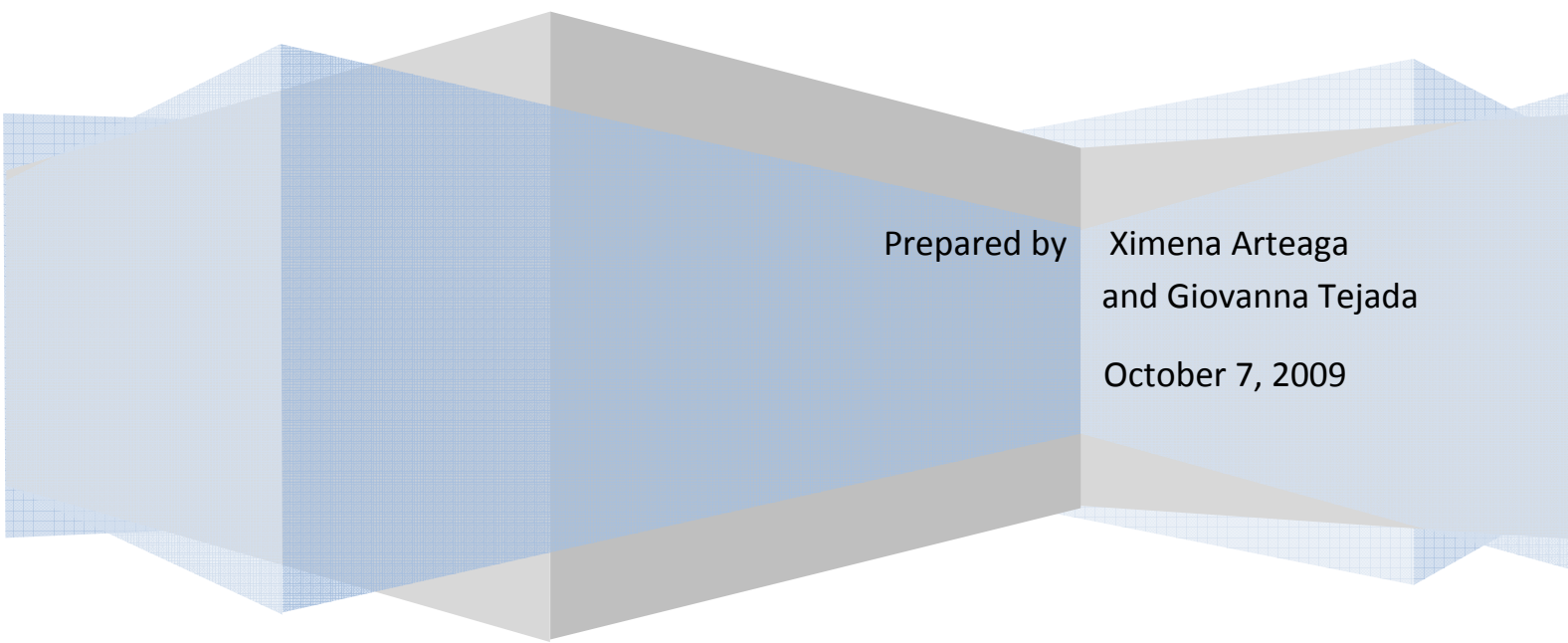


Microfinance Investment Facility of Afghanistan - MISFA

Legal and Regulatory Analysis for Depository Microfinance Institutions – DMFIs

Analysis and Recommendations



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I. Introduction

At present, no Microfinance Institution (MFI) in Afghanistan is licensed by Da Afghanistan Bank (DAB or Central Bank of Afghanistan) to collect savings although a legal window allowing this activity was established in 2006¹ through the Depository Microfinance Institution Regulation (DMFI Regulation). The question whether MFIs should collect deposits grows in importance given the enormous growth seen in deposits collected by banks². The first step in evaluating if MFIs could successfully become Depository MFIs (DMFIs³) is to find out if the existing legal framework, including the DMFI Regulation, is conducive to start savings collection from micro-entrepreneurs.

Collecting deposits or savings from the general public is treated in a much more restrictive manner than issuing loans. Deposit-taking institutions are regulated by central banks or monetary authorities. “Regulators’ objectives everywhere are said to be efficiency in mobilizing resources from the surplus units and optimum allocation of these resources, along with stability of prices and payment systems and the economy as a whole”⁴. Moreover, regulators supervise banks and other non-bank financial institutions, such as DMFIs, to protect the general public from undue losses and safeguard the integrity of the financial system. The rules that protect customers from unwarranted risks (that may result in undue losses) are called prudential regulations. In other words, prudential regulations pertain to the safeguard of the deposits of the general public and the soundness of the financial system.

Prudential regulation and supervision are appropriate for most MFIs that do take voluntary deposits—for instance, “savings-based financial cooperatives or credit-only MFIs that want to start attracting savings to finance their growth”⁵. It is important to consider the context in which MFIs are operating because new regulations need to be approached with care. In countries like Bolivia, Uganda, and Pakistan new licensing windows for MFIs have been most successful because a critical mass of profitable credit-only MFIs existed before the opening of the window. In some countries, like Honduras the legal window was used by a very limited number of organizations, which can be interpreted as less successful. In Mexico and Peru the legal window allowed the creation of a completely new layer of financial institutions: depository MFIs. There is no recipe for the perfect legislation but lessons from various countries that should be considered, analyzed, adapted and, possibly, adopted.

¹ The legal window is a regulation promulgated on July 1, 2006. This regulation is a supplement to Article 12 of the Law on Banking. Throughout this report this regulation will be called Depository Microfinance Institutions Regulation – DMFI-Regulation.

² “Condition and Performance of the Banking System as of Hoot 1387, March 2009,” Da Afghanistan Bank, Supervision Department, 2009. This report was obtained from Quaseem Rahimi on May 26, 2009.

³ Throughout this report the name DMFI will be used to refer to deposit-taking MFIs in general.

⁴ Ayub, M., *Understanding Islamic Finance*, pg 181.

⁵ “What’s the Role of Regulation and Supervision in Microfinance?” CGAP website.

The present report analyzes the current financial legal framework in Afghanistan to verify the viability for MFIs to collect savings using the DMFI Regulation as a “new” legal window. The consultants took into consideration current trends and best practices and reviewed the body of Afghan laws that rule the financial sector and affect the functioning of DMFIs. Additionally, a comparative approach presenting examples of Pakistan and Uganda and, whenever pertinent, of other countries was used. Opinions and recommendations were formulated based on the legal review, conversations with local key informants and the consultant’s experience. The two objectives of the report are i) to facilitate the understanding of the body of laws and regulations pertaining to DMFIs and ii) to identify legal gaps that would create risks for the DMFI.

