



**Islamic Republic of Afghanistan  
Da Afghanistan Bank**

**OFFICE OF GENERAL COUNSEL**

**“Regulation on Mortgage Finance Companies in Afghanistan”**

**Action:** Proposed rule and request for comments

**Comments due:** By 5:00 pm on 30 Asad 1389 (21 August 2010)

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**Announcement:** Da Afghanistan Bank (DAB, the central bank) is re-distributing for public comment a proposed rule on the licensing, regulation and supervision of mortgage finance companies in Afghanistan. This proposed regulation would be issued pursuant to Article 41 of the Law for Mortgages on Immovable Property in Banking Transactions. Solicitation and review of comments will be conducted by the DAB General Counsel Office, Legislative and Regulatory Division at the direction of the DAB Supreme Council. This draft regulation was previously distributed for public comment on on 4, Aqrab, 1388 (13th October, 2009), but DAB was dissatisfied with the volume of response. Accordingly, DAB is electing to re-distribute input and commentary from the private sector on the proposed regulations, as of today 30, Saratan, 1389 (21, July, 2010)- **Response will be due 30, Asad,1389 (21, August, 2010).**

**Required format:** Comments must be in writing, must be dated, and must bear the name of the individual or individuals who accept responsibility for the comments.

Commentators writing on behalf of an organization must name the organization and their affiliation with that organization.

Comments are especially encouraged, but not required, on the questions in the gray boxes below; however, comments on all issues will be considered on their merits.

DAB will attempt to respond individually to oral inquiries about the meaning of the text of the proposed rule, but will disregard comments on matters of policy or procedure that are not made in writing.

DAB will not respond to individual commentators; instead, comments of the greatest public policy or prudential supervision importance will be addressed in the announcement of the final version of the rule, along with reasons for acceptance or rejection of said comments.

**Background and summary of proposed rule:** The Law on Mortgage of Immovable Property in Banking Transactions (sometimes referred to informally as the “Mortgage Law”) was signed into law on 08 June 2009 (Decree # 57). The law was published in Official Gazette No. 990, which bears a publication date of 08/06/09. The law is currently in force.

The Mortgage Law was enacted in furtherance of the following policy objectives: 1) to provide a legal framework for securing debt and contracts through mortgage of immovable property, such as land or buildings; 2) to facilitate access to negotiable bank credits through the mortgage of immovable property; 3) to ensure mutual trust among individuals involved in banking transactions; and 4) to expand trade and credit, attract investment and promote the economic growth.

The Mortgage Law defines a lender as a natural or juridical person who, in accordance with the provisions of Da Afghanistan Bank Law and Banking Law, is engaged in banking affairs inside or outside the country and has due financial rights and enforceable obligations over another natural or juridical person. Under the law, a mortgage is the registered right to immovable property that is transferred by its owner to the lender for whom the mortgage instrument has been written (this person is known as the “Mortgagee”) to secure a debt.

DAB is interested in maximizing the numbers of potential mortgage lenders in a safe manner, and accordingly has drafted the proposed regulation to establish a procedure for licensing and overseeing Mortgage Finance Companies (MFCs), which would be corporations authorized to attract investor funds and/or to raise money through borrowing from commercial banks or other forms of financing, and to grant mortgage finance loans to the public (and in certain cases to their own employees) and construction loans for new buildings under certain conditions. Such institutions would not be banks.

MFCs would be subject to some provisions of the Banking Law and exempt from others, provided that they comply with the provisions of this proposed regulation. Under this regulation, MFCs would be prohibited from engaging in banking activities such as taking deposits and making any kind of loan that is not secured by a mortgage in real property. MFCs would be subject to licensing by DAB, and DAB would supervise their corporate governance, lending and other activities.

**Consultation questions: background and summary**

1. Do you agree that DAB has the legal authority to create a licensing and supervisory regime for Mortgage Finance Companies?
2. Do you agree that creating a licensing and supervisory regime for Mortgage Finance Companies will help to promote mortgage lending in Afghanistan?
3. Do you agree that the regulation will encourage standardization in the ownership and activities of MFCs?



**Islamic Republic of Afghanistan**

**Da Afghanistan Bank**

**REGULATIONS:**

**MORTGAGE FINANCE COMPANIES IN AFGHANISTAN**

**Part 1. General.**

**§1.1. Authority**

This regulation on the licensing, regulation and supervision of mortgage finance companies (MFCs) is pursuant to the authority granted to DAB under the Law on Mortgage of Immovable Property in Banking Transactions as amended (the Mortgage Law)., Compliance with this regulation is mandatory for all MFCs that apply to DAB for a license.

DAB hereby deems MFCs exempt from certain requirements of the Law of Banking in Afghanistan (the Banking Law). Until further notice MFCs are exempt from Chapters II, III, IV, V, VIII, and XI of the Banking Law, conditional to their compliance with the requirements of this regulation. MFCs are fully subject to the requirements of Chapters I, VI, VII, IX, and X of the Banking Law with the exception that the word “MFC” is to be substituted for the word “bank” in all references, and “DAB” is to be substituted for “Financial Services Tribunal.”

In addition, a MFC is a “financial institution” under the Anti-Money Laundering and Proceeds of Crime Law” and “Law on Combating the Financing of Terrorism,” and is subject to all regulations issued by DAB or other organs of government under those Laws.

In order to be considered a MFC and be licensed, regulated, and supervised under this regulation, it is not necessary for the mortgage finance company to engage in every permitted activity of the Banking Law. For example, MFCs will not accept “deposits” as defined in the Banking Law but are, nonetheless, subject to these regulations on the licensing, regulation and supervision of MFCs.

**Consultation questions: authority**

1. Do you agree that DAB should assume the role of the Financial Services Tribunal, which is now known as the Financial Disputes Resolution Commission, in matters related to MFCs?

## §1.2. Definitions.

The definitions below are supplementary to the definitions in Chapter I of the Banking Law and Chapter 3 of the Mortgage Law.

