

**Royal Government of
Bhutan**

THIMPHU: BHUTAN

**Corporate Governance
and
Corporate Social Responsibility
Code of Bhutan, 2022**

Version 2.0

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Corporate Governance and Corporate Social Responsibility Code of Bhutan, 2022

In exercise of the powers vested by Sections 163 to 168, read with section 410(b) of the Companies Act of Bhutan 2016 and amendment thereto (the Companies Act hereafter); the Regulatory Authority hereby adopts the Corporate Governance and Corporate Social Responsibility Code for Companies in Bhutan, to provide for the rules and procedures to be enforced as follows:

PART I

PRELIMINARY

Title and commencement

1. This Code shall:
 - (1) Be called the Corporate Governance and Corporate Social Responsibility Code of Bhutan, 2022; and
 - (2) Come into force with effect from 2022.

Application of the Code

2. This Code shall:
 - (1) Govern the regulation and administration of corporate governance and corporate social responsibility of the companies; and
 - (2) Apply to all companies which are incorporated, registered and regulated by the Companies Act and other relevant laws of Bhutan, with registered offices in the Kingdom, other than licensed financial institutions regulated by the Royal Monetary Authority.
3. Notwithstanding anything contained in Section 2 of this Code, the relevant provisions of the Chapters of this Code shall be categorised as Group A and Group B. The Group A shall consist of General Provisions and shall apply to all companies. The Group B shall consist of Specific Provisions and shall apply only to the listed companies, unlisted large enterprises employing at least 50 people and the State-Owned-Enterprises as identified in the relevant Chapter of this Code. The Specific Provisions shall not apply to the unlisted small and medium companies employing less than 50 people but such companies may comply with the specific provisions of the Code on a voluntary basis, and the progressive implementation transition period shall be notified by the Regulatory Authority.
4. Where the provisions are not categorised under Group A or Group B of this Code, it shall be applicable to both Group A and Group B of this Code.

Objective

5. The objective of the Code is to define the rules on the corporate governance and corporate social responsibility for all companies incorporated in the Kingdom of Bhutan.

Repeal

6. This Code shall repeal:
 - (1) Corporate Governance regulations applicable to the listed companies and provisions within the Chapter 5.13 of the Rules Governing the Official Listing of Securities;
 - (2) Rules and Procedures for election of Directors as well as the regulation on Corporate Governance applicable to the State Owned Enterprises; and
 - (3) Rules and Procedures for Election of Directors 2004.

Regulatory Authority

7. The Regulatory Authority shall monitor and enforce the effective implementation of the provisions of this Code in accordance with provisions of the Companies Act.

Compliance

8. The Board Directors of the Companies shall collectively ensure compliance to the provisions of this Code and submit compliance status with substantive and transparent explanation to the Regulatory Authority in accordance with the provisions of the Companies Act.
9. During the General Meeting, the Board shall provide a report on compliance to the provisions of the Code and submit a transparent explanation for any failure to implement provisions.

PART II

CORPORATE GOVERNANCE

CHAPTER I

SHAREHOLDERS: RIGHTS AND OBLIGATIONS

Group A - General Provisions

10. Sections 11 to 62 of Group A of this Chapter shall be referred to as the General provisions and shall apply to all companies.

General Rights

11. The shareholders shall enjoy rights stipulated by the Companies Act of Bhutan, 2016, and delegated legislation adopted thereunder, company's Articles of Incorporation and other regulations governing the companies in the Kingdom.
12. The corporate governance structure of a company shall ensure fair treatment toward all shareholders, especially minority shareholders.
13. The shareholders shall enjoy equal rights and bear the corresponding duties based on their shareholding
14. The shareholders shall have the right to know their rights and responsibilities through a constant educational and communication process ensured by the company management.

15. The shareholders shall be provided regular, effective and fair communication through the General Meetings or through any other means.
16. The shareholders shall have their statutory and general rights protected at all times by the Directors of the company.
17. The shareholders through their representative management shall establish an appropriate governance framework for the company, which shall preferably be contained in the company's Articles of Incorporation.
18. The shareholders shall be responsible for appointing Directors and approving the terms and conditions of their Directorships.
19. The Shareholders shall have the ultimate right to approve the major transactions or corporate actions including but not limited to:
 - (1) Mergers and acquisitions;
 - (2) Winding-up of a company;
 - (3) Sale of substantial assets;
 - (4) Major share disposal;
 - (5) Assets restructure; and
 - (6) Issue of Bonus and rights shares

Shareholder's Voting Right

20. The shareholders shall exercise their rights before or during the General Meeting and, in this respect, vote to the extent provided for in the Companies Act.
21. The voting rights and procedures shall be clearly explained to shareholders by the management of the company.
22. Subject to the limitation imposed by law, the shareholders may vote:
 - (1) By attending the General Meetings in person;
 - (2) Appoint a proxy to vote on their behalf; or
 - (3) In absentia, using the electronic means or email voting.
23. Each share shall have one vote and the voting rights shall be exercised in accordance with the types of shares identified in the Articles of Incorporation.

Controlling and Substantial Shareholders Obligations

24. The controlling and substantial shareholders owe a duty of good faith toward the company and other shareholders.
25. The controlling and substantial shareholders shall not violate the company or other shareholders' rights and interests, by asset or business restructuring, or by taking advantage of their privileged position to gain additional benefits.
26. The important decisions of a company shall be made through a shareholders' General Meeting or for delegated matters through Board's meeting in accordance with the Companies Act or provisions of this Code.
27. The controlling or substantial shareholder shall not directly interfere with the company's decisions or business activities conducted in accordance with the laws, nor shall they impair the company or other shareholders' rights and interests.....
28. The controlling or substantial shareholders shall have the right to nominate their candidates for Directors in accordance with the procedures provided for by the Companies Act or the rules defined in this Code.
29. The candidate nominated according to this Code shall possess certain relevant professional knowledge and the capability to make decisions or supervise.
30. The resolutions passed by the shareholders' General Meetings, electing personnel or the Board's resolutions appointing additional directors as an interim member shall not be subjected to approval of the controlling or substantial shareholders.
31. The controlling or substantial shareholders shall not appoint senior management personnel by circumventing the shareholders' General Meetings or the Board.

Conduct of General Meeting

32. Each shareholder may:

- (1) Participate in the General Meeting;
- (2) to take the floor on matters on the agenda; and
- (3) Submit materially relevant questions and proposals.

33. The General Meetings shall be the main means of communication between the shareholders and the Board.
34. At least once a year, the shareholders' Annual General Meeting shall be convened by the Management giving details of the agenda.
35. The venue of a General Meeting of shareholders shall be carefully chosen in such a way as to make it possible and affordable (in terms of distance and cost) for the majority of shareholders to attend and vote.
36. Notices of General Meeting shall be sent at least 21 days before the meeting and such notice shall include information on the agenda items and other information which will enable the shareholders to vote properly on any issue.
37. Information shall be made available to all shareholders at the same time in such a manner as to ensure that neither group enjoys preferential treatment.
38. The General Meeting agenda may be amended by the quorum of shareholders.
39. A quorum of shareholders is entitled to demand the convening of a General Meeting.
40. The quorum for a General Meeting of shareholders shall be as defined by applying the respective Articles in the Companies Act and associated laws.
41. Invitation to the General Meeting shall take the form of a formal postal invitation, or email.
42. The outcome and proceedings of General Meetings shall be recorded and be verifiable, and such records shall be maintained in accordance with Section 195 of the Companies Act.

43. The convening of the meeting, as well as the reports and documents, including the Annual Report, required by law for the General Meeting shall be made easily accessible to the shareholders of the company.
44. The chairperson of the meeting shall provide for the expedient running of the General Meeting, and shall be guided by the fact that an ordinary general meeting is completed within reasonable time in a day.
45. Notwithstanding the General Provisions and depending on the company type, the Specific Provisions provided in the Section B to this Chapter shall apply to the quorum of a General Meeting.

General Meeting: Rights and Responsibilities

46. The Board shall submit to the General Meeting:
 - (1) the Annual Financial Statements;
 - (2) the Board's (executive management) Report;
 - (3) the Consolidated Financial Statements and the Group Management Report, if available.
47. The General Meeting shall resolve on the appropriation of net income and the discharge of the functions of the executive management and of the Board.
48. During the General Meeting, the shareholders shall elect representatives to the Board and the auditors following the rules defined in this Code.
49. The General Meeting shall resolve on essential corporate measures such as, in particular, inter-company agreements and transformations, the issuing of new shares and debt securities and the authorization to purchase own shares.
50. The General Meeting shall resolve on the authorization of the remuneration system for the members of the Board and the executive management of the company according to the rules defined in this Code.