II. Legal Framework for DMFIs

A. Current Laws

The activities of DMFIs are governed by the following laws:

- Law of Da Bank of Afghanistan, 2003
- Law of Banking in Afghanistan, December 14, 2003
- Anti-Money Laundering and Proceeds of Crime Law, November 04, 2004
- Law on Combating the Financing of Terrorism, September 1, 2005
- Corporations and Limited Liability Companies Law, 1953
- Microfinance Regulation –Article Twelve, July 1, 2006⁶

Table 1

Depository Microfinance Institutions: Legal Basis and Supervisory Authority

	Afghanistan	Pakistan	Uganda
Depository MFI Legal Basis	- Law of Banking in Afghanistan (Chapters I, VI, VII, IX and X). - Microfinance Regulation, Article twelve.	- Microfinance Institutions Ordinance (2001). - Prudential Regulations for Microfinance Banks (MFBs).	- Microfinance Deposit Taking Institutions Act (2003). - Microfinance Deposit Taking Institutions Regulations (2004) (Licensing, Capitalization, etc.).
Supervisory Authority	Da Afghanistan Bank / The Financial Tribunal	The State Bank [of Pakistan]	Bank of Uganda

⁶ A review of the Official Gazette (of Afghanistan) website indicated the publication date of this regulation was June 1, 2006. The consultants used the English translation published by DAB and dated July 1, 2006.

III. Statutory Requirements for DMFIs

This section presents all legal or statutory requirements for DMFIs with analytical explanations that point to possible gaps in the DMFI Regulation and contradictions with other laws.

A. Registration, ownership, and Licensing

Any legal entity applying for a DMFI license should already be constituted as a Non-distributive Corporation and be registered at the Central Registrar (DMFI Regulation §12.2.1.a) and §12.3.1.). Corporations are governed by the Companies Law, but this law does not define a Non-distributive Corporation. The risk is that the existence of the DMFI may be challenged because the law does not recognize this type of organization. A registration fee is mandated but the regulation does not specify the amount of this fee.

The DMFI Regulation stipulates the ownership structure of the non-distributive corporation while the Corporations and Limited Liability Companies Law (Companies Law) defines corporations in general. The DMFI is owned by its members. A member is defined as “a natural or legal person who has fulfilled the necessary requirements to acquire the right to borrow from a DMFI” (DMFI Regulation §12.2.1.q)). In other words, the DMFI has to be owned by its clients. The DMFI regulation allows a second type of owner, the non-member investors “in certain circumstances” (DMFI Regulation §12.2.1.a)). This is a sui generis situation, since most financial laws around the world opt for a model where the owners ought to have certain characteristics, such as “deep pockets” in case additional fresh capital is required to cover the risks the depository institutions has acquired. The major exceptions to this practice are member-based financial institution, e.g., Credit Unions.

Table 2

Comparative regulations – Registration and Ownership

Afghanistan	Pakistan	Uganda
<p>Registration: Non-distributive corporation under the Corporations and Limited Liability Companies Law.</p> <p>Ownership: A corporation owned by its members and in certain circumstances by non- member investors.</p>	<p>Registration: Company under the Companies Ordinance of 1984.</p> <p>Ownership: No less than 51% of the paid-up capital must be subscribed by Promoters and Sponsors members</p>	<p>Registration: Company under the Companies Act at the Department of Registrar General within the Ministry of Justice.</p> <p>Ownership: No person or group of related persons shall hold more than 30% of the shares, except for a wholly-owned bank subsidiary, a reputable financial institution, or, in exceptional cases a reputable public company. No person shall transfer 10% or more of the total shares of an MDI without the approval of the Central Bank</p>

Licensing requirements are not particularly onerous. Before applying for a license, an MFI has to be established as a corporation. The documentation required to obtain the license is in line with requirements in other countries.

Table 3
Detailed List of Documents for a License application and observations

Statutory Requirement⁷	Comments and cross-referenced information in the DMFI Regulation
Evidence of Fee payment.	Amount to be determined by DAB. Conventionally, fee is the same for all applicants.
Proposed By-laws.	Standard requirement. The DMFI Regulation stipulates the contents of the by-laws that the organization should have (DMFI Regulation §12.4.3).
Business plan.	Standard requirement.
Abbreviated Projected Balance Sheet and Income Statement for 3 years of operation.	Standard requirement (in conjunction with business plan). The DMFI Regulation is missing a requirement to present audited financial statements for the previous 2-3 years.
Statement of membership specifying common bond of members, field of action, and delineated community.	This requirement may make operations difficult, especially if, at the time of requesting a license, DAB objects to the number of districts and communities where a DMFI would like to start operations. (See definition of delineated community in DMFI Regulation §12.1.2) There is no explanation about how to apply for geographical expansion.
Documentary support of an adequate initial membership and potential for growth.	The reason for this requirement is very unclear. Is DAB looking for a large enough number of borrowers that allow the organization to grow or is it looking for enough borrowers/members to be adequately capitalized? This requirement is a barrier of entry for a new organization applying for a DMFI license. Whenever barriers of entry for financial institutions are used, they normally follow a risk-based approach. For example, the minimum capital is a barrier of entry, but it is set so that normally a company engaged in banking activities has sufficient capital to support a number of business activities. Regulators may issue restrictions to the nascent bank and may determine how much more additional capital or other conditions are required to engage in more (and presumably riskier) activities.
Proposed organizational chart.	Standard.
Proposed Credit Policy.	Standard.

⁷ Please, note that the consultants are using the term Statutory to refer to the regulation (DMFI Regulation) as opposed to general legal requirements that may refer to various laws.

