



Islamic Republic of Afghanistan

Da Afghanistan Bank (DAB)

## **CREDIT REPORTING REGULATION**

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## CREDIT REPORTING REGULATION

### INTRODUCTION

**In view of:**

The Law of Da Afghanistan Bank dated 19<sup>th</sup> February 2004 establishing and organizing the Central Bank of the Islamic Republic of Afghanistan;

**Considering:**

- that it is essential to set up an efficient and transparent credit information system, allowing financial and economic entities to identify and evaluate credit risks and allow them to take appropriate credit decisions with the purpose of protecting the interests of the depositors and the public in general;
- that it is important for the Islamic Republic of Afghanistan to promote the establishment of organizations capable to process and manage advanced credit information sharing system (Credit Information Bureaus, hereinafter CIB) allowing a larger credit access for the benefit of consumers and entrepreneurs;
- that it is important to provide these organizations with an adequate legal and regulatory framework to ensure a functional and effective activity, while maintaining the necessary protection for the safeguard of the public's interests;
- that it is important for the Islamic Republic of Afghanistan to see to the good functioning of such institutions and for that purpose to entrust the Central Bank of Afghanistan with the responsibility to control and supervise the CIB;
- that it is also essential to protect the rights of borrowers and the owners of credit information, preserving their rights to their privacy, to their private life and personal intimacy;
- and that is important that Da Afghanistan Bank is provided with advanced tools, and exhaustive information allowing and supporting DAB to fulfill his duties of Supervisor of the

Da Afghanistan Bank enforces the following regulation which provisions will be binding from.

## PART I GENERAL PROVISIONS

### Article 1 - OBJECTIVES OF THE REGULATION

- (1) The present regulation sets a regulatory framework for the constitution, the organization, the operations, and the extinction of Credit Information Bureaus ( hereinafter “CIB”) companies that collect, compile and disseminate information concerning the previous credit histories, including other relevant information, and public files obtained by virtue of legal decisions, on every natural or legal person requesting credit on the territory.
- (2) The regulation also ensures the respect for the privacy and the rights of the Consumer (or the Owner of Information), while promoting the veracity, accuracy, confidentiality and appropriate use of said information, with the purpose of minimizing credit risk and contributing to the proper operation of the banking, financial, credit and economic sectors, without prejudice for those entities non-regulated by the Da Afghanistan Bank ( “Da Afghanistan Bank”).

### Article 2 - SHORT TITLE

This Regulation may be called the Credit Reporting Regulation 2010.

### Article 3 -ENFORCEMENT AND VALIDITY

This Regulation shall come into force when it is approved by DAB Supreme Council.

### Article 4 –DEFINITIONS

In this Regulation, unless there is anything repugnant in the subject or context:

- A. **Adverse action:** means any refusal or cancellation of credit or any unfavorable change in the terms and conditions of a transaction, performed by a lender in respect of a natural or legal person, and concerning a credit application/ contract/agreement.
- B. **Da Afghanistan Bank:** means the Central Bank of Afghanistan established under the Law of Da Afghanistan Bank.
- C. **Consent:** is a written authorization signed by the Consumer or Owner of Information explicitly giving consent to the lender, which the consumer has filed an application for credit with, to share the consumer personal data with third parties and the CIB/s and/or to inquiry with the CIB/s about his/her information held in the CIB/s database.
- D. **Consumer, Customer, Borrower or Owner of Information:** means any legal or natural person whose data has been or may be included in the CIB pursuant to an existing or a potential contractual relation with a lender.
- E. **CIB:** means a credit information bureau established or operating under this regulation.
- F. **Credit information/credit history: means** the information concerning the historical payment performance of a natural or legal person (including, but not limited to, borrowing or reimbursement capacity and behavior, credit granted, outstanding credit, loan exposures, maturity, terms and conditions, repayment behaviour, collateral), which allows to determine the financial situation and exposure of the concerned natural or legal person. Also any other information collected, pursuant to the legal provisions in force, from any other public or private sources of information with no restricted access, including but not limited to credit or financial obligations.
- G. **Credit Information Bureau or service provider:** means third party legal entity whose activities of collecting, compiling, storing, processing, disseminating credit information and other related information, received from private/public sources or data providers according to a specific agreement signed by the parties, for the purpose of compiling and

supplying credit reports and offering value added services to the subscribers.