51. Every Director shall attend General Meetings, and the external auditors shall be present to address shareholders' queries about the conduct of audit and the preparation and content of the auditors' report.
52. Shareholders may question and challenge the directors during the General Meeting.
53. Directors' attendance at the General Meetings, held during the financial year shall be disclosed in the company's annual report.
54. **A public** listed company shall publish signed minutes of General Meetings on its corporate website as soon as practicable. The minutes shall contain a record of substantial and relevant comments or queries from shareholders relating to the agenda of the general meeting, and responses from the Board and the Executive management.

General Meeting participation

55. The company shall facilitate the personal exercising of shareholders' voting rights and the use of proxies.
56. The Board shall arrange for the appointment of a representative to exercise shareholders' voting rights in accordance with instructions. The representative shall make himself or herself reachable during the General Meeting.
57. The company shall make it possible for shareholders to follow the General Meeting using modern communication media including the internet.

Engagement with shareholders

58. The company shall have in place an investor relations policy which allows for an ongoing exchange of views so as to actively engage and promote regular, effective and fair communication with shareholders.
59. The company's investor relations policy shall provide the mechanism through which shareholders may contact the company with questions and through which the company may respond to such questions.

Share

60. If new shares are issued, all shareholders, especially the minority ones, shall have pre-emptive rights to purchase new shares corresponding to their share of the equity capital.
61. In case of merger or acquisition, the shareholders whose shares were bought, shall have the right to request a fair market valuation prior to the deal settlement.
62. When a shareholder disagrees with companies' actions, he or she may request a buyout and exercise appraisal rights through appraising the shares, and being paid the fair market value for them.

Group B - Specific Provisions for listed companies

63. Sections 64 to 74 of Group B of this Chapter shall be referred to as the Specific Provisions and shall apply to listed companies, State Owned Enterprises and large unlisted companies employing at least 50 people.

Shareholders Voting Rights for Listed Companies

64. Regarding the listed companies, in establishing the voting procedures and rights, it's Articles of Incorporation and the provision specified under Chapter 3, Section 23 of the Companies Act shall guide every listed company.

Controlling and Substantial Shareholders Obligations for Listed Companies

65. The controlling and substantial shareholders of a listed company shall comply with the laws and regulations while exercising their rights as investors.
66. A listed company shall be separated from its substantial shareholders in such aspects as personnel, assets and financial affairs and shall be independent in institution and business, and shall practice independent business accounting and shall independently bear risks and obligations.

Independence of company from substantial shareholders within Listed Companies

67. The personnel of a listed company shall be independent from the substantial shareholders.
68. The management, employees and secretary of the Board of the listed company shall not take posts other than as a Director in a substantial shareholder's entities.
69. If a member of a substantial shareholder's executive management concurrently holds the position of Director of the listed company, such member shall ensure adequate time and energy to perform the work for the listed company.

Investments of substantial shareholders within Listed Companies

70. The listed company shall independently register such assets independently, set up accounts for such assets, and independently carry out business accounting and management of such assets. The substantial shareholders shall not misappropriate or control such assets or interfere with the listed company's management of such assets.
71. The assets invested by a substantial shareholder in a listed company shall be independent, complete and have a clear indication of ownership.
72. Where substantial shareholders invest non-cash assets into a listed company, ownership registration procedures shall be completed and explicit boundaries for such assets shall be clarified.

Quorum of General Meeting for Listed Companies

73. The quorum for the listed companies shall be as prescribed in the Articles of Incorporation of the respective companies subject to the minimum quorum of five members present in person or represented through the appointment of proxy.

CHAPTER II

BOARD MATTERS

Group A - General Provisions

74. Sections 75 to 185 of Group A of this Chapter shall be referred to as the General Provisions and shall apply to all companies.

Board's conduct of affairs

75. In accordance with the provision of the Companies Act, every company shall establish an effective Board, which shall be collectively responsible with the Chief Executive Officer for the long-term success of the company.

76. Every Board shall have in place appropriate structure besides these guidelines to ensure that the Board functions independently of the management.

77. The Board shall appoint its Chairperson who is not a member of the management with the responsibility to ensure that the Board discharges its task effectively.

78. The Board shall promote the interest of the company and all its shareholders.

Appointment of Board

79. Each company shall have an explicit procedure for the appointment of new directors to the Board.

80. Appointments to the Board may be made after careful examination against objective criteria.

81. The Directors shall be appointed by the General Meeting of the shareholders.

82. Except the Director of the minority shareholders, the Board shall make proposals to the General Meeting for the appointment or re-appointment of Board Members.

83. The Board shall ensure that there is a succession planning for Board Members in place.

84. The company shall notify all the shareholders on listing the names of directors retiring on rotation and the vacancy thereof at least one month before the conduct of the Annual General Meeting.
85. Every shareholder listed on the register of shareholders at the time of the filing the nomination shall be entitled to nominate and sign the nomination of a candidate for the post of a director at the general meeting. Where there is a joint holder of a share, the shareholder whose name appears first in the register shall sign the nomination.
86. The register of shareholders shall be made available for inspection to the shareholders at the Registered Office of the Company or any other place as approved by the Registrar of Companies during the ordinary hours of business.
87. Proxy shareholders shall not be eligible to nominate a candidate.
88. The rights of the proxy shareholder shall be limited to voting by poll only.
89. The Proxy shareholders shall be allowed to attend and vote in the General Meeting, but a proxy so appointed shall not have any right to speak in the meeting, and shall not be entitled to vote except on a poll.

Re-appointment

90. Director who wishes for re-election or re-appointment shall submit himself or herself for re-election or re-appointment in accordance with Chapter 7, Section 138 of the Companies Act.
91. While re-appointing the members, a company shall give attendance records of the concerned Directors.
92. If the Director has been absent with or without leave for 50% or more during the meetings, the Director shall not be eligible for re-election or reappointment.

Nomination

93. The nominations shall be filed as prescribed in Annexure I of this Code. The company shall accept only original nominations and faxed nominations if only duly attested by the Registrar of Companies.
94. Nomination shall be filed and shall be received by the company 7 days before the General Meeting.
95. Nomination forms and consents shall be addressed to the company including the contact person and the address.
96. Any postal delays in receiving the nomination and forms shall not be the responsibility of the company.
97. A candidate so nominated shall send his or her confirmation as prescribed in Annexure II of this Code.

General Rules on Voting System

98. The companies shall apply the system of voting as defined in the Companies Act and this Code.
99. Notwithstanding the General Provisions, depending on the company type the Specific Provisions provided in Group B of this Chapter shall apply to the voting system.
100. The voting shall be restricted to the candidates so nominated only.
101. Voting shall be conducted by the secret ballot.
102. One share shall represent one vote.
103. Every shareholder or proxy shareholder shall fill in the Shareholder or proxy shareholder information Form - and Ballot form and ensure that the information given is true and correct.
104. Information shall be clearly written and contain correct details as required by the ballot papers.

105. Incorrect, false and misleading ballot papers shall be deemed rejected for voting.
106. Shareholder or proxy shareholders may take the assistance of the company's election members for any assistance or clarifications.
107. Once cast, the votes shall not be allowed to be recast, modified or otherwise.
108. Every shareholder or proxy shareholder may cast all votes for one candidate or cast votes proportionately or disproportionately for one or several candidates.
109. Shareholder or proxy shareholder may abstain from voting.
110. Votes shall be cast for all the candidates at the same time.
111. For the shareholders voting for directors, the votes shall be allowed to be cumulative.
112. Votes cast shall not exceed the total number of shares held by the shareholder or the proxy shareholder.
113. No duplication of votes shall be allowed.
114. If the number of votes cast exceeds the total number of shares held by the shareholder or the proxy shareholder, the votes cast for one or more candidates shall be reduced proportionately.
115. If the votes cast are less than the actual number of shares held, the balance votes that were not cast shall not be allowed for voting.
116. After the casting of votes, the candidate obtaining the highest votes in descending order shall be elected as directors.
117. All candidates with highest votes irrespective of a tie shall be elected as directors followed by the next highest candidate subject to availability or vacancy.

118. Voting shall be conducted again for a tie at the last vacancy. Every shareholder or proxy shareholder present and entitled to vote shall re-cast his or her votes for the candidates with the tie.

Proxy Rules

119. The Proxy Form shall be signed by the shareholder as per Annexure III of this Code.

120. The shareholders represented by proxy shall have filed in as per Annexure III of this Code. Form of Proxy shall be submitted not less than 48 hours prior to commencement of the meeting for voting.

121. Nomination of directors and Form of Proxy if signed on behalf of the shareholders by another person shall be accompanied by the Power of Attorney or Authorization of the shareholder.

122. The original Proxy or Nomination Form shall be submitted before commencement of the meeting.

Eligibility of Directorship

123. No company shall appoint or continue the appointment of any person as a director as per Section 141 of the Companies Act.