Table 3 - continued

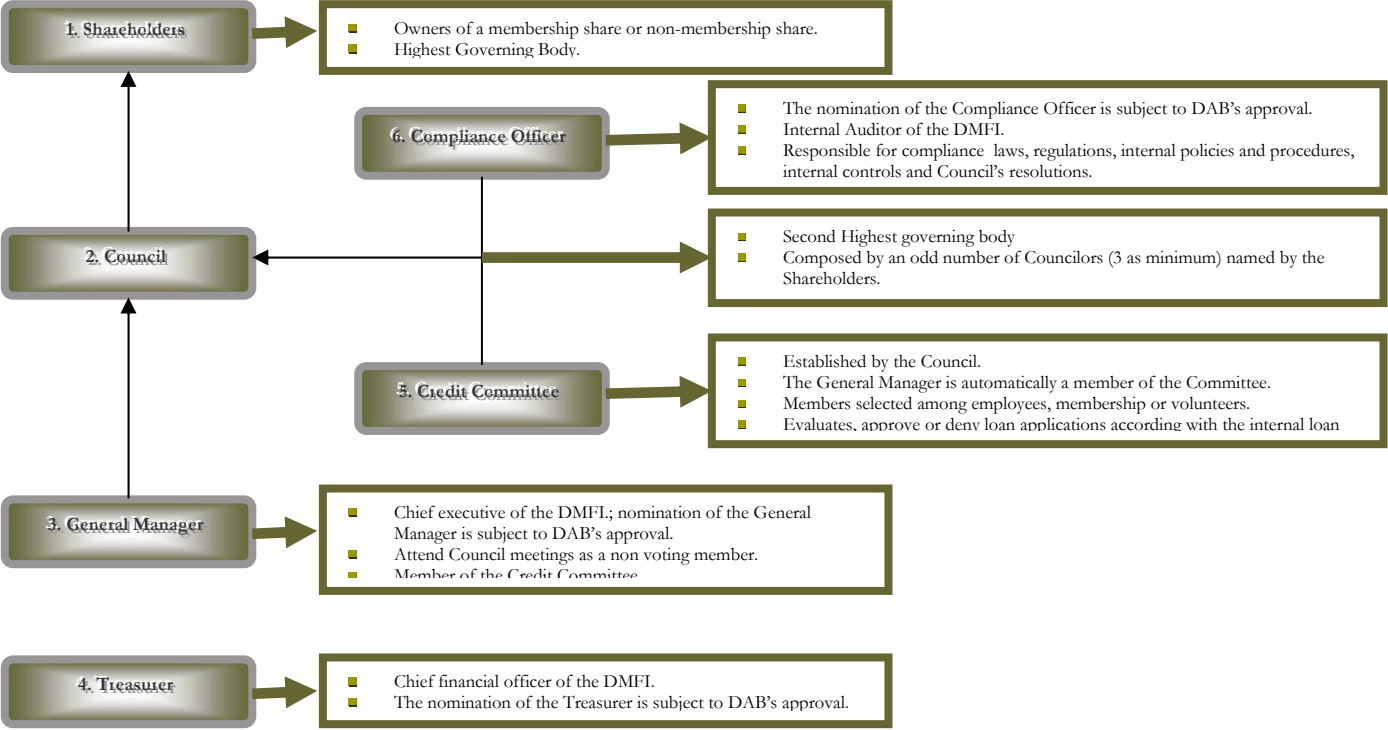
Proposed Asset - Liability Management Policy.	Standard.
List of proposed sponsors and investors (contact information).	Standard. Most commonly, investors will have specific treatment if they are majority investors. Such majority investors will probably have to comply with “Fit and Proper Requirements” and may be subject to higher scrutiny from the authorities.
Pro forma opening balance sheet; net assets should equal or be greater than the initial and ongoing minimum financial capital. - Percentage of ownership by each Investor.	This requirement is necessary but not sufficient in terms of evaluating the risk of the applying organization. DAB is probably trying to ensure that an ongoing MFI will have a capital that at book value resembles the minimum capital requirement. This requirement may also be in contravention with the requirement to follow International Accounting Standards (see §12.11.1). It is standard practice to inquire about the percentage of ownership of each investor prior to licensing. Normally, this is part of the registration documents. Only in countries where banks are publically traded companies with shares that may be exchanged by dozens or hundreds of parties, is this requirement waived, except for major shareholders.
Statement describing relationship between the DMFI and the proposed investors and sponsors.	This requirement is hard to understand since the relationship of an investor with a company is normally given by law. In Afghanistan the Companies Law describes the how different types of owners/shareholders may have different relationship with the corporation, for example through voting rights. DAB may want to know more about sponsors, which is a peculiarity of the DMFI Regulation. It seems acceptable that a sponsor provides an explanation of its relationship with the DMFI. In practical terms, a sponsor may be an NGO like CARE, Mercy Corps International, or FINCA.
Statement describing compliance with Anti-money laundering responsibilities.	Presenting a statement at application time is not sufficient. Upon starting operations as a DMFI, the institutions should be in compliance with the Anti-Money Laundering and Proceeds of Crime Law (please, see chapter III of this report for more details on requirements imposed by this law).
Complete biographical information of proposed administrators including CVs.	Standard requirement.

B. Corporate Governance

Corporate Governance refers to the array of processes, rules, and policies that affect the way a company is directed. The structure of a company is essentially the set of relationships between its different parts. The DMFI Regulation prescribes the following structure and relationships, both of which affect the performance of the DMFI but it

does not provide corporate governance guidelines beyond the scope of responsibilities of the different bodies of and positions within the DMFI.

Chart 1
Corporate Structure of a DMFI



The practical aspects of corporate governance are found in the by-laws of the organization. The DMFI Regulation has the following requirements for by-laws.

Table 4
Statutory requirement for By-laws of a DMFI

<p>At a minimum:</p> <ul style="list-style-type: none"> • Should include the scope of membership that will bind all clients. • Scope of Activities and Services. • Duties and responsibilities of employees.
<p>Additionally (for exhaustive list, please refer to DMFI Regulation §12.4.3.):</p> <ul style="list-style-type: none"> • Additional details on membership such as the minimum share purchase, age, length of residence in the community, etc. • Process of handling disputes with members and possible expulsions. • Rules governing nomination of Councilors (see Corporate Governance for further information). • A statement of the common bond and delineated community • The process of handling disputes with members and possible expulsions.

The additional requirements listed above are unusual in regulating microfinance activities and are more appropriate for financial cooperatives or credit unions.

Demographic definitions of members are part of a marketing strategy; in making them part of corporate governance, the DMFI would have to amend its by-laws every time it expands. The process of handling disputes with members can be addressed in the by-laws as a general consumer-protection issue but the by-laws should not spell a very specific process for this matter because disputes may have different origins and thus different resolution paths. Expulsion of members is seen in member-based organizations such as credit unions⁸ even though members are shareholders. Many MFIs and banks that offer group loans encourage groups to have a clause in their by-laws or rules document that deals with member expulsion. But in this case this rule is not part of the company's by-laws. The DMFI is a corporation and not a club or an informal group that can expel members. Further clarity about this process could not be found in the Corporation and Limited Liability Companies Law, which does not address expulsion of shareholders.

1. The Council

Customarily, a corporation has a board of directors as a body that directs and regulates the affairs of the company. However, the DMFI regulation institutes a Council as this type of governing body. The number of members in the Council is proportional for the two groups of shareholders that the DMFI Regulation defines members and non-members. These two groups should have proportional representation in the Council. There should always be an odd number of Councilors and at a minimum three. The Council has a number of duties divided as follows:

Table 5
Duties of Council

Appointment/Approval	Control
Manager, Treasurer, Compliance Officer (Internal Auditor).	Ensure DMFI complies with Laws and Regulations.
Form a Credit Committee	
Adopt policies and procedures for Risk Management and Internal Controls.	
Approve numerical limits on measurable risk parameters.	Ensure risk policies are followed.
Approve/deny loan non-conforming loan applications referred by the Compliance Officer.	
Appoint External Auditor	Ensure internal and external audits are done. Present audit reports to DAB in a timely manner.

⁸ The World Council on Credit Unions, WOCCU recommends as a best practice that the by-laws of a Credit Union should always include a process for dispute resolution and the reasons that merit member expulsion (see: <http://www.woccu.org/bestpractices/governance>). However, after reviewing the MFI legal windows for 8 countries (Bolivia, Peru, Mexico, Uganda, Pakistan, Tanzania, Kirgizstan, and Morocco) the author was not able to find a single reference to this type of practice.

The Council should meet at least four times in a fiscal year. The DMFI Regulation does not mention if the participants should be physically present at the meetings or if they can participate via conference/video calls. At present, most banking legislations allow “virtual” meetings and at least one meeting with all members present. If members/clients have to attend meetings this would result in increased expenses for the DMFI and/or for clients. Distant participation is virtually impossible in Afghanistan, especially if participants are located in rural areas as there are no phone lines and internet facilities are scarce.

2. Change in control of DMFIs

The DMFI Regulation stipulates that qualifying holding (significant control) takes place when a single investor reaches 20% of ownership. Additionally, DAB should be informed and has to grant approval whenever a shareholder hits 33% or 50% of ownership of the total shares. Most regulatory authorities reserve the right to authorize control in financial institutions. The thresholds found in the DMFI Regulation are typical.

DAB has the authority to order divestiture of shares if it determines that the shareholder in question is creating insolvency, illiquidity, or imprudent management. This “order to divest” is clearly not the equivalent of the “member expulsion” because the first is ordered by DAB, while the latter is a prerogative of the institution. There is no indication how DAB will monitor shareholders and if monitoring will focus only on majority shareholders. It is unclear why The DMFI Regulation has this particular provision because the Banking Law does not have an equivalent stipulation. DMFIs and banks alike have to adhere to corrective actions in case of insolvency or illiquidity (Law of Banking in Afghanistan, Art. 46 and 47).

