



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

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The Bank of the Lao PDR

No. 04/BOL

Vientiane Capital, Date 20/June/ 2008

## **Regulation For Deposit-Taking MFIs**

Based on the Law No 5/NA on the Bank of Lao PDR, dated 14 October 1999.

Based on the Notice of the Prime Minister on Microfinance Supervision No. 05/PM, dated 04 April 2007.

Based on a Proposal from the Banking and Financial Institutions Supervision Department of the Bank of Lao PDR.

The Governor of the Bank of Lao PDR issues the following regulation:

### **Part I General Provisions**

#### **Article 1      Purposes of the Regulation**

This Regulation regulates the establishment and operations of Deposit-Taking Microfinance Institutions in the Lao PDR by outlining measures aiming to (1) safeguard financial system in the country ensuring that Deposit-Taking Microfinance Institutions operate in a safe and prudent manner and (2) protect the rights of depositors.

#### **Article 2      Interpretation of Terms**

"Deposit-Taking Microfinance Institution" means an institution that has been granted a Licence by the Bank of Lao PDR in accordance with the provisions of this Regulation.

"Microfinance Activities" means extending Micro-loans, accepting Compulsory and Voluntary Deposits and providing other financial services as stipulated in this Regulation or as determine by the Bank of the Lao PDR from time to time.

“Voluntary Deposit” means the deposit of a sum of money repayable on demand or as agreed with the Deposit Taking Microfinance Institution.

“Compulsory Deposit” means a sum of money that a borrower is obligated to deposit with a Microfinance Institution as a condition for receiving a loan or as collateral for a loan either as a percentage of the loan or as a nominal amount. The sum may be withdrawn by the borrower immediately upon repayment of the loan.

“Kip” means the lawful currency of the Lao PDR.

“Foreign Currency” means any lawful currency other than the Kip.

“Micro-loan” means a Loan with or without collateral the maximum principal of which shall not exceed 10,000,000 Kip, or such other amount as the Bank of Lao PDR may be determined from time to time.

“Related Parties” means:

(a) any auditing entity or auditor who is responsible for auditing a Deposit-Taking Microfinance Institution.

(b) any individual or enterprise who owns more than ten (10) percent of capital of Deposit Taking Microfinance Institution.

(c) any company that has a board member or managing director or deputy manager or officers in charge of credit appraisals and approvals of the Deposit Taking Microfinance Institution or an immediate family member of such person who holds 10 percent or more of capital of such company.

(d) any enterprise that is wholly or partially owned by the Deposit Taking Microfinance Institution.

“Immediate Family Member” means a parent, foster parent, spouse, child, foster child or sibling

“Major Shareholder” means any person or enterprise holding twenty (20) % or more of the capital in a Deposit-Taking Microfinance Institution.

“Capital” means paid up capital, reserves, and retained earnings of Deposit-Taking Microfinance Institution.

“Current Loan” means any loan that is fully paid to date according to a contract.

“Accounting Documents” means different types of general ledgers, bookkeeping, cash books and other accounting records and documents which are recorded manually or electronically used by Deposit-Taking Microfinance Institutions.

“Agent” means individual or enterprise representing an individual or an enterprise for establishing business relationships in order to negotiate contracts by not representing any side.

“Non-Performing Loan” means a loan for which:

(a) either principal and/or interest in whole or in part is due and unpaid for more than thirty (30) days.

(b) either principal and/or accrued interest from 30 days has been added to an existing loan, new loan or restructured loan.

### **Article 3      Legal Status**

A Deposit-Taking Microfinance Institution which has been granted a Licence shall be regarded as a financial institution and may be incorporated as a limited company under the Enterprise Law and operates in accordance with the law and this Regulation.

#### **Article 4        Location**

A Deposit-Taking Microfinance Institution shall be allowed to open a head office, branches or service units in the entire country in accordance with its approved application for a Licence. The opening, closing and relocation of the head office or a branch or service unit or the opening of any new branches or services units is subject to the prior approval of the Bank of the Lao PDR.

## **Part II**

### **Establishment and Revocation**

#### **Article 5        Requirements for Requesting Establishment**

- 1        The applicants for a Licence for a Deposit Taking Microfinance Institution in the Lao PDR may be individuals, sole proprietorships, partnerships, or companies incorporated under the laws of Lao PDR.
- 2        The applicants shall apply for a Licence to be granted to a limited company, to be established and owned by the applicants on receipt of approval for a Licence, which shall have:
  - (a)        have a minimum of five (5) shareholders in its initial establishment and have at least one Major Shareholder who has experience in banking and microfinance.
  - (b)        have an organisational structure consisting of a general assembly of shareholders, a board of directors and a managing director.
  - (c)        have paid up capital as specified in Article 16 of this regulation.

#### **Article 6        Required Documents for Requesting Establishment**

- 1        The application file for a Licence to be submitted to the Bank of Lao PDR shall comprise the following original documents:
  - (a)        an application form in accordance with the format to be provided by the Bank of Lao PDR.
  - (b)        a receipt voucher from the Operational Department of the Bank of the Lao PDR indicating the receipt of cash or a check for 1,000.000 Kip (the application fee) or such amount as determined by the Bank of Lao from time to time.
  - (c)        the draft Contract of Incorporation and draft bye-laws of the Deposit-Taking Microfinance Institution in accordance with the Enterprise Law.
  - (d)        documented evidence indicating that the Deposit-Taking Microfinance Institution requesting an establishment has sufficient amount of capital as

stipulated in Article 16 of this regulation and such capital is unencumbered and available.

- (e) a list of all shareholders and the amount of shares each shareholder will acquire on incorporation of the Deposit-Taking Microfinance Institution.
- (f) the information necessary to assess the source, the adequacy of the financial resources, and the background of the Major Shareholders in accordance with the requirements of the Bank of Lao PDR.
- (g) map of location and a business plan covering the first five years of operation of Deposit-Taking Microfinance Institution that demonstrates the sustainability of the Deposit-Taking Microfinance Institution.
- (h) the curriculum vitae of each of the proposed members of the board of directors and the managing director.

- 2 In order to determine the professional suitability of persons proposed to become a member of the board of directors, or managing directors or a Major Shareholder of a Deposit-taking Microfinance Institution, the Bank of Lao PDR shall have regard to the educational background and experience in finance, banking, accounting, auditing and business management of the person concerned.

