

### **Hedging Related Regulations, 2075**

The government of Nepal in accordance with the rights provided by section 22 of Foreign Exchange (Regulation) Act, 2019, has formulated following rules.

- 1. Short Title and Commencement:** The name the regulation shall be "Hedging Related Regulation, 2075"
  
- 2. Definition:**
  - a) **"Act"** means Foreign Exchange (Regulation) Act, 2019.
  - b) **"Project"** means the project set out under Rule No. 3.
  - c) **"Bank"** means the Nepal Rastra Bank.
  - d) **"Hedging"** means the arrangement to stable the foreign currency exchange rate during project implementation for repatriation of foreign loan investment in the same rate of foreign currency pursuant to the agreement for foreign investment at the time of foreign currency deposited in the bank.
  
- 3. Availability of Hedging Facilities :**

Government of Nepal may provide the facility of hedging to the following projects with foreign loan investment:

  - a) Generating hydroelectricity of 100 MW or more than that capacity.
  - b) Construction of more than 30 km length electric transmission line with capacity of 220 KVA or more that capacity.
  - c) Construction of more than 10 km long way of Rail, Metro or Mono Rail
  - d) Construction of Fast track which is longer than 50 kilo meters.
  - e) Other projects determined by the council of ministers, Government of Nepal.
  
- 4. Approval requirements**

The projects desirous to obtain hedging facility under rule 3 for facility of hedging shall obtain approval for foreign investment and inflow of foreign currency in accordance with prevailing federal laws.
  
- 5. Application to be made :**
  - a) A project willing to obtain hedging facilities shall submit application at the Bank pursuant to annex - 1.
  - b) Documents required along with the application form are as follows:
    - i. A copy of license received from the concerned authority to implement the project,
    - ii. A copy of project investment agreement,
    - iii. A copy of approval for foreign investment and bringing foreign currency in the country as per Rule no. 4.

- iv. A copy of Memorandum of Association and Articles of Association of the Company.
- v. A copy of information letter provided by the council of ministers to available hedging facility pursuant to rule no. 3

**6. Examination of the application:**

- a) The Bank shall examine the required documents and other necessary details for application of hedging facility.
- b) Pursuant to sub rule (1) if the Bank requires for additional documents for clarification or because of nonfulfillment of documents, the Bank shall give Notice to the applicant to submit the documents within 15 days.
- c) Pursuant to sub rule (2) applicant shall submit the required documents in the given timeline,
- d) After examining as per sub rule 3 and rule 5 (2), if the applicant is not eligible for receiving hedging facility the bank shall notify the applicant in writing within 7 days.

**7. Granting Approval:**

After examination of an application pursuant to rule no. 6, the Bank shall approve the hedging facility along with the condition prescribed below:

- a) Foreign debt investment in foreign convertible currency as determined by the bank.
- b) Foreign currency to be deposited in the bank account within the time provided by the Bank.

**8. Depositing foreign currency:**

- a) An application shall be made at the Bank by the project receiving approval pursuant to section 7 in order to deposit the foreign currency for foreign investment,
- b) The bank shall provide bank account to the applicant after receiving an application pursuant to the sub rule (1).
- c) The investor shall deposit foreign currency in the bank account provided by the bank account within the time line as provided by the bank.
- d) Pursuant to sub rule (3), after depositing the foreign currency in the given bank account, the bank shall deposit such currency in the foreign exchange rate of the deposited day in any account of commercial bank.

**9. Locking of foreign exchange rate:**

- a) Pursuant to rule 8 (3) the amount deposited to the bank by the investors in foreign currency shall be locked on the day of deposit, and the rate of foreign currency for this amount shall not change.

- b) The bank shall provide hedging facility to investor to repatriate the foreign exchange rate which has locked pursuant to sub rule (1).

**10. Hedging Charge:**

- a) The Ministry of Finance, Bank and investor through mutual understanding will fix the hedging fee on basis of the foreign exchange rate risk, inflation risk, foreign investment amount, Project capacity, loan/debt and the interest for payment of each project.
- b) The project shall submit hedging charge to the bank, which is determined pursuant to sub rule (1).
- c) The Bank shall issue hedging solution certificate as prescribed in schedule 2 to the project after receiving heading charge pursuant to sub rule 2.

Notwithstanding anything in sub rule (1), if an agreement is entered into before the commencement of the Regulation, the agreement shall prevail over the Regulation. However, hedging charge prescribed in the regulation shall be submitted to the Bank if the agreement has not prescribed any provision in that regards.

**11. Period of hedging:**

The hedging period shall be maximum of 10 (ten) years.

**12. Renew:**

- a) The project which is willing to renew the period of hedging pursuant to rule 10(3), shall apply an application at the bank within 30 days prior expiry of the certificate.
- b) After receiving an application in accordance with the sub-rule (1), the bank shall renew up to 5 years based on the exchange rate of Nepalese rupees with the United States dollar since last 10 years.

**13. Currency for Hedging facility:**

The hedging facilities are provided only those currencies which have been prescribed by the bank by publishing public notice.

**14. Establishing a hedging fund:**

- a) There shall be one hedging fund for the purpose of management of foreign currency deposited in the bank pursuant to rule 8 and hedging cost received pursuant to rule 10.
- b) The limit of amount in the fund per sub-rule (1) shall be as prescribed.
- c) The Bank shall invest and conduct required management of the amount deposited in fund with sub rule (1).

- d) The return received from the investment and management pursuant to sub-rule 3 shall be deposited in same currency as collected in the hedging fund pursuant to sub rule 1.

**15. Require to coordinate and Consult:**

In relation to provide hedging facilities under this regulation, the bank shall coordinate and consult with ministry of finance, project related ministry, concern entity of Nepal Government and investor.

**16. Foreign Exchange Conservation/protection:**

The bank shall conserve foreign currency available through hedging facility as per rule 9 for purpose of task as prescribed in section 6 of the Act.

**17. Accounts of hedging:**

The bank shall keep details of accounts of the hedging as per the accounting standards in Nepal.

**18. Report to be submitted :**

The bank shall prepare report regarding hedging facility in each year and shall be submitted to Ministry of Finance within three months from the end of each fiscal year.

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