3. Missing aspects in Corporate Governance

There are some important points missing in the DMFI Regulation.

Shareholder’s Assembly

Usually, a company/corporation divided by shares has a General Assembly to which all shareholders with voting rights are invited. Certain decisions in the life of the company are made only by the general assembly (e.g., issue more shares or change the charter). It is highly unusual for financial institutions to have clients as voting shareholders. The most notable case of a financial institution with clients who are voting shareholders is Grameen Bank in Bangladesh. Grameen Bank has created a structure that allows shareholders to designate representatives to the general assembly. Notably, the DMFI regulation does not mention a General Assembly.

Fit and Proper Requirements

A common feature of financial legislation is a list of minimum standards for owners, directors, and managers. These minimum standards may include technical expertise and professional experience but often involve moral probity. Such stringent requirements for financial institutions are based on the basic premise that bank failures should be prevented. As a matter of policy, these standards mimic health standards where prevention is always less costly than cure. Table 6 shows the extensive requirements of two countries; the DMFI requires professional experience (§12.3.3.).

Table 6
Comparative Fit and Proper Requirements

Afghanistan	Pakistan	Uganda
<p>The Banking Law, Article 1 (Principal Definitions) gives a definition of Fit and Proper using the following language to describe the characteristics of the person:</p> <ul style="list-style-type: none"> - Honest and trustworthy. - Professional qualifications, background and experience. - Subject to criminal background check. - No history of bankruptcy. - No disqualification or suspension of professional practicing. 	<p>Fit and Proper Criteria include:</p> <ul style="list-style-type: none"> - Integrity, honesty and good reputation. Previous conduct related to: <ul style="list-style-type: none"> • Criminal offence, fraud/forgery, financial crime, association with any illegal activity related to banking activity. • Default on payment of dues to a financial institution or payment of taxes. • Adverse findings in civil or criminal proceedings, investments, financial business conduct, corporations management. • Positions in other institutions – not being debarred from executive positions. • Positions in a company or firm that has been liquidated or its license had been revoked or cancelled - Track record: Previous experience in other companies specially in Executive positions - Capacity. - Qualifications apply to President/Chief Executive and Directors. They have to fulfill parameters of age, experience in the financial sector (of minimum 10 years for President/Chief Executive) and a minimum qualification of graduation. - Political relations or membership: With restrictions. 	<p>The institution shall be operated by persons who are fit and proper for involment in microfinance business. The Bank of Uganda shall consider:</p> <ul style="list-style-type: none"> - Probity of the applicant; - Competence and soundness of judgment related to determined responsibilities; - Diligence in execution of duties; - Equality; - Previous conduct (referred to fraud or any other conduct where dishonesty, malpractice and violence is an element); - Previous activities (referred to positions in other institutions). - Directors, top managers and shareholders are required to fulfill the criteria for determining professional and moral suitability

C. Prudential and Economic Statutory Requirements

The business of financial intermediation (usually called *banking*) is inherently linked to the economy of a country. Therefore, the government has a major interest in keeping the banking sector sound and safe to keep the country's economy going. Banking, as a business model, is based on the collection of surplus money (usually from households or individuals) to lend it (intermediate it) to others (usually businesses).

Regulators are concerned with financial intermediators or deposit-taking institutions because they work with money from the general public, not just their own. Thus, a prudential regulatory approach is taken, which limits the organization's risk-taking. Also the viability of the company as an ongoing concern is crucial, thus regulators also apply economic requirements.

1. Initial and Ongoing Capital and Capital Adequacy

"Capital levels of credit companies have long been subject to some form of supervisory scrutiny."⁹ By the end of WWII, Great Britain and the United States had established capitalization rules for banks; these rules were correlated to the amount of deposits. About 20 years later, the rules evolved to a ratio that compares assets to capital because, regulators realized, the real risk for banks came from the asset side and not from liabilities (deposits are liabilities with the public). This ratio is called capital adequacy.

By the 1980's there were many more internationally active banks with assets held in many parts of the world. This situation, along with many bank crises, such as the rise and failure of Japanese banks, prompted the development of an international accord for banking regulation¹⁰. Essentially, this accord spread the concept that the capital of a bank should be linked to the riskiness of its assets. By now, most of the countries, if not all, in the world, including Afghanistan, have adopted this regulatory approach.

The minimum capital and capital adequacy requirements in the DMFI Regulation are as follows:

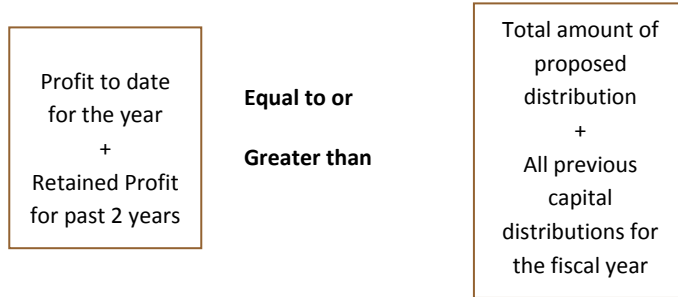
- Maintain a financial capital of minimum AFN 25 million (\$US 500,000¹¹) once the license is granted.
- Maintain a ratio of regulatory capital to 8% of total assets. Total assets exclude cash, accounts at DAB, up to 80% of deposits in banks, and intangible assets.
- As Non Distributive Corporations, DMFIs are prohibited from making capital distributions unless the following conditions are met¹²:

⁹ Tarullo, Daniel K., "Banking on Basel," pg. 29

¹⁰ For more information on this accord called the Basel I, please see Kapstein (1994), Reinecke (1995) or visit the website of the Bank of International Settlements at www.bis.org.

¹¹ This exchange rate of 1 USD = 50 AFN is not official but widely used in Afghanistan.

- At least 3 years of existence.
- Repayment to MISFA all grants used for tangible assets.
- To have:



This requirement states that in a given fiscal year:

- The DMFI can distribute profit only every three years since profit has to be retained for two consecutive years.
- The profit retained cannot exceed the amount of the proposed distribution. If there have been other distributions on the fiscal year in question, then the total distributions may not exceed the profit to date.

A statutory requirement to retain earnings and limit distribution of profit is common since the financial institution has to grow its capital/equity and the only way to do this is through earnings retention or infusion of fresh capital. However, the DMFI Regulation presents a big contradiction because this article authorizes the distribution of profits, when the classification as Non-distributive Corporation seems to ban it. The big problem is that neither the Companies Law nor the DMFI Regulation defines a Non-distributive Corporation.

DAB has the right to request a higher capital adequacy ratio to a particular DMFI with a changing risk profile. If the capital adequacy ratio requirement increases, an influx of fresh capital should take place or, alternatively, the entity has to dispose of its more risky assets. Both these options seem very difficult for a company with the characteristics of the DMFI (e.g., members/clients as shareholders). Similarly, capital increases in case of equity erosion will be difficult to effect.