- a) *Administrator* – a member of the Board of Supervisors (sometimes referred to as the Board) of the MFC or the general manager, treasurer or compliance officer of the MFC. This would also include someone with authority to make policy decisions for the MFC.
- b) *Capital distribution* – payment to shareholders of a dividend on shares, the repurchase of shares, or other transactions that, in DAB’s sole discretion, result in the distribution of the MFC’s assets to its shareholders in a similar manner as a dividend or share repurchase.
- c) *Exposure* – exposure to a single obligor, or group of related obligors, includes the sum of deposits (if the obligor is a bank or foreign bank branch) loans, and accounts receivable that is repayable by that single obligor. For the purposes of calculating exposure to a bank or foreign bank branch, deposits shall be multiplied by 20%. Exposure is to be calculated on a gross basis, i.e. without deduction of loan-loss reserves or available collateral.
- d) *Financial capital* – the difference between a MFC’s assets and its liabilities based on accrual accounting, where those assets and liabilities are calculated according to international accounting standards.
- e) *Group of related obligors* --a group of related obligors is defined as two or more persons (natural, juridical, or both) who are connected, directly or indirectly, in such a way that the financial soundness of any of them may affect the financial soundness of the other or others, or the same factors may affect the financial soundness of some or all of them, or if as a result of the structure of their relationship the other person is in fact ultimately responsible for the credit outstanding. More specifically, individual obligors of a MFC are considered a group of related obligors:
  - 1) When the expected source of repayment for each loan is the same for each obligor, and neither obligor has another source of income from which the loan (together with the obligor’s other obligations) may be fully repaid.
  - 2) When loans are made to obligors who are related directly or indirectly through common control, including where one obligor is directly or indirectly controlled by another obligor, where such control is defined as possessing a qualifying holding in the other obligor.
  - 3) When substantial financial interdependence exists between or among the obligors. Substantial financial interdependence is deemed to exist when 50 percent or more of one obligor’s gross receipts or gross expenditures (on an annual basis) are derived from transactions with the other obligor. Gross receipts and expenditures include gross revenues/expenses, intercompany loans, dividends, capital contributions, and similar receipts or payments.

- 4) When DAB otherwise determines, based on an evaluation of the facts and circumstances of particular transactions, the financial soundness of any obligor may affect the financial soundness of any other. The individual obligors under a group loan are not automatically considered a “group of related obligors,” although some or all of them may be so considered if the facts warrant.
- f) *Insolvency* – the condition of having regulatory capital less than 40 percent of any minimum requirement, or financial capital less than 2 percent of total assets.
- g) *Investor* – a unit of government, national or international non-governmental organization, government-sponsored enterprise, governmental aid agency or for-profit legal entity whose mission statement, charter, by-laws or other founding documents both authorize and promote investment in mortgage finance companies. This may include an international or multilateral donor agency, which supplies funds to a MFC. Prior investor experience making investments in mortgage finance companies is advantageous, especially if made in at least one country of the world outside of Afghanistan.
- h) *Liquid assets* --liquid assets mean the sum of: cash in vault; current accounts with DAB; other short term liabilities of DAB; demand deposits with licensed commercial banks or permitted foreign bank branches in Afghanistan; and time deposits with such banks or branches.
- i) *Mortgage finance company (MFC)* – an institution whose purpose is to make mortgage finance available to the public.
- j) *Mortgage finance* – a mortgage loan secured by a first mortgage on immovable property approved and repayable in accordance with the Mortgage Law and its implementing regulation. MFCs are not allowed to make loans other than:
- 1) Home loans: to purchase, or re-finance, a home or a residential flat (apartment) owned by an individual or a legal entity. When re-financing an existing home or flat, the owner may use the loan proceeds for personal or business reasons.
  - 2) Small to medium size construction loans: to construct a group of homes or a multifamily building where the loan amount does not exceed the lesser of 12,500,000 Afs or the maximum loan amount for one obligor allowed under 0 (Large exposure limitations) of this regulation. Small to medium size construction loans must not be used to purchase land under any circumstances.
- k) *Non-conforming loan* – proposed mortgage finance whose purpose, amount, documentation, or any other aspect deviates from the MFC’s lending policy and would ordinarily result in a denial, but is nevertheless viewed by the general manager and the compliance officer as an acceptable loan risk.
- l) *Qualifying holding* – a direct or indirect ownership of shares in a MFC that represents 10 percent or more of the capital or voting rights, or which makes it possible to exercise significant influence over the management of the MFC.

- m) *Qualifying employee mortgage finance loan* – a mortgage loan whose principal balance at disbursement, exclusive of fees and profit, including, if applicable, interest (whether or not capitalized), is between AFN 500,001 and AFN 1,000,000; such parameters may be amended by supervisory circular of DAB.
- n) *Regular variable rate credit* – a loan with a variable rate of profits (including, if applicable, interest) or fees that may change only at predetermined intervals (such as once a month or once a quarter) and is calculated at a predetermined margin over a predetermined reference profit, interest or fee rate (such as the rate on 28-day DAB capital notes).
- o) *Regulatory capital* – financial capital minus intangible assets, plus certain liabilities (such as subordinated debt or debt/equity hybrid instruments) that have been approved by DAB on a case-by-case basis to be included in the calculation of regulatory capital.
- p) *Relative* – grandparent, parent, brother, sister, spouse, son, daughter, grandson, granddaughter, husband of brother or sister, brother or sister of spouse, spouse of brother or sister of spouse, niece, nephew, uncle, aunt, or first cousin.
- q) *Shareholder* – a share owner of a MFC.

**Consultation questions: definitions**

1. Do you agree that the maximum loan amount for small to medium size construction loans is set at the appropriate level?

**§1.3. General goals and objectives.**

- a) This regulation aims at the following:
  - 1) To set forth DAB's requirements as to the licensing, corporate governance, permitted and prohibited activities, minimum prudential standards, and reporting of MFCs.
  - 2) To encourage more standardization in the ownership and activities of MFCs and to more clearly differentiate them from commercial banks and other financial institutions.
- b) The objectives of this regulation:
  - 1) MFCs will be able to obtain licenses from DAB, and their activities will be fully authorized by these implementing regulations.
  - 2) MFCs will be required to meet international standards in corporate governance, capital adequacy, liquidity measurement and management, asset classification and

loan loss provisioning, diversification of credits, and transactions with related parties.

- c) Adherence by MFCs to the standards set by this regulation will be monitored by DAB through on-site examinations and off-site analysis of data.

## **Part 2. Organization objectives and powers of MFCs**

### **§2.1. Legal form of MFCs and corporate separateness from investors.**

- a) MFCs are required to organize themselves as corporations, owned by their shareholders.
- b) MFCs must be legal entities separate and distinct from their shareholders. They must have separate corporate governance, maintain separate books and records, and their transactions with investors (including any sharing of staff) must be conducted at market-related prices, rents, and rates for profits, interest or fees.

### **§2.2. Objectives of MFCs**

The main objective of MFCs is to increase the availability of mortgage finance, especially to individuals that wish to purchase or re-finance a home. Under certain conditions, MFC may make mortgage finance available for home or multifamily construction. In all cases the MFC must secure a first mortgage as collateral. In carrying out their activities MFCs shall serve the interests of shareholders, seek an appropriate return on investment and operate with due regard to risk management and cost controls.