- H. **Credit report:** means compilation of information supplied by a CIB on a hard or an electronic copy, related to the financial obligations of a natural or legal person, including, but not limited to, the payment history of such obligations, to public available information and any other relevant data compiled by the CIB, and allowed pursuant to the present regulation.
- I. **Credit scoring / credit bureau scores:** means A quantitative methodology used to assess the degree of credit risk exposure, and to evaluate the creditworthiness of a loan applicant, through statistical analysis of the credit information related to the applicant, including the credit history and other information stored in the CIB.
- J. **Data provider:** means any organization that provides any form of credit as well as all institutions that have personal data, credit data or any information or data that relates to the payment history of a legal or natural person, able to provide by virtue of a binding contract the same information to the CIB in accordance with the rules set out in this Regulation.
- K. **Data base:** means a comprehensive hard or electronic archive containing a set of information supplied by the data providers, as well as other information of private and/or public nature, collected, stored, processed, disseminated by the CIB.
- L. **Data Processing:** means any operation or set of operations or technical procedures, automated or not, which permit, within a data base to compile, organize, store, elaborate, select, extract, compare, share, transmit or erase data.
- M. **Financial entity / financial intermediary / lender:** means natural or legal person, public or private entity, financial or commercial, whether regulated or not regulated by the Da Afghanistan Bank, that conducts financial and credit intermediation activities, and offers loans and other similar credit products to natural or legal persons.
- N. **Format:** means standardized layout, agreed by all data providers and the CIB, for transmitting credit information and credit histories files to the CIB.
- O. **Loan or credit agreement:** any credit product or service granted, or financial contract established between a borrower and a financial intermediary for the purpose of lending, regardless it contains or it is linked to a commercial transaction or not.
- P. **Public data or data available to the public:** means any register, archive, list, roll or any other data which is gathered, kept, processed, collected and held by a public organism or a public entity or agency and whose public nature and permanent accessibility to the public are guaranteed by law or regulation.
- Q. **Permissible Purpose:** means legal, limited, restricted purpose for which a user/subscriber, having signed a service contract with a CIB, is allowed to make an inquiry to the CIB database, on a natural or legal person and obtain the information (credit history) under the form of a Credit Report.
- R. **Regulated Person** means any entity, bank or financial institution that is regulated by Da Afghanistan Bank under any law for the time being in force in Afghanistan.
- S. **Sensitive information:** means private information which collection, processing, storage, exchange, and dissemination is strictly prohibited to the users and the CIB

- T. **Source:** means where the information is originally obtained from; data providers legally or consensually allowed to supply data to the CIB, including but not limited to:
- i) Banks
  - ii) Financial companies
  - iii) Microfinance institutions
  - iv) Mortgage companies
  - v) Leasing companies
  - vi) Institutions providing credit to micro, small and medium enterprises
  - vii) Factoring companies
  - viii) Retailers of goods and services providing direct credit
  - ix) The Credit Registry System at the Central Bank of Afghanistan
  - x) CIB/s licensed by the Bank
  - xi) Public agencies administering data like the Civil Registry, Commercial Registry, Property Registry, Collateral Registry, Voters Roll, etc.
  - xii) Public utility companies
  - xiii) Mobile and fixed telephone providers
  - xiv) Courts and Tribunals,
  - xv) Any other institutions in possession of information or data that can serve the purposes of credit reporting, under the provisions of this Regulation.
- X. **User or subscriber:** means any financial intermediary organization that provides any form of credit as well as all institutions that have personal data, credit data or otherwise any information or data that relate to the payment history of a legal or natural person, entitled to access the database of a CIB by virtue of a prior agreement, and to inquire and obtain credit reports and other services from the CIB for a Permissible Purpose only.
- Y. **Value added services:** means any other product and services related or derived from the processing, analysis, consolidation, statistical handling or other methodology, of the information supplied by data providers or obtained by other sources, with or without the utilization of software/hardware systems.

## **PART II LICENSING AND SUPERVISION OF CREDIT INFORMATION BUREAUS**

### **Article 5 - ELIGIBLE COMPANY**

The entities that wish to establish and operate a CIB shall file an application for and obtain a license from Da Afghanistan Bank.

### **Article 6 - SCOPE OF BUSINESS**

Subject to the restrictions imposed under this Regulation, the CIBs will be allowed to collect, store, consolidate, process, disseminate information concerning legal or natural persons, as well as any other piece of information that may be relevant to improve credit decisions, by organizing the same information in an integrated database, with the purpose to disseminate the same information under the form of a credit report, to users/subscribers, by any electronic method process in return for a fee.

### **Article 7 - PROHIBITION**

- (1) No person may engage in CIB activities within the Islamic Republic of Afghanistan without having obtained a license for that purpose from Da Afghanistan Bank under this regulation.
- (2) No person, other than a body corporate, incorporated or continued under the applicable companies' law, or any other applicable law for the time being in force, shall be licensed to carry on the business of a CIB.
- (3) No person other than a body corporate, incorporated under the applicable companies' law, or any other applicable law for the time being in force and whose activities are restricted by its constitutive documents to credit reporting and related activities, shall be licensed to carry on the business of a CIB.