In case of non-compliance, DAB will ask the DMFI to correct the situation within 60 days (“order for prompt corrective actions”¹³). Raising capital from clients

¹² In the opinion of the consultant, this economic/accounting requirement is in clear contradiction of the nature of the organization as non-distributive. The DMFI Regulation defines *Capital distribution* as a 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 DMFI’s assets to its shareholders in a similar manner as a dividend or share repurchase.

¹³ Corrective actions in general correspond to Chapters VI, VII and X of the Law on Banking in Afghanistan.

will be nigh impossible; the burden to add fresh capital will probably fall on the non-member shareholders. . If the DMFI looks for new investors, they have to be approved by DAB. Finding new investors is usually a long process. It is very unlikely that the DMFI will have the capacity to convince a significant number of its clients to further invest in the corporation to buy more than one share. It is hard to envision an investor capitalizing a DMFI when his/her investment will receive no dividends.

2. Liquidity Measurement and Management

The DMFI Regulation has the following liquidity requirements:

- Maintain at least a 20% proportion of Liquid Assets¹⁴ to Deposits.
- Have a written strategy for addressing temporary and long-term liquidity disruptions.
- Monitor liquidity through the use of cash-flow projections.
- Build and maintain relationships with a broad range of member depositors.

The last requirement could cause conflict among members because the principle of membership-based organizations is that all members have equal rights and responsibilities.

Deposits provide liquidity to the DMFI, but this type of liquidity is very different from that provided by an investor, who increases the capital of the company or with a creditor, who provides liquidity under very specific terms and conditions. Depositors, especially the poor can be unpredictable. The DMFI could place several restrictions on the depositor but this is not an ideal situation for the poor, since a relatively minor event, like a non-threatening disease, may force them to take all their savings to cope with it. A comparative chart of liquidity requirements in different countries is presented below.

Table 7
Liquidity Requirements

	Afghanistan	Pakistan	Uganda
Liquidity	Maintain a minimum liquidity ratio to total customer deposits of no less than 20%.	Maintain in liquid assets (cash, gold and unencumbered approved securities). Maintain a liquidity equivalent to 10% of its time and demand liabilities.	An institution shall maintain, at all times, minimum liquid assets equal or exceed the sum of 15% of total deposit liabilities

¹⁴ Liquid Assets are defined as: Cash, deposits at DAB, and demand deposits at banks. (§12.1.2)

3. Loan Portfolio Provisioning

DAB prefers financial institutions with loan portfolios with as little arrears as possible. Because arrears are inherent to the lending business, there are accounting and economic measures that the institution takes to mitigate this risk. The DMFI has to closely monitor past-due loans to set up provisions correlated to the aging of the arrears.

Table 8
Comparative Provisioning Requirements

	Afghanistan	Pakistan	Uganda
Loan Classification	<p>Monitor and keep accurate records of the number of days every loan is past due. Have an adequate reserve for loan losses (at minimum):</p> <ul style="list-style-type: none"> • 25% of unpaid balance of loans 31 to 60 days past due. • 50% of the unpaid balance of loans 61 to 90 days past due. • 75% of the unpaid balance of loans 91 to 180 days past due. <p>- Charge-off 100% of the unpaid balance of loans that are more than 180 days past due</p>	<p>Non- Performing Loans (NPLs): principal of loans and advances, payments against which are overdue for 30 days or more.</p> <ul style="list-style-type: none"> - Substandard: loans in arrears 30 - 89 days. Provision: 25% of outstanding principal net of cash collateral. - Doubtful: 90 - 179 days arrears. Provision: 50% of outstanding principal net of cash collateral. - Loss: 180 days arrears. Provision: 100% of outstanding principal net of cash collateral. <p>Generic provision: 1.5% of net outstanding provisions.</p>	<p>Credit facilities are classified according to objective criteria:</p> <ul style="list-style-type: none"> ○ Normal Credit Risk/Pass: 1%. ○ Watch/Special Mention (30-89 days overdue): 1%. ○ Substandard (overdue 90-179 days): 20%. ○ Doubtful (overdue 180 days to less than 1 year): 50%. ○ Loss (overdue 1 year or more): 100%.

The preferred approach in most countries is a schedule similar to the one used Uganda, which is similar to provisioning schedules found in banking laws. The DMFI Regulation *strongly encourages* the creation of higher provisions whenever the DMFI suspects that the borrower is facing problems. Monitoring the financial situation of clients can be tricky. Information systems can help but the loan officer's experience and knowledge of the clients is fundamental.

Charge-offs are the past due loans removed from the balance sheet. The DMFI Regulation instructs that loans that have been in arrears for over 180 days should be removed from the balance sheet. This removal, however, does not liberate the DMFI to continue collection efforts. A more common practice in many countries is to recommend write-offs once per year. Writing-off loans too often may hide some operational problems such as poor monitoring. Carrying

non-performing loans (loans in arrears) in the balance sheet for too long creates a bigger more sluggish organization. Additionally, write-offs normally have to be approved by the board of directors since this accounting procedure reduces the size of the organization by reducing its assets.

4. Large exposure limitations

The DMFI Regulation stipulates that a single obligor (borrower) or group of related obligors should not receive a loan larger than 5% of the DMFI's regulatory capital (equity - intangible assets + subordinated debt). Taking into consideration the size of the minimum capital (\$US 500,000), this limit exceeds the largest possible loan a DMFI may issue. A micro-loan may not exceed \$10,000 and special loans may not exceed \$US 20,000, but this large exposure limitation sets a higher boundary of \$25,000. This is another inconsistency in the DMFI Regulation.

A large exposure limitation is indeed a prudential measure¹⁵ while a cap on the size of the loan is a business measure to ensure the social orientation of microfinance. Regulators limit the size of loans via large exposure limitations because there is a relationship between the size of the institution and the risk it may assume (this is lending risk). This measure is less invasive than a cap on the loan size as it allows the organization to proportionally increase the size of loans as it grows. In Pakistan, the Prudential Regulations for Microfinance state that MFIs shall not extend loans exceeding 150,000 Pak Rupees (less than \$US 2,000); this is an extremely low ceiling that many MFIs protested.

D. Other Requirements

This section refers to requirements that are not prudential in nature but also ensure the safety and soundness of the institution.

1. Transactions with insiders

Some banking crises started with banks either providing loans with better terms to their directors and managers. The DMFI Regulation prohibits any loans to administrators. In general all transactions with favorable terms are also prohibited (e.g., pay higher interest rates on deposits to employees or hiring an administrator's relative with poor qualifications).

Loans to employees are permitted (whether they are members or not) if they have similar terms to a member's loan. Loans to employees cannot exceed 25% of the DMFI's regulatory capital.

These requirements mirror those found in other countries. In many countries the same rules regarding transactions with insiders apply to banks and MFIs.

¹⁵ Another prudential principle is to reduce the risk that the collapse of a big client may have on a company.

2. Accounting and Reporting

DMFIs have to follow *International Accounting Standards*. DAB will prescribe the form and detail of the account records and financial statements and any other reports. The periodicity of other reports will also be prescribed by DAB. The following table shows the reporting requirements found in the DMFI Regulation and the Anti-Money Laundering and Proceeds of Crime Law.