### **§2.3. Authorized activities of MFCs**

MFCs may engage in any or all of the following activities:

- a) Attract capital funds from investors and shareholders.
- b) Obtain funds from bank borrowings or from other forms of financing.
- c) Grant:
  - 1) Mortgage finance loans as defined herein
  - 2) Qualifying construction loans up to an aggregate amount not to exceed 40 percent of regulatory capital
  - 3) Qualifying employee mortgage finance loans subject to Part 9. up to an aggregate amount not to exceed 25% of regulatory capital.
- d) Act as a servicing agent for one or more mortgage finance loans originated by another lender and collect fees for services rendered.
- e) Invest in short term debt securities issued by the Ministry of Finance or by Da Afghanistan Bank.

- f) Invest in equity securities issued by a legal entity that is jointly owned by itself, other MFCs, and other eligible credit institutions, the purpose of which entity is to act as a wholesale lender to these eligible MFCs or to provide other services such as marketing, training, technical assistance, cash management, correspondent banking, risk management tools, etc., for the sole benefit of the eligible credit institutions.
- g) Maintain a correspondent account at Da Afghanistan Bank or a licensed commercial bank.
- h) Effect funds transfer operations to or from its own offices, other MFCs, or commercial banks licensed by DAB or foreign branches permitted by DAB on behalf of clients.
- i) Issue shares of stock to shareholders.
- j) Render consulting and informational services that are consistent with promoting the lending for which the MFC was founded.
- k) Sell credit-related insurance products to clients as an agent for other companies.
- l) Engage in other activities approved by DAB.

#### **§2.4. Prohibited activities of MFCs**

MFCs may not engage in any of the following activities:

- a) Attract or accept any deposits, or any account that is similar to a current account that can be debited by the customer by writing a check or requesting a payment order.
- b) Grant to any person any type of credit or loan other than mortgage finance as provided in this regulation.
- c) Own real estate beyond that which is necessary to conduct the business of a MFC or property acquired by power of sale under the Mortgage Law, subject to allowable holding limits imposed by DAB.
- d) Denominate monetary assets or monetary liabilities in foreign currency (except for small amounts of foreign banknotes and coins not to exceed 5 percent of the assets of the MFC). An existing mortgage finance company that is seeking a MFC license and has existing monetary liabilities denominated in foreign currency may maintain an equal or lesser amount of monetary assets denominated in that same foreign currency for a period of not more than six months following the receipt of its final license. The license application must indicate clearly the plans of the MFC to either extinguish the assets and liabilities denominated in foreign currency or re-denominate them in Afghani within the six-month time frame.
- e) Grant any credit to administrators or to shareholders, unless such loans to shareholders are allowed under Part 9.

- f) Invest in equity securities except those allowed in this regulation.
- g) Invest in debt securities other than short term debt securities issued by the Ministry of Finance or Da Afghanistan Bank.
- h) Guarantee the debt of any person to another person by any means.
- i) Issue letters of credit in any form.
- j) Act as a foreign exchange dealer, money service provider, payments system operator, or securities service provider, as those terms are defined in the Law on Da Afghanistan Bank or by regulations issued by Da Afghanistan Bank.
- k) Use banking services or open accounts other than with those permitted with a licensed commercial bank, permitted branch of foreign bank or licensed money service provider under the DAB Law or Banking Law.
- l) Act as a bank in any of its activities not approved in this regulation or by DAB or have “bank” within the corporate name.

**Consultation questions: organization, objectives and powers of MFCs**

1. Do you agree with the proposed lists of permitted and prohibited activities for MFCs?

**Part 3. Licensing of MFCs**

**§3.1. Registration as a legal entity.**

Before filing an application with DAB for licensing as a MFC, a prospective MFC must register with the relevant authorities as a corporation.

**§3.2. Designation of power of attorney.**

Before filing a licensing application with DAB, a prospective MFC must designate one individual that can sign documents and speak on behalf of the prospective MFC throughout the licensing process.

**§3.3. Documents required to be filed as part of licensing application.**

The following documents must be submitted as part of the licensing application. DAB will not consider the application until all of the following documents are filed and contain the necessary information:

- a) A document confirming that the non-refundable application fee has been paid.
- b) Proposed by-laws of the MFC.

- c) A business plan setting forth the activities in which the MFC plans to engage.
- d) An abbreviated, projected balance sheet and profit and loss statement covering three years of operations.
- e) A demonstration that there will be an adequate initial capital base with potential for growth.
- f) A proposed:
  - 1) organization chart and credit policy
  - 2) asset-liability management policy
  - 3) complete, accurate list of all proposed investors, including contact information.
- g) A *pro forma* opening balance sheet for the time the license is received, showing clearly that the net assets of the MFC will equal or exceed the initial and ongoing minimum financial capital requirement, as well as the percentage ownership of the initial capital by each proposed investor.
- h) A statement clearly describing the proposed relationship between the MFC and proposed investors.
- i) A statement describing how the MFC plans to fulfill its anti-money laundering responsibilities.
- j) Full biographical information on proposed administrators, including names, addresses, contact telephone numbers and/or email addresses, and a CV showing education and employment history.

#### **§3.4. Timeframe for considering licensing application.**

- a) When all the required documentation has been submitted, DAB will notify the individual with power of attorney that the application has been deemed complete. Once the application has been deemed complete, DAB will issue its written approval or written denial within 5 calendar weeks.
- b) When reviewing the materials submitted by the applicant, DAB may request additional information to complete the required documentation, or modifications to documentation already submitted. If a request by DAB for additional information has not been fulfilled within 2 calendar weeks (or within some other timeframe as specified by DAB in the request), the application will be considered abandoned, and DAB will take no further action on that application.
- c) During the application process, the individual designated as having power of attorney must be continuously available either in person, by phone, or by email. DAB will accept no excuses for non-responsiveness by that person to inquiries or requests for additional

information.