### **Article 8 - APPLICATION FOR LICENSE AND LICENSING REQUIREMENTS**

- (1) An application for a license to carry on the business of a CIB shall be made in writing by the entity to Da Afghanistan Bank and shall include:
  - A. a copy of the constitutive documents, the certificate of incorporation or equivalent document;
  - B. a statement containing the name of the applicant, address of its registered or principal office in the Islamic Republic of Afghanistan, and the name, address and nationality of each director;
  - C. proof of the real existence in the accounts of the corporation of the funds provided by the members to constitute the requested paid and subscribed capital
  - D. list of founders shareholders, of the members of the board and of the key managers of the CIB as along with their complete bio-data;
  - E. the operation documents including data loading, quality control, security policies, user manual and procedures for handling subscribers and consumers requests;
  - F. a five (5) year business plan including governance and management structure;
  - G. proof of previous experience in the domain of credit reporting, having executed with success at least one (1) or more developments and implementation of credit reporting systems of similar type in the previous three (3) years, and operating at least one system internationally at the time of the application;
  - H. a general description of the services and products that will be provided to the users / subscribers;
  - I. a contingency plan in case of major disaster (Disaster Recovery Plan);
  - J. the proposed pricing policy and structure;
  - K. any other information as Da Afghanistan Bank may reasonably require from directors, controllers and significant shareholders, aiming at certifying the technical capability and financial solidity of the CIB.
- (2) Da Afghanistan Bank may from time to time specify the form and content of any application to be submitted under this Article.
- (3) Da Afghanistan Bank may from time to time prescribe an application fee to be paid for filing the application and an initial license fee to be paid on registration.

- (4) Da Afghanistan Bank may upon application of an entity applying for a CIB license exempt such entity from complying with any of the requirements listed in Article 8(1).

**Article 9 - EXAMINATION OF APPLICATION**

Da Afghanistan Bank may refuse to accept an application which does not contain all of the information specified in this Regulation (article 8), by providing written notice of such refusal to the applicant, within thirty (30) days from the application filing date. For the purpose of the evaluation of an application for license Da Afghanistan Bank may require any of the following:

- A. Further documents or information;
- B. Personal interviews with the directors or shareholders of the applicant
- C. a due diligence report of the applicant.

**Article 10 - LICENSE AUTHORIZATION PROCESS**

- (1) Da Afghanistan Bank must grant or refuse to grant a license under this Regulation, within ninety (90) days from the date of receipt of an application containing all the documentation and information required under Article 8 and/or Article 9;
- (2) upon determination that the applicant satisfies the requirements of this Regulation Da Afghanistan Bank will inform the applicant in writing and grant a license to operate as a CIB within ninety (90) days;
- (3) if after ninety (90) days Da Afghanistan Bank does not issue a notice that the license has been refused the license shall be automatically granted;
- (4) the time limit provided in the above paragraph (1) of this article may be extended by Da Afghanistan Bank for an additional period not exceeding-60 days upon written notice to the applicant, in case Da Afghanistan Bank requests further information or documentation that Da Afghanistan Bank deems necessary to review the application;
- (5) if Da Afghanistan Bank determines that the applicant does not satisfy the requirements of this Regulation, Da Afghanistan Bank shall inform the applicant in writing of its refusal to grant the license, and shall give reasons for its decision for refusal;
- (6) a license to carry on business as a CIB may contain such terms and conditions as may be specified by Da Afghanistan Bank and any license granted under this Regulation shall be and remain subject to the provisions of this Regulation or any other restrictions imposed by Da Afghanistan Bank from time to time;
- (7) Da Afghanistan Bank shall cause notice of the issue of a license to be published in the Official Gazette and at least two daily, national newspapers circulating in the Islamic Republic of Afghanistan;
- (8) the license is not transferable and its validity will cease if the CIB does not start to operate the development of the system within a period of 12 months after the CIB has been informed in writing that it has been granted a license ;
- (9) after granting the license and before CIB operations are started, Da Afghanistan Bank will carry out an on-site audit at the CIB premises to ascertain that procedures, infrastructure, organization, system, and security procedures, correspond to what has been declared in the license application and have been implemented in a manner that allow the smooth operation of the CIB and the total security and integrity of the information contained in the database. The CIB shall not commence operations unless Da Afghanistan Bank issues a certificate stating that the CIB has passed the on-site audit which shall be issued by Da Afghanistan Bank within 10 working days from the date of completion of the on-site audit;

**Article: 11- PUBLIC CREDIT REGISTRY**

- (1) Notwithstanding anything contained herein, Da Afghanistan Bank may establish and operate its own internal CIB (Public Credit Registry).
- (2) Other than the provisions of Part V of this Regulation, the provisions of this Regulation shall not apply to such Public Credit Registry established and operated by Da Afghanistan Bank under this Article.



