



LAO PEOPLE DEMOCRATIC REPUBLIC
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY

Bank of the Lao PDR

No. 01 / BOL
Vientiane, 19 April 2016

INSTRUCTION
ON IMPLEMENTATION OF DECREE ON
MICROFINANCE INSTITUTIONS

- Pursuant to the Law on Bank of Lao PDR, No. 05/NA, 14 October 1999;
- Pursuant to the Decree on Microfinance Institution, No. 460/GOV., date 3 October 2012;
- Based on the proposal letter of the Department of Financial Institution, No. , dated ...,

The Governor of Bank of Lao PDR
Issues the Decree:

Section I
General Provisions

Article 1 **Objective**

This Instruction is issued to develop the contents of certain provisions of the Decree on Microfinance Institutions to be more accurate with the aims to ensure the uniform implementation of the Decree throughout the country.

Article 2 **Definition**

Terms used in this Instruction have the following meanings:

1. Fixed Capital means building and land;
2. Capital in kind means capital in the forms of immovable assets, such as: vehicles, desks, chairs;
3. Working Capital mean capital in cash;
4. Branch mean part of a microfinance institution authorized to operate business within its scope of rights and can be established in the areas where its head office located in Vientiane Capital and in other provinces as consented by the Bank of Lao PDR;
5. Service Unit means part of a microfinance institution authorized to operate any parts of business assigned by the head office and as

- approved by the Bank of Lao PDR;
6. Microfinance Loan means a small loan with a maximum loan credit limit not over fifty million (50.000.000) Kips;
 7. Related Party means:
 - Audit authority or auditor that audits accounts of a microfinance institutions;
 - Individual or enterprise that holds the shares more than ten (10) percent of the shares in the institution;
 - Company that have the Board of Directors' members, executive officers, managing directors or officers who are responsible for loan assessment and grating, persons who have vertical lineage relatives, such as: parents, foster-parents, husbands, wives, children, foster-children, brothers, sisters; and horizontal lineage relatives, such as: son-in-law, daughter-in-law, grandfathers, grandmothers, uncles, aunts, of the Board of Directors' members, executive officers, managing directors or officers of the microfinance institutions who that holds the shares of or more than ten (10) percent of the shares in the institution.
 - Entity in which the institution holds the shares.
 8. Normal Loan means a loan that can be fully paid in accordance with the conditions of the Contracts;
 9. Non-Performing Loan means:
 - Principal and interests, in all or in parts, which are repaid as scheduled and outstanding of and over thirty (31) days;
 - Principal and interests, in all or in parts, which are repaid as scheduled and outstanding from thirty (31) days in the group of loans with debt restructure.
 10. Accounting documents mean any accounts of separated types, daily records, cash records, account contribution certificates and other accounting accounts recorded by hands, computers or in USB which are used by the microfinance institutions;
 11. Agent means any individual or legal entity represented any individuals or legal entities to operate business, negotiate and/or do other transactions;
 12. Relevant Parties means relevant officers, judicial bodies, local administrations and others;
 13. Temporary Business License Certificate means certificate in term of principles to allow the applicant for business operation to prepare complete requirements, such as: materials and technical equipment, personnel and paid-in registered capital. A temporary business license certificate has a term of ninety (90) days;
 14. Reserve Cash means cash available in the deposit taking microfinance institutions and non- deposit taking microfinance institutions.

Article 3 Scope of Application

This Instruction applies to the deposit taking microfinance institutions and non-deposit taking microfinance institutions, microfinance projects, branches, and service units of the microfinance institutions.

Article 14 Position

Microfinance institutions which are authorized by the Bank of Lao PDR may open their head offices, branches, and service units throughout the country pursuant to the authorization in writing of the Bank of Lao PDR.

Change of the offices (head office, branch or service unit) shall obtain written permission from the Bank of Lao PDR.

Section II
Deposit Taking Microfinance Institutions

Article 5 Application File for Business Operation

Application file for authorization to operate business on a deposit taking microfinance shall consist of the followings:

1. Feasibility study and business action plan for three (3) years with the following main contents:
 - Introduction;
 - Objectives;
 - Source of funds;
 - Organizational structure;
 - Scope or form of operation;
 - Estimation of income-expenditure envisaged for three (3) years.
2. Brief biography of the major shareholders and executive officers certified by the chief of village;
 - In case of foreign individuals of legal entities, biography shall be certified by their regulatory authorities or embassies.
3. Criminal records or passports of the executive officers (for foreign shareholders);
4. Documents certified financial status of the shareholders comprising of:
 - For shareholders who are physical persons, they shall have the main documents, such as: copies of bank statement of saving deposits or term deposits for at least six (6) months certified by the relevant banks; certificates of ownership of assets or in kind contribution capital; balance sheet; assets-liabilities statement certificates or loan documents or statement of the source of funds;

- For shareholders who are legal persons, they shall have the main documents, such as: copies of bank statement of saving deposits for at least two (2) years certified by the relevant banks; external audit statement of the last two (2) years; assets-liabilities statement certificates or loan documents or statement of the source of funds.