### **§3.5. Basis for denial of licensing application.**

- a) DAB can deny the application and refuse to issue the license on any of the following grounds:
  - 1) The proposed administrators do not meet the qualifications listed in §4.15.
  - 2) The proposed investors do not conform to the definition in §1.2.g)
  - 3) The business plan does not demonstrate continuing compliance with minimum capital and liquidity requirements.
  - 4) The proposed credit policy does not demonstrate an understanding of the principles of sound mortgage finance.
  - 5) The proposed statement of plans to fulfill AML responsibilities does not demonstrate an understanding of these responsibilities.
  - 6) If assets or liabilities denominated in foreign currency are present, the application does not clearly indicate how and when the assets or liabilities will be either extinguished, or redenominated in Afghani within the required six-month time frame.
  - 7) The proposed business plan is unreasonable in DAB's sole discretion
  - 8) Other reasons detailed by DAB in its response.
- b) DAB will provide the applicant with a written notice setting forth the grounds for denial.
- c) If the application is denied, the applicant is ineligible to reapply for a period of one year.

### **§3.6. Final conditions for granting of license certificate.**

- a) If DAB issues an approval, the applicant will be notified. Thereafter, the applicant must demonstrate to the satisfaction of DAB within two months that the prospective MFC possesses the necessary capital. The demonstration must consist of evidence of ownership of assets in sufficient amount to offset any liabilities and still result in the minimum amount of initial capital.
- b) Once DAB is satisfied that the capital is sufficient, DAB will grant the license certificate, and the MFC may begin attracting funds for operation and to grant mortgage financing.

### **§3.7. Grounds for revocation of license.**

DAB may revoke the license of a MFC if any of the following grounds are present:

- a) The MFC is insolvent.
- b) DAB discovers that information submitted as part of the licensing application was false.
- c) The MFC has not sufficiently maintained separateness from its investors.
- d) The MFC has not limited mortgage finance activity as required herein.
- e) The MFC has engaged in any of the prohibited activities listed in §2.3 of this regulation.
- f) The MFC has violated laws or regulations, or has engaged in practices that endanger the solvency or liquidity of the MFC.
- g) The MFC has violated an enforcement action issued by DAB.
- h) The MFC has not made use of its license within six months after the date of effectiveness, or the MFC has ceased for more than six months to engage in the business for which it was licensed.
- i) The MFC or any of its investors has engaged in criminal activities.
- j) The investors have asked DAB to revoke the license.
- k) Any other reason where DAB considers the MFC to be operated in an unsafe manner.

**§3.8. Revocation of license upon request by investors.**

- a) The investors and shareholders of a MFC may apply to DAB in writing to revoke the license of the MFC. The application must be accompanied by a shareholders' resolution certifying the desire to have the license revoked, and a liquidation plan, including the designation of the person or persons responsible for the liquidation, together with a report of an independent external auditor acceptable to DAB.
- b) The request may be approved only if DAB approves the liquidation plan and the liquidator, and the MFC has enough assets to repay its liabilities to its creditors.
- c) As an alternative to liquidation, the shareholders may request that the MFC be merged with another licensed MFC. In place of a liquidation plan, the request for license revocation must be accompanied by a shareholders' resolution of the surviving MFC that the surviving MFC agrees to assume all of the assets and liabilities of the disappearing MFC. DAB will approve or deny the request for license revocation based in part on the impact the merger would have on the surviving MFC. In no case will DAB approve a merger that has the effect of weakening the surviving MFC.

**Consultation questions: application, award and revocation of licenses**

1. Do you agree that the licensing requirements will ensure that entrants into the MFC market have sufficiently professional management, adequate capital, and other qualifications to operate satisfactorily?
2. Will the licensing procedures facilitate the development of the mortgage market or limit it?
3. Are the conditions for involuntary and voluntary revocation of licenses appropriate?

**§3.9. Head office and branches of MFC; acceptable name.**

- a) The MFC may operate out of one or more offices, and must designate one of its offices as its head office.
- b) The MFC must notify DAB at least 30 days prior to the opening of any office or the moving of an office from one location to another, and furnish DAB every 6 months with a list of all offices, including addresses, telephone numbers, email addresses, and the name of a relevant contact person at each office.
- c) The offices of a MFC are not separate legal entities and do not have separate capital or separate balance sheets. All offices of a MFC must use the same name, with only minor variations permitted (such as indicating the location of the office).
- d) The word “bank,” “banking organization,” “banking institution,” or any similar word or phrase that gives the misleading impression that the MFC is a bank licensed by DAB may not form any part of the MFC’s name, either officially or unofficially.
- e) The head office of the MFC is responsible for ensuring that the transactions entered into by the other offices are in compliance with applicable laws and regulations, and also with policies and procedures issued by the head office. The budget at the head office should be kept on a consolidated basis with full disclosure available to the examiners of DAB during an examination.

**Part 4. Corporate Governance of MFCs**

**§4.1. Shareholders of MFC.**

- a) The shareholders of a MFC are the highest governing body. The frequency and timing of meetings of the shareholders, and their rights and responsibilities, may be determined independently by each MFC and stated in the by-laws of the MFC, subject to the following restrictions:
- b) A shareholder may not transfer its share to another party that does not meet the definition of “investor” in §1.2.g).

- c) A shareholder may not acquire or dispose of a qualifying holding in the MFC unless it follows the procedures outlined in Part 5. below.
- d) A shareholder may not receive a capital distribution from the MFC that does not comply with the restrictions listed in §6.5 below.

#### **§4.2. Required designation of shareholder representative.**

Shareholders as a group must designate a single individual as their representative. This representative must be available at all times, either in person or by phone or email, without undue delay, for meetings with DAB on issues involving the MFC. DAB also reserves the right to convene a meeting of some or all of the shareholders.

#### **§4.3. By-laws of MFC.**

- a) A MFC is required to have written by-laws, which serve as the main document governing the MFC's operations, definition of authority, and setting broad guidelines within which more specific policies are adopted.
- b) At a minimum, by-laws must cover:
  - 1) The scope of the MFC's activities and the services that it can offer;
  - 2) The duties and responsibilities of its administrators and other key employees.
- c) Other areas that should be addressed in the by-laws include:
  - 1) Official information about the MFC, including official name, address, DAB docket number and date of issue of license;
  - 2) Specific goals for which the MFC was founded; a list of products and services;
  - 3) The minimum share purchase of a shareholder;
  - 4) The rules governing shareholder meetings;
  - 5) The rules governing nomination to the Board of Supervisors for submission to DAB for approval;
  - 6) The rules governing the selection of persons for various committees and the duties and responsibilities of those committees;
  - 7) The duties and responsibilities of the general manager, treasurer, and compliance officer;
  - 8) The broad types of liquid investments that are allowable, including deposits in banking organizations, and the criteria for selecting those banking organizations;
  - 9) The process for the development and review of the annual budget;

- 10) The process by which loan-loss reserves are formed and the minimum amounts;
- 11) The requirement that administrators and employees disclose any conflict of interest, including the removal of an administrator or employee for failure to disclose;
- 12) The provision that the MFC may voluntarily merge with another MFC if so decided by shareholders;
- 13) The process by which the by-laws may be amended.

