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# CONTROL OF BROKERS REGULATIONS 1993



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BROKERS REGULATIONS  
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**ARRANGEMENT OF REGULATIONS**

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# **CONTROL OF BROKERS REGULATIONS 1993**

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# CONTROL OF BROKERS REGULATIONS 1993

## PART 1

### GENERAL

#### Preliminary

1. (1) These regulations are made by the RMA under article 70 of the Financial Institutions Act of Bhutan, 1992.
- (2) These regulations may be cited as the Control of Brokers Regulations 1993.
- (3) These regulations shall come into operation on a day to be appointed by the RMA by notice in the Official Newspaper of the Kingdom.

#### Interpretation

2. In these regulations, unless the context otherwise requires:-

"broker" means a company which carries on a business of dealing in securities;

"broker's representative" means a person, by whatever name described, in the direct employment of a broker, who performs for that broker any of the functions of a managing director, officer, salesman or trader (other than work ordinarily performed by accountants, clerks or cashiers) whether his remuneration is by way of salary, wages, commission or otherwise;

"company" has the same meaning as in section 2 of the Companies Act of the Kingdom of Bhutan, 1989;

"Companies Act" means the Companies Act of the Kingdom of Bhutan

"dealing in securities" means (whether as principal or as agent) making or offering to make with any person, or inducing or attempting to induce any person to enter into or to offer to enter into:-

- (a) any agreement for or with a view to acquiring, disposing of, subscribing for or underwriting securities; or
- (b) any agreement the purpose or pretended purpose of which is to secure a profit to any of the parties from the yield of securities or by reference to fluctuations in the price of securities;

"debenture" means a document acknowledging indebtedness of a company and

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includes debenture notes, bonds and any other securities of a company, whether constituting a charge on the assets of a company or not;

"director" has the same meaning as in section 2 of the Companies Act of the Kingdom of Bhutan 1989;

"Financial Institutions Act" means the Financial Institutions Act of Bhutan, 1992;

"insider dealing" has the same meaning as in article 28 of the Financial Institutions Act;

"licence" means:-

- (a) a broker's licence; or
  - (b) a broker's representative's licence,
- and "licensed" and "licensee" shall be construed accordingly;

"prescribed" means prescribed by rules made by the RMA;

"RMA" means the Royal Monetary Authority of Bhutan;

"securities" means:-

- (a) debentures, or bonds issued or proposed to be issued by the Government;
- (b) shares, debentures, bonds or notes issued or proposed to be issued by a company;
- (c) any right or option in respect of any such share, debentures, bonds or notes; or
- (d) any other instruments deemed to be securities by the RMA;

"securities exchange" means a securities exchange approved by the RMA under the Securities Exchange Act of Bhutan, 1993;

"securities business" has the same meaning as in article 2 of the Financial Institutions Act;

"share" means share in the share capital of a company and includes preferred shares;

"underwriting" means undertaking for remuneration to subscribe for or purchase on specified terms such specified securities as are offered to the public by a person issuing or selling those securities but which are not subscribed for or purchased by the public.

## **PART 2**

### **LICENSING OF BROKERS AND THEIR REPRESENTATIVES**

#### **Broker's licence**

3. No person shall carry on, or hold himself out as carrying on, a business of dealing in securities unless such person is the holder of a current broker's licence issued by the RMA under the Financial Institutions Act and is a member of a securities exchange approved by the RMA under the Securities Exchange Regulation 1993. The broker's licence must be maintained current by the payment of Ngultrum 500.00 per annum to the RMA.

#### **Broker's representative's licence**

4. No person shall act as a broker's representative unless he is the holder of a current broker's representative's licence issued by the RMA under the Financial Institutions Act and employed by a member company of a Securities Exchange approved by the RMA. The broker's representative licence must be maintained current by the payment of Ngultrum 250.00 per annum per representative to the RMA.