#### **Article 12 - RENEWAL OF LICENSE**

- (1) The initial license will have a validity of 15 years, and may be renewed by Da Afghanistan Bank for another such periods and under such conditions and through such procedures as determined by this regulation.
- (2) The applicant may apply for a renewal with Da Afghanistan Bank, not more than twelve months prior to the expiration of the license. The application will include:
  - A. statement of compliance with terms and conditions of the license
  - B. notice of any changes among its Directors, address, activities carried out
  - C. payment of the established fee if any is requested by Da Afghanistan Bank;
- (3) Da Afghanistan Bank shall within thirty (30) days send a license renewal confirmation in writing upon receipt of application;
- (4) If the confirmation of license renewal is not sent by Da Afghanistan Bank within thirty (30) days, the license shall be considered to have been automatically renewed.

#### **Article 13 - CAPITAL REQUIREMENTS**

In order to carry on the business of a CIB, the CIB shall ensure a minimum share capital as notified by Da Afghanistan Bank, must be fully subscribed and paid up by such CIB. The minimum capital may be revised, through regulatory provisions, by Da Afghanistan Bank.

#### **Article 14 - SHAREHOLDING PATTERN AND OWNERSHIP OF THE CIB**

No user/subscriber or data provider of any CIB may directly or indirectly own more than 5% of the share capital of the CIB itself, nor may he/she directly or indirectly or in pool with other data providers/users have or exercise control the legal entity.

For the purposes of this Article, the following will be held to have control, individually or wholly:

- A. the persons who control the company or user entity or data provider of the Credit Information Office;
- B. the persons affiliated to the company or user entity or data provider of the Credit Information Office;

For the purposes of the present article, “affiliated person” shall mean any company or entity of the same group or a subsidiary of the user entity or data provider.

#### **Article 15 - SUPERVISION OF THE CIB**

- (1) Notwithstanding Da Afghanistan Bank’s authority given to it under any other law of Afghanistan, Da Afghanistan Bank shall have regulatory and supervising authority to:
  - A. License and regulate activity of the CIB;
  - B. Enforce a proper Code of Conduct which regulates the relationship between CIB and data providers and users;
  - C. Ensure that CIB, data providers, users, adhere to the Code of Conduct, maintain proper business standards and fair and acceptable credit reporting practices, under the credit reporting scheme;
  - D. Ensure that CIB, users, and data providers fully abide by the provisions of this Regulation, granting consumer’s rights as specified by this Regulation;
  - E. Take steps to protect the interests and rights of the consumers and owners of the information;
  - F. Review those disputes between Owners of information and CIB/users that did not find an amicable solution and take a final incontrovertible decision;
  - G. Protect the integrity of the national credit reporting system against any abuse committed by the CIB or, the data providers, or the users,;
  - H. Investigate violations, impose penalties for infringements of this Regulation;
  - I. Perform any other function specified under this Regulation, issue directive and circulars, and undertake the activities necessary to fully enforce the provisions of this Regulation.

- J. Take any other action that Da Afghanistan Bank may deem as being appropriate for achieving the objectives or implementing the provisions of this Regulation.

- (2) Da Afghanistan Bank shall lay down directives, the functioning norms and conditions related to the activities of the CIB, to make sure that the processing of personal information is carried out in accordance with the provisions of the this regulation.
- (3) Da Afghanistan Bank shall establish an internal Credit Reporting Unit to execute the supervisory responsibilities attributed by this regulation, notably the oversight duties in respect of the CIB, users, and data providers as well as exert its role of final decision makers in case of dispute between a consumer/owner of the information and a user, data provider, or CIB.
- (4) In the performance of their duties under this Regulation, the authorized officers of Da Afghanistan Bank shall have the authority to; at all reasonable times:
  - A. conduct onsite inspections of the CIB's premises or the premises where the service is provided, or data backed-up, as often as Da Afghanistan Bank shall deem necessary;
  - B. have access to all books, records, contracts, minutes of meetings, and any other documents in the possession or control of any director, manager, officer or employee of any licensed CIB.
  - C. require any director, manager, auditor or employee of any licensed CIB to furnish such information or to produce such books, records or documents, as are in the possession or control, that relate to the operations of the licensed CIB and may be reasonably required for the performance of those duties.
  - D. The same checks may be applied by Da Afghanistan Bank at the data providers'/ users' sites.