#### **§4.4. Board of Supervisors of MFC.**

- a) The next-highest governing body of the MFC is the Board of Supervisors (sometimes referred to as the Board) consisting of at least three persons. Each person nominated to the Board is subject to approval by DAB.
- b) The nomination of a person to the Board must be accompanied by the full biographical information as described in §3.3 above, plus shareholders' resolutions documenting that it is the intent of the shareholders to nominate this particular individual to the Board.
- c) The general manager, treasurer, and compliance officer may not simultaneously serve on the Board.

#### **§4.5. Duties and responsibilities of the Board of Supervisors.**

- a) The Board of a MFC has the following responsibilities:
  - 1) To appoint and dismiss the manager, treasurer, and compliance officer, and determine their compensation.
  - 2) To appoint certain administrators and employees to a Credit Committee, whose functions it shall be to receive loan applications and make decisions on whether or not to grant mortgage finance credit.
  - 3) To ensure that the MFC complies with laws and regulations.
  - 4) To adopt policies and procedures for risk management and internal controls, consistent with the long-term goals of profitability, capital adequacy, and the protection of shareholders.
  - 5) To approve numerical limits on measurable risk parameters, as needed.
  - 6) To ensure that these policies and procedures are followed.
  - 7) To approve or deny non-conforming loan applications referred by the compliance officer.

- 8) To appoint the external auditor, subject to DAB's approval.
- 9) To ensure that internal and external audits are carried out, and that audit-related reports are made available to shareholders and to DAB in a timely manner.
- 10) To set up appropriate loan review procedures with corrective action regarding the loan portfolio.

**b) The Board of a MFC has the following duties:**

- 1) To act honestly and in good faith.
- 2) To act in the best interests and for the benefit of the MFC and its long-term goals of profitability, capital adequacy, and the protection of shareholders.
- 3) To act independently, free from undue influence of any person.
- 4) To access the necessary information in order to discharge their responsibilities.
- 5) To report to DAB in a timely manner any violation of laws or regulations, or any potential or developing problem with liquidity, capital adequacy, or any other situation that could threaten the financial stability of the MFC or interests of the shareholders.

**§4.6. Meetings of the Board of Supervisors.**

- a) The Board must meet at least four times during each financial year, and may meet more often if it so desires.
- b) DAB has the right, at any time, to order the Board to convene a meeting within a certain time period and consider a specific agenda, appoint an observer to any board meeting, or order minutes or board resolutions to be turned over to DAB within a limited time period.
- c) A member of the Board must not deliberate or vote on any matter in which he or she has an economic interest. If such matters come before the Board, such member must inform the other members on the Board of his or her economic interest in advance of any discussion of those matters, and leave the meeting. This action must be reflected in the minutes of the meeting.

**Consultation questions: definitions**

1. Will the rules set out for shareholders and Boards of Supervisors ensure that MFCs are professionally operated and overseen with appropriate levels of shareholder involvement?

#### **§4.7. General Manager of MFC.**

The MFC must have one individual designated as general manager, reporting to the Board. The appointment of the general manager must be approved by DAB at least 15 days before the person takes office. The general manager may attend the Board meetings as a non-voting member.

#### **§4.8. Duties and responsibilities of the general manager.**

The general manager is the chief executive officer of the MFC, responsible for day-to-day management of the organization and the compliance with the policies and procedures adopted by the Board. He or she is responsible for signing up new investors and hiring staff as needed to: post transactions to the proper accounts; process payroll and related deductions; post entries to the appropriate journal, cash record and general ledger; accept money for deposit and record loan re-payments; processing loan applications; write checks; and other administrative duties. The general manager will certify the credibility, accuracy, and timeliness of financial statements prepared at the request of DAB or any other entity.

#### **§4.9. Treasurer of MFC.**

The MFC must have one individual designated as treasurer, reporting to the general manager. The appointment of the treasurer must be approved by DAB at least 15 days before the person takes office.

#### **§4.10. Duties of treasurer.**

The treasurer is the chief financial officer of the MFC, and is responsible for the preparation of financial statements and tax forms, drafting broad guidelines for the organization's tolerance for risk and expectations from investment for approval by the Board, and monitoring their implementation. He/she is also responsible for managing the liquidity position of the MFC.

#### **§4.11. Compliance officer of MFC.**

The MFC must have one individual designated as compliance officer, reporting to the Board. The appointment of the compliance officer must be approved by DAB at least 15 days before the person takes office.

#### **§4.12. Duties of compliance officer.**

- a) The compliance officer is the internal auditor of the MFC, and in addition is responsible for monitoring compliance by the MFC with laws, regulations, internal policies and procedures, internal controls, and resolutions of the Board. Other responsibilities of the compliance officer are:
  - 1) To evaluate the reliability of information produced by accounting and computer systems.
  - 2) To assure compliance with requirements of the Mortgage Law and regulations.

- 3) To review all loan applications for completeness of information and consistency with loan policy, and to refer non-conforming loan applications to the Board for decision.
- 4) To review appraisals of immovable property to be used as collateral.
- 5) To establish appropriate accounting procedures and accounting controls to be used by the treasurer.
- 6) To review operations and transactions of the MFC that could adversely affect the condition of the MFC.
- 7) To arrange for the work of the external auditor that has been selected by the Board.

#### **§4.13. Credit committee.**

The Board may establish a credit committee, or it may vest those duties and responsibilities solely in the general manager. The general manager is automatically a member of the credit committee. Other members may be selected from among the employees. Members of the Board, the treasurer and the compliance officer may not serve on the credit committee.

#### **§4.14. Duties of credit committee.**

- a) The credit committee's duty is to evaluate and approve or deny submitted loan applications. Applications are evaluated according to their consistency with this regulation and the MFC's loan policy, and the evaluation must include an analysis of the borrower's ability to repay based on the stated purpose of the loan, the expected source of repayment, the borrower's financial condition, and his/her repayment history on other loans extended by the MFC or by other lenders as that information becomes available. The credit committee also reviews the valuation of collateral after review by the compliance officer. No loan may be approved whose purpose and source of repayment are not clearly stated in the application and analyzed.
- b) The credit committee will set up a loan review function to allow for tracking and resolution of problem loans.

#### **Consultation questions: roles of compliance officer and credit committee**

1. Do you agree with the roles defined by the regulation for compliance officers and credit committees with respect to review of the valuation of collateral?
2. Do you agree with the provisions for composition of the credit committee?