124. Every person shall be eligible for election as a director at the general meeting if:

- (1) there is a vacancy of the post;
- (2) the person does not contravene Section 141 of the Companies Act. ;
- (3) the person is nominated by the Board or the shareholder(s) through a written nomination signed by at least 5 shareholders or the Government;
- (4) the person consents to the nomination in writing; and
- (5) The nomination and consent is received by the company not less than 7 days before the General Meeting.
- (6) The person nominated by the board or shareholders is a bonafide citizen of Bhutan, except foreign investors or their nominee in the board of FDI company.

125. Directors who serve longest tenure in office shall retire first. For those persons appointed on the same day, retirement on rotation shall be determined either by mutual agreement, failing which retirement shall be conducted by lot.

Independence of Directors

126. The Board of each company shall have an appropriate level of independence and diversity of thought and background in its composition to enable it to make decisions in the best interests of the company.

127. Notwithstanding the General Provisions, depending on the company type, the Specific Provisions provided in the Group B of this Chapter shall apply to the Independence of Directors.

Composition of the Board

128. Pursuant to the provisions of Companies Act, each company shall establish the Board, where size and composition shall reflect the scale and complexity of the company's activities.

129. The Board shall be proportional in a size and represent the balance of skills, experience, and knowledge appropriate for the requirements of the business.

130. The Chief Executive Officer shall not hold the position of the Chairperson of the Company.

131. Non-executive directors and/or independent directors, led by the independent Chairperson or other independent director as appropriate, shall meet regularly without the presence of Executive management. The Chairperson of such meetings shall provide feedback to the Board and/or Chairperson as appropriate.

132. The non-executive Directors shall play a material role in the decision making and should become active participants in the Board and should have defined responsibilities within the Board and other committees.

133. The composition of the Board shall respect the aspects of diversity such as gender and age, so as to avoid groupthink and foster constructive debate.
134. The Board's diversity policy and progress made towards implementing the Board diversity policy, including objectives, shall be disclosed in the company's annual report.
135. A maximum of two executive directors shall be permissible on the Board.
136. The Board of Public companies shall meet at least four times in a year with a maximum gap of three months between any two consecutive meetings.

Fit & Proper Requirements

137. A person may be appointed or re-appointed as the member of the Board, Chief Executive Officer, if he or she meets the requirements of Fit and Proper including:
- (1) honesty, integrity and reputation;
 - (2) competence and capability of business performance;
 - (3) financial soundness; and
 - (4) declaration of business interests.
138. The Fit and Proper requirements shall be applicable both pre and post appointment.
139. Any formally proven administrative and/or criminal liability as a result of misconduct during his or her tenure as a director, which is an action against the interest of the company, shall lead to disqualification of the director and result in a dismissal from the directorship position.

Roles of the Board

140. The Board shall ensure the prosperity of the company by collectively directing the company's affairs, while also meeting the appropriate interests of its shareholders and stakeholders. In addition to business and financial issues, Board shall deal with challenges and issues relating to Corporate Governance, Corporate Social Responsibility and Corporate Ethics.

Set the Vision and Strategy

141. The Board shall determine the company's vision to steer and set the pace for its current operation and future development.

142. The Board shall pursue sustainable development of the company, by setting the company's strategy, putting in place effective, responsible and ethical leadership regarding the environmental, cultural and social aspects as well as monitoring the company's performance.

Promote diversity and inclusion

143. In order to effectively pursue the sustainable company's development, the Board shall define an inclusive approach that balances the legitimate interests and expectations of shareholders and other stakeholders.

144. The Board shall adopt an inclusive approach by considering and balancing the needs and interests of material stakeholders, as part of its overall responsibility to ensure that the best interests of the company are served.

145. The company shall have arrangements in place to identify and engage with its material stakeholder groups and to manage its relationships with such groups.

146. The company shall have written strategy and key areas of focus in relation to the management of stakeholder relationships during the reporting period in its annual report.

147. The company shall maintain a current corporate website to communicate and engage with stakeholders.

Stewardship of the Company

148. The Board of the company shall explicitly assume the role of stewardship and shall oversee operation of the business and supervising management.

149. The Board shall establish a sound risk management system and internal control which is effectively implemented at all levels within the company.

Set Business Goals

150. The Board shall determine business goals and strategies as well as the plans that support the corporate strategy and ensure that the company's organizational structure and capability are appropriate for implementing the chosen strategies.
151. The Board shall approve the company's business and financial policy in order to meet the Executive management's business objectives and to maximise shareholders' value. While doing so the Board shall evaluate present and future opportunities, threats and risks in the external environment and current and future strengths, weaknesses and risks relating to the company.
152. The Board shall review the strategies and policies at least on an annual basis and have access to the books of the company.

Appointment of executive management

153. The Board is responsible for the appointment, dismissal, training and monitoring of the Chief Executive Officer and other executive Directors of the company taking into account the need for a balanced executive team.
154. The Board shall support the executive management in the fulfilment of their duties and should be prepared to constructively challenge the executive management, whenever appropriate.
155. The Board shall oversee management succession planning related to the replacement of the current senior management team and ensure that processes are in place to recruit senior managers with the highest standard of integrity and competence.
156. There shall be a clear division of responsibilities between the leadership of the Board and executive management, and no one individual shall have unfettered powers of decision-making.
157. The Board shall establish and set out in writing the division of responsibilities between the Chairperson and the Chief Executive Officer.

158. The Board shall have a lead independent director to provide leadership in situations where the Chairperson is conflicted, and especially when the Chairperson is not independent. The lead independent director is available to shareholders where they have concerns and for which contact through the normal channels of communication with the Chairperson or executive management are inappropriate or inadequate.

159. The Board shall delegate certain authority to the executive management as specified in the articles of incorporation or internal regulations to manage daily affairs of the company.

160. The Board shall approve the Terms of Reference or internal regulations of the company regarding routine activities specifying the responsibilities and the authorities of the executive management.

Set Performance Monitoring

161. The Board shall review the executive management's performance and the realisation of the company's strategic objectives annually against agreed performance measures and targets.

162. The Board shall undertake a formal annual self-assessment of its effectiveness as a whole, and that of each of its Board committees and individual directors.

Determine Remuneration Standards

163. The Board shall determine the company's remuneration policy for non-executive board members and executives as well as for the executive management, taking into account the overall remuneration framework of the company.

Determine the Dividend Standards

164. The Board shall approve a dividend policy and communicate it to shareholders.

Accountability of the Board

165. The Board shall be collectively accountable for the governance of the company.

166. The non-executive, executive directors and the Chief Executive Officer shall be individually accountable for his or her actions as a member of the Board and executive management.
167. The non-executive and executive director shall perform his or her duties in an informed and prudent manner with respect to the company and shall act in good faith in the interest of the company. He or she shall avoid acting in his or her own interest, or in the interest of another individual or group, or at the expense of the company, and its stakeholders or shareholders or other beneficiaries.
168. The director shall be liable for all actions related to the company management within the scope of his or her mandate and tenure with exception for the actions perceived as the reasonable business decisions.
169. Subject to the provision of this Code, the director holds personal and financial responsibility for engaging the company in prejudicial and harmful related party transactions.
170. A director shall be liable for any infringements of the shareholder rights.

Executive management

171. The executive management shall comprise of the executive directors being members of the Board or not and is led by the Chief Executive Officer.
172. The executive management shall be responsible for independently managing the company in the interest of the company, thus taking into account the interests of the shareholders, its employees and other stakeholders, with the objective of sustainable creation of value.
173. The executive management shall prepare the companies' strategy and submit it to the Board for the approval, and ensure its implementation.
174. The executive management shall ensure that all provisions of law and the company's internal policies are complied with and

works to achieve their compliance by all companies within the same group. .

175. The executive management shall ensure an appropriate risk management and risk controlling in the company.

176. When filling managerial positions in the company, the executive management shall take diversity into consideration and, in particular, aim for an appropriate consideration of women.

Special liability of the executive management

177. The executive management shall comply with the rules of proper corporate management. If the management violates the due care and diligence of a prudent and conscientious Chief Executive Officer or executive management, they shall be liable to the company for damages.

178. The management shall not be liable if the member of executive management acted reasonably for the best interest of the company, based on the appropriate information.

Committees

179. Depending on the type of a company, its size and market position as well as the number of its members, the Board shall form committees with sufficient expertise applying the specific provisions provided in the Group B of this Chapter.

Cooperation between Board and executive management

180. The Board and the executive management shall remain within their respective remits and interact constructively to the benefit of the company.

181. The executive management shall coordinate the company's strategic approach with the Board and discuss the current state of strategy implementation with the Board at regular intervals.

182. The approval of the Board is always necessary for any transactions which fundamentally change the asset, financial or earnings situations of the company.

183. The Chief Executive Officer and executive management shall provide sufficient information to the Board.

184. There shall be an open discussion between the executive management and Board as well as among the members within the executive management and the Board and confidentiality.