#### **Application for licence**

5.
  - (1) An application for a licence shall be made to the RMA in the prescribed form and manner and shall be accompanied by the prescribed fee which shall be paid in the manner specified by the RMA.
  - (2) The RMA may require an applicant to supply it with such further information as it considers necessary in relation to the application.
  - (3) The RMA shall not refuse to grant a licence without first giving the applicant an opportunity of being heard.

#### **Restriction on grant of broker's licence**

6.
  - (1) A broker's licence shall only be granted to a company incorporated under the Companies Act.
  - (2) A broker's licence shall only be granted if the broker meets and continues to meet such minimum financial requirements as may be determined by the RMA, either generally or specifically, or are provided in such rules of a securities exchange as have been approved by the RMA.

#### **Restriction on grant of broker's representative's licence**

7. A broker's representative's licence shall only be granted to an individual who

## **PART 2 : LICENSING OF BROKERS AND THEIR REPRESENTATIVES**

meets the requirements as determined by the RMA.

### **Grant of broker's licence**

8. (1) Where an application is duly made for the grant of a broker's licence, the RMA shall within six months from the day of receipt of the application:-
- (a) grant the application and issue a licence if the applicant satisfies the RMA that it is fit and proper to be licensed; or
  - (b) refuse to grant the application and serve on the applicant notice in writing of such refusal.
- (2) In considering whether an applicant is fit and proper for the purposes of paragraph (1) the RMA shall, in addition to any other matter that the RMA may think relevant, have regard to, in respect of each of its directors and officers:-
- (a) his financial status;
  - (b) his educational or other qualifications or experience having regard to the nature of the functions which, if the licence is granted, he will perform;
  - (c) his ability to perform such functions efficiently, honestly and fairly;
  - (d) his reputation, character, financial integrity and reliability.
- and
- (3) For the purposes of paragraph (2) the RMA may have regard to any information in its possession whether provided by the applicant or not.
- (4) For the purposes of paragraph (2) the RMA may take into account any matter relating to:-
- (a) any person who is or is to be employed by, or associated with, the applicant for the purposes of its securities business;
  - (b) any person who will be acting as a representative of such business; and
  - (c) any substantial shareholder, director or officer of the company, any other company in the same group of companies or to any director or officer of any such company.

### **Grant of broker's representative's licence**

9. Subject to regulation 5(3), the RMA may grant a broker's representative's licence

## **PART 2 : LICENSING OF BROKERS AND THEIR REPRESENTATIVES**

if after consideration of the application it does not have any reason to believe that the applicant will not perform the duties of the holder of a broker's representative's licence efficiently, honestly and fairly, but otherwise the RMA shall refuse a licence.

### **False statements**

10. A person who, in connection with an application for a licence, wilfully makes a statement which is false or misleading in a material particular knowing it to be false or misleading, or wilfully omits to state any matter or thing without which the application is misleading in a material respect, shall be guilty of an offence and liable on conviction to a fine not exceeding ... Ngultrum or to imprisonment for a term not exceeding ... or to both.

### **General conditions**

11. (1) A licence shall be personal to the applicant and shall not be transferable.
- (2) In the case of a licensed broker, there shall not be any change in the directorate, shareholding, share capital structure or control of the licensed broker without the prior written approval of the RMA.
- (3) A licensed broker shall not carry on any business other than that of a securities business and those activities which are normally ancillary thereto.
- (4) For the purposes of paragraph (3), ancillary activities shall include the giving of investment advice in respect of which a licensed broker shall not be required to obtain a separate licence under the Financial Institutions Act 1992.

### **Power of RMA to impose conditions or restrictions**

12. (1) The RMA may grant a licence subject to such conditions or restrictions as it thinks fit and the RMA may, at any time by written notice to a licensee, vary any condition or restriction or impose further conditions or restrictions.
- (2) A licensee who contravenes or fails to comply with any condition of, or restriction in, its licence shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five thousand Ngultrum

### **Duration of licence**

13. (1) Subject to the powers of the RMA to revoke or suspend a licence, a licence shall be granted for an indefinite period of time.
- (2) A licensee shall pay such annual licence fee as may be prescribed by the

## **PART 2 : LICENSING OF BROKERS AND THEIR REPRESENTATIVES**

RMA.

