the prospectus by the issuer.

10. Disclosure Requirements:

- (1) The disclosure requirements in the Prospectus issued for public issue of shares shall be as prescribed by the Companies Act, 2000 and amendments thereto.
- (2) An issuer making follow-on public offer shall also disclose to the public as follows:
 - (a) the issuer is making further public offer in accordance with provisions of these regulations;
 - (b) the specified securities offered in further public offer are of the same class of those already listed on a recognized stock exchange;
 - (c) financial reports of the issuer are available on the website of the stock exchange;
 - (d) there has not been any change in management of the issuer.

11. Approval and Registration of Prospectus:

The Prospectus for Public issue of shares 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 section 34 of the Companies Act of the Kingdom of Bhutan, 2000 and amendment thereto.

12. Follow on Public Offer:

An issuer intending to offer its shares to the public, pursuant to initial public offer and after listing of its securities on a stock exchange, shall fulfill all the conditions of public offer prescribed by these regulations.

13. Documents to be submitted to the Registrar of Companies:

- a) Permission from Securities Exchange for listing the shares on the Exchange
- b) Certified copy of the Articles of Incorporation and the amendments thereto.
- c) The resolution of the Annual General Meeting / Extraordinary General Meeting approving the issue of shares, together with the documents and reports presented to the meeting.
- d) Written approval of the Lhengye Zhungtshog with expressed intention to dispose off its shares, in case of issuer being a state owned Enterprise.
- e) 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 less.
- f) Detailed statement of the equity shares offered.
- g) Submit a Clearance/approval from their respective regulators/regulatory authorities.
- h) Any additional statements required by the PAC.

14. Prospectus Review Fees:

The issuer shall deposit 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 non-refundable review fees to the Royal Monetary Authority.

Date:

The Registrar of Companies,
Company Registry Division,
Department of Industry,
Ministry of Economic Affairs,
Thimphu, Bhutan

Sub: Application for Initial Public Offer of shares

Sir,

We are desirous to issue equity shares amounting to Nu..... **(words)** to the general public. We confirm and declare that our application is in full compliance with the Regulations on Public Issue of Shares, 2015 issued by the Ministry of Economic Affairs.

We further confirm and declare that the company is a public company 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 your office may reasonably require in relation to the application.

This application is made by the undersigned authorized person of (.....Issuer Company's Name.....) pursuant to the authority granted to by a written resolution of our Annual General Meeting/Extraordinary General Meeting passed on (.....Date.....).

Faithfully yours,
For and on behalf of *issuer (Company Name)*

(CEO/Director)

Name:
Address:
Tel No:
Fax No.:
Email:

Enclosed: Relevant documents as prescribed in section 13 of these regulations & Draft Prospectus.