Article 6 Structure of Registered Capital

The registered capital consists of capital in cash and in kind. The capital in cash shall be at a minimum of ninety (90) percent and in kind at a maximum of ten (10) percent of the total registered capital.

A taking deposit microfinance institution may increase or decrease its registered capital as consented in writing of the Bank of Lao PDR. Decrease the registered capital shall not be lower than the level as provided for in Article 10 of the Decree on Microfinance Institution, No. 460/GOV., dated 03 October 2012.

Article 7 Investment in an Enterprise

A taking deposit microfinance institution with sound financial status may invest in another enterprise of not over ten (10) percent of the registered capital.

Article 8 Foreign Investment

Foreign individuals or legal entities may invest in a taking deposit microfinance institutions, provided that foreign shareholding proportion shall be at a minimum of ten (10) percent and a maximum of not over thirty (30) percent of the registered capital.

Importation of the capital of foreign shareholders shall be complied with the Law on Investment Promotion, Lao on Foreign Exchange Management, and other relevant regulations, and shall be notified in writing to the Bank of Lao PDR.

Article 9 Business Operation License

The Bank of Lao PDR will issue a temporary business operation license to the business operators within thirty (30) days from the date of receiving the accurate and completed application file under the following conditions:

1. Have at least five (5) shareholders, of which one (1) major shareholder holding shares at least twenty (20) percent, but not over forty (40) percent at the maximum of the registered capital.
2. The executive officers shall have experiences at least two (2) years in banking, accounting, or microfinancing.

The Bank of Lao PDR will consider and issue permanent business operation licenses within thirty (30) days from the date the business operators have fulfilled the following conditions:

1. Having paid up the registered capital with the Bank of Lao PDR or with the regional Bank of Lao PDR;

2. Having passed the stage of inspection of the premises, technical material equipment and readiness for service provision.

In case of refuse of granting authorization by whatever reasons, the Bank of Lao PDR shall give notice in writing on the reasons of rejection within fifteen (15) official days, and the applicants may remedy the deficiencies which are the causes of such rejection to be correct and completed within sixty (60) days and then, resubmit application to the Bank of Lao PDR for reconsideration.

Article 10 Fees and Service Charges

The applicants for authorization to operate business on deposit taking microfinance institution shall pay fees and service charges the Bank of Lao PDR for the research and issuance of business operation license after receiving temporary business operation license of which detail is as follow:

1. Fee for submission of documents:
 - For head office, three million (3.000.000) Kips;
 - For branches, one million (1.000.000) Kips per branch.
2. Service charges for the research and issuance of the business operation license:
 - For head office having its registered capital from and over three million (3.000.000) Kips, zero-point five (0,5) percent of the registered capital;
 - For a branch having its registered capital from and over one million (1.000.000) Kips, zero-point five (0,5) percent of the registered capital.
3. The applicant who resubmitted application for authorization to operate business from and more than two (2) times shall pay fees as specified in Clause 1 of this Article.

For the application file rejected by the Bank of Lao PDR, the applicant may remedy the deficiencies contained in such file or reconstitute the documents and resubmit them within thirty (30) days without paying any further fees and charges.

Article 11 Payment of Fees for Documentation and Research of Business Operation Authorization

The applicants for authorization to operate business on deposit taking microfinance institution shall pay fees for documentation at the time of submission of application to the Bank of Lao PDR. Such fees cannot be withdrawn. The service charge for research of authorization to operate business shall be paid before receiving permanent business operation license.

Article 12 Annual Regulatory Fee

The deposit taking microfinance institution shall pay annual regulatory fee to the Bank of Lao PDR in January of every year of an amount of zero-point zero two (0,02) percent of the value of the assets in average or zero-point two

(0,2) of the registered capital.