#### **Article 7 Disqualified Persons**

A person shall be disqualified from being a member of the board of directors or managing director or Major Shareholder if such person:

- (a) has been convicted of the offence of fraud or has been subject to an investigation of a professional, administrative or judicial proceeding of a material nature.
- (b) has contravened the provisions of any laws or regulations designed for the protection of members of the public against financial loss due to dishonesty or incompetence of, or malpractices by, persons engaged in the provision of banking, insurance, investment or other financial services.
- (c) was a director of a Deposit Taking Financial or an institution that has been involuntarily liquidated or is under liquidation or management of the Bank of Lao PDR or under receivership.
- (d) has taken part in any business practices that in the opinion of the Bank of Lao PDR, were fraudulent, prejudicial or otherwise improper whether unlawful or not or which otherwise discredited his or her methods of conducting business.
- (e) has taken part or been associated with any other business practices as would, or has otherwise conducted himself or herself in such manner as to, cast doubt on his or her competence and soundness of judgement.
- (f) has been declared bankrupt.
- (g) is involved either as an employee, shareholder, member or manager in any Microfinance Activities in such a way as there may be a potential conflict of interest.

#### **Article 8 Licensing Consideration**

- 1 The Bank of the Lao PDR shall within thirty (30) working days of receipt of the full application file notify the result (decline or approval) of its consideration.
- 2 Within five (5) working days of receipt of written approval from the Bank of the Lao PDR the applicants shall pay the registered capital of the Deposit Taking Microfinance Institution in full as well as the Licence issuance fee as specified in Article 13 of this Regulation. Within five (5) working days of the satisfaction of these requirements the Bank of the Lao PDR shall issue a License to the applicant.
- 3 Within thirty (30) working days of receipt of the Licence the approved Deposit Taking Microfinance Institution shall register its Licence and comply with tax registration with relevant authorities in compliance with the law.

#### **Article 9            Name**

- 1 A Deposit-Taking Microfinance Institution shall use the name specified in the Licence. If a name is used in a foreign language the meaning shall be consistent with the name specified in the approved Licence.
- 2 The Bank of Lao PDR shall prohibit the Deposit-Taking Microfinance Institution from using a name if it is already used or if it closely resembles a name that is already given to another Deposit-Taking Microfinance Institution.

#### **Article 10          Duration of the Licence**

Unless withdrawn earlier by the Bank of Lao PDR in accordance with Article 15 of this Regulation, the Licence of the Deposit-Taking Microfinance Institution shall remain valid for ten (10) years.

#### **Article 11          Refusal of Licensing**

- 1 A License shall not be issued if the Bank of the Lao PDR finds:
  - (a) any of the applicants or their shareholders, partners, directors or managers as the case may be is participating in illegal activities or there is a court decision prohibiting any of the above from engaging in Microfinance Activities or banking.
  - (b) the conditions and required documents set out in Articles 5 and 6 of this Regulation are not complied with.
  - (c) unreliable information in the documentation submitted by the applicant.
  - (d) the business plan is not viable.
- 2 In the case of refusal of a Licence, the Bank of the Lao PDR shall, within thirty (30) working days of receipt of the full application, provide a written statement of the reasons for refusal and shall return all submitted documentation.

#### **Article 12          Resubmission of Application**

- 1 The applicants may address the reasons given for refusal in writing to the Bank of the Lao PDR. If the Bank of the Lao PDR finds there are valid reasons the Bank of the Lao PDR shall allow the applicant to re-submit an application for licensing one time without paying an application fee again. The Bank of the Lao PDR shall, within thirty

(30) working days upon receipt of the file, issue its decision in writing to either issue or not the Licence as specified in Article 8 of this Regulation.

- 2 For applications resubmitted more than one time the Licence application fee specified in Article 13 of this Regulation shall be payable on each resubmission.

#### **Article 13      Licensing Fees**

- 1 The Deposit-Taking Microfinance Institution shall pay a Licence application fee of one million (1,000,000) Kip or another amount determined by the Bank of Lao PDR from time to time.
- 2 Within ten (10) working days of receipt of licence, the Deposit-Taking Microfinance Institution shall pay a Licence issuance fee as following:
  - If the registered capital is between 1-3 billion kip, the fee of 10,000,000 Kip shall be applied.
  - If the registered capital exceeds 3 billion kip, the fee of 15,000,000 Kip shall be applied.

#### **Article 14      Annual Supervision Fee**

- 1 All Deposit-Taking Microfinance Institutions shall pay an annual fee of 0.05 percent of average assets subject to a minimum fee of 0.5 percent of registered capital before January 30 of each year.
- 2 If established during the year, the maintenance fee shall be exempted for that year.

#### **Article 15      Revocation of the Licence**

With immediate effect, the Licence shall be revoked if the Deposit Taking Microfinance Institution:

- (a) has not commenced operations within 12 months from the date of the Licence.
- (b) is prohibited by a court decision from engaging in Microfinance Activities or banking activities.
- (c) does not implement any prescribed corrective measures or comply with any notice in the prescribed time frame after its business has been temporarily suspended.
- (d) does not perform of any requirements established as part of the Licence or under these Regulations.
- (e) discontinues its operations.

### **Part III**

#### **Capital of a Deposit-Taking Microfinance Institution**

#### **Article 16      Registered Capital**

The minimum registered capital shall not be less than one (1) Billion Kip or another amount determined by the Bank of the Lao PDR from time to time. The registered capital is divided into shares with equal value.

#### **Article 17      Increase or Reduction of Registered Capital**

Any increase or decrease in the registered capital of a Deposit-Taking Microfinance shall require the written approval of the Bank of Lao PDR.

#### **Article 18      Utilising Registered Capital**

The registered capital of a Deposit-Taking Microfinance Institution granted a licence by the Bank of the Lao PDR may be utilised toward:

- (a) building offices and purchasing assets necessary for business operations.
- (b) granting credit.

#### **Article 19      Depositors' Protection Fund Membership**

A Deposit-Taking Microfinance Institution shall become a member of the Depositors' Protection Fund and shall remit a certain percentage of total deposits as required by the Depositors' Protection Fund to establish a fund for the protection of depositors of a Deposit-Taking Microfinance Institution.