### **Notification of change of particulars**

14. Where:-
- (a) a licensed broker ceases to carry on securities business; or
  - (b) the holder of a broker's representative's licence ceases to be a representative of the broker in relation to which the representative's licence was issued; or
  - (c) a change occurs in any matter particulars of which are required by regulation 15 to be entered in the register of licensees in relation to the holder of a licence, the licensee shall, not later than 14 calendar days after the occurrence of the event concerned, give to the RMA particulars in writing of such matter.

### **Register of licensees**

15. (1) The RMA will keep in such form as it thinks fit a register of current licensed brokers specifying:-
- (a) in relation to each licensed broker:-
    - (i) its name;
    - (ii) the address of the principal place of business at which it carries on its securities business; and
    - (iii) where its business is carried on under a name or style other than the name of the licensee, the name or style under which the business is carried on.
  - (b) in relation to each holder of a representative's licence –
    - (i) his name;
    - (ii) the name of the broker in relation to whom the licence was issued;
    - (iii) where the business of the broker is carried on under a name or style other than the name of the broker, the name or style under which that business is carried on.
- (2) Any person may, on payment of the prescribed fee, inspect and take extracts from the register kept under paragraph (1).

## **PART 2 : LICENSING OF BROKERS AND THEIR REPRESENTATIVES**

### **Display of licence**

16. A licensed broker shall display its licence at all the places of business at which it carries on its securities business.

## PART 3

### CONDUCT OF BUSINESS

#### Issue of contract notes

17. (1) A licensed broker shall, in respect of every contract for the purchase, sale or exchange of securities entered into by him (whether as principal or as agent), not later than the end of the next trading day after the contract was entered into, make out a contract note which complies with paragraph (2) and:-
- (a) where the contract was entered into as agent, or as principal to its client, deliver the contract note to the person for or with whom he entered into the contract; or
  - (b) where the contract was entered into as principal, retain the contract note for itself.
- (2) A contract note made out by a licensed broker under paragraph (1) shall include:-
- (a) the name or style under which the licensed broker carries on its business and the address of the principal place of business at which it carries on business;
  - (b) where the licensed broker is acting as principal, a statement that it is so acting;
  - (c) the name and address of the person on whose account the contract was entered into, and the person to whom the licensed broker delivers the contract note;
  - (d) the date of the contract, and the date on which the contract note is made out;
  - (e) the quantity and description of the securities that are the subject of the contract;
  - (f) except in the case of exchange, the price per unit of the securities;
  - (g) the amount of consideration payable under the contract or, in the case of an exchange, particulars of the securities exchanged sufficient to identify them;
  - (h) the rate and amount of commission (if any) and any other matters charged; and
  - (i) the date of settlement.
- (3) Any licensed broker who completes a contract for the purchase, sale or exchange of securities without having complied with paragraph (1) shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand Ngultrum.

#### Client's Agreement

### **PART 3 : CONDUCT OF BUSINESS**

18. (1) Before accepting or operating a securities trading account for any client, a licensed broker shall enter into a Client's Agreement printed with that client which agreement shall be in writing in Dzongkhag or in English.
- (2) Subject to paragraph (3), the Client's Agreement required by paragraph (1) shall be in such form and with such contents as the RMA may approve.
- (3) A Client's Agreement shall in all cases contain, inter alia, the following:-
- (a) a risk disclosure statement;
  - (b) a statement that in respect of transactions duly concluded on a securities exchange, the rules of the exchange including in particular those relating to trading and settlement, shall apply to every transaction and shall be binding on both the licensed broker and the client; and
  - (c) a signed declaration by the client stating that the contents of the Agreement have been fully explained to him and that he accepts the Agreement.

#### **Margin requirements**

19. For the purpose of preventing the excessive use of credit for the purchase or carrying of securities by licensed brokers, the RMA may prescribe margin requirements, that is to say the amount of credit that may from time to time be extended or maintained on all or specified securities or transactions or class of securities and transactions.