Article 13 Conditions of Extension of Branch and Service Unit

A deposit taking microfinance institution may extend its branches or service units if it meets the following conditions:

1. If the institution can comply with the prudential regulations issued by the Bank of Lao PDR in which capital adequacy ratio shall not be less twelve (12) percent;
2. Having Article of Association specified organizational structure of its branch management;
3. External auditing statement of the external auditing companies authorized by the Ministry of Finance;
4. The high level executive management shall have experiences in financing, banking and accounting;
5. Having technical staffs with knowledge and capacity, accounting and reporting management program system, policy and operation guideline;
6. Any extension of branches and service units shall have obtained authorization in writing by the Bank of Lao PDR.

Article 14 Branches and Service Units

A branch of deposit taking microfinance institutions shall have its office or standard office equipped with complete materials and devices to ensure the provision of service.

The branch may operate business within the scope of rights assigned by the head office. The branch can grant a loan to a customer of an amount not more than ten million (10.000.000) Kips, and a customer group of an amount not more than twenty million (20.000.000) Kips, but not more than ten groups. Customers of and more than eleven groups shall obtain authorization in writing from the head office.

A branch shall regularly make a summary and report on activities and financial status to its head office on monthly, semi-annually, and annually basis. Branches and service units in where the branch of the Bank of Lao PDR is located shall report the same to such branch of Bank of Lao PDR. For the branches and service units of the deposit taking microfinance institutions relevant to the management of Bank of Lao PDR, the head offices of such branches and units shall report the same to the Department financial Institution Management on regular basis.

The service Units may act as agents of the branches in taking deposits, loan disbursement and debt recovery collection as assigned by the head offices.

The service Units make a summary and report on deposit taking, loan disbursement and debt recovery collection to the branches the deposit taking microfinance institutions on daily, weekly, and monthly basis.

Article 15 Microfinance

The Microfinance can be operating business as following:

1. Deposit taking from public in LAK:

- Saving Account;
 - Fixed Deposit 3 months, 6 months, 12 months, 24 months or 36 months;
2. Giving loan in Kip and should not exceeding limit of 50 million Kip;
 3. Microfinance load must be at least 80 percent of total amount of the credit and at least 10 percent of the clients should be female;
 4. Loan can be given to VIP customers including their own subsidiary but should not be exceeding 20 percent of the total amount of the existing credit;
 5. Microfinance institution can be the sub-agent of the money value transfer services in the country;
 6. Microfinance institution can also be agent of the insurance company.
The deposit taking microfinance which has highly financial sustainability can propose for loan both domestic and overseas, but it should not be exceeding 30 percent of grand total of the credit of the institution. In case the load is in form of foreign currencies it required to get written official letter from the Bank of the Lao PDR”.

Definition of the credit and savings union was indicated in article 2 and business operation was indicated in article 37 of the Regulation For Savings and Credit Unions No. 03/BOL, dated 20 June 2008. (Annex 51)

Article 16 Determination of Interests

A deposit taking microfinance institution can determine the interest of the deposits and loans based on the market mechanism or on determination of the Bank of Lao PDR from time to time. Calculation of interest of a loan with a credit limit from five million and one (5.000.001) Kips shall calculated based on decreasing method or based on the balance of the outstanding loan. Calculation of interest of a loan with a credit limit less than five million (5.000.000) Kips can be calculated based on the fixed method.

Article 17 Prohibitions

Deposit taking microfinance institutions are prohibited to provide services as follows:

1. To provide service loans or to take deposits without authorization of the Bank of Lao PDR;
2. To determine special conditions for the related parties to accommodate their benefits in using service of the deposit taking microfinance institutions;
3. To provide other services without authorization of the Bank of Lao PDR, such as:
 - Leasing transaction;
 - Sale and purchase of money, gold and other precious metals; sale and purchase of raw materials and other goods;
 - Provision of settlement through cheque accounts;
 - Make letters of sale and purchase in advance;

- Issuance of a letter of credit or letter of guarantee likely as a bank; letters of guarantee for a bid/auction, letter of guarantee in the form of bonds or other letters of guarantee;
- Provision of insurance service and money transfer transaction as a business owner;
- Sale and purchase or operation business on immovable assets (land, building and other building facilities, except those to be used for the institution);
- Opening of accounts of the institution in overseas;
- Sale and purchase of securities;
- Sale and purchase of foreign currencies in advance;
- Other transactions as determined by the Bank of Lao PDR from time to time.

Article 18 Suspension and Revocation of Licenses

For a deposit taking microfinance institution that after receiving a warning notice of the Bank of Lao PDR failed to comply with such notice, the Bank of Lao PDR shall issue an order to temporarily suspend the provision of services of such institution until compliance with such notice. Such suspension of service provision shall be for a period of six (6) months.