185. All Board members shall ensure that the staff members also observe the confidentiality accordingly.

Group B - Specific Provisions

186. Sections 187 to 213 of Group B of this Chapter shall be referred to as the Specific Provisions and shall apply to listed companies and State-Owned-Enterprises.

Specific Rules on Appointment of Board of Listed Companies

187. For each listed company, if the Article of Incorporation does not require the retirement of all the directors, 1/3 shall retire on rotation at every General Meeting.

188. For the listed companies, the nomination of the Director representing the minority shareholders shall be proposed by the minority shareholders of the company.

189. With regards to the listed companies, the subscribers of the Articles of Incorporation who are individuals shall be deemed to be the Directors of the company, until such Directors are duly appointed in the General Meeting.

Specific Rules on Voting System for Listed Companies

190. The listed companies shall apply following system of voting:

- (1) If the number of candidates are equal or lesser than the number of vacancies, every candidate shall receive more votes approving his or her election as a director; and
- (2) If the number of candidates exceeds the number of vacancies, the Chairperson shall call for a poll and every shareholder may vote in favour of the appointment of as many candidates as they approve of. The candidates with the most votes in descending order will be elected until all vacancies are fulfilled.

Specific Rules on Voting System for State-Owned Enterprises

191. The State Owned Enterprises shall be exempt from voting.
192. **The nomination letter** of the Government shall be read out in the General Meeting to be duly endorsed and minutes recorded.
193. The Government's participation in voting for election of directors, shall be conducted as per this Code.
194. The nomination of government's candidates as directors in fully owned government companies, shall be exempt from voting.
195. The public shareholders' nomination shall be voted in accordance with this Code.

Election Committee

196. The Board of listed companies and the State Owned Enterprise with control ownership stake with minority shareholders shall establish Election Committee in order to ensure that the election of director is conducted in an equitable, transparent and accountable manner.
197. The Election Committee shall consist of:
- (1) Election Officer, who may be appointed from within or outside the Company, who shall be ex officio Chairperson of the Committee;
 - (2) Verifying Officer, who shall be a Company Secretary or an employee of the Company;
 - (3) Examining Officer, who shall be an employee of the Company and act as Record keeper; and
 - (4) Two or more shareholders.
198. The decision of the committee shall be final and binding.

Independent Directors of Listed Companies and State Owned Enterprises

199. In accordance with the provisions of the Companies Act and regulations adopted thereunder, the listed companies and the State Owned Enterprises shall:
- (1) Appoint the Independent Directors as stipulated in the Section 134 of Companies Act and this Code;
 - (2) Put in place guidelines for specifying criteria of Independent Directors, over and above the qualification prescribed in section 135 of Companies Act, such as experience and expertise, foresights, managerial quality and ability to read and understand financial statements. Such guidelines shall be accepted by the Board and endorsed by the shareholder; and
 - (3) Submit a copy of fit and proper declaration certificate duly signed by the Independent Directors to the RSEB and to the Registrar of Companies at the time of their appointment.
200. Independent Directors shall be nominated by the Board and their appointment shall be endorsed by the shareholders.
201. For the listed companies and the State Owned Enterprises, the tenure for any Independent Director shall not exceed for a period more than 6 years and the maximum number of listed companies in which an individual Director may serve as an Independent Director shall be limited to 3 companies provided the individual doesn't hold Directorship in other non-listed companies.
202. The company shall give the option and opportunity to the independent Director to interact with the management periodically including access to additional information for the purpose of carrying out study and analyse various aspects of the company to recommend reforms. .

Composition of the Board of Listed Companies and State Owned Enterprises

203. Every listed company shall have a minimum of three Directors and the Board shall be composed of a majority of non-executive Directors.

204. In a Board of listed company, at least two-third of the directors shall be independent and:
- (1) The independent directors shall make up a majority of the Board where the Chairperson is not independent; and
 - (2) The independent directors shall be nominated by the Board and their appointment shall be endorsed by the shareholders.
205. If an Independent Director resigns or is removed from the office, the listed company shall notify the RSEB and Registrar of Companies of the reasons.
206. For the listed companies and State Owned Enterprises, all directors shall receive training on joining the Board. The company shall set up a program to ensure a regular update and refresh director's skills and knowledge.

Committees of Listed Companies and State Owned Enterprises

207. The listed companies and the State-Owned-Enterprises, the unlisted companies with more than 50 employees shall constitute Audit Committee, Nomination Committee and Remuneration Committee.
208. **The Audit Committee** shall be constituted by the Board of which composition, organisation, and responsibilities are defined in this Code.
209. The Board shall constitute **a Nomination Committee** to make recommendations to the Board on relevant matters relating to:
- (1) The review of succession plans for directors, in particular the appointment and/or replacement of the Chairperson, the Chief Executive Officer and key management personnel;
 - (2) The process and criteria for evaluation of the performance of the Board, its Board committees and directors;
 - (3) The review of training and professional development programmes for the Board and its directors; and
 - (4) The appointment and re-appointment of directors including alternate directors, if any.
210. The Nomination Committee shall comprise of at least three directors, the majority of whom, including the Nomination

Committee Chairperson, are independent. The lead independent director, if any, shall be is a member of the Nomination Committee, *ex officio*.

211. **The Remuneration Committee** shall be constituted by the Board of which composition, organisation, and responsibilities are defined in this Code.

212. Each respective committee chairperson shall report regularly to the Board on the work of the committees.

213. The Board may form a **Risk Management Committee** that shall manage the risks resulting from the companies' business activity and nature with a special emphasis on the risks related to the environment, cultural and religious protection, labour conditions and related laws..

CHAPTER III DISCLOSURE, TRANSPARENCY AND COMMUNICATION

Group A - General Provisions

214. Sections 215 to 220 of Group A of this Chapter shall be referred to as the General Provisions and shall apply to all companies.

215. The company shall treat all shareholders in respect of information equally.

216. All new facts shall be disclosed to the shareholders by the company without delay.

217. The Board shall ensure that the communication policies of the company both to and from shareholders and relevant stakeholders are effective.
218. The Board shall approve all the major communications, including annual reports and financial documents.
219. The Board shall ensure that the company complies with timely and continuous disclosure requirements as prescribed by the legislations and delegated legislations.
220. Besides the statutory obligation to report and disclose dealings in shares of the company without delay, the ownership of shares in the company or related financial instruments by executive management and Board members shall be reported, if these directly or indirectly, exceed 10 % of the shares issued by the company. If the entire holdings of all members of the executive management and Board exceed 10% of the shares issued by the company, these shall be reported separately for the Executive management and Board in the annual Corporate Governance Report.

Group B - Specific Provisions

221. Sections 222 to 226 of Group B of this Chapter shall be referred to as the Specific Provisions and shall apply to listed companies, State-Owned Enterprises and large unlisted companies employing at least 50 people.
222. For the listed companies and State-Owned-Enterprises, a part of regular information policy, the dates of essential regular publications including the Annual Report, interim financial reports, and date of the General Meeting shall be published sufficiently in advance in a "compliance calendar".
223. Only listed companies shall inform the RSEB and the Registrar of Companies on the key activities and decisions, in particularly but not limited to:

- (1) details of the declaration, recommendation or payment of a dividend that is expected to be decided or at which any announcement of the profits or losses for any year, half-year or other period is to be approved for publication or any other major event such as issue of new shares, Rights Issue and bonus, that is likely to have an influence on the price of the securities or would affect an investors decision to purchase or sale of the securities is to be decided upon, at least three clear business days in advance of the date fixed for such Board meeting; and
- (2) on the following information, after approval by or on behalf of the Board of within 24 hours :
 - (a) any decision to declare, recommend or pay any dividend or to make any other distribution on its listed securities and the rate and amount thereof;
 - (b) any decision not to declare, recommend or pay any dividend which would otherwise have been expected to have been declared, recommended or paid in due course;
 - (c) any preliminary announcement of profits or losses for any year, half-year or other period;
 - (d) any proposed change in the capital structure, including any redemption of its listed securities; and
 - (e) any decision to change the general character or nature of the business of the listed company and its subsidiaries, if any.

224. Every listed company shall ensure that it issues an annual report that complies with the provisions of the Companies Act and regulations thereto. The report shall contain a corporate governance section where they shall disclose whether they have complied with the provisions specified above and if not, the company shall explain why the compliance could not be achieved.

225. The listed companies and State Owned Enterprises shall ensure that all current or potential conflicts of interests and interested third party transactions by the Directors or the management are disclosed to the RSEB, Registrar of Companies and the shareholder of the State Owned

Enterprises, and in the Annual Report.

226. The listed companies and State Owned Enterprises shall make public disclosure of any material information within 24 hours of its occurrence first to the RSEB or the shareholder of the State Owned Enterprises and at the same time to the press or the news media. Material information is defined as information reasonably expected to have a material effect on the price, value or market activity of any shares or on the decision of an investor that will affect the choice of action.