#### **§4.15. Qualifications and disqualifications of administrators.**

- a) To be a member of the Board, a general manager, treasurer, or compliance officer of a MFC, an individual must be highly literate and numerate and possess at least a high school education. The individual must also be honest and trustworthy and pass a basic examination indicating understanding of anti-money laundering responsibilities of financial institutions before taking up the post.
- b) The following persons are disqualified from serving as administrators of a MFC:
  - 1) a person who is less than 21 years of age;
  - 2) a person who has declared bankruptcy in any jurisdiction in the world;
  - 3) a person who has been convicted of any criminal offense;
  - 4) a person who is an official or employee of any organ of state authority, including any organ of provincial, district, or municipal administration, or a state-owned enterprise;
  - 5) a person who currently serves as an administrator of another financial institution regulated by DAB;
  - 6) a person who has been removed by DAB from his post at another financial institution regulated by DAB;
  - 7) a former administrator of a financial institution regulated by DAB who has been declared by DAB to have contributed to the failure of that institution and the consequent placement of that institution into conservatorship, receivership, or liquidation.
  - 8) a relative of another administrator.

#### **Part 5. Change in Control of MFCs**

##### **§5.1. Prior approval of DAB required for certain acquisitions of shares.**

- a) DAB must approve in advance any acquisition by a single investor of a qualifying holding in a MFC, or any increase in a qualifying holding past the thresholds of 20 percent, 33 percent, or 50 percent. The actual acquisition may take place no earlier than 30 days after DAB has given its approval.
- b) Increases in a qualifying holding between the abovementioned thresholds do not require the advance approval of DAB.
- c) Decreases in a qualifying holding below the abovementioned thresholds require only the prior notification of DAB, not prior approval.
- d) DAB will grant approval for the acquisition only if the following conditions are met:

- 1) The potential investor meets the definition of “investor” in §1.2.g) above.
- 2) No facts are known that warrant the assumption that influence would be exercised on the MFC as a result of the acquisition that would threaten the sound and prudent management of the MFC or of any other MFC supervised by DAB.
- 3) If the application concerns an increase in a qualifying holding by an existing investor, the investor’s influence on the MFC in the past has been positive and not detrimental in any way to the sound and prudent management of the MFC.

#### **§5.2. Mandatory divestiture of shares in certain circumstances.**

If DAB determines that an investor is exercising its influence on the MFC to the detriment of the solvency, liquidity, or prudent management of the MFC, DAB may order the investor to transfer its shares to another investor before a specified deadline. While the mandatory divestiture is taking place, the investor may not exercise any rights granted to it by the MFC’s by-laws, including the right to participate in the selection of members of the Board.

### **Part 6. Minimum initial and ongoing capital requirements for MFCs**

#### **§6.1. Minimum initial and ongoing financial capital requirement.**

At all times, upon receipt of its license and thereafter, the MFC must maintain financial capital of at least AFN 25 million. In calculating financial capital any adjustment to capital accounts, other than normal profits, requires approval of DAB. Moreover, any “in kind” capital contribution requires DAB approval.

#### **§6.2. Minimum ratio of regulatory capital to assets.**

- a) At all times, a MFC must maintain a ratio of regulatory capital to total assets of 8 percent. In calculating total assets for the purposes of applying this requirement, the following assets are excluded:
  - 1) Cash, current account at DAB, and other claims on DAB.
  - 2) 80 percent of the balance sheet amounts of deposits at other banks or foreign branches located in Afghanistan.
  - 3) Intangible assets.

#### **§6.3. Individual minimum capital requirement.**

If DAB decides that the risk profile of a MFC warrants a minimum ratio of regulatory capital to total assets of higher than 8 percent, DAB may impose a higher percentage requirement. Grounds for imposing a higher percentage requirement include:

- a) an excessive concentration of loans geographically or to borrowers within a single sector of the economy;

- b) excessive sensitivity of the MFC's net profit or interest margin to changes in market rates (excessive interest rate risk);
- c) deficiencies in management, including excessive turnover in the Board, general manager, treasurer, or compliance officer; a pattern of non-compliance with laws, regulations, sound business practices or the MFC's own internal policies; ineffective internal controls; and inadequate physical security.
- d) an excessive level of problem loans, defined as loans 61 or more days past due (gross of reserves) in excess of 10 percent of total assets.

#### **§6.4. Consequences of noncompliance with minimum capital requirements.**

- a) Compliance with both minimum capital requirements (minimum financial capital and minimum ratio of regulatory capital to assets) will be assessed by DAB on a quarterly basis. If at any time, either through the preparation of the quarterly reporting forms on capital adequacy or through some other process, any administrator of the MFC becomes aware that one or both of the capital requirements are not fulfilled, it is the responsibility of that administrator to notify DAB.
- b) Upon learning of the capital deficiency, either by its own efforts or through notification by the MFC, DAB will issue an "order for prompt corrective action" to the MFC. This order will include the requirement that the MFC submit a plan within 60 days of the effective date of the order describing the steps the MFC will take to return to capital compliance.
- c) The plan must include quarterly projections of balance sheets, profit and loss statements, and charge-offs, and must project a return to capital compliance within four quarters of the commencement of the plan.

#### **§6.5. Restrictions on capital distributions.**

- a) MFCs are prohibited from making capital distributions that would result in failure to meet either the minimum ongoing financial capital requirement or the minimum ratio of regulatory capital to assets.
- b) MFCs may make a capital distribution only if the following conditions are met:
  - 1) The MFC has been in existence as a corporation for at least three years.
  - 2) The MFC has repaid to creditors all borrowed money.
  - 3) The total amount of the proposed distribution plus all previous capital distributions for the fiscal year does not exceed profit to date for that year plus retained profit for the preceding two years.

**Consultation questions: minimum initial and ongoing capital requirements**

1. Are the proposed capital requirements appropriate and reasonable?
2. Are the conditions under which an MFC may make a capital distribution appropriate and reasonable?

**Part 7. Liquidity measurement and management.**

**§7.1. Minimum liquidity ratio.**

At all times, a MFC must maintain liquidity ratio of not less than 1:1; this ratio is defined as current assets to current liabilities.

**§7.2. Basic liquidity measurement and management.**

The treasurer, or person he/she delegates to manage liquidity, must prepare and implement a written strategy for addressing temporary and long-term liquidity disruptions. The responsible person must also measure and monitor liquidity through the use of cash flow projections that forecast cash inflows and outflows over different planning periods to identify cash shortfalls and surpluses in future periods. Other methods may be used to supplement cash flow projections, but the use of cash flow projections is mandatory. In addition, a MFC must build and maintain relationships with a broad range of funding sources. Over-reliance on individual sources of funds (for example, greater than 20 percent of funding needs) is to be avoided.