#### **Article 16 - ANNUAL AUDIT AND COMPLIANCE REVIEW**

- (1) Every CIB shall appoint an independent firm of chartered accountants to conduct an annual review of the CIB's compliance with the provisions of this Regulation.
- (2) The audit firm shall prepare a report of its findings which shall be delivered to the CIB and Da Afghanistan Bank within [30] days.
- (3) The CIB shall deliver the report to its shareholders within [15] days of its delivery to the CIB, however the aforesaid periods may be extended by Da Afghanistan Bank for [15] days upon good cause shown to Da Afghanistan Bank.
- (4) The CIB shall bear the cost of the compliance review.

#### **Article 17 - GOVERNANCE**

- (1) The CIB shall have a board of directors not less than three and up to nine members.
- (2) A person can be appointed a director if he/she does not fall under provisions of section (3) below
- (3) No person shall be Director or manager of a CIB, who:
  - A. has been adjudged a bankrupt by a Court of Law.
  - B. has been convicted by a court for an offence involving dishonesty or any other criminal act and has been deprived of civil right by a court order;
  - C. has been a director, chief executive officer or manager of a company which has been wound up by a court act or has been placed in receivership;
- (4) The members of the board must ensure:
  - A. that the activities conducted by the CIB are in full compliance with this Regulation or any other regulations made there under;
  - B. that a specific Consumers Service Unit is operated by the CIB to fulfill the requests and complaints the consumers;
  - C. that competent and sufficient staff are appointed to provide the service according to the provisions of this regulation, the service contract and the Code of Conduct, signed with the subscribers;
  - D. that the CIB appoints an independent external auditor to undertake the compliance audit provisioned in this Regulation (Article 16)
- (5) The Board of Directors shall elect a chairman from amongst their members

**Article 18 - PERMISSIBLE PURPOSE**

- (1) For the purposes of this Regulation the CIB may furnish a credit report only under the following circumstances:
  - A. to enable the recipient to evaluate the creditworthiness of a consumer in the granting of credit;
  - B. As a consequence of a credit application submitted by the consumer whether for the first time, or for a credit line increase, a credit renewal, or a change in terms and conditions of an existing loan or credit contract;
  - C. As a consequence of a Court order having permissible jurisdiction;
  - D. In response of an international treaty enacted by the Islamic Republic of Afghanistan under the Laws of the Islamic Republic of Afghanistan
  - E. As a consequence of the need of Da Afghanistan Bank to access the information for risk monitoring and credit supervision purposes
  - F. Any other circumstance approved by Da Afghanistan Bank.
- (2) The CIB are expressly prohibited to provide, and the subscribers to request, any information and credit reports for marketing purposes or for any purpose other than that provided in Article 18(1) hereof.

**Article 19 - MANDATORY PARTICIPATION TO THE SHARING SCHEME**

- (1) Any Regulated Person that lends credit to natural and legal persons, are mandated to participate in the credit information sharing system and contribute the whole of their credit transactions database to the at least one of the private CIBs operating in the country (if existing) and to Da Afghanistan Bank's internal registry, provided that a prior, open, written, informed consent has been obtained from such persons, for the provision of said information and the sharing of said information with other third parties, users subscribers, CIBs Da Afghanistan Bank .
- (2) Other financial or commercial entities, retailers, public or private utility companies, non-banking financial institutions, and any other financial entity or intermediary in general whose activities include lending to natural and/or legal persons, and that are not-regulated by Da Afghanistan Bank , may contribute their credit transactions database to one or more of the CIB operating in the country, provided that a prior, open, written, informed consent has been obtained from such persons, for the provision of said information and the sharing with other third parties, users subscribers, CIBs, Da Afghanistan Bank.

**Article 20 - MANDATORY INQUIRIES TO A CIB**

- (1) Any Regulated Person that lends credit to natural and legal persons, are mandated to inquire a CIB and request the credit report of any person prior to granting credit to such person, or making any transaction related to the credit risk assessment, according to the permissible purpose stated in this Regulation, and provided that the prior, free, written, informed consent has been obtained from such person, as indicated in article 19.
- (2) Other financial or commercial entities, retailers, public or private utility companies, non-banking financial institutions, and any other financial entity or intermediary in general whose activities include lending to natural and/or legal persons, and that are not-regulated by Da Afghanistan Bank , may inquire a CIB and request the credit report of any person prior to granting credit to such person, or making any transaction related to the credit risk assessment, according to the permissible purpose stated in this Regulation, and provided that a prior, free, written, informed consent has been obtained from such person, for the inquiry to the CIB.

**Article 21 - RECIPROCITY**

- (1) The CIB shall refuse to provide its services and supply information, under any form or format to those users, regulated or non-regulated by Da Afghanistan Bank, that do not provide the same type of information to the CIB, concerning the totality of the loans granted and active in their books.
- (2) For the purpose of this article it will be considered that the users executes credit transactions, or of similar nature, as a customary and constant activity, even if not the primary one, but does not supply information to the CIB.