CHAPTER IV REMUNERATION

Group A - General Provisions

227. Sections 228 to 238 of Group A of this Chapter shall be referred to as the General Provisions and shall apply to all companies.
228. The company shall be transparent on its remuneration policies, level and mix of remuneration, the procedure for setting remuneration, and the relationships between remuneration, performance and value creation.
229. The company shall ensure that the level and composition of remuneration of the Directors are reasonable and sufficient to attract, retain and motivate Directors of the quality required to fulfil their roles and responsibilities effectively.
230. The company shall also ensure that the compensation of Directors realistically reflects the responsibilities and risk involved in carrying out the responsibilities as an effective Director.
231. The Board shall have a formal and transparent procedure for developing remuneration policies for the members of the Board, committees and Chief Executive Officer, and for fixing the remuneration packages of individual directors and key management personnel.
232. No director shall be involved in deciding his or her own remuneration.
233. The remuneration policy shall be approved by the shareholders during the General Meeting.
234. The company shall disclose in its annual report the policy and criteria for setting remuneration, as well as names, amounts and breakdown of remuneration of each individual director and the Chief Executive Officer.

235. The remuneration of the Board and the executive management members shall be approved by the shareholders during the General Meeting.
236. The company shall disclose the engagement of any remuneration consultants and their independence in the company's annual report.
237. In order to ensure better effort from the non-executive Directors other than the Independent Directors, the company may pay compensation over and above the sitting fees for the use of the professional inputs. Such commissions could be in the form of monetary remuneration (profit based bonus) or through stock options and any such proposals should be approved by the shareholders.
238. In order to attract, retain and motivate the independent directors of the quality to contribute effectively to the company, they may be paid adequate sitting fees depending upon their contribution to the company. However, the compensation to independent directors shall not be paid in the form of stock option or through profit based compensation as their independence may be compromised.

Group B - Specific Provisions

239. Sections 240 to 242 of Group B of this Chapter shall be referred to as the Specific Provisions and shall apply to listed companies, State-Owned Enterprises and large unlisted companies employing at least 50 people.
240. With regards to the listed companies, unlisted companies employing at least 50 people, and State Owned Enterprises, the Board shall establish a Remuneration Committee to review and make recommendations to the Board on:
- (1) A general framework of remuneration for the Board and the executive management personnel;
 - (2) The specific remuneration packages for each director as well as for the executive management personnel; and
 - (3) The remuneration for other senior managers and the employees.

241. The Remuneration Committee shall comprise of at least three members of whom majority should be non-executive Director with at least one Independent Director.

242. The Remuneration Committee shall consider all aspects of remuneration, including termination terms, to ensure they are fair.

CHAPTER V

CONFLICT OF INTERESTS

243. Every Director or employee of a company shall avoid any conflicts of interest arising between him or her and the company. Any situation that involves, or may reasonably be expected to involve a conflict of interest with the company, shall be disclosed promptly to the Board or the executive management.
244. The Board members shall recuse themselves if it involves, or may reasonably be expected to involve a conflict of interest and shall not participate in the consideration of any matter or attempt to affect the outcome of any issue before the Board.
245. Directors may not accept compensation, in any form, for services performed for the company from any source other than the Company.
246. Every transaction potentially or actually involving the conflict of interests between the company and the directors or executive management shall be disclosed to shareholders without any delay.

CHAPTER VI

RELATED PARTY TRANSACTIONS

247. The parties considered 'related' in the 'related party transaction' are:

- (1) Any person who is a Director of the company, the parent company, subsidiaries or linked subsidiaries;
- (2) Any person who was Director in the last 12 months in the company, parent company, subsidiaries or linked subsidiaries;
- (3) Chief Executive Officer, any member of the executive management or any employee having significant influence in the company or reports directly to the executive management or to the Board;
- (4) Any person who is a significant shareholder, holding or controlling 10% or more of the paid up shares of the company or any other company which is its subsidiary or parent company or is a linked subsidiary of its parent undertaking;
- (5) Any person who is an associate of any natural person as mentioned under sub-sections (1), (2), (3) and (4) of this Section; and
- (6) Any person who is an associate of any juristic person as mentioned under sub-sections (1), (2), and (3) of this Section.

248. The related-party transactions shall be prohibited.

249. Notwithstanding provisions of this Code, related-party transaction provided in this Section shall be permitted if they are notified by the Board or executive management to the shareholders:

- (1) Any transactions or contracts carried out between the related party and the company in the ordinary course of business without any differential advantage accruing to the related party. Such transactions shall be notified in the Annual General Meeting on post-facto basis;
- (2) Where the amount of any transaction or contract is below Nu. 200,000, the company shall disclose to the Board or the Audit Committee the nature of such transaction, direct or

indirect interest of the party and the name of the related party; and

- (3) Where the transaction or contract exceeds Nu. 500,000, the company shall obtain approval from the shareholders during the General Meeting by the Chairperson of the Board or the Audit Committee prior to the execution of the transaction. Such transactions shall be approved only if the Chairperson of the Board or the Audit Committee is satisfied that it doesn't involve any conflict of interest, it is carried out at arm's length and absence of such transaction may lead to nonattainment of the company's objective.

250. The company shall enter into written agreement with the related parties if the transaction amount exceeds Nu. 500,000. Such agreements shall observe principles of equality, voluntarily, and making compensation for equal value. The contents of such agreements shall be specific and concrete. Matters such as the signing, amendment, termination and execution of such agreements shall be disclosed by the company in accordance with the relevant laws and regulations.

251. In addition to the exemptions defined in this Code, any company engaged in the related party transactions shall meet supplementary conditions such as:
- (1) Have a company policy in place to address any related party transactions, approved by the Board and endorsed by the shareholders during the Annual General Meeting;
 - (2) All related party transactions or those transactions involving even potential conflict of interests be notified by the senior management to the Board;
 - (3) The prior mandatory audit procedure of related party transaction is performed and the results disclosed to the shareholders;
 - (4) Any contracts or transactions in which the Director of a company is interested conforms to Section 159 of the Companies Act; and
 - (5) Inclusion of a statement in a prescribed or structured format giving details about all related party transactions taken place in a particular year ~~should be included~~ in the Board of Director's report for disclosure to the stakeholders.

252. The auditors of the related-party transaction shall be liable for any false or misleading statements in the Annual or Periodic Financial Statements which were certified by them.
253. If the related-party transaction generates harmful consequences for the company, each shareholder may request the court to grant recession as a remedy to such a transaction.
254. The company shall define, update and keep the register including the record of each related party transaction providing at least following information:
- (1) Name of the related party;
 - (2) Nature of relationship between the related party and the company;
 - (3) Nature of transaction;
 - (4) Amount of transaction;
 - (5) Terms and conditions of transactions, including the amount of consideration received or given;
 - (6) Basis or method for determining such consideration;
 - (7) Detailed assumption and estimates underlying the transfer price and details of computation and transfer price; and
 - (8) A statement whether, in management's opinion, such consideration is an arm's length price along with appropriate explanation in case of exception to arm's length price.
255. A director or senior manager shall be personally and financially liable for:
- (1) any disgorge profits made as the result of the harmful related party transaction; or
 - (2) and for penalties and fines put on the company as a result of a prejudicial, harmful related-party transaction.

CHAPTER VII WHISTLEBLOWER

Group A - General Provisions

256. Sections 257 to 258 of Group A of this Chapter shall be referred to as the General Provisions and shall apply to all companies.

257. All companies proportionate to their size, complexity and market position shall develop a whistle-blower system informing on wrongdoing to the Board.

258. Notwithstanding the General Provisions and depending on the company type, the Specific Provisions provided in the Group B of this Chapter shall regulate the whistle-blower system.

Group B - Specific Provisions

259. Sections 260 to 262 of Group B of this Chapter shall be referred to as the Specific Provisions and shall apply to listed companies, State-Owned Enterprises and large unlisted companies employing at least 50 people.

260. The listed companies, State Owned Enterprises and the unlisted companies employing at least 50 people shall develop policies that protect employees who report in good faith and on reasonable grounds wrongdoing to the Board or another designated function, such as the head of internal audit or compliance officer.

261. Whistle-blower policies shall set out the responsibilities for the Board, audit committee, senior management and control functions, such as internal audit and compliance, to maintain policies and procedures for employees to submit confidentially, information about accounting, internal control, compliance, audit and other matters about which the employee has concerns.

262. The policy shall impose responsibility on Directors and management to take extra steps to ensure that the company:
- (1) Promotes ethical behaviour;
 - (2) Encourages employees to talk to supervisors, managers and other appropriate officials or authorities when in doubt about the best course of action in a particular situation;
 - (3) Encourages employees to report violations of laws, rules, regulations or the company's Rules of Ethics and Business Conduct to appropriate officials or authorities; and
 - (4) Informs employees that the company will not allow retaliation for reports made in good faith.