**Consultation questions: minimum initial and ongoing capital requirements**

1. Is the requirement for diversifying funding sources reasonable? Will it be possible for MFCs to avoid over-reliance on individual funding sources if that is defined as funding that exceeds 20 percent from any one source?

**Part 8. Loan classification, loan-loss provisioning, and charge-offs.**

**§8.1. Mandatory monitoring of past-due status of loans.**

A MFC must strictly monitor and keep accurate records of the number of days every loan is past-due in any required payment under a loan agreement.

**§8.2. Loan-loss provisioning.**

- a) A MFC must have an adequate reserve for loan losses. These loan-loss reserves are

formed by means of expenses (loan-loss provisions). The adequacy of the reserve, and the possible need for provisions to increase the reserve, must be assessed on a quarterly basis. At a minimum, the reserve must equal the sum of:

- 1) 25 percent of the unpaid balance of loans 31 to 60 days past due
  - 2) 50 percent of the unpaid balance of loans 61 to 90 days past due
  - 3) 75 percent of the unpaid balance of loans 91 to 180 days past due
- b) Higher reserves than these minimum percentages are strongly encouraged if the MFC possesses other information about the borrower that leads it to believe that a greater loan loss will be suffered.

### **§8.3. Charge-offs.**

- a) A MFC must charge off 100 percent of the unpaid balance, and all accrued profits, interests or fees, of loans that are more than 180 days past due. The fact that the loan has been charged off does not relieve the borrower of his/her obligation to repay the unpaid balance, and the MFC should continue efforts to collect these loans
- b) The MFC may charge off a loan that is past due for 180 days or less if it possesses other information about the borrower that leads it to believe that the borrower will not repay the loan. For these borrowers profits, interest, fees, or other charges related to the loan that are accrued but not collected should also be charged off.

### **Large exposure limitations.**

### **§8.4. General principles.**

To reduce risk arising from the failure of one obligor, or group of related obligors, to repay loans to the MFC, the MFC is expected to diversify its client base and build relationships with a broad array of borrowers.

### **§8.5. Numerical limitation on exposures to a single obligor or group of related obligors.**

A MFC is prohibited from acquiring an exposure of greater than 5 percent of its regulatory capital to a single obligor or group of related obligors whose source of repayment funds comes from the same source.

### **§8.6. Non-conforming exposures resulting from declines in regulatory capital or subsequent links among obligors.**

If an exposure becomes nonconforming because of a decline in regulatory capital or subsequent links among obligors that result in their individual exposures being combined, MFCs are required to take reasonably prompt action (as soon as possible, but no later than six months after the event) to bring the exposure back into conformance. Such action may require transferring a loan or other obligation to another financial institution or increasing regulatory capital.

**Consultation questions: loan classification, loan loss provisioning, charge-offs and large exposure limitations**

1. Are the loan loss provisioning requirements set at appropriate levels?
2. Is it appropriate to require a 100 percent charge-off for loans that are past due by 180 days or more?
3. Are the large exposure limitations clear enough to be followed? Are they appropriate in the context of MFCs?

**Part 9. Transactions with administrators or employees of the MFC.**

**§9.1. Prohibition on loans to administrators, investors and shareholders.**

No MFC may extend a loan directly or indirectly to any administrator. Furthermore, no MFC can extend a loan to an investor or shareholder that holds or controls 5% or more of the MFC shares of stock. This prohibition regarding administrators, investors or shareholders extends to family members living in the house of such persons, and to any other family member receiving significant subsistence from such persons.

**§9.2. Restrictions on other transactions with administrators.**

- a) No MFC may engage in any transaction with any person described in §9.1 where the terms and conditions of such transaction are less favorable to the MFC than those of similar transactions with persons not described in §9.1. Any such transaction must be approved by the Board and reflected in the minutes of the meeting.
- b) Examples of terms and conditions considered “less favorable” to the MFC include, but are not limited to:
  - 1) Buying any item from an administrator, or from a relative of an administrator or a company controlled by an administrator or relative of an administrator, at an above-market price;
  - 2) Selling any item to a controlling shareholder, or to a relative of a controlling shareholder or a subsidiary, at a below-market price;
  - 3) Employing an administrator’s relative who does not meet the qualifications for the position to which he/she has been appointed;
  - 4) Paying a higher salary to an administrator’s relative than is paid, or would be paid, to another individual in a similar position;
  - 5) Any other transaction that, in substance if not in form, is similar to any of the

above transactions in unduly enriching an administrator or his/her family, to the detriment of the MFC.

### **§9.3. Loans to employees.**

- a) A MFC may make a qualifying employee mortgage finance loan to an employee provided the loan is not granted on terms or conditions more favorable to the employee than similar loans made to MFC clients.
- b) Examples of “terms and conditions more favorable” to the employee include, but are not limited to:
  - 1) Making a larger loan to the employee than would be offered to a client making a similar loan request;
  - 2) Requiring less documentation from the employee than is required from clients;
  - 3) Charging a lower profit, interest or fee rate to the employee than would be charged to a client with similar standing;
  - 4) Requiring profit, interest or fee payments to be made less frequently by the employee than would be required by a client with similar standing;
  - 5) Allowing a longer repayment term than would be allowed to a client with similar standing;
  - 6) Extending the maturity date of an existing loan to an employee, when a longer repayment term would not be offered to a client with similar standing.
- c) In the aggregate, loans to employees of the MFC may not exceed 25 percent of the MFC’s regulatory capital.

#### **Consultation questions: transactions with administrators or employees of the MFC**

- 1 Are the restrictions on transactions with MFC administrators and employees fair and reasonable?
- 2 Are the lists of “less favorable” and “more favorable” terms complete and understandable?

### **Part 10. Accounting and reporting requirements.**

#### **§10.1. Use of international accounting standards mandatory.**

MFCs must maintain at all times accounts and records, and prepare quarterly and annual accrual

based financial statements, adequate to reflect in accordance with international accounting standards their respective operations and financial condition, in such form and detail as shall be prescribed by DAB.