**ARTICLE 22 - CONSENT OF THE CONSUMER OR OWNER OF THE INFORMATION**

- (1) Before sharing information with the CIB, or inquiring the CIB for any information related to the consumers' information, data providers/subscribers must obtain the valid consent of the consumer / owner of the information.
- (2) For the purpose of this Regulation valid consent means an expressed, prior, written, informed authorization of the consumer/ owner of information allowing the lender to share data with the CIB and /or inquiry the CIB to obtain information.
- (3) Consent shall be included and be an integral part of the consumer credit application or credit agreement.
- (4) Once having obtained a valid consent, the user can carry out any necessary, periodical inquiry with the CIB, concerning the information of the Consumer that has given the consent, during the time of effectiveness of the relationship, and limitedly to the credit account or transaction for which the consent has been given by the consumer
- (5) It will be the responsibility of the users contracting the services of the CIB to collect and store the consent of the consumers/owners of the information for the duration of the credit contract.
- (6) The users must maintain absolute confidentiality with respect to the contents of the information provided by the CIB.
- (7) Nothing in this article shall apply to the information requested by Courts, tribunals.

**ARTICLE 23 - NON-APPLICABILITY OF BANK SECRECY**

For the purposes of this Regulation it will not constitute a violation of any provisions pertaining to bank secrecy contained in the Law of Banking, the Law of Da Afghanistan Bank or any other law in force in Afghanistan in respect of the sharing of credit information and other related information, between data providers / users, other public and private sources, and the CIB when such exchange is carried out in accordance with the provisions of this Regulation and with the express consent of the consumer / Owner of Information.

#### **ARTICLE 24 - PERMITTED INFORMATION**

- (1) Data providers may supply the CIB with any detailed information of an economic, banking, and financial nature in general, related to consumers' obligations, payment history, guarantees, and debtor classification, in such a fashion as to allow the correct and unequivocal identification, location and thorough description of the level of debt of the holder in a determined moment.
- (2) It is also allowed the use of information acquired by the CIB by virtue of article 26 of this Regulation (public information).
- (3) The CIB shall supply full, comprehensive credit history, based on the full payment information, positive and negative, of the consumer, including but not limited to the current and historical payments, approved and outstanding balances, credit limits, type of credit product, defaults, arrears balance, highest defaults, etc.

#### **ARTICLE 25 - SENSITIVE AND OTHER PROHIBITED INFORMATION**

- (1) the CIB is prohibited to collect, store, process, disseminate, or show in a credit report, or in any other form, format or medium, any information concerning a consumer/owner of information which relate to:
  - A. Information on political opinions and ideologies;
  - B. Information on religious convictions or beliefs;
  - C. Information on psychic or physical health conditions;
  - D. Information related to facts or circumstances of the intimate life and personal habits of natural persons.
- (2) The sharing/ utilization of the following information, concerning a consumer / Owner Information, between data providers/users and the CIB, is also strictly prohibited:
  - A. Information on the balances and movements in the checking accounts;
  - B. Information on the balances and movements in savings accounts;
  - C. Information on the deposit certificates, of whatever nature;
  - D. Any other information concerning other savings and/or deposit products;
  - E. Any other information that is not strictly related and exclusive associated to the debt situation and credit history of a consumer.

#### **ARTICLE 26 - PUBLIC INFORMATION**

- (1) A CIB may collect, store, process, disseminate, and show any information, that is ordinarily available to the public, particularly, but not limited to the following:
  - A. Civil registry
  - B. Voters roll
  - C. Public utilities
  - D. Information maintained by agencies that keep details of businesses
  - E. Registries of active/closed businesses as well as companies' balance sheets;
  - F. Information maintained by agencies that register property rights and transactions including immovable properties, creation of charges on assets;
  - G. Registries of Tribunals and Courts which list data on judgments, debts, insolvency proceedings records, business wind-up records;
  - H. Ruling and sentences from other administrative tribunals and or other agencies regarding the credit status of a person.
- (2) The right of a CIB to access information from public sources shall be in addition to the right to information granted under any law.

#### **ARTICLE 27 - DATA QUALITY**

- (1) The CIB and data providers will take all reasonable steps to ensure that the data is accurate, up to date.
- (2) The CIB will keep records of incidents on data quality breaches held under their systems
- (3) The CIB may refuse files provided by data providers based on scarce data quality adequacy, and request that the data provider provides again the files with the minimum quality standards agreed, with the CIB and other data providers.