#### **Principles of best practice**

20. In its conduct of securities business, a licensed broker shall at all times act according to the principles of best practice and, in particular, shall:-
- (a) observe high standards of integrity and fair dealing;
  - (b) act with due skill, care and diligence;
  - (c) observe high standards of market conduct;
  - (d) seek from clients information about their circumstances and investment objectives which might reasonably be expected to be relevant in enabling it to fulfil a licensed broker's responsibilities to its clients;
  - (e) take reasonable steps to give every client it advises, in a comprehensible and timely way, any information needed to enable the client to make a

### **PART 3 : CONDUCT OF BUSINESS**

balanced and informed investment decision;

- (f) avoid any conflict of interest with its clients and, where such a conflict unavoidably arises, to ensure fair treatment to its clients by complete disclosure (provided this is acknowledged and accepted by the client) or by declining to act; furthermore a licensed broker should never place its interests above those of its clients;
- (g) protect properly, by way of segregation and identification, those client assets for which a licensed broker is properly responsible;
- (h) maintain adequate financial resources to meet its investment business commitments and withstand the risks to which its securities business is subject;
- (i) organise and control its internal affairs in a responsible manner, keep proper records, and have adequate arrangements to ensure that all staff employed are suitable, adequately trained and properly supervised, together with well-defined compliance procedures; and
- (j) deal with the RMA in an open and co-operative manner and keep the RMA informed of anything concerning the licensed broker that might reasonably be expected to be disclosed to it.

#### **Conduct of business rules**

21. In its conduct of securities business, a licensed broker shall:-
- (a) take reasonable steps to ensure that neither it nor any of its employees offers or gives, or solicits or accepts, any inducement which conflict with the duties owed to its clients;
  - (b) not recommend a transaction to a client unless it has taken reasonable steps to enable the client to understand the nature of the risks involved;
  - (c) when buying or selling on its own account, inform its client of this fact;
  - (d) deal with client and own account orders fairly and in due turn (client order priority);
  - (e) when it has agreed to effect or arrange a client order, effect or arrange the execution of the order as soon as reasonably practicable in the circumstances (timely execution);
  - (f) provide best execution for its clients (best execution);
  - (g) ensure that every transaction it executes is promptly allocated (timely allocation);

### **PART 3 : CONDUCT OF BUSINESS**

- (h) where all orders received by it cannot be satisfied, it must give priority to satisfying orders in accordance with the procedures of its exchange (fair allocation);
- (i) not make a personal recommendation to deal, or deal or arrange a deal in the exercise of discretion for any client, if the dealing would reasonably be regarded as too frequent in the circumstances (churning);
- (j) take reasonable steps to ensure it does not make any personal recommendation to a client, or effect or arrange a discretionary transaction with or for a client, unless the recommendation or transaction is suitable for him having regard to the facts about that client of which it is, or reasonably should be, aware (suitability);
- (k) not participate in any insider dealing in relation to dealing in securities nor knowingly assist any other person to participate in any such insider dealing;
- (l) where it effects a sale or purchase of securities with or for a client, ensure that the client is sent with due despatch a note containing the essential details of the transaction;
- (m) satisfy itself on reasonable grounds and on a continuing basis that any representative that it appoints is fit and proper to act for it in that capacity; and shall also similarly satisfy itself that it has adequate resources to monitor and enforce compliance by its representatives with high standards of business conduct;
- (n) take reasonable steps, including the establishment and maintenance of procedures, to ensure that its officers and employees act in conformity with their relevant responsibilities under the securities regulatory system and with appropriate arrangements on propriety in personal dealings; and
- (o) have procedures to ensure:-
  - (a) the proper handling of complaints from clients relevant to its compliance with the securities regulatory system;
  - (b) that any appropriate remedial action on those complaints is promptly taken;
  - (c) where the complaint is not promptly remedied, that the client is advised of any further avenue for complaint available to him under the securities regulatory system (including his right to complain to the broker's Exchange and the RMA).