A business operation license shall be revoked in the following cases:

1. Violation of Article 35 of the Decree on Finance Institutions, No. 460/GOV., dated 3 October 2012;
2. Failure to operate business within ninety (90) days from the date of receiving the business operation license;
3. Sentenced by the court not to operate financial business;
4. Failure to comply with the notice or deficiency remedy measures issued by the Bank of Lao PDR or other relevant sectors;
5. Failure to operate business with no reasonable grounds;
6. Violation of the Decree on Finance Institutions, No. 460/GOV., dated 3 October 2012, this Instruction and other relevant laws and regulations.

Article 19 Maintenance of Prudential Requirements

A deposit taking microfinance institution shall adhere to financial ratio to maintain prudential requirements in accordance with the regulations issued by the Bank of Lao PDR, such as:

1. Capital ratio to the risk weighted assets at least twelve (12) percent or change of ratio issued by the Bank of Lao PDR;
2. Cash ratio in the reserve at least four (4) percent of which calculation is: total cash dividing by total deposits;
3. Total liquidity ratio at least twenty (20) percent of which calculation is: (Total cash plus total deposits with other banks or financial institution) dividing by total liabilities.

Article 20 Maintenance of Documents and Transaction Information

A deposit taking microfinance institution shall keep documents and establish at its head office an information system in which include documents in hard files and in electronic files in accordance with the relevant laws and regulations.

Article 21 Accounting Regime

A deposit taking microfinance institution authorized by the Bank of Lao PDR shall implement the microfinance accounts as determined by the Bank of Lao PDR and enterprise accounts in accordance with Law on Accounting which is in force from time to time and as per calendar year.

Article 22 Disclosure of Financial Statement

A deposit taking microfinance institution shall disclose its financial status, annual financial statement, through mass media via newspapers, televisions, radios, or websites after completing the external audits within five (5) successive official days.

Article 23 Liquidation Committee in case of Dissolution

The Liquidation Committee is comprised of persons from the relevant sectors, such as: Bank of Lao PDR, People Court, Public Security organization, local administration, Board of Directors, and executive officers of microfinance institution.

Section III
Non-deposit Taking Microfinance Institutions
and Microfinance Projects

Article 24 Registered Capital

A non-deposit taking finance institution shall have a minimum registered capital of two hundred million (200.000.000) Kips. If the institution has registered capital more than three hundred million (300.000.000) Kips, it can be changed to be a deposit taking finance institution.

Registered capital can be used as follow:

1. Contribution in technical materials of ten (10) percent of registered capital;
2. Release loans in Kip currency to customers.

Extension of branches and service units of a non-deposit taking finance institution shall be complied with same conditions of the extension as of branches and service units of the deposit taking finance institutions as specified in Article 13 and 14 of this Instruction.

Article 25 Foreign Investment

Foreign individuals or legal entities may invest in the taking deposit microfinance institutions, provided that foreign shareholding proportion shall be a minimum of ten (10) percent and a maximum of not over thirty (30) percent of the total capital.

Foreign shareholding proportion may be modified as determined by the Bank of Lao PDR and in accordance with the relevant laws and regulations.

Importation of the capital of foreign shareholders shall be complied with the Law on Investment Promotion, Lao on Foreign Exchange Management, and other relevant regulations, and shall be notified in writing to the Bank of Lao PDR.

Article 26 Capital of Non-deposit Taking Institutions

A non-deposit taking finance institution may receive on both domestic or foreign loans or grant-aids.

The maximum of foreign loans shall not over thirty (30) percent of the total credit facility of the institution. Domestic and foreign loans shall be notified to and obtained written approval of the Bank of Lao PDR.

Domestic and foreign grant-aids shall be notified to the Bank of Lao PDR.

Article 27 Fund of Microfinance Project

To operate microfinance project, it is required to have operation funds at least one billion (1000.000.000) Kips and to meet full conditions as provided for in Article 59, 60, 61 and 63 of the Decree on Microfinance Institutions, No. 460/GOV, dated 3 October 2012.

Article 28 Implementation prior Project Expiration

Prior the expiration of microfinance project, the project operator shall collaborate with the sectors concerned to propose the Bank of Lao PDR to consider on the conditions to change the institution into institutions of other forms or to dissolve it based on the actual situation.