#### **ARTICLE 28 - CONFIDENTIALITY OF INFORMATION, IMMUNITY AND INDEMNIFICATION**

- (1) Any person including subscribers' officials, CIB employees and any other person who receives, compiles, processes, transmits information, shall perform those activities in accordance with the provisions of this Regulation and shall:
  - A. use the information solely for the purposes permitted under the provisions of this Regulation
  - B. disclose information in *bona fide* according to this Regulation or directives issued to implement this regulation.
- 2) No suit, prosecution, other legal proceedings or action in damages shall lie against the Da Afghanistan Bank, the CIB, its officers or employees or a Data provider/ user/ subscriber for disclosing information or for anything done or omitted in the exercise or performance of any action, power or duty conferred or imposed by or under this Regulation, unless the act or omission is shown, beyond reasonable doubt to have been in bad faith.  
  
(3) Da Afghanistan Bank *may* indemnify any current or former employee against damages, costs or charges in respect of civil, criminal or administrative proceedings brought against such person for anything done or omitted in the exercise or performance of any function, power or duty conferred or imposed by or under this Regulation, or any directive, if that person acted honestly and in good faith in fulfillment of his or her duties.

#### **ARTICLE 29 - RETENTION PERIOD**

- (1) The CIB shall store and maintain the information in the database for a maximum period of five (5) years after the date the information is received and stored.
- (2) The CIB is expressly forbidden from disseminating information prior to the limit mentioned in paragraph (1) of this article.
- (3) Nevertheless CIB may store the information in their database, but not distribute it, for an additional five (5) years, and utilize it in case consumers, or subscribers, institute proceedings against the CIB or in case it is required by Tribunals, Courts, Da Afghanistan Bank, or other public agency allowed to access the information by virtue of the law.
- (4) Data Providers must continue supplying the CIB with credit information of their customers originally contributed to the CIB, even when the data provider / user is no longer a subscriber of the CIB, due to having ended the contractual link between the two of them, and as long as a relationship exists between the Consumer and the data provider / user in matters afferent to that/those credit accounts information initially contributed, and until the credit account reaches its natural end.
- (5) Notwithstanding anything else contained in this regulation, Da Afghanistan Bank may maintain in its database, information without any time limit provided that Da Afghanistan Bank shall only use such information for performance of its supervisory and regulatory purposes and shall not provide lenders with information that is more than 5 years old.

#### **ARTICLE 30 - SECURITY AND INTEGRITY OF DATA**

- (1) The CIB shall take all the necessary steps to ensure that access to, modification and disclosure of information by non authorized institutions or people is prevented.
- (2) A database back-up must be in place and effectively functioning since the first day of operations.
- (3) Copies of the database will have to fully mirror the original, and be located in different locations from the site where the main activity of the CIB is performed.
- (5) A Disaster Recovery Plan (DRP) and procedures to implement it must be in place, and effectively functioning since the first day of operations.
- (6) The CIB may not start operations if the DRP, has not been tested and approved by the Board of Directors.
- (7) The DRP must be validated and updated at least once a year.

#### **ARTICLE 31 - CROSS-BORDER DATA FLOWS**

- (1) In order to allow the CIB to exploit the economy of scale harnessing the power of technology, and offer better services at reduced prices, the data collected by the CIB in the Islamic Republic of Afghanistan and / or the databases, including the back-up sites, can be stored and kept in a different country, if the host country can guarantee a level of security, and security measures, similar to the ones observed and enforced in the Islamic Republic of Afghanistan.
- (2) Authorization to off-shore data from the Islamic Republic of Afghanistan to a different country maybe requested to the Da Afghanistan Bank, upon presentation of a specific application from the interested CIB, integrated by additional, specific documentation that may be requested by Da Afghanistan Bank.
- (3) Da Afghanistan Bank must grant or refuse the authorization to off-shore data, within 60 days from the date of receipt of an application integrated by the specific, additional documentation requested.
- (4) If within 60 days Da Afghanistan Bank does not issue the confirmation that the authorization to off-shore has been granted, the authorization shall be considered granted.

### **PART IV CREDIT INFORMATION BUREAU OPERATIONS**

#### **ARTICLE 32 - CIB PERMITTED ACTIVITIES**

- (1) The CIB may engage in the following activities:
  - A. collect and store information
  - B. process credit related data
  - C. merge different sources of information
  - D. create and sell credit reports and similar information services
  - E. disseminate credit reports among users
  - F. any activity necessary or ancillary to the performance of its operations
- (2) The CIB shall not engage in activities different from those described under paragraph (1) of this Article and particularly the CIB and the subscribers shall not use the credit information contained in the database for any marketing purposes or services.
- (3) The CIB is allowed to develop credit bureau scores, credit scoring models, and other similar risk management and decision tools by using the data supplied by data providers / subscribers and other sources.