## **PART 4**

### **CLIENT MONEY**

#### **Segregation of client money**

22. (1) A licensed broker shall pay all client money coming into its hands for or from a client into a specially created client bank account, held at a bank approved by the RMA, which is segregated from any account holding money belonging to the licensed broker.
- (2) A licensed broker shall account properly and promptly for client money and in particular shall ensure that:-
- (a) client money and other money do not become mixed;
  - (b) the licensed broker can at all times be sure how much client money stands to the credit of each client;
  - (c) money belonging to one client is not used for another client.

#### **Restriction on withdrawal of client money**

23. (1) Money may be withdrawn by a licensed broker from a client bank account only if:-
- (a) it is not client money;
  - (b) it is properly required for payment to or on behalf of a client;
  - (c) it is properly required for or towards payment of a debt resulting from a trade, including commissions and fees due to the licensed broker from a client; or
  - (d) it is properly transferred to another client bank account or into a bank account in the client's own name.
- (2) Other than in respect of trading debts, a licensed broker may withdraw money from a client bank account for or towards payment of its own fees or commission only if:-
- (a) the licensed broker has given the client 7 (seven) days notice of its intention and adequate detail of the breakdown of the proposed payment, and the client has not objected;
  - (b) the fees or commission accord with the arrangements agreed with the client; or
  - (c) the amount is agreed in writing by the client.

## PART 5

### ACCOUNTING RECORDS

#### Duty to keep accounting records

24. (1) A licensed broker shall keep accounting records which are sufficient to show and explain its transactions (whether effected on its own behalf or on behalf of others) and which shall:-
- (a) disclose with reasonable accuracy the financial position of the licensed broker at any point of time;
  - (b) demonstrate whether or not the licensed broker is at any point in time complying with any minimum capital and liquid funds requirements;
  - (c) enable the licensed broker to prepare true and fair balance sheets and profit and loss accounts as at any date and which comply with these regulations.
- (2) The accounting records, (which shall include separate and distinct accounts for each client in respect of a client's money and securities activity), shall in particular, contain:-
- (a) entries from day to day of all sums of money received and expended by the licensed broker, and the matters in respect of which the receipt and expenditure takes place;
  - (b) a record of all income and expenses of the licensed broker explaining their nature;
  - (c) entries from day to day of all purchases and all sales of securities by the licensed broker distinguishing those which are made by the licensed broker on its own account and those which are made by the licensed broker on behalf of others;
  - (d) entries from day to day of:-
    - (i) all money which is paid into or out of a client bank account maintained for the purposes of regulation 22; and
    - (ii) receipts and payments of client money not passed through such a client bank account, identifying the persons to or from whom such receipts and payments are made; and
  - (e) a record of the balance on each client bank account;
  - (f) a record of the details of money and securities activities and balances with individual clients stating the name of each client and the amount held and received for that client;

## **PART 5 : ACCOUNTING RECORDS**

- (g) sufficient information to explain the licensed broker's dealings with each client bank account; and
- (h)
  - (i) details of all securities which are the property of the licensed broker, showing by whom and for whom they are held and whether, if held otherwise than by the licensed broker itself, they are so held as collateral against loans or advances;
  - (ii) details of all securities which are not the property of the licensed broker but for which the licensed broker is accountable, showing by and for whom they are held distinguishing those which are held for safe custody, and those which are deposited with a third party whether as security for loans or advances made to the licensed broker or any related person or for any other purpose.

### **Records to be kept up to date**

25. The obligations under these regulations are continuing obligations and continuous performance of them is required to ensure that records are at all times up to date.

### **Audit trail**

26. (1) Information required by these regulations to be recorded shall be recorded in such a way as to enable a particular transaction to be identified at any time and traced through the accounting system of the licensed broker.
- (2) All records shall be arranged, filed, indexed and cross referenced so as to permit prompt access to any particular record.

### **Conformity with accounting standards**

27. The accounting records required to be kept by a licensed broker shall conform with statements of standard accounting practice issued by such body or bodies as may be prescribed by the RMA.