Table 9

Reports per DMFI Regulation and Anti-Money Laundering Law

Report to DAB	
Financial Statements	Quarterly, Annually (Audited)
Capital Adequacy	Quarterly
Loan origination and Charge-offs	To Be Determined (TBD)
Maturity structure of Assets and Liabilities	TBD
Other reports	TBD
Report to Financial Intelligence Unit	
Large Cash transactions	As needed
Suspicious transactions	As needed

3. External Audit

DMFIs will have to present audited financial statements before July 31 of the new fiscal year. The audit firm has to be approved by DAB. The DMFI Regulation, as well as the Law on Banking, does not mention the need to publish audited statements. It would be a good practice among DMFIs to make this information public.

4. Records Retention

The DMFI Regulation requires institutions to “take reasonable precautions to prevent the loss or destruction of records” (§12.12.4). However the Regulation stays silent in regards to automated systems that may facilitate some records retention. It is incumbent upon each DMFI to have the adequate management information systems (MIS).

IV. Anti-Money Laundering and Combating the Financing of Terrorism

The increased ease with which money flows across borders has benefited the public and the economies. However, this freedom has also been taken advantage by many organizations and people with criminal agendas. Afghanistan, along with most countries in the world has

legislation to combat money laundering and financing of terrorism. DMFIs have to adhere to these laws.

A. Legal framework

- Afghanistan Law on Combating the Financing of Terrorism, September 1, 2005.
- Anti-Money Laundering and Proceeds of Crime Law, November 4, 2004.
- Responsibilities of Financial Institutions in the fight against Money Laundering and Terrorism Financing (Regulation), March 7, 2006.

The Law on Combating the Financing of Terrorism essentially defines the crime and provides the penalties. The Anti-Money Laundering Law is the one placing most demands on DMFIs.

B. Rules in combating Money laundering

The law determines that the burden of preventing money laundering activities falls on the financial institution. The two main tools the institution may use are monitoring methods and ensuring that its clients are who they claim to be. The practices are now commonly known as “*know your customer*” (KYC). It is important to note that this law is applied to three groups: i) financial institutions, ii) individuals and organizations involved in financial activities, and iii) different professions (e.g., jewelers and pawn shops who deal with purchase of gold/silver, precious stones if a cash transaction is equal to or exceeds \$US 20,000, a lawyer who buys/sells real estate, etc.).

Table 10
Complying with Anti-Money Laundering and Financing of Terrorism Legislation

Area of Control	Method or Approach	Comments
Internal Controls and Audit	<ul style="list-style-type: none"> - Designation of an Anti-money Laundering Officer who will develop and implement anti-money laundering measures. - Designation of a responsible party for auditing the policies and procedures developed by the Anti-money laundering officer. 	<p>The Law does not specify the profile of these two important officers. Presumably, the Internal Auditor will be responsible for auditing. The DMFI will need to dedicate one person to the functions of Anti-Money Laundering Officer.</p> <p>Per Law, only institutions with less than 5 employees are exempted of these two requirements.</p>
Information systems for Professional Associations	<ul style="list-style-type: none"> - Information sharing between members of professional associations¹⁶. The information shared includes: <ul style="list-style-type: none"> • Customer’s general information • Transaction refusals (reasons) 	<p>Art. 1.2.4 of the Regulation “Responsibilities of Financial Institutions in the fight against Money Laundering and Terrorism Financing.”</p>
	<ul style="list-style-type: none"> - Special monitoring of: 	<p>The DMFIs will have to establish the</p>

¹⁶ The Afghanistan Banker’s Association, Financial Companies Association of Afghanistan, The Union of Money Changers and other self-disciplinary organizations

<p>Monitoring</p>	<ul style="list-style-type: none"> • Complex, unusually large transactions. • All unusual patterns of transactions. <p>The background of these transactions should be examined and findings should be established in writing.</p> <ul style="list-style-type: none"> - Monitor the activity of customer’s accounts according to a schedule to establish patterns. 	<p>patterns of their clients first, and second, determine which transactions are complex or unusual. The small amounts may hide complexity.</p>
<p>Customer Policies and Customer Due Diligence Process (Art. 14.2)</p>	<ul style="list-style-type: none"> - Acceptance Policy: Parameters of acceptance and rejection of customers. - Customer Identification: Through a registration system to: <ul style="list-style-type: none"> • Identify clients. • Establish client’s identity when a transaction is performed. - Identification Policy when opening a account: The financial institution must request, <i>verify</i>¹⁷ and have records of the following information: <ul style="list-style-type: none"> • For individuals <ul style="list-style-type: none"> ○ Personal and original national identity card or passport (current and with an actualized photograph). ○ A copy of all personal documentation. ○ Address, telephone number, date of birth, place of birth, occupation, name of employer. • For corporations, partnerships, organizations, associations, etc.: <ul style="list-style-type: none"> ○ Valid registration documents. ○ Identity of the representative or agent that opens the account. ○ Identity of the entity’s owners. ○ Identification of authorized persons who will operate the account. ○ Name of the entity, principal base of business, operations mailing address, contact telephone, fax numbers, taxpayer identification number (or other official number). ○ Nature or purpose on the entity’s business. ○ Certificate of Incorporation and articles of Association. ○ Resolution of the Board of Directors giving the authorization for the opening of the account. 	<p>The DMFI has to implement several policies. It is possible that clients that at present are accepted (e.g., women without an identity card) will have to be rejected.</p>

Table 10 - Continued

¹⁷ The verification of information may include telephone calls, visits to the client’s home or place of work.

<p>Customer Policies and Customer Due Diligence Process (Art. 14.2) - Continued</p>	<ul style="list-style-type: none"> • For Politically Exposed Persons:¹⁸ <ul style="list-style-type: none"> ○ Rejection of politically-exposed persons as customers if there is reasonable belief of the existence of bribery, extortion or other illegal activities. <p>This policy also includes regular reviews of customer's records especially in the following cases:</p> <ul style="list-style-type: none"> • Change in the business relationship between the financial institution and customers. <ul style="list-style-type: none"> - Transactions outside usual patterns. 	
<p>Accounts</p>	<ul style="list-style-type: none"> - Anonymous accounts or accounts with fictitious names are prohibited. 	
<p>Reporting</p>	<ul style="list-style-type: none"> - Reporting of large cash transactions to the Financial Intelligence Unit. - Reporting of suspicious transactions to the Financial Intelligence Unit (even if the transaction is rejected). 	<p>Per law, reports should be expeditious. This may imply the development of special reports in addition to monitoring systems.</p>
<p>Sharing Information</p>	<ul style="list-style-type: none"> - Disclose information about rejection of potential clients or transactions. This is an exception to banking confidentiality. 	<p>If the Constitution allows Habeas Data, this requirement may be affected even if it is considered an exception to the confidentiality agreement between financial institutions and clients. Procedures to disclose information need to be explained.</p>
<p>Records</p>	<ul style="list-style-type: none"> - Maintain account and transaction records of clients, including: <ul style="list-style-type: none"> • Holder or initiator of the transaction. • Amount deposited • Date and time of the transaction. • Source and destination of the funds. • Method of transmittal. - Keep account records for at least 5 years upon the cancelation of the account. - Keep transaction records for at least 5 years upon the date of the transaction. - Create a centralized Database: <ul style="list-style-type: none"> • Identity of customer, principal, beneficiary, agent, and beneficial owners. • Suspicious transactions. 	<p>This requirement implies the need to develop a large and efficient data storing and reporting system.</p>
<p>Training</p>	<ul style="list-style-type: none"> - Staff training on Anti-Money Laundry and Financing Terrorism Regulation. 	<p>This training should be ongoing. Although the Law mentions that the Financial Intelligence Unit should provide some training, the burden is on the DMFI.</p>

¹⁸ Person who in the Islamic Republic of Afghanistan or in other countries is or has been entrusted with a prominent public function as well as their families and close associates.