### **§10.2. Reporting requirements.**

- a) MFCs must provide to DAB periodic balance sheets, profit and loss statements, data on past-due loans and loan-loss reserves, data on loan originations and charge-offs, and other reports of activities as DAB may require, at specified frequencies, to carry out its supervisory functions. In addition, DAB may require additional data to be submitted on an irregular or non-recurring basis, or may require data to be submitted on specific transactions, individuals, and firms.
- b) The calendar to be used in filing the reports, which may be monthly, quarterly, semiannually, or annually, is the Gregorian calendar; that is, the calendar that contains the months of January, February, etc.

### **§10.3. Public release of data collected by DAB from MFCs.**

DAB reserves the right to release to the public, in printed or electronic form, all of the abovementioned data except loan originations and charge-offs. DAB will not release to the public data on specific transactions, individuals, and firms. DAB will release data on specific transactions, individuals, and firms to other authorities for the execution of their official duties, if these authorities are specifically authorized in their own enabling legislation to receive such information.

### **§10.4. Penalties for late, inaccurate, intentionally false or misleading, or incomplete reporting.**

DAB may impose sanctions on MFCs and their administrators in the event of late, inaccurate, intentionally false or misleading, or incomplete reporting. These sanctions include, but are not limited to fines, restrictions on activities, and suspension or removal of administrators.

## **Part 11. Mandatory external audit of MFCs and records retention.**

### **§11.1. Fiscal year of MFCs.**

The fiscal year of a MFC shall be from April 1 through March 31, unless legislation requires, or special permission has been obtained from DAB to use a different fiscal year.

### **§11.2. Annual external audit.**

- a) Each MFC must be audited annually, in accordance with international standards of accounting and audit, by an independent, external auditor appointed by the Board and approved by DAB. Once the external auditor is approved by DAB, only notice is required for future consecutive audits. If a new auditor is appointed, they must have approval of DAB.

- b) The scope of the external audit shall include, at a minimum, an evaluation of the MFC's internal control system, the accuracy of reporting to DAB, and compliance with legislation and this and other regulations issued by DAB. The external auditor shall report to DAB any breaches of law or regulation, and shall furnish to DAB any information requested by DAB that has been obtained from the MFC in the course of performing the audit, regardless of any duties of confidentiality.

### **§11.3. Audit-related reports required to be submitted to DAB.**

The external auditor must provide to DAB before July 31 of the new fiscal year a copy of its audit report, including the MFC's audited balance sheet, statement of profit and loss, and statement of cash flows, and the external auditor's opinion on internal controls, accuracy of reporting to DAB, and compliance with laws, this regulation, or other regulations issued by DAB. The reports must be presented to DAB in both hard copy and electronic form, in a form suitable for posting on DAB's website.

### **§11.4. Records retention.**

A MFC must take reasonable precautions to prevent the loss or destruction of records, prevent falsification of entries, facilitate detection and correction of inaccuracies, and ensure that unauthorized persons do not have access to or use of these records. For the purposes of this Section, "records" mean books, accounts, statements, vouchers, securities, data on computer systems, and all documents relating to the business affairs, transactions, and property of the MFC. These records must be retained for a period of not less than ten years.

## **Part 12. On-site examination of MFCs by DAB.**

### **§12.1. Requirements placed on the MFC by the on-site examination process.**

- a) Each MFC will be subject to periodic full-scope and occasional targeted on-site examinations by DAB examiners. In these examinations, DAB examiners will be authorized
  - 1) To enter any office of the MFC and to examine there the accounts, books, documents, and other records of the MFC; and
  - 2) To require administrators, employees, and agents of the MFC to provide all such information on any matter relating to the administration and operations of the MFC as DAB shall reasonably request.
- b) DAB may ask the assistance of law enforcement officials to assist it in gaining access to the premises of a MFC and to examine its accounts, books, and records.

### **§12.2. Report of examination.**

DAB will provide the MFC with a copy of each report of examination, which is not to be released to any party without the prior permission of DAB.

## **Part 13. Relations between a MFC and its loan clients.**

### **§13.1. Terms and conditions of contracts.**

Any loan agreement concluded with a borrower shall be accompanied by a written contract that meets the requirements of the Mortgage Law and its implementing regulation.

### **§13.2. Rates of profit, charges and fees.**

- a) The rates of profit (including, if applicable, interest), charges, commissions, bonuses, and servicing or other fees charged by a MFC to its borrowers or other clients, or paid by a MFC to its debtors, may be independently established by each MFC.
- b) All rates of profit (including, if applicable, interest) and fees on loans must be disclosed at an annualized rate regardless of the maturity of the credit or the frequency of payments.

### **§13.3. Secured lending.**

- a) A MFC is free to determine in agreement with a borrower whether to include movable property as part of its collateral. MFCs are required to take and properly register first mortgages on immovable property in accordance with the Mortgage Law and its implementing regulations.
- b) MFCs may not accept their own shares of stock as security for a loan, and may not issue a loan to any person, the purpose of which is to buy shares in the MFC.

### **§13.4. Prohibition on false advertisement.**

- a) A MFC is prohibited from falsely or misleadingly advertising its activities. DAB has the right to require any MFC to change or revoke any advertisement or other published information regarding its activities, if the information is falsely or misleadingly stated.
- b) In the event that the demands of DAB are not met within the period of time specified by DAB, DAB may publish a statement that the advertisement or information is false or misleading. DAB has the right to claim the expenses it has incurred as a debt repayable to it by the MFC.

### **§13.5. Confidentiality of customer information.**

- a) Present and past administrators and employees of a MFC shall be required to keep secret, not to use for personal gain and not to permit to be examined by others unless required by law, any information that they obtained in the course of their services to the bank.
- b) Exceptions to the above non-disclosure policy are the following:

- 1) The information may be disclosed to the officers, staff, and agents of DAB, to enable them to carry out their supervisory or investigative functions.
- 2) The information may be disclosed to a credit bureau, according to laws or regulations applicable to that credit bureau.
- 3) The information may be disclosed to another financial institution licensed or permitted by DAB, if such information is required by that financial institution in deciding whether or not to lend to, or accept deposits from, the MFC.
- 4) The information may be disclosed to the Financial Intelligence Unit of DAB in connection with required reporting under laws concerning responsibilities of financial institutions in the fight against money laundering and terrorist financing.

**Part 14. Effective date of regulation.**

**§14.1. Regulation immediately effective upon adoption by DAB Supreme Council.**

This regulation is effective immediately upon adoption by the Supreme Council of DAB.,

**§14.2. Revocation of effectiveness of regulation by superseding legislation.**

This regulation may be revoked by future superseding regulation or legislation concerning MFCs or other non-banks, or other legislation that clarifies or repeals relevant articles of the Banking Law or the Mortgage Law and its implementing regulation.