### **Retention of records**

28. A licensed broker shall preserve its accounting records for 5 years from the date on which they are made, together with every contract note received by the licensed broker and a copy of every contract note issued by it, and thereafter may be destroyed only with the written consent of the RMA.

### **Availability of accounting records for inspection**

## **PART 5 : ACCOUNTING RECORDS**

29. A licensed broker shall make all books of account and other records required to be kept under these regulations available to the RMA for inspection, or audit by any person appointed by the RMA, when required by the RMA to do so.

### **Monthly Accounts**

30. A licensed broker shall send to each client a statement of account monthly, whenever there is any activity in the account to change the money or security balances and shall detail all such activity and provide new closing balances for the money and securities.

## PART 6

### FINANCIAL STATEMENTS

#### **Balance Sheet and Profit and Loss Account**

30. (1) A licensed broker shall prepare for each financial year (which shall be a calendar year) annual financial statements which shall consist of a balance sheet and a profit and loss account made up to the last day of the financial year.
- (2) The balance sheet shall give a true and fair view of the assets and liabilities and the state of affairs of the licensed broker as at the end of the financial year.
- (3) The profit and loss account shall give a true and fair view of the profit or loss of the licensed broker for the financial year.
- (4) A licensed broker shall submit his annual financial statements to the RMA within 4 months after the end of the financial year to which they relate together with its auditor's report.

## **PART 7**

### **AUDIT**

#### **Appointment of auditor**

31. (1) A licensed broker shall appoint an auditor to audit its accounts (including all client accounts).
- (2) The auditor must be approved by the RMA and be independent of the licensed broker.
- (3) It is the duty of the licensed broker to ensure that the auditor shall have a right of access at all times to the accounting and other records of the licensed broker and all other records relating to its business.
- (4) The auditor shall have a right to require from the licensed broker, its officers and employees such information and explanation as the auditor thinks fit for the performance of his duties as auditor.

#### **Auditor's report**

32. (1) The auditor's report shall state whether in the opinion of the auditor:-
- (a) the annual financial statements of the licensed broker have been properly prepared in accordance with these regulations;
  - (b) in the case of the balance sheet, a true and fair view is given of the state of affairs of the licensed broker as at the end of the financial year;
  - (c) in the case of the profit and loss account, a true and fair view is given of the profit or loss of the licensed broker for the financial year;
  - (d) the licensed broker has, throughout the financial year, kept proper accounting records in accordance with the requirements of regulation 24;
  - (e) the balance sheet and the profit and loss account are in agreement with the accounting records of the licensed broker; and
  - (f) he has obtained all information and explanations which, to the best of his knowledge and belief, are necessary for the purposes of his audit.
- (2) If the auditor is unable to report favourably in respect of each of the matters referred to in paragraph (1), or his report is otherwise qualified on the grounds of his uncertainty as to the completeness or accuracy of the accounting records, the auditor shall forward a copy of his report forthwith to the RMA.

## **PART 8**

### **REVOCACTION etc.**

#### **Deemed revocation of licence**

33. A licence shall be deemed to be revoked, in the case of:-
- (a) a licensed broker, if the licensed broker has been wound up, or if he ceases to be employed by the broker in relation to whom his broker's representative's licence was granted;
  - (b) a broker's representative, if he dies or if he ceases to be in the employment of the licensed broker in respect of which his licence was issued.

#### **Revocation and suspension of licence by RMA**

34. (1) The RMA may revoke a licence, in the case of a licensed broker, if:-
- (a) the licensed broker is being or will be wound up;
  - (b) the licensed broker ceases to carry on securities business;
  - (c) the RMA has reason to believe that the licensed broker, or any of its directors or employees, has not performed its duties efficiently, honestly or fairly; or
  - (d) the licensed broker contravenes or fails to comply with any condition or restriction applicable in respect of the licence or any other provision of these regulations.
- (2) The RMA may revoke a licence, in the case of a broker's representative, if -
- (a) he ceases to carry on business for which he is licensed;
  - (b) he has been adjudged a bankrupt in Bhutan or elsewhere;
  - (c) the licence of the broker, in relation to whom his licence was granted, is revoked;
  - (d) the RMA has reason to believe that he has not performed his duties efficiently, honestly or fairly;
  - (e) he is convicted of an offence involving fraud or dishonesty punishable by imprisonment for a term of not less than 3 months; or
  - (f) he contravenes or fails to comply with any condition or restriction applicable in respect of his licence or any other provision of these regulations.
- (3) In a case to which paragraph (1) or (2) applies the RMA, if it considers it desirable to do so, may instead of revoking a licence, suspend a licence for a specific period and may at any time remove its suspension.