#### **Article 20      Shares and Transfer of Shares**

- 1      The bye-laws of a Deposit-Taking Microfinance Institution shall prohibit the issue of bearer shares
- 2      Shares of a Deposit-Taking Microfinance Institution may not be withdrawn but may be transferred, sold, or change holder. Such activities shall be notified to board of directors at least seven (7) days prior to the transferring, selling or changing hand and shall be reported to the Bank of the Lao PDR in writing.
- 3      Any existing or new shareholder who will turn out to be a Major Shareholder of a Deposit-Taking Microfinance Institution as a result of any transfer shall be subject to the prior approval of the Bank of the Lao PDR which shall take into account the provisions of Articles 6 and 7 of this Regulation. The Bank of the Lao PDR shall issue its decision regarding any such transfer within thirty (30) working days of receipt of the request for prior approval.

### **Part IV**

### **Organisation**

#### **Article 21      Organisation of a Deposit-Taking Microfinance Institution**

The organisation of a Deposit-Taking Microfinance Institution consists of the general assembly of shareholders, the board of directors, the Audit Committee and the managing director.

## **Article 22      General Assembly of Shareholders**

- 1      The general assembly of shareholders is the highest body of a Deposit-Taking Microfinance Institution. The ordinary general assembly of shareholders is held at least once a year. The ordinary general assembly of shareholders shall be held no later than two months from the date that the board of directors has approved the financial statements prepared by the external auditors. The chairman shall notify the date of general assembly of shareholders within thirty (30) days.
- 2      The notice and agenda of the general assembly of shareholders shall be sent to the shareholders at least five (5) days before the date of the meeting.
- 3      An ordinary general assembly of shareholders shall not be conducted unless at least two shareholders and proxies representing at least half of total shares are present.

## **Article 23      Resolutions of the General Assembly of Shareholders**

- 1      Unless a higher majority is provided for in the bye-laws of the Deposit-Taking Microfinance Institution, resolutions of ordinary general assembly of shareholders are effective only when adopted by simple majority representing over half of the total shares held by the shareholders present at the meeting. Each share shall give the right to one vote.
- 2      Any shareholder who is a party to, or has an immediate family member who is party to any transaction being considered by the general assembly of shareholders shall not be entitled to vote on matters concerning that transaction.

## **Article 24      Rights and responsibilities of the General Assembly of Shareholders**

The general assembly of shareholders has the following rights and responsibilities:

- (a)      to hear the board of directors' report on the Deposit-Taking Microfinance Institution' s operations and financial performance.
- (b)      to hear about the loss and proposals on the distribution of dividend.
- (c)      to hear the report of the auditor.
- (d)      to approve and adopt the annual operational report of the previous year.
- (e)      to approve and adopt the annual financial statements.
- (f)      to approve the distribution of dividends.
- (g)      to elect or remove members of the board of directors.
- (h)      to appoint the external auditor and approve the auditing fees
- (i)      to authorise the board of directors to perform a specific tasks on behalf of the general assembly of shareholders.
- (j)      other rights and responsibilities in accordance with the law and the bye-laws of the Deposit-Taking Microfinance Institution.

## **Article 25      Extraordinary General Assembly of Shareholders**



1 An extraordinary general assembly of shareholders may be convened at any time and may be requested in writing by:

- (a) the board of directors.
- (b) the managing director.
- (c) a member of the Audit Committee.
- (d) shareholders who represent at least twenty (20) percent of the total shares.
- (e) persons appointed by the court at the shareholders' request.
- (f) the liquidation agent.

2 An extraordinary general assembly of shareholders shall not be conducted unless shareholders and proxies representing at least two-thirds of total shares are present.

3 Unless a higher majority is provided for in the bye-laws, resolutions of an extraordinary general assembly of shareholders are effective only when approved by a majority of two-thirds of the total shares represented by the shareholders present at the meeting in person or by proxy.

## **Article 26 Rights and Responsibilities of Shareholders**

Shareholders have the following rights and responsibilities:

- (a) to participate to and cast their vote at the general assembly of shareholders.
- (b) to receive documents at least five (5) working days prior to the general assembly of shareholders.
- (c) to be informed about operations of the Deposit-Taking Microfinance Institution.
- (d) to raise questions and submit opinions in writing on the Deposit-Taking Microfinance Institution's management.
- (e) to receive dividends in proportion with their shares.
- (f) to pay for subscribed shares in accordance with the specified timeframe.
- (g) not to withdraw shares but only to transfer, sell and hand over such shares to other persons.
- (h) to be liable for the Deposit-Taking Microfinance Institution's debts within the scope not exceeding the outstanding unpaid value of subscribed shares.
- (i) to appoint a proxy in writing.
- (j) other rights and responsibilities in accordance with the law and the bye-laws of the Deposit-Taking Microfinance Institution.

## **Article 27 Structure of the Board of Directors**

1 The board of directors may consist of five (5) to ten (10) members including the chairman.

- 2 Members of the board of directors are elected or removed by the general assembly of shareholders.
- 3 Members of the board of directors have a term of office of three years and may be re-elected.
- 4 In case a member of the board of directors passes away or is no longer able to perform his duties or resigns between two General Assemblies of Shareholders, the board of directors may appoint another member for temporary replacement until the next general assembly of shareholders.

## **Article 28 Rights and Responsibilities of the Board of Directors**

- 1 The board of directors shall be responsible before the law and have the following rights and responsibilities:
  - (a) to implement the resolutions of the general assembly of shareholders;
  - (b) to report the activities of the Deposit Taking Microfinance Institution to general assembly of shareholders;
  - (c) to be responsible before the law for any losses caused to the Deposit Taking Microfinance Institution through the negligence of the board of directors;
  - (d) to propose the distribution of profits to various reserves and dividends to the general assembly of shareholders for consideration;
  - (e) to appoint the chairman of the board of directors;
  - (f) to appoint and fill any vacancy for a board member between two General Assemblies of Shareholders;
  - (g) to appoint the Audit Committee;
  - (h) to appoint, dismiss or remove managing director;
  - (i) to decide the objectives and business strategies of the Deposit Taking Microfinance Institution and to approve business plans;
  - (j) to fulfil other rights and responsibilities as defined in the bye-laws of the Deposit Taking Microfinance Institution and the law;
- 2 Members of the board of directors are prohibited from having others to carry out their duties on their behalf.