CHAPTER VIII

AUDIT

Group A - General Provisions

263. Sections 264 to 266 of Group A of this Chapter shall be referred to as the General Provisions and shall apply to all companies.
264. Each company shall maintain a sound system of internal audit to safeguard the interests of the company and its shareholders.
265. Depending on the type of a company, the Board defines the internal audit operations system by applying the Specific Provisions defined in the Group B of this Chapter.
266. The unlisted companies employing less than 50 people shall be exempted from the provisions of this Chapter and only maintain a financial audit function which might be outsourced. The unlisted companies may establish the internal audit function by applying the proportionality principle according to their size, market position and the revenue level.

Group B - Specific Provisions

267. Sections 268 to 286 of Group B of this Chapter shall be referred to as the Specific Provisions and shall apply to listed companies, State-Owned Enterprises and large unlisted companies employing at least 50 people.

Audit Committee

268. Every listed company with the paid up capital over Nu.100 million, the State Owned Enterprises and the unlisted company that employs at least 50 full time equivalents shall set up an Audit Committee.
269. The Audit Committee shall have clearly defined terms of reference specifying its authority and responsibilities and description on the method to discharge its responsibilities effectively, approved by the Board.

270. The Audit Committee shall assist the Board in oversight responsibilities related to, but not limited to:
- (1) The integrity of the company's financial statements;
 - (2) Financial reporting process;
 - (3) Systems of internal accounting and financial controls;
 - (4) The qualifications, independence, and performance of the statutory auditor;
 - (5) The performance of the company's internal audit department; and
 - (6) The company's legal and regulatory compliance.

Composition and organisation

271. The Board shall set up an Audit Committee in accordance with the provisions of this Code.

272. The members shall meet minimum financial literacy standards, and one or more committee members shall be an audit committee financial expert or have accounting or related financial management expertise, as determined by the Board in accordance with applicable rules.

273. The Audit Committee shall comprise of at least three members, with two-third of members being the non-executive Directors including at least one Independent Director and the members are to be appointed by the Board.

274. A person shall not be appointed as the member of the Audit Committee if:

- (1) He or she is a former partners or directors of the company's existing auditing firm or corporation within a period of two years commencing on the date of his or her ceasing to be a partner of the auditing firm or director of the auditing corporation; or
- (2) He or she has any financial interest in the auditing firm or corporation.

275. The Chairperson of the committee shall be an Independent Director or non-executive Director.

276. The Audit Committee shall meet at least four times a year with the majority of the Directors including the Independent Director being present in the meeting.

Roles and Responsibility

277. The Audit Committee may call on the presence of the Head of Internal Audit or the Chief Finance Officer or Finance Manager as invitee in the meeting. The committee may seek information from any employee of the company and secure the advice and attendance of outsiders with relevant expertise, if considered necessary.

278. The audit committee shall be responsible for the company's relationship with its external auditor, including:

- (1) Selecting and retaining the external auditor;
- (2) Reviewing the qualifications, work product, independence and reputation of the external auditor;
- (3) Reviewing the performance and expertise of key members of the audit team;
- (4) Hearing the views of the external auditors before forwarding the annual accounts to the Board and the shareholders meeting for approval;
- (5) Maintaining an ongoing, open dialogue with the external auditor about independence issues;
- (6) Reviewing new leading partners for the audit team;
- (7) Selection of the new engagement partner; and
- (8) Overseeing the process of negotiating the terms of the annual audit engagement.

279. The Audit Committee shall hear the views of the internal auditors at least once a year, without the presence of the management.

Internal Audit Department

280. Every listed company with the paid up capital over Nu.100 million, the State Owned Enterprises and the unlisted company that employs at least 50 full time equivalents shall set up an internal audit section/division with the aim to accomplish the company's objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

281. The primary reporting line of the internal audit function is to the Audit Committee, if available, or to the Board if not available, which shall also decide on the appointment, termination and remuneration of the head of the internal audit function.

282. The internal audit function shall have unfettered access to all the company's documents records, properties and personnel, including the Audit Committee, and has appropriate standing within the company.

283. The internal audit function shall follow the terms of references approved by the Board, covering at least:

- (1) Monitoring, assessing, and analysing of the risk and controls the company encounters; and
- (2) Review compliance with policies, procedures and laws.

284. The internal auditors shall work in partnership with the management and shall be responsible to the Board and the Audit Committee.

285. The companies may be exempted from the obligation if the function of internal audit is outsourced to the external auditors and the findings are submitted to the Board or Audit Committee on quarterly basis.

External Audit

286. All listed companies shall appoint or remove its external auditor as per section 252 of the Companies Act.

CHAPTER IX RISK MANAGEMENT

Group A-General Provisions

287. Sections 288 to 293 of Group A of this Chapter shall be referred to as the General Provisions and shall apply to all companies.
288. All companies shall identify their own risks and, if possible, to estimate the risk exposure expressed in the absolute money value.
289. The Board shall be responsible for risk oversight in a company.
290. The companies shall keep the identified risk track record in a written form including the list of mitigation options assigned to each risk.
291. The major risks identified shall be presented by the Board to the shareholders during the Periodic or Annual General Meeting.
292. Depending on the type of a company, the Board shall define the risk management system according to the Specific Provisions provided in the Group B of this Chapter.

Group B-Specific Provisions

293. Sections 294 to 300 of Group B of this Chapter shall be referred to as the Specific Provisions and shall apply to listed companies, State-Owned Enterprises and large unlisted companies employing at least 50 people.

Risk Management Framework for Listed Companies and State-Owned-Enterprises

294. Every listed company with the paid up capital over Nu.100 million, the State Owned Enterprises shall develop and maintain a sound system of risk management to safeguard shareholders' investment and the company's assets and also to

facilitate the Board's fulfilment of its supervisory responsibilities.

295. The Board shall delegate the duty of the risk management system development to the executive management which sets up an independent risk management function.
296. The risk management function is responsible for development, maintenance and operations of the risk management system.
297. The extent of the risk management function shall be commensurate to the size, complexity and risk profile of the company.
298. The risk management function has direct access to the Board.
299. The risk management system shall be proportional to the company size, market position, generated revenues, employment threshold as well as the complexity of risk exposure.
300. The risk management system shall be determined in a policy covering at least:
 - (1) Name and position of the person in charge of the risk management;
 - (2) Risk Identification and Risk Record;
 - (3) Risk Assessment and Estimation;
 - (4) Risk Mitigation Techniques;
 - (5) Risk Monitoring; and
 - (6) Risk Reporting.

CHAPTER X COMPLIANCE

Group A-General Provisions

301. Sections 302 to 303 of Group A of this Chapter shall be referred to as the General Provisions and shall apply to all companies.
302. The company should have a robust legal compliance program.
303. The Board shall ensure that the legal compliance program is effective in deterring and preventing misconduct and encouraging the reporting of potential compliance issues.

Group B-Specific Provisions

304. Section 305 of Group B of this Chapter shall be referred to as the Specific Provisions and shall apply to listed companies, SOEs and large unlisted companies employing at least 50 people.
305. Every listed company with the paid up capital over Nu.100 million, and the State Owned Enterprises, and large unlisted companies employing at least 50 people shall set up an independent compliance function that follows the compliance policy approved by the Board.

CHAPTER XI

RELATIONSHIPS WITH OTHER STAKEHOLDERS

Group A - General Provisions

306. Sections 307 to 310 of Group A of this Chapter shall be referred to as the General Provisions and shall apply to all companies.

307. Every company has obligations to stakeholders other than their shareholders, including employees, customers, suppliers, the communities and environments in which they do business, and government.

Employees

308. Every company shall treat its employees fairly.

309. All companies shall communicate honestly with their employees about corporate operations and financial performance.

Citizens, the Environment and Sustainability

310. Notwithstanding the regulation of the Code on the Social Corporate Responsibility, all companies shall:

- (1) Conduct its business with respect to the four pillars of GNH such as:
 - (a) sustainable socio-economic development;
 - (b) environmental conservation;
 - (c) good governance;
 - (d) cultural preservation; and
- (2) Strive to be good citizens of the local, national and international communities in which they do business; to be responsible stewards of the environment; and to consider other relevant sustainability issues in operating their businesses. Failure to meet these obligations can result in damage to the company, both in immediate economic terms and in its longer-term reputation. Because sustainability issues affect so many aspects of a company's business, from financial performance to risk management, incorporating sustainability into the business in a meaningful way is integral to a company's long-term viability;

- (3) Strive to be a good citizen by contributing to the communities in which it operates. Being a good citizen includes getting involved with those communities; encouraging company directors, managers and employees to form relationships with those communities; donating time to causes of importance to local communities; and making charitable contributions; and
- (4) Conduct its business with meaningful regard for environmental, health, safety and other sustainability issues relevant to its operations. The Board should be cognizant of developments relating to economic, social and environmental sustainability issues and should understand which issues are most important to the company's business and to its shareholders.