## **PART 8 : REVOCATION etc.**

- (4) Subject to paragraph (5), the RMA shall not revoke or suspend a licence under paragraph (1),(2) or (3) without first giving the licensed broker or broker's representative, as the case may be, an opportunity of being heard, except when considered in the public interest to do so and opportunity for a hearing must be given within five business days.
- (5) The RMA may suspend the licence of a broker or broker's representative, whose conduct is under investigation under regulation 36 until RMA has inquired into such matter and has come to a decision thereon, if the RMA is satisfied that a suspension is in the public interest or is appropriate for the protection of investors.

### **Effect of revocation or suspension of licence**

- 35. (1) A licensed broker or broker's representative whose licence is revoked under regulation 33 or revoked or suspended under regulation 34 shall, for the purposes of these regulations, be deemed not to be licensed from the day that the RMA revokes or suspends the licence, as the case may be.
- (2) A revocation or suspension of the licence of a licensed broker or broker's representative shall not operate so as to:-
  - (a) avoid or affect any agreement, transaction or arrangement relating to the trading in securities entered into by such licensed broker, whether the agreement, transaction or arrangement was entered into before, or after (except where the revocation or suspension is known to the other party) the revocation or suspension of the licence; or
  - (b) affect any right, obligation or liability arising under any such agreement, transaction or arrangement.

## PART 9

### INVESTIGATION AND INSPECTION BY RMA

#### Investigation by RMA

36. (1) The RMA may inquire into an allegation that a licensee is or has been guilty of any misconduct, or is no longer fit and proper to continue to remain licensed by reason of any other circumstances which have led, or are likely to lead, to the improper conduct of business by it or to reflect discredit on the method of conducting its business.
- (2) The RMA shall, at the hearing of an inquiry into the allegation under paragraph (1), give the licensee an opportunity of being heard.
- (3) If after inquiring into an allegation under paragraph (1) the RMA is of the opinion that the allegation is proved, the RMA may if it thinks fit:-
- (a) revoke the licence of the licensee;
  - (b) suspend the licence of the licensee for such period, or until the happening of such event, as the RMA may determine; or
  - (c) reprimand, publicly or privately, the licensee.
- (4) For the purposes of this regulation, "misconduct" means:-
- (a) any failure to comply with the requirements of the Financial Institutions Act, these regulations or any rules made by a securities exchange of which the licensed broker is a member, with respect to securities business; and
  - (b) any act or omission relating to the conduct of securities business which is likely to be prejudicial to the public interest.

#### Inspection by RMA

37. (1) The RMA may, from time to time, inspect under conditions of secrecy the books, accounts, documents and transactions of a licensed broker.
- (2) The RMA may appoint any person to exercise the power of the RMA under paragraph (1).
- (3) For the purpose of an inspection under this regulation, a licensed broker under inspection shall afford the RMA access to, and shall produce, its books, accounts and documents and shall give such information and facilities as may be required to conduct the inspection.
- (4) Any person appointed by the RMA shall, at all times, have the power to copy or take possession of the books, accounts and other documents of a licensed broker.
- (5) Any person who fails, without reasonable excuse, to produce any book, account or document or furnish any information or facilities in accordance

**PART 9 : INVESTIGATION AND INSPECTION BY RMA**

with paragraph (3) shall be guilty of an offence and liable on conviction to a fine not exceeding twenty five thousand Ngultrum or to imprisonment for a term not exceeding sixty months or to both.