## **Article 29 Meetings of the Board of Directors**

- 1 The board of directors shall have at least one meeting each month and shall have extraordinary meetings at the request of any member of the board of directors
- 2 The schedule and agenda of meetings of the board of directors shall be notified in writing to members of the board of directors at least seven (7) days in advance of each ordinary meeting and at least twenty four (24) hours in advance of each extraordinary meeting by the chairman of the board of directors

- 3 A meeting of the board of directors may be held only in the presence of at least two-thirds of its total members. Where the quorum is not present at the first convocation of the meeting shall be reconvened by the chairman of the board of directors within the next ten (10) working days. Resolutions of the meetings of the board of directors are effective only when adopted by a majority of votes from members present at the meeting. In the case of tied votes, the chairman shall have the casting vote. Each meeting of the board of directors shall be recorded in a minute book. The chairman of the board of directors shall be responsible for the accuracy and reliability of the minutes of meetings of the board of directors. The minutes of meetings of the board of directors shall be signed by all participants to the meeting.

**Article 30 Rights and Responsibilities of the Chairman of the Board of Directors**

The rights and responsibilities of the chairman of the board of directors are set out in Schedule A hereto.

**Article 31 Rights and Responsibilities of Members of the Board of Directors**

The rights and responsibilities of the members of the board of directors are set out in Schedule B hereto.

**Article 32 Audit Committee**

- 1 The Audit Committee shall be appointed or dismissed by the board of directors from among its members. The Audit Committee shall be comprised of at least three members of whom one member of the Audit Committee shall have accounting and/or financial experience with a thorough understanding of standards and regulations on audit, accounting and finance.
- 2 The Audit Committee shall have the following rights and responsibilities:
- (a) to audit expenses and operations of the Deposit-Taking Microfinance Institution;
  - (b) to investigate and examine all documents it deems necessary in performing his functions;
  - (c) to make recommendations for internal controls and the policies, procedures and systems for implementation;
  - (d) to review and verify the accuracy of the daily, monthly, quarterly and annually financial accounts;
  - (e) to prepare reports on the examination of the accounting and other operations of the year to the general assembly of shareholders for consideration and approval;
  - (f) to immediately prepare and submit reports to board of directors and the Bank of Lao PDR on finding any violations of laws and regulations of the Bank of the Lao PDR.
  - (g) other rights and responsibilities in accordance with the law and the bye-laws of the Deposit-Taking Microfinance Institution.
- 3 The Audit Committee shall appoint an internal auditor and internal audit staff that shall report directly to the committee as required for the prudent discharge of its rights and responsibilities.

### **Article 33      Rights and Responsibilities of the Managing Director**

- 1      The managing director has the following rights and responsibilities:
  - (a)      to manage and decide all matters of the Deposit-Taking Microfinance Institution within the rights and responsibilities assigned by the board of directors.
  - (b)      to represent the Deposit-Taking Microfinance Institution in contacts and contractual dealings.
  - (c)      to recruit or dismiss personnel, implement the payroll, allowances and other benefits as approved by the board of directors, award and promote personnel or apply disciplinary sanctions against offenders and apply other policies approved by the board of directors.
  - (d)      to perform other rights and responsibilities assigned by the board of directors.
- 2      The managing director may be supported by one or several deputy managers as decided by the board of directors.

### **Article 34      Restrictions**

- 1      The chairman may not also be the managing director of the Deposit-Taking Microfinance Institution nor shall the chairman participate in the board of directors nor manage any other commercial bank or Microfinance Institution or similar business.
- 2      In the event any members of the board of directors or managing director intend to work simultaneously for another enterprise prior approval from the general assembly of shareholders is required. The general assembly of shareholders shall only consent to such employment if there is no conflict of interest and it is satisfied that the said member of the board of directors or managing director will be able to devote adequate time to fully and properly discharge their assigned duties with the Deposit-Taking Microfinance Institution
- 3      Members of the board of directors, the managing director and deputy managers of a Deposit-Taking Microfinance Institution may not have been dismissed from the civil service or have formerly worked at a company whose licence has been revoked.

## **Part V**

### **Business Operations of a Deposit-Taking Microfinance Institution**

#### **Article 35      Rights and responsibilities of a Deposit-Taking Microfinance Institution**

- 1      A Deposit-Taking Microfinance Institution shall be entitled to:
  - (a)      extend Micro-loans in Kip. If loans are extended in foreign currencies, the approval of the Bank of Lao PDR is required.
  - (b)      receive Compulsory and Voluntary Deposits in Kip. If deposits are taken in foreign currencies, the approval of the Bank of Lao is required.
  - (c)      mobilise capital in the form of loans or grants, from Lao and foreign organisations.

- (d) borrow from other domestic or foreign financial institutions. If borrowings are from abroad the approval of the Bank of the Lao PDR is required.
- (e) open accounts and deposit funds with the Bank of Lao PDR, or with any domestic commercial banks.
- (f) provide payment services or transferring within the country.
- (g) offer insurance products as an Agent.
- (h) sell shares or bonds to general public.
- (i) determine deposit rates and loan rates according to the market mechanism and regulated by the Bank of Lao.

2 A Deposit-Taking Microfinance Institution shall be obliged to:

- (a) ensure the availability of the deposits when depositors wish to withdraw their funds in accordance with the deposit agreements.
- (b) keep confidentiality on financial status of deposit and loan customers except there is an order from court, auditor or prior approval from the Bank of the Lao PDR.
- (c) pay interest to the customers in accordance with the deposit agreement.
- (d) advise borrowers prior to the signature of a loan agreement of the total amount of fees and interest to be paid on the loan.

#### **Article 36 Business Operation Restriction**

Deposit-Taking Microfinance Institutions shall not:

- (a) carry out leasing.
- (b) deal in gold, precious metals, raw materials and commodities.
- (c) provide payment services through checking accounts.
- (d) carry out swap or foreign exchange business.
- (e) issue letters of credit, bank guarantees, bid and performance bonds, or any other guarantee.
- (f) provide insurance services on its own account.
- (g) hold, deal or trade in real estate (land, building or others premises) except for their own use.
- (h) hold, deal or trade in derivatives.
- (i) open accounts abroad.
- (j) carry on other restricted operations which may be determined by the Bank of the Lao PDR from time to time.

#### **Article 37 Financial Ratios**

Deposit-Taking Microfinance Institutions are required to strictly maintain financial ratios in compliance with this Regulation to ensure stability and solvency for effective and efficient operations.