Group B-Specific Provisions

311. Section 312 of Group B of this Chapter shall be referred to as the Specific Provisions and shall apply to listed companies, State-Owned Enterprises and large unlisted companies employing at least 50 people.

Employees

312. All listed companies, the State Owned Enterprises and unlisted companies employing at least 50 people shall have in place:

- (1) policies and practices that provide employees with appropriate compensation, including benefits that are appropriate given the nature of the company's business and employees' job responsibilities and geographic locations. When companies offer retirement, health care, insurance and other benefit plans, employees should be fully informed of the terms of those plans; and
- (2) and publicise mechanisms for employees to seek guidance and to alert management and the board about potential or actual misconduct without fear of retribution. As part of fostering a culture of compliance, companies should encourage employees to report compliance issues promptly and emphasise their policy of prohibiting retaliation against employees who report compliance issues in good faith.

CHAPTER XII

RULES ON BUSINESS CONDUCT AND ETHICS

313. Every company shall adopt the rules on business conduct and ethics for members of the Board, executive management and employees.
314. The rules shall provide guidance to help them recognize and deal with ethical issues, provide mechanisms to report possible unethical conduct and foster a culture of honesty and accountability.
315. All Directors and employees shall comply not only with the terms, but also the intent, of the rules. Among other requirements, the rules shall contain the following provisions:
- (1) Provisions on Conflict of Interest as stipulated in this Code;
 - (2) Provisions on prohibited opportunities by Directors and employees which are:
 - (a) Making business opportunities to gain personal benefits from the company's business;
 - (b) Using the company's property, information, or position for personal gain; or
 - (c) Competing with the company for business opportunities, provided, if the company decides not to pursue an opportunity that relates to the company's business, a Director/employee may do so;
 - (3) Provisions on Confidentiality, indicating that:
 - (a) Directors and employees should maintain the confidentiality of information entrusted to them by the company, including any other confidential information about the company that comes to them, except when disclosure is authorized by the Board or executive management or legally mandated. For this purpose "confidential information" includes all non-public or proprietary information relating to the company;
 - (4) Provisions on Compliance with Laws, Rules and Regulations, imposing that
 - (a) Directors shall comply, and oversee compliance by employees, officers and other Directors, with laws, rules and regulations applicable to the company, including

- insider trading laws as defined in Section 113 of the Companies Act; and
- (5) Provisions encouraging the reporting of any possible illegal or unethical behaviour including Whistle-blower, as stipulated in the Chapter VII of this Code.

PART III

CORPORATE SOCIAL RESPONSIBILITY

CHAPTER I SCOPE AND APPLICABILITY

316. Every company shall promote social development in order to return something that is beneficial for the society.
317. Each company shall develop the **Corporate Social Responsibility** programme.
318. The Corporate Social Responsibility programme shall have its main objective to protect the natural environment, safeguard and promote the cultural heritage and the religious identity, alleviate poverty, to relieve sickness or disability, to advance the education of vulnerable persons or to promote any other public object beneficial to the Bhutanese Community.
319. The provisions of Corporate Social Responsibility shall not only be applicable to Bhutanese companies, but also applicable to every branch and project office of a foreign company in the Kingdom of Bhutan, irrespective of the provisions excluding small and medium enterprise as stipulated in this Chapter.
320. Expenditure on the Corporate Social Responsibility Programme shall not form part of business expenditure.

CHAPTER II

CORPORATE SOCIAL RESPONSIBILITY PROGRAMME

Group A - General Provisions

321. Sections 322 to 327 of Group A of this Chapter shall be referred to as the General Provisions and shall apply to all companies.
322. The Board shall set up and manage the Corporate Social Responsibility Programme operations and organisation.
323. If a company is not obliged to apply the Specific Provisions set in Group B of this Chapter, its Corporate Social Responsibility Programme shall be managed by the Board itself.
324. The Corporate Social Responsibility Programme shall be managed by the Board itself unless other specific provisions in the Group B of this Chapter provides otherwise.
325. The Board shall manage the Corporate Social Responsibility Programme by:
- (1) Formulating Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company in areas or subject, specified in Chapter III, Part III of this Code;
 - (2) estimating and recommending the amount of expenditure to be incurred on the activities referred to in Chapter IV, Part III of this Code;
 - (3) monitoring the Corporate Social Responsibility Policy of the company from time to time;
 - (4) preparing the Corporate Social Responsibility Report including the risk identification resulting from the business activity of the company referred to in Chapter III of this Code;
 - (5) defining the Corporate Social Responsibility due diligence framework allowing for annual assessment of the Corporate Social Responsibility Program performance; and
 - (6) defining the Corporate Social Responsibility Incentive Policy for the senior management being responsible for the Corporate Social Responsibility Program operations

326. The Corporate Social Responsibility Committee shall issue a Corporate Social Responsibility Program assessment report which will be submitted to the General Meeting of shareholders at least annually.
327. The Corporate Social Responsibility Committee shall provide recommendations to the Remuneration Committee on the Corporate Social Responsibility Incentive assigned to each senior manager and executive Board member being responsible for the Corporate Social Responsibility Program operations.

Group Section B - Specific Provisions

328. Sections 329 to 332 of Group B of this Chapter shall be referred to as the Specific Provisions and shall apply to listed companies, State-Owned Enterprises and large unlisted companies employing at least 50 people.
329. The Board of every listed company, State Owned Enterprises and the unlisted company employing at least 50 people shall constitute a Corporate Social Responsibility Committee consisting of three or more directors, out of which at least one director shall be an independent director.
330. If a company is not required to appoint an independent director, it shall have in its Corporate Social Responsibility Committee of two or more directors.
331. The Board shall disclose to shareholders the composition of the Corporate Social Responsibility Committee and the term of references.
332. The Corporate Social Responsibility Committee shall:
(1) formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company in areas or subject, specified in Chapter III, Part III of this Code;

- (2) estimate and recommend the amount of expenditure to be incurred on the activities referred to in Chapter IV, Part III of this Code;
- (3) monitor the Corporate Social Responsibility Policy of the company from time to time;
- (4) prepare the Corporate Social Responsibility Report including the risk identification resulting from the business activity of the company referred to in Chapter III, Part III of this Code;
- (5) define the Corporate Social Responsibility due diligence framework allowing for an annual assessment of the Program assessment; and
- (6) define the Corporate Social Responsibility Incentive Policy for the senior management and executive Board members being responsible for the Program operations.

CHAPTER III

ACTIVITIES UNDER CORPORATE SOCIAL RESPONSIBILITY

333. The companies shall have the option to identify their preferred Corporate Social Responsibility engagements that are in conformity with the Corporate Social Responsibility policy.
334. The Corporate Social Responsibility activities allowed under the Corporate Social Responsibility Programme shall include, but are not limited to:
- (1) ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agro-forestry, conservation of natural resources and maintaining quality of soil, air and water including contribution funds set up by the Government for natural environment protection;
 - (2) promoting education, including special education and employment enhancing vocational skills especially among children, women, elderly, and the differently abled and livelihood enhancement projects;
 - (3) eradicating hunger, poverty and malnutrition;
 - (4) rural development projects;

- (5) promoting health care including preventive health care and sanitation including contribution to the national funds set up by the Government for the promotion of health care programs;
- (6) promoting gender equality, empowering women, setting up homes and hostels for women and orphans;
- (7) setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups;
- (8) promoting capacity building and research for consideration as cross-cutting measures throughout the priority areas of intervention;
- (9) contribution to the socio-economic development programs of the state.
- (10) contribution to technology incubators located within academic institutions which are approved by the Government;
- (11) contributing to the organisation and funds set up by the Government in promoting the fair trade and fair labour conditions;
- (12) protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art;
- (13) setting up public libraries and free electronic journals or libraries;
- (14) promotion and development of traditional arts and handicrafts;
- (15) protection of the religious and sacred objects including the sacred buildings, convents; and
- (16) support to the religious festivities and holidays.

335. Activities and contributions which do not qualify under the Corporate Social Responsibility Programme are as follows, but not limited to:

- (1) Any activity discriminating on the basis of race, place of origin, political opinion, colour, creed or sex;
- (2) Any activity promoting alcohol, cigarettes or gambling;
- (3) Any activity targeting shareholders, senior staff or their family;
- (4) Contribution to any Government department or parastatal body;

- (5) Contribution to natural disasters mitigation programme;
- (6) Contribution to political parties or trade union activities;
- (7) Sponsorship for the purpose of marketing for companies;
and
- (8) Staff welfare and training of employees.