Table 10 - Continued		
Supervision	<ul style="list-style-type: none"> - Review of financial institution’s compliance with Anti-Money Laundry and Financing Terrorism regulations (on-site examinations)¹⁹. - Rate the financial institution according to “CAMELS” rating system of a bank. 	It is not clear if the DMFI or any “reporting entity” will have to pay for supervision, as is the case in all countries reviewed.
Corresponding Banking	<ul style="list-style-type: none"> - Accounts for/at other financial institutions that are unlicensed, unregistered or domiciled in countries designated by the Financial Action Task Force as non-cooperative in the fight against money laundering and terrorist financing are not allowed. 	

The legislation of Pakistan has the following provisions in relation to money laundering:

- Client Identification (through an identity card; when missing see below).
- Development and implementation of client identification.
- Obtain copies of the National Identity Card, Passport, Driving License or other which can be stamped as “original seen”.

V. Conclusions - Summary of analysis

The following conclusions bring together the thorough review of the Afghan regulatory framework for DMFIs, one Central Bank Quarterly Report, and interviews with local key informants.

- There is an interest in Afghanistan at the government level to promote financial inclusion. Since the majority of Afghans live in poverty, financial inclusion is highly desirable for economic development.
- Financial authorities followed the approach used in many countries around the world. They introduced a legal window for institutions that would offer financial services to the working poor as a regulation under the Banking Law. However, there are some stark differences between the Afghan and many other DMFI regulations. For example, the ownership structure of the DMFI corporation with a client as a shareholder is sui generis and given the situation of the country may be impossible to apply; as mentioned earlier, the only know case where this type of structure has worked is in Bangladesh and only for one institution.
- There is a window of opportunity to propose changes that would make the DMFI Regulation a more enabling regulatory tool. DAB is revising the DMFI Regulation and by

¹⁹ The examination is taken off by personnel of the Financial Supervision Department of Da Afghanistan Bank.

law, stakeholders may provide an opinion on new regulations²⁰. Proposed changes should follow principles of equal treatment under the law and consideration of specific characteristics of microfinance. MISFA or the Afghan Microfinance Association could take the lead in facilitating discussions among MFIs and subsequently act as an interlocutor with DAB and other financial authorities to provide substantive comments of the new DMFI Regulation.

- Legal integrity, rule of law, and social order is imperative. Thus any legal recommendations should be based on these principles and draw from known regulatory frameworks in different countries. However, it is very important to adequately adapt any law to the local context and broad legal framework.

VI. Recommendations

These recommendations along with the comparative analysis are intended to provide MISFA and its members an analysis of the current regulatory framework using a comparative approach and a user perspective.

1. Remove broad legal gaps.

The first identifiable gap refers to the nature of the DMFI. Since the Corporations and Limited Liability Companies Law does not have a definition for a *non-distributive corporation*, the suggestion is to use an economic/financial solution to this legal gap. DAB could specify in the new regulation that a DMFI will have a specific accounting treatment: it will not distribute dividends. A review of the Law of the Bank of Afghanistan indicates that DAB has full authority to determine behavior and activities for the corporations it licenses as banks. Removing this gap eliminates any interference with or misinterpretation of the Companies Law.

The second gap is the nature of the Financial Services Tribunal. It is not clear if this is an administrative tribunal akin to those existing in English jurisprudence. Since the DMFI Regulation substitutes DAB for the Financial Tribunal in issues such as preventive actions, the DMFIs may be left without any instance for appeals. Under such circumstances an effective rule of law for financial institutions would be missing. Proposing a solution for this gap is outside the scope of this legal analysis²¹, but regardless of the nature of the Financial Tribunal, the DMFIs should request equal treatment under the law and have the same opportunities and be subject to the same responsibilities as the banks.

²⁰ The consultant and author of this report, Ximena Arteaga, met with authorities of DAB on May 25, 2009. They confirmed that the DMFI Regulation is under revision and they will expect comment from MFIs and from MISFA.

²¹ The consultants are intentionally ambiguous because they did not review the whole legal structure in Afghanistan, e.g., the court system or the Constitution.

There is no clarity in the ownership of the corporation since client/members are owners suggesting a credit union model. The legal gap exists because there is no Credit Union Law in Afghanistan and the Law on Companies does not define this type of “membership corporation.” This legal gap also creates operational risks for the DMFI, which may have serious business problems finding the right way to relate with its clients. The owner of a corporation normally has in mind the well-being of the company, but in this case, where the ownership is intermingled with being a client the owner will probably act more as a client and forget about the sustainability of the company. One of the major issues with credit unions is that interest groups (these can be ethnic, economic, religious, etc.) tend to control the organization. A control group has an unfair advantage in relationship to other clients and can use its power to distort the equal conditions of services or create a special situation to benefit someone. The solution is to leave clients and investors differentiated. Grameen Bank has the clients-investor relationship well managed, since it takes a lot of the client’s time to educate her in her role as investor. It is important to remember that Grameen Bank had the Bangladeshi government as a significant investor for many years. This legal gap can be closed using existing laws, such as the Law on Companies and a new law for Credit Unions. The new Credit Union Law would solidify and clarify the current financial legal framework.

The Banking Law precludes all institutions and persons except banks from engaging in savings collections. DAB has authorized DMFIs to take deposits using its powers to introduce exceptions through the law. This authorization by exception could become a legal gap because it may be challenged. Normally, a banking or financial entities law that allows different types of financial institutions to coexist as part of the financial sector of a country is the most sensible way to regulate the whole sector.

2. Promote financial deepening

Financial deepening is synonym of progress in an economy. The progress it promotes can be seen not only in a higher number of people with access to financial services, but in the agility to transfer property and rights and to improve and change the performance of services in general (for example through the acceptance of credit/debit cards by merchants – if credit/debit cards are accepted more goods and services can be sold). Thus, financial deepening is highly correlated with economic growth.

If microfinance is limited to a specific loan size, then the possibility of financial deepening are limited to that ceiling. Although in theory banks could service clients who become “too large” for a DMFI the banking system has very few loan clients. As of December 2008 banks had about one tenth of the number of clients serviced by MFIs, so it is hard to imagine that this will change in the near

future. It would be more appropriate to create a microloan ceiling correlated to the capital of the organization and to define microfinance as a type of activity rather than a loan size.

3. Provide support to transforming MFIs.

MISFA is in a good position to help its members understand the current regulatory framework. If MISFA cannot take this task, it would be highly appropriate for the association to take a role in presenting one unified voice of the different MFIs to the authorities. MISFA can also help better define the role of the association, particularly during this process of evaluation and adoption of new regulations.