#### **Article 38      Fund Mobilisation**

1        Deposit-Taking Microfinance Institutions may mobilise Voluntary Deposits up to a maximum of ten times the capital of the Deposit-Taking Microfinance Institution

2        Deposit-Taking Microfinance Institutions that received donations and grants shall be fully aware of the ultimate source of such funds to avoid the risk of money laundering.

3        The aggregate amount of any loans made either from individuals or enterprises may not exceed thirty (30) percent of the outstanding credit portfolio of the Deposit-Taking Microfinance Institution at any time.

4        Any borrowing from a foreign source shall be subject to the prior approval of the Bank of the Lao PDR.

#### **Article 39      Credit**

The aggregate amount of Micro-loans and other credit extended to any one borrower shall not be more than ten (10) percent of the capital of the Deposit-Taking Microfinance Institution. A Deposit-Taking Microfinance Institution shall maintain at least eighty (80) percent of its total loan portfolio as Micro-loans.

#### **Article 40      Loan Agreement**

1        At a minimum a loan agreement shall specify:

- (a)      The name and last name of the borrower.
- (b)      Amount of loan.
- (c)      Purpose and drawdown period of the loan.
- (d)      Maturity date and repayment schedule of interest and principal.
- (e)      The loan interest rate
- (f)      The total amount of fees to be paid
- (g)      The total amount of interest to be paid over the course of the loan.
- (h)      Penalties (in case a borrower is unable to fulfil a contract obligation).
- (i)      Security or collateral, if any.
- (j)      Procedures for settlement of disputes.

2        The loan agreement shall bear the names and signatures of the borrower and the lender.

#### **Article 41      Credit Restrictions**

1        Deposit-Taking Microfinance Institutions shall not be permitted to make loans to:

- (a)      board of directors' members, the managing director or deputy managers.
- (b)      officers in charge of credit appraisals and approvals.

- (c) any immediate family member of the board of directors, the managing director or deputy managers

2 A Deposit-Taking Microfinance Institution shall not grant any new loan or financial support to a borrower whose loan account has been classified as a Non-performing Loan Account, until the borrower has repaid all overdue principal and interest.

#### **Article 42 Credit Extension to the Related Parties**

- 1 Loans to Related Parties shall be made under normal conditions as applied to any other non-related customer.
- 2 The amount of any outstanding loans made to any one related party shall not exceed one (1) percent of the capital of the Deposit-Taking Microfinance Institution.
- 3 The aggregate amounts of outstanding loans made to all related parties shall not exceed five (5) of the capital of the Deposit-Taking Microfinance Institution.

#### **Article 43 Loan Classification and Provision**

- 1 A Deposit-Taking Microfinance Institution shall ensure that all loans are reviewed on a regular basis. Any loan overdue shall be recorded as non-performing on the balance sheet and classified and provisioned for as follows:
  - (a) Loans for which the principal and or interest are overdue for a period more than thirty (30) days shall be classified as Substandard Loans and provision shall be made for twenty five (25) percent of the outstanding principal.
  - (b) Loans for which the principal and or interest are overdue for a period more than ninety (90) days shall be classified as Doubtful Loans and provision shall be made for fifty (50) percent of the outstanding principal.
  - (c) Loans for which the principal and or interest are overdue for more than one hundred and eighty (180) days shall be classified as Loss Loans and a provision shall be made for one hundred (100) percent of the outstanding principal.
- 2 Outstanding loans that are recorded as non-performing shall not exceed five (5) percent of total value of outstanding loans. In addition a Deposit-Taking Microfinance Institution shall quarterly establish a general loan loss reserve of five (5) percent of the total value of performing loans outstanding.
- 3 The Bank of Lao PDR may order a Deposit-Taking Microfinance Institution to increase provisions for Non-performing Loans, if existing provisions are deemed to be insufficient after taking into account the risks and the general quality of the management of the Deposit-Taking Microfinance Institution.
- 4 A Deposit-Taking Microfinance Institution shall maintain all documentation relating to Non-performing Loans for inspection of the accuracy and completeness of the provisions in the accounting records and for use as evidence in the collection of debts or in legal action against borrowers.
- 5 Any new loan made to repay any Overdue Loan, or any loan that has been rescheduled, rolled-over, or otherwise modified because of weakness in the borrower's financial conditions or the borrower's inability to repay, or any loan that are disbursed in foreign currency to customers which have no source of income in

foreign currency shall be classified no higher than Substandard. The Deposit-Taking Microfinance Institution may accrue interest on such loans.

#### **Article 44      Discontinue Accruing Interest**

Other than as provided for in Article 43 Clause 5 of this Regulation Deposit-Taking Microfinance Institutions shall discontinue charging further interest on loan accounts that are classified as non-performing starting from the day on which loan accounts are classified as non-performing and shall also reverse the amount of previous recorded accrued interest which are not actually received from the income statement.

#### **Article 45      Repayment of Non-Performing Loans Classified as a Loss**

For any received repayment from loans which are classified as non-performing and a loss, due to overdue principal or both overdue principal and unpaid interest, the Deposit-Taking Microfinance Institution shall first apply such repayment to any outstanding interest and any balance shall be deducted unpaid principal.

#### **Article 46      Write-Off**

- 1      Any loan classified as non-performing and overdue more than 180 days shall be written off from the balance sheet of the Deposit-Taking Microfinance Institution no later than the quarter following the quarter in which it was reported as a loss. The Deposit-Taking Microfinance Institution shall continue following up on collection of any loans which are written off.
- 2      A Deposit-Taking Microfinance Institution shall record all loans written-off and all recoveries or payments received against these loans after write-off and shall write-back such recoveries as income.

#### **Article 47      Capital Adequacy Ratio**

A Deposit-Taking Microfinance Institution shall maintain shall maintain a ratio of capital to risk weighted assets of at least 12 percent or as determined by the Bank of Lao PDR from time to time.

#### **Article 48      Liquidity Ratio**

A Deposit-Taking Microfinance Institution shall maintain a liquidity ratio of as follows:

- (a)      cash in hand of four (4) percent which is calculated as:  $\text{total cash available} \div \text{total deposits}$ .
- (b)      a liquidity ratio of twenty (20) percent which is calculated as:  $(\text{total cash available} + \text{cash deposits in other banks or any other financial institutions}) \div \text{total liabilities}$ .