Article 29 Project Termination

A microfinance project shall be terminated, and its operation license shall be revoked by the Bank of Lao PDR in the following cases:

1. Project did not operate as committed;
2. Project operated not in compliance with the feasibility study or ineffectively operated;
3. Project cannot be complied with the accounting and reporting regime three (3) successive times;
4. Project operated not in accordance with the relevant laws and regulations.

Article 30 Fees and Service Charges

The applicant for authorization to operate the non-deposit taking

microfinance institutions or microfinance projects shall pay the Bank of Lao PDR the fees and service charges for the research and issuance of business operation license as below:

1. Fees for submission of documents of an amount of five hundred thousand (500.000) Kips;
2. Fees for issuance of business operation license with a registered capital of and more two hundred million (200.000.000) Kips have to pay zero-point five (0,5) percent of the registered capital;
3. Applicant for business operation who has re-submitted application two (2) and more time shall pay the service charge as specified in Clause 1 of this Article.

For the application file rejected by the Bank of Lao PDR, the applicant may reconstitute the documents and resubmit them within thirty (30) days without paying any further fees and charges.

Article 31 Annual Regulatory Fees

A non-deposit taking microfinance institution or microfinance project shall pay annual regulatory fees as stipulated in Article 12 of this Instruction.

Article 32 Compliance with the Provisions of Non-deposit Taking Institutions

A non-deposit taking microfinance institution shall be complied with the provisions of the deposit taking microfinance institutions as follows:

1. For interdiction to operate business and revocation of business licenses, Article 17 and 18 of this Instruction shall be applied;
2. For maintenance of information and accounting system, Article 20 and 21 of this Instruction shall be applied.

Section IV Measures against Violators

Article 33 Measures against Violators

Any microfinance institutions, shareholders, executive officers, and staffs of microfinance institutions who violated the Decree on Microfinance Institutions and this Instruction shall be subject to the following measures:

1. Measure 1:
 - Written warning;
 - Invitation to be educated.
2. Measure 2:
 - Second written warning and fine of an amount of one hundred thousand (100.000) Kips per day.
3. Measure 3:
 - Non-remedy from fifteen (15) days to ninety (90) days shall

- be fined of one million (1.000.000) Kips;
- Following ninety (90) days of penalty, but the finance institution still continues to violate, the Bank of Lao PDR shall notify such institution on temporary suspension of business operation for a period of one hundred and eighty (180) days;
- Following one hundred and eighty (180) days of temporary suspension notice, but the finance institution did not make any remedies and report to the Bank of Lao PDR in writing, business operation license of such institution shall be revoked and such revocation shall be notified to other relevant sectors and the public.

Article 34 Violation of Reporting Regime

Any deposit taking microfinance institutions, non- deposit taking microfinance institutions and microfinance projects that delayed to submit the reports, or submitted of incorrect reports or failed to comply with the reporting regime as provided for in Article 70 of the Decree on Microfinance Institutions, No. 460/GOV, dated 2 October 2012, shall be subject to the following measures:

1. Late submission of reports:
 - Shall be warned in writing;
 - In case of second warning, but no remedies have been made or in case of severe breach, shall be fined of one hundred and fifty (150) Kips per day.
2. Submission of incorrect reports:
 - Shall be warned in writing;
 - In case of second warning, but no remedies have been made or in case of severe breach, shall be fined of one hundred (100) Kips per day.
3. Falsification of figures and information of the reports:
 - Persons responsible for accounts, two hundred (200.000) Kips per time with notification to adjust the information to be correct;
 - Executive officer, three hundred (300.000) Kips with recommendation to be liable for inspection.

Article 35 Implementation of Policies

The shareholders or executive officers of the microfinance institutions from whom business operation licenses are revoked may reconstitute the application files for establishment and operate microfinance business following two (2) years in the following cases:

1. Be not sentenced by the court to be bankrupted persons;
2. Do not connected with political cases or financial cases in embezzlement, fraud, robbery, sale of addicted drugs or war weapons and others which are in severe breach of laws.

Section V

Final Provisions

Article 36 Implementation

Assign the Department of Financial Institutions, and regional Bank of Lao PDR to be the principal to implement this Instruction strictly and effectively.

Line departments, department-equivalent organizations within the Bank of Lao PDR, deposit taking microfinance institutions, non- deposit taking microfinance institutions and microfinance projects, local administrations and other relevant sectors shall recognize and provide cooperation in implementation of this Instruction in accordance with their roles.

Article 37 Effectiveness

This Instruction is effective from the signing date.

The Governor of Bank of Lao PDR

[Signature & Seal]

Dr. Somphao Phaysith