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ANNEX 2 – COMPLETE LIST OF INTERVIEWS

Date	Institution	Contact
Thursday 7, May 2009	WOCCU (World Council of Credit Unions, Inc.) KPMG Afghanistan Limited	Dr. Curtis Slover, Senior Technical Services Manager Mr. Siyar Ahmed Director Tax
Saturday 9, May 2009	BRAC USAID	Executive Director Zack Ratemo
Sunday 10, May 2009	DFID (Department for International Development). ORCA (Opinion Research Center of Afghanistan). AIB (Afghanistan International Bank)	Mr. Chris Bold Poverty Sector Development Advisor Torpekai Habibza Field Director Rafiq Ullah Kakar President Shahzad Haider Head of Corporate & SME Banking
Monday 11, May 2009	FMFB (The First Micro Finance Bank)	Ben Botha Deputy Chief Executive Officer Abdul Karim Haidar Head of Microfinance Ismail A. Mohomed Chief Operations Officer
Tuesday 12, May 2009	AFS (Ariana Financial Services-JSC)	Storai Sadat Executive Director and several staff
Wednesday 13, May 2009	OXUS	Gulnara Sharifullina Financial Manager and several staff
Saturday 16, May 2009	BRAC	Abul Kalam Shamsuddin Program Manager and IT staff
Sunday 17, May 2009	ROSHAN	Zahir Khoja Director of Mobile Commerce and Product Marketing
Thursday 21, May 2009	World Bank Office in Kabul	Richard Nash Financial Sector Expert
Sunday 24, May 2009	FMFB (The First Microfinance Bank)	Muslimul Haq Chief Executive Officer Mansur Mehdi Habib Chief Financial Officer & Company Secretary
Monday 25, May 2009	DAB (Da Afghanistan Bank)	Qaseem Rahimi Supervision Department Two Behring Point Consultants

Annex 3 – Authorized and Prohibited Activities

Authorized and Prohibited Activities

	Afghanistan	Pakistan	Uganda
Authorized Activities	<ul style="list-style-type: none"> - Attract funds from members by saving/time deposits - Grant microcredits to members - Grant qualifying small balance loans to members. - Grant group loans to administrative bodies. - Grant financial/or operating leases to members. - Invest in debt securities issued by the Ministry of Finance or by Da Afghanistan Bank. - Invest in equity securities - Maintain a correspondent account and Da Afghanistan Bank or other commercial bank. - Carry out funds transfer operations on behalf clients to or from: <ul style="list-style-type: none"> ▪ Its own branches. ▪ Other DMFI'S ▪ Commercial banks licensed by Da Afghanistan Bank. ▪ Foreign branches authorized by Da Afghanistan Bank. - Issue membership shares and non-membership shares. - Render consulting and informational services. - Rent special premises or cases for the keeping of documents and other documents only to members and non-members - Sell credit-related 	<ul style="list-style-type: none"> - Provide financing facilities, with or without collateral security. - Accept deposits. - Accept pledges, mortgages, hypothecations or assignments to it of any kind of movable or immovable property. - Undertake the management, control and supervision of any Organization, enterprise, scheme, trust fund or endowment fund for the benefit and advancement of poor persons. - Buy, sell and supply on credit to poor persons industrial and agricultural inputs, livestock, machinery and industrial raw materials. - Act as agent for any Organization for the sale of its goods or livestock. - Invest in shares of any body corporate. - Provide storage and safe custody facilities. - Carry out survey and research; issue publications and maintain statistics related to the improvement of economic condition of poor persons. - Provide professional advice to poor persons regarding investments in small business. - Encourage investments. - Provide services and facilities to customers to hedge various risks related to microfinance activities. - Render managerial, marketing, technical and 	<ul style="list-style-type: none"> - Accept deposits. - Employ deposits (wholly or partly) by lending or extending credit for the account and at the risk of the person accepting those - Take deposits. - Transact other regulated activities.

	<p>insurance products to members-borrowers as an agent for other companies.</p>	<p>administrative advice to customers.</p> <ul style="list-style-type: none"> - Borrow and raise money. - Open bank accounts. - Purchase, take on lease, or otherwise acquire, sell, exchange, surrender, lease, mortgage, dispose of and deal in any movable and immovable property and rights of all kinds for and on behalf of its customers to promote development opportunities, building of assets, resource allocation, promotion of markets, and adoption of better technology for economic growth and development. - Establish subsidiaries, whether wholly or partly owned. - Appoint agents in various locations for various activities which it may consider necessary for the proper discharge of its functions. - Pay, receive, collect and remit money and securities within the country. - Acquire, maintain and transfer all movable and immovable property including residential premises, for carrying on its business. - Invest its surplus funds in Government and other marketable securities notified by the State Bank. - Impose and receive fees, charges, profits or return for its services. - Mobilize and provide financial and technical assistance and training to micro enterprises. - Undertake mobile banking to expedite transactions and reduce costs. - Establish trust and endowment funds. - Receive grants from the 	
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		government and any other sources permitted by the State Bank.	
Prohibited Activities	<ul style="list-style-type: none"> - Attract current account deposits from members, or any similar account to a current account that can be debited by the customer by writing a check or requesting a payment order. - Attract any type of deposit from non-members. - Grant any credit to non-members, or grant credits other than microcredits to members. - Own real estate beyond that which is necessary to conduct the business of the Depository taking Microfinance Institution. - Denominate monetary assets or monetary liabilities in foreign currency. - Grant any credit to sponsors, investors, or administrators. - Invest in equity securities of any kind, except those mentioned earlier in this section. - Invest in debt securities other than those issued by the Ministry of Finance or Da Afghanistan Bank. - Guarantee the debt of any person to another person by any means. - Issue letters of credit in any form. - Act as a foreign exchange dealer, money service provider, payments system operator, or securities service provider, as defined in the Law on Da Afghanistan Bank or by regulations issued by Da Afghanistan 	<ul style="list-style-type: none"> - Have proper regard to the economic and commercial merits of any or the transactions or activities it plans to undertake or assist. - Not undertake or assist a micro enterprise or activities considered economically unsound. - Create a floating charge on the undertaking or any of its assets or part thereof. - Allow any facility for speculative purposes. - Allow financing facilities and other Microfinance Services to any of its sponsors, directors or employees including their spouses, parents, and children. - Without the prior approval in writing of the State Bank, enter into leasing, renting and sale / purchase of any kind with its directors, officers, employees or persons who either individually or in concert with their family members, beneficially own 5% or more of the equity of the Microfinance Bank. - Hold, deal or trade in real estate except for use of the Microfinance Bank itself. 	<ul style="list-style-type: none"> - Open and operate demand cheque accounts. - Engage directly or indirectly for its own account or on a commission basis, in trade, commerce, industry, insurance or agriculture, except in the course of the satisfaction of debts due to it for the purpose of carrying on its business; - Acquire or hold, directly or indirectly, in the aggregate, any part of share capital of, or make any capital investment or otherwise have any interest in enterprises engaged in trade, commerce, industry or agriculture in excess of twenty-five per cent of its core capital, except in the course of the satisfaction of debts due to it; but in such a case all shares and interests shall be disposed of at the earliest reasonable opportunity. - Underwrite and placement of securities. - Transact in computer networks or electronic commerce. - Engage in trust operations. - Take deposits and lending in foreign exchange. - Intermediate loan insurance funds. - Purchase a non-performing or low quality loan from any of the directors, officers or affiliates of the institution or their related interests.

	<p>Bank.</p> <ul style="list-style-type: none">- Use other than Da Afghanistan Bank licensed commercial bank, permitted branch of foreign bank, or licensed money service provider to transfer its own funds to another location or another party within or outside of Afghanistan, or to receive funds from investors.		<ul style="list-style-type: none">- Deal in derivatives.
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