#### **Article 49      Foreign Exchange Exposure**

Deposit Taking Microfinance institutions that have received the prior approval of the Bank of Lao PDR to accept foreign currency shall maintain an open position or difference of not more than fifteen (15) percent for a single foreign currency and of not more than twenty (20) percent for all foreign currencies.



**Article 50      Investment**

- 1      A Deposit-Taking Microfinance Institution with the approval of the Bank of the Lao PDR may invest in other enterprises subject to the total invested capital not exceeding ten (10) percent of the registered capital of the Deposit-Taking Microfinance Institution.
- 2      Such investments shall be restricted to other enterprises engaged in Microfinance Activities or activities related to Microfinance Activities.

**Part VI**

**Revenues, Expenditures, Profit and Loss**

**Article 51      Revenues and Expenditure**

- 1      Revenues of a Deposit-Taking Microfinance Institution include:
  - (a)      revenues from interest.
  - (b)      revenues from service fees and charges.
  - (c)      other revenues.
- 2      Expenditures of a Deposit-Taking Microfinance Institution include:
  - (a)      interest.
  - (b)      business administration costs.
  - (c)      provisions.
  - (d)      depreciation and amortisation of fixed assets (consistent with the prevailing tax law).
  - (e)      other expenditures.

**Article 52      Profit**

The gross profit of a Deposit-Taking Microfinance Institution is the difference between the revenues and expenditures. The net profit is the after-tax profit. The dividend may be distributed subject to Board of Directors' approval and only if capital adequacy ratios, provisions and reserve requirements have been met as outlined in this Regulation.

**Article 53      Regulatory Reserve**

- 1      A Deposit Taking Microfinance Institution shall establish a regulatory reserve to offset the potential losses from business operations
- 2      The regulatory reserve shall be accumulated by the transfer to the reserve of at least five (5) percent of the annual profit after tax until such time as the value of the

mandatory reserve reaches twenty (20) percent of the capital of the Deposit-Taking Microfinance Institution. Thereafter the regulatory reserve shall be maintained at twenty (20) percent of the capital of the Deposit-Taking Microfinance Institution.

#### **Article 54      Loss and Rehabilitation**

In the event of losses, a Deposit-Taking Microfinance Institution shall apply the regulatory reserve funds as decided by the board of directors or, if the reserve funds are insufficient to offset the losses, increase the share capital as recommended by the board of directors and agreed by the shareholders.

#### **Article 55      Tax Obligations**

A Deposit-Taking Microfinance Institution shall ensure the full and timely payment of taxes to the State as prescribed by the Tax Law.

### **Part VII**

#### **Audit, Accounting and Reporting**

##### **Article 56      Audits**

- 1 All expenses and current affairs of a Deposit-Taking Microfinance Institution shall be audited. There are two types of audit: internal and external audit.
- 2 Internal audit refers to the control performed by the Internal Audit Committee of the Deposit-Taking Microfinance Institution.
- 3 The external audit of a Deposit-Taking Microfinance Institution includes the audit of its accounts by external auditors and examination by the Bank of Lao PDR. External audit is carried out once a year. At the audit's completion, a report is submitted to the Deposit Taking Microfinance Institution and to the Bank of Lao PDR. Examination by the Bank of Lao PDR, may take place at any time when deemed necessary.
- 4 The Deposit-taking Microfinance Institution shall be required to change external auditors at least every three years.

##### **Article 57      Accounting and Reporting:**

- 1 A Deposit-Taking Microfinance Institution shall utilise an accounting system, a chart of accounts and an accounting manual provided by the Bank of the Lao PDR.
- 2 The Deposit-Taking Microfinance Institution shall summarise and submit the following reports monthly, quarterly and annually to the Bank of the Lao PDR no later than the 15th of each month in accordance with proforma provided by the Bank of Lao PDR:
  - (a) information on assets and liabilities (Balance Sheets)
  - (b) information on profit and loss (Income Statement)
  - (c) information on loans and deposits (Loan and Deposit Report).

- (d) information on Non- Performing Loans and provisions (Loan Classification Report).
  - (e) other reports as determined by the Bank of the Lao PDR from time to time.
- 3 Within ninety (90) working days of the end of the accounting year the Deposit-Taking Microfinance institution shall submit to the Bank of Lao PDR:
  - (a) a report on the business operations of the previous accounting year.
  - (b) the externally audited financial statements for the previous accounting year
  - (c) a budget of upcoming accounting year.
  - (d) staff statistics.
  - (e) an organisation chart.
  - (f) the number and location of branches.
  - (g) other reports as determined by the Bank of the Lao PDR from time to time.
- 4 The Deposit Taking Microfinance Institution shall promptly report to the Bank of Lao PDR any circumstances or events that may materially or adversely affect the sustainability of its Institution or microfinance sector.

#### **Article 58 Keeping Accounting Documents**

Deposit-Taking Microfinance Institutions shall keep accounting documents in a secure place for at least ten (10) years.

#### **Article 59 Disclosure of Deposit-Taking Microfinance Institutions' Financial Positions**

Deposit-Taking Microfinance Institutions shall publish their financial statements in the form provided by the Bank of Lao PDR for their shareholders through media within first quarter or by 31 March of the following year and shall publicly display the annual report and financial statements at their head office for six (6) consecutive months.

### **Part VIII**

#### **Liquidation and Dissolution of Business**

##### **Article 60 Voluntary Liquidation**

1 A voluntary liquidation may occur if approved by at least two third of the shareholders and by shareholders representing eighty (80) percent of the paid up shares and agreed by the Bank of the Lao PDR and only when the Deposit-Taking Microfinance Institution has the ability to meet its obligations to creditors and depositors.

2 The voluntary liquidation process shall be carried out as follows:

- (a) board of directors shall notify the shareholders of the proposed liquidation.

- (b) an extraordinary general assembly of shareholders shall be convened to present the proposal of liquidation and cast votes.
- (c) upon decision to liquidate by a majority of shareholders a liquidating agent or committee shall be appointed.
- (d) The liquidating agent or committee shall develop a liquidation plan and such plan shall be approved by the special meeting of shareholders.
- (e) The Deposit-Taking Microfinance Institution shall submit a written request to the Bank of Lao PDR for approval for voluntary liquidation together with the resolution of the extraordinary general assembly of shareholders, including reasons for the liquidation, the financial statements as of the date of the formal request, the name of the liquidating agent or committee and the approved liquidation plan.
- (f) the voluntary liquidation process shall be completed within twelve (12) months from the date which liquidation has been commenced.