CHAPTER IV

CORPORATE SOCIAL RESPONSIBILITY FUND

Group A-General Provisions

336. Unless otherwise stated in the Specific Provisions of the Section B to this chapter, all profitable companies are required in a year to set up their Corporate Social Responsibility Fund guaranteeing at least 0.5% of their net profit of the preceding year as the Corporate Social Responsibility Fund.
337. Where the company has not completed the period of one financial year since its incorporation, the company shall give preference to the local area and areas around it where it operates, and it shall spend an estimated amount of money that would have been spent in the normal circumstances.
338. A special bank account for the Corporate Social Responsibility Fund shall be set by the Board.
339. The Corporate Social Responsibility Fund shall be disclosed in the Annual Financial Statement of the Board and shall be reported to the Registrar of Companies upon creation..
340. The Corporate Social Responsibility Fund shall be managed by the Corporate Social Responsibility Committee, if available, or by the Board itself.
341. The Board shall be accountable for the Corporate Social Responsibility Fund expenditures.
342. If the company fails to spend Corporate Social Responsibility Fund amount, the Board shall:
- (1) Specify the reasons for not spending the amount in its report made; and
 - (2) Transfer such unspent amount to a Corporate Social Responsibility Fund without any delay for the following financial year.

Group B-Specific Provisions

343. All *profitable* listed companies, State Owned Enterprises and the unlisted companies employing at least 50 people shall provide at least 1% of their net profit preceding year to the Corporate Social Responsibility Fund.

CHAPTER V

CORPORATE SOCIAL RESPONSIBILITY STATEMENT

344. All companies shall provide a useful, fair and balanced view of the outcome of their Corporate Social Responsibility performance.

345. The Corporate Social Responsibility performance information disclosed by companies shall help investors and other stakeholders understand and monitor the company's performance.

346. All companies shall include in the annual management report a Corporate Social Responsibility statement containing information to the extent necessary for an understanding of the company's development, performance, position and impact of its activity, relating to, as a minimum, environmental, social, cultural and employee matters, respect for human rights, cultural and religion preservation, anti-corruption and bribery matters, including:

- (1) a description of the company's business model;
- (2) a description of the policies pursued by the company in relation to those matters;
- (3) the outcome of those policies such as Corporate Social Responsibility activities and Corporate Social Responsibility Fund management;
- (4) the principal risks related to those matters linked to the company's operations including, where relevant and proportionate, its business relationships, products or services which are likely to cause adverse impacts in those areas, and how the company manages those risks;
- (5) the explanation how principal risks may affect their business model, operations, financial performance and the impact of their activities;

- (6) non-financial key performance indicators relevant to the particular business; ~~and~~
- (7) references to, and explanations of, Corporate Social Responsibility Fund amounts reported in the annual financial statements;
- (8) the Corporate Social Responsibility performance incentive or bonus policies; and
- (9) the Corporate Social Responsibility performance incentives bonus for each concerned senior manager.

CHAPTER VI

CORPORATE SOCIAL RESPONSIBILITY DUE DILIGENCE

347. All companies shall carry out effective due diligence with respect to potential or actual adverse impacts on community relations, human rights, the environment, the culture and art and good governance in their operations and business relationships.

348. All companies shall in an ongoing manner make all efforts within their means to identify and assess, by means of a risk based monitoring methodology that takes into account the likelihood, severity and urgency of potential or actual impacts on human rights, the environment or good governance, the nature and context of their operations, including geographic, and whether their operations and business relationships cause or contribute to or are directly linked to any of those potential or actual adverse impact.

CHAPTER VII

CORPORATE SOCIAL RESPONSIBILITY INCENTIVES

Remuneration Incentive Policies

349. In order to promote the Corporate Social Responsibility culture and awareness, the companies should define the Corporate Social Responsibility Incentive Policies applicable to the senior management contracts as well as to the executive member of the Board of Directors.

350. The incentive amount should not exceed 15% of a management annual performance bonus.

Corporate Social Responsibility Ranking

351. All companies should participate in the Government Annual Corporate Social Responsibility Ranking.

352. Each company will be assessed based upon the Corporate Social Responsibility performance defined in the Annual Corporate Social Responsibility Statement and according to the objective ranking criteria such as selected Corporate Social Responsibility domain activities, the volume of the Corporate Social Responsibility Fund amount and the Corporate Social Responsibility Programme outcomes.

353. The results of the Corporate Social Responsibility Ranking will be disclosed publicly on the webpage of the Office of the Registrar of Companies (www.cra.gov.bt).

Tax Credit

354. Notwithstanding the tax law and associated regulations, the amount of the Corporate Social Responsibility Fund shall be fully deducted from the basis on which the corporate tax is estimated.

355. If a company decided to allocate the Fund entirely to one of the by the Royal Government promoted activities, such a company may request a Tax Credit on top of the deductible amount from the tax basis of the corporate tax.

356. The Tax Credit should not exceed 10% of the deductible amount of the Fund applicable to the corporate tax basis.

PART IV

PENALTY

357. A company who violates provisions of the Code should be cautioned by the Regulatory Authority in a form of the written reprimands in the first instance and granted a maximum 120 days period to comply with the regulation.

358. Should a company continue violating the provisions of this Code on more than one occasions, it shall be imposed a maximum fine up to Ngultrum 1 million payable multiplied by number of directors and one penalty on the company, payable within 30 days.

PART V

MISCELLANEOUS

Amendment

359. The Regulatory Authority may amend the provisions of this Code from time to time.

Definition

360. Unless the context requires, in this Code:

- (1) “Board” shall have the same meaning as defined under Companies Act of Bhutan 2016;
- (2) “Code” means the Corporate Governance and Corporate Social Responsibility Code of Bhutan, 2022;
- (3) “Conflict of interest” referred to as a situation arising when the Director’s or employees’ personal interest interferes or appears to interfere over the interest of the company in general. It may arise when a Director or an employee takes actions or has interests that may make it difficult to discharge his or her responsibilities effectively. It may also arise when a Director or an employee or a member of his or her immediate family, receives improper personal benefits as a result of his or her position as a Director or an employee of the company;
- (4) “Delegated legislation” includes Rules, Regulations, Guidelines, Manuals such other legal instrument where the Government or agency of the Government is empowered to adopt by Parliament;
- (5) “Directors” shall have the same meaning as defined under Companies Act of Bhutan 2016;
- (6) “RSEB” shall mean the Royal Securities Exchange of Bhutan;
- (7) “Government company” shall have the same meaning as Section 416(22) of the Companies Act of Bhutan, 2016;
- (8) “Independent Director” means a person as defined in Chapter 7, Section 135 of the Companies Act;
- (9) “Related party transaction’ means as a transfer of resources, services, or obligations between the parties, in which:
 - (a) The aggregate amount involved exceeds Nu. 500,000;

- (b) The company is a participant; and
 - (c) The related party has or will have a direct or indirect material interest.
- (10) "State enterprise" shall have the same meaning as defined under Section 190(bb) of the Public Finance Act, 2007; and
- (11) "Whistle Blower" means a vigil mechanism to report the wrong or unethical conduct of any director of the company.

Annexure I: Form to nominate directors

To,
The Managing Director/Company Secretary

.....
Limited Address

I/We nominate the following person(s) for election of directors
Nominated by: A) Royal Government of Bhutan B) Board C)
Shareholders

Full name of shareholder(s)*	Address	ID card No
Signature		
	Certificate of Incorporation & Date/ RSEB Code no.	

- 1.
- 2.
- 3.
- 4.

Place :
Date :

*(as it appears in the shareholder's register/share

certificate/trading note)

Annex II CONSENT TO ACT AS DIRECTOR OF A COMPANY

Person presenting this form

Name	
Address	
Telephone	
ne	
e-mail	

Company number

(Leave blank for a new company)

Company name

..... Private Limited

Director

Title	
Surname	
Forenames	
Gender (M/F)	
Address	

Date of appointment (DD/MM/YY)

--	--	--

(Leave blank for a new company)

● **I consent to act as director of the company named above in compliance to Companies Act of Bhutan, 2016.**

● **I confirm that:**

- (a) **I am not an undischarged insolvent nor have I at any time been declared insolvent by a court;**
- (b) **I have not been convicted by a court of a criminal offence;**
- (c) **I have not been declared of unsound mind by a court;**
- (d) **there are no calls outstanding in respect of shares held by me; and**
- (e) **I am not a director of more than three public companies**

(Legal Stamp)

Signed

Date

:

Annex III PROXY FORM

.....Private
Limited/Limited

(Name of the Company)

I of being a
(Name) (address)
shareholder of the above-named Company hereby appoint

..... of or failing him
(Name) (address)

..... of as my proxy
to vote
(Name) (address)

for me on my behalf at the annual general meeting/general meeting
of the Company to be held on

the year month Day and at any adjournment thereof.

I hold shares of Nu. each in the Company.

Signed this yearmonth day.

Signature of shareholder