#### **Article 61      Consideration of the Bank of the Lao PDR**

- 1      Upon receipt of the liquidation request as specified in Article 60, the Bank of Lao PDR shall consider the resolution of the extraordinary general assembly of shareholders of the Deposit-Taking Microfinance Institution. The Bank of Lao PDR may require the Deposit-Taking Microfinance Institution to revise the liquidation plan or request additional documentation or information. If the Bank of Lao PDR finds that the appropriate procedures are followed, the Bank of Lao PDR shall approve and notify in writing its decision within thirty (30) working days of receiving the request.
- 2      Upon receipt of the Bank of Lao PDR's permission for voluntary liquidation, the Deposit-Taking Microfinance Institution shall publish the decision through the media for eight (8) consecutive weeks.

#### **Article 62      Contents of Notification Voluntary Liquidation**

The contents of notification shall include:

- (a) the name of the Deposit-Taking Microfinance Institution.
- (b) purpose of liquidation.
- (c) timeframe for liquidation and date, month, year on which the institution will close its business officially.
- (d) notice on procedures and provide the specific timeframe for depositors to receive their funds on deposit at the Deposit-Taking Microfinance Institution and for creditors to receive payment from the Deposit Taking Microfinance Institution.

#### **Article 63      Liquidation Periods**

- 1      Any Deposit-Taking Microfinance Institution which is in the process of liquidation shall maintain its business hours as usual until the completion of liquidation.
- 2      Upon the approval of voluntary liquidation by the Bank of Lao PDR a Deposit-Taking Microfinance Institution shall cease accepting all types of deposits, stop granting loans and

cease all other business. The collection of loans and interest, payment of necessary expenses and withdrawal of deposits will continue.

#### **Article 64      Last Steps of Voluntary Liquidation**

1        If there are some customers and creditors who did not come forward to claim their money or debt, the Deposit-Taking Microfinance Institution shall establish a list of customers to be paid back in the specific amounts including interest verified by the chairman of the Board of Director before reporting and transferring such amounts to the Bank of the Lao PDR at least ten (10) working days prior to the official dissolution.

2        The Bank of the Lao PDR shall review that list. If it is deemed correct, a written notification of licence revocation shall be issued within ten (10) working days of receiving such list.

3        Upon completion of the liquidation, all reports and the Deposit-Taking Microfinance Institution balance sheet shall be submitted to the Bank of Lao PDR.

#### **Article 65      Unclaimed Debts**

Any unclaimed money of customers or creditors, which passed the claimable date specified in the liquidation and dissolution notice in accordance with Article 62, will be kept in the Bank of the Lao PDR for a period of three (3) years. During the three (3) year period, the Bank of the Lao PDR shall continue notifying those customers and creditors through media from time to time.

At the end of three (3) years the Bank of the Lao PDR shall record any residual unclaimed money as its asset. However, these assets will be returned to the rightful owners if the customers or creditors are able to provide complete proof of ownership.

#### **Article 66      Returning Registered Capital:**

After the Bank of the Lao PDR has deducted unclaimed money of customers and creditors and other expenses that it may incur during a period of maintaining the list of unclaimed money, the Bank of the Lao PDR shall return the remaining capital back to the shareholders.

#### **Article 67      Involuntary Liquidation**

An involuntary liquidation order shall be issued by the Bank of Lao PDR to the Deposit-Taking Microfinance Institution in the event the Deposit-Taking Microfinance Institution:

- (a)      has had its Licence cancelled by the Bank of Lao PDR.
- (b)      is found to lack stability and bears high risks which may lead to major loss or damage to depositors, creditors or the financial system of the country.
- (c)      is found bankrupt by a court judgement.

#### **Article 68      Appointment of Liquidating Committee for Involuntary Liquidation**

- 1 Within five (5) working days of the issue of the involuntary liquidation order by the Bank of Lao PDR to liquidate a Deposit-Taking Microfinance Institution, a Liquidating Agent shall be appointed by the Bank of Lao PDR. The Liquidating Agent shall be under the direction and supervision of the Bank of the Lao PDR.
- 2 The Liquidating Agent shall develop a liquidation plan providing for the liquidation of assets and payment of creditors and depositors within twelve (12) months of the date of issue of the involuntary liquidation order.
- 3 The liquidation plan shall be subject to the written approval of the Bank of Lao PDR.

#### **Article 69 Restrictions in Involuntary Liquidation**

- 1 Upon the receipt from the Bank of the Lao PDR of the order to proceed with involuntary liquidation, the Deposit-Taking Microfinance Institution shall:
  - (a) suspend the powers of the general assembly of shareholders, board of directors and managing directors.
  - (b) suspend all business activities.
- 2 Upon the receipt from the Bank of the Lao PDR of the order for the Deposit-Taking Microfinance Institution to proceed with involuntary liquidation:
  - (a) the terms of all the Deposit-Taking Microfinance Institution debt commitments shall be considered expired.
  - (b) payments made, or other use of the Deposit-Taking Microfinance Institution's assets, during the three (3) months prior to the appointment of the Liquidating Agent to any creditor or any related parties of the Deposit-Taking Microfinance Institution may be deemed invalid by the Liquidating Agent if there is evidence of impropriety or preferential treatment.
  - (c) all income generating activities and all expenses shall be subject to supervision and approval of the Liquidating Agent only.

#### **Article 70 Bankruptcy**

The bankruptcy of a Deposit-Taking Microfinance Institution shall be implemented in accordance with the Enterprise Bankruptcy Law.

### **Part IX**

#### **Sanction**

#### **Article 71 Monetary Penalty**

The Bank of the Lao PDR may apply penalty measures to Deposit-Taking Microfinance Institutions, including managers or employee(s) in the amount of one hundred thousand (100,000) Kip per day or such amount as determined from time-to-time by the Bank of Lao PDR if found guilty of violating any provision of this Regulation until such time as the violation is corrected.

## **Article 72      Temporary Suspension of Licence**

In the event a Deposit-Taking Microfinance Institution receives a compliance warning from the Bank of the Lao PDR but ignores such a warning, the Deposit-Taking Microfinance Institution shall have its Licence temporary suspended for up to six (6) months by the Bank of the Lao PDR.

## **Article 73      Licence Cancellation**

- 1      The Bank of the Lao PDR may cancel the Licence of the Deposit-Taking Microfinance Institutions in the event such Deposit-Taking Microfinance Institution continues to ignoring a compliance warning after suspension of its Licence as specified in Article 72 of ties Regulation.
- 2      In the event the Licence of a Deposit-Taking Microfinance Institution is cancelled, the Deposit-Taking Microfinance Institution shall be the subject of involuntary liquidation as provided for in Articles 67 to 69 of this Regulation.

# **Part X**

## **Final Provisions**

## **Article 74      Implementation**

- 1      Any state organizations provincial, district, village level or group organization, individual, international organization, private organization or enterprise which are currently or is planning to carry out Microfinance or similar activities is required to within a period of twelve (12) months from the effective date of this Regulation to comply with requirement as stipulated in this Regulation.
2. The Bank of the Lao PDR may apply penalty measures to any institutions or entities which carry out activities which are deemed as similar to microfinance activities, or to any institution including Non-Deposit-Taking Microfinance Institutions and Saving and Credit Unions as well as management or officers individually or as a group case by case basis if found guilty of violating Article 71 and Article 72 of this Regulation until such time as the violation is corrected.

## **Article 75      Effectiveness**

This regulation replaces Regulation No 10/BOL dated 22 June 2005 concerning the Establishment and Operations of Microfinance in the Lao and shall become effective as from the date of its signature.

The Governor of the Bank of the Lao PDR

## **Schedule A Rights and Responsibilities of the Chairman of the Board of Directors**

The Chairman of the board of directors has the following rights and responsibilities:

- (a) to prepare the agenda for meetings of the board of directors that takes full account of the issues and the concerns of all members of the board of directors in relation to the responsibilities of the board of directors
- (b) to convene and chair meetings of the board of directors
- (c) to supervise members of the board of directors in carrying out their assigned tasks and their powers and duties
- (d) to supervise the Managing Director in implementation of resolutions of the board of directors
- (e) to report to general assembly of shareholders on the activities of the Deposit-Taking Microfinance Institution
- (f) to ensure that the members of the board of directors receive full, fair, accurate, timely and understandable information regarding matters to be considered by the board of directors
- (g) to ensure that sufficient time is allowed prior to and during meetings of the board of directors for consideration and discussion of complex or contentious issues
- (h) to prepare work plans and assign tasks within their terms of reference to members of the board of directors
- (i) to ensure effective communication with the shareholders and ensure that the members of the board of directors have an understanding of the views of the shareholders concerning the governance, organisation and operations of the Deposit-Taking Microfinance Institution
- (j) to lead the identification of the knowledge and skill development needs of individual members of the board of directors and the board of directors as a whole for the discharge of their terms of reference and to ensure that their development needs are met
- (k) to ensure that the performances of individual members of the board of directors and the board of directors as a whole are evaluated at least once a year
- (l) to confirm to the general assembly of shareholders the satisfactory performance evaluation of a member of the board of directors other than himself or herself
- (m) to authorise one of the other members of the board of directors to perform the tasks of the Chairman during his or her absence
- (n) other powers and duties as stipulated in the law and the bye-laws of the Deposit-Taking Microfinance Institution



## **Schedule B Rights and Responsibilities of Members of the Board of Directors**

The members of the Board of Directors of the shall have the following rights and responsibilities:

- (a) together with each of the other members of the Board of Directors to govern the Deposit-Taking Microfinance Institution in accordance with the law and the bye-laws.
- (b) to carry out their powers and duties as members of the Board of Directors in accordance with their terms of reference, in good faith, in a manner that the member believes to be in the best interests of the Deposit-Taking Microfinance Institution and the general assembly of shareholders, and with reasonable care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.
- (c) to administer the affairs of the Deposit-Taking Microfinance Institution fairly and impartially.
- (d) at the time of appointment, or within a reasonable time thereafter, to have, and to continue to have throughout their appointment, a working familiarity with the governance, organisation and operations, accounting and reporting policies of the Deposit Taking Microfinance Institution, including the ability to read and understand the Deposit Taking Microfinance Institution's financial statements as prepared by external auditors and to ask substantive questions concerning these matters of Officers and the internal and external auditors.
- (e) to continually refresh their knowledge and skills in order that their contribution to the Board of Directors remains informed and relevant.
- (f) to appoint, remove and dismiss the Chairman of the Board of Directors.
- (g) to request the Chairman to convene extraordinary meetings of the Board of Directors.
- (h) to demand Officers of the Deposit-Taking Microfinance Institution to provide information and documents on the organisation, operations and financial situation and performance of the Deposit-Taking Microfinance Institution.
- (i) to attend all meetings of the Board of Directors, to discuss and vote on all matters unless excluded from doing so as a result of a conflict of interest.
- (j) to be personally responsible before general assembly of shareholders and the Board of Directors for their actions.
- (k) to carry out decisions of the general assembly of shareholders and resolutions the Board of Directors.
- (m) other powers and duties as stipulated in the law and the bye-laws of the Deposit-Taking Microfinance Institution.

## **Required Information Regarding Major Shareholders on Application for a Licence**

- (i) In the case of an individual: his/her full name, date and place of birth, domicile and ID number and his/her curriculum vitae.
- (ii) In the case of an enterprise: the legal form, the business name, name of the proprietors, partners, or any shareholder holding more than 5% of the capital or voting rights, the names of the key managers, the address of the headquarters, and a copy or the notification of enterprise registration or contract of incorporation and bye-laws as prescribed for the relevant legal form under the Enterprise Law.
- (iii) the amount and percentage of the proposed contribution and its equivalent in voting rights.
- (iv) in the case of a company or partnership details of the activities of the company or partnership. If the shareholder is part of a group, a description of the main entities of the said group together with an organisation chart.
- (v) details of whether the shareholder has significant participation in other microfinance and or financial institutions.
- (vi) in the case of a company or partnership details of whether any group to which the shareholder itself belongs has significant participation in other microfinance and or financial institutions.
- (vii) details of the internal and external audit procedures of the shareholder.
- (viii) details of whether the shareholder has ever been the subject of an investigation or of a professional, administrative or judicial proceeding of a material nature.
- (ix) details of business between the shareholder and the Deposit-Taking Microfinance Institution
- (x) reports on the financial status of the shareholder for the last two years certified by an audit company.