**ARTICLE 33 - GUIDELINES FOR THE SHARING AND PROCESSING OF INFORMATION**

- (1) For the collection and treatment of information under its responsibilities, the CIB must observe the following general guidelines:
  - A. The collection of information cannot be conducted by fraudulent or illicit means;
  - B. The information collected can be utilized only for the purposes permitted under this regulation;
  - C. The CIB shall ensure accuracy of information;
  - D. In the event it is discovered that the information is inexact or erroneous, in whole or in part, immediate corrective measures must be adopted, by the CIB and the user, as the case may be.
- (2) The database/s of the CIB will comprise the information provided directly by the data providers on credit transactions and others of an analogous nature which the latter grant to their customers, in the manner and within the terms in which it is received from the data providers, as well as any other information supplied by Da Afghanistan Bank or other information coming from public entities or private entities, if permitted under this regulation, regardless of their origin or nature.
- (3) For the purposes of protecting the consumer / owner of the information and providing for the accuracy, the veracity and the timely and effective currency of the data base of the CIB, the data providers must supply the CIB, at least once a month, with all the updated information of their active and new customers, in such a way as to allow the correct and unequivocal identification of the level of indebtedness of an owner of information at a given moment.
- (4) The CIB, after receiving the information supplied by a data provider, must proceed to update their data base, immediately, diligently, and effectively.
- (5) The Bank shall encourage the adoption of a Code of Conduct and professional practice that shall be signed by both, the CIB and the data provider / subscriber, together with the service agreement and that shall determine the guidelines of data sharing and provisions.
- (6) It is understood that the data collected by Da Afghanistan Bank can be used by Da Afghanistan Bank for any internal utilization regarding its institutional responsibilities as the central bank of Afghanistan.

**ARTICLE 34 - GUIDELINES FOR THE PROVISION OF CREDIT REPORTING SERVICES**

- (1) All the financial intermediaries, official or public institutions, and the other natural and legal persons who meet the requirements of this regulation, can be users or subscribers of the CIB, and may acquire the capacity to become users/ subscribers of the CIB via the execution of a service agreement signed directly with the CIB for the provision of information services.
- (2) The CIB must have in place systems and processes capable to verify the identity of the user and/or the consumer in order to safeguard the confidentiality of the information, in the terms of the applicable legal provisions.
- (3) The users, prior to accessing the database of a CIB for obtaining information on a consumer, must have the valid consent of the latter.
- (4) The CIB may disseminate data and supply information services through any technological means, electronic device or automated information processing system, through any public or private telecommunications network, as long as they satisfy the security, confidentiality, integrity provisions established by this regulation.
- (5) The user, its officials, the employees, service providers, must maintain confidentiality over the information contained in the credit reports to which they have access.
- (6) the user shall not share or show the reports to any other persons, nor deliver the original report or a copy of same to other persons, nor disclose the content of the reports orally, nor in writing, nor via any electronic transmission method, to other persons who are not authorized

- employees of the user
- (7) The CIB can optionally agree with other CIB, at their discretion, to supply and interchange the information contained in each individual data bases, at cost or not, and without a further consent of the consumer/owner of information, that has already given the original consent. This includes the exchange of the information held by Da Afghanistan Bank with a private CIB.
- (8) It shall be the right of the user to:
- A. request credit reports from the CIB after the payment of a fee;
  - B. obtain value added services from the CIB after the payment of a fee;
  - C. not to show in the credit report the name of the user but simply the lending sector, to which each user belongs to (e.g. bank, credit card, auto finance company, microfinance, retailer, etc).

#### **ARTICLE 35 - DUTIES OF THE CIB**

It shall be the duty of the CIB to:

- A. Accept the information supplied from data providers and load it into its systems and database;
- B. Provide the users with complete credit reports upon request in accordance with the provisions of this regulation;
- C. Grant access to own credit reports to Owners of Information who offer proof of identity, and whose credit history is registered in the database;
- D. Set up and dedicate a specific unit with trained personnel to provide service and information to consumers regarding their data in compliance with this regulation;
- E. ensure consumers are able to challenge and correct data;
- F. Maintain adequate levels of data quality;
- G. Request data providers to correct information when there are grounds for it;
- H. Maintain the information in appropriate, secure systems and sites to avoid unauthorized access, loss or damage;
- I. Maintain data stored in the database for the period established in this regulation;
- J. Keep log of all the enquiries/ requests received from the users in a format that records the purpose for which the information was requested;
- K. Report all security breaches to Da Afghanistan Bank every time a breach takes place;
- L. Comply with this regulation, and any directive, circular made there under, or any orders, notices, instructions or conditions imposed by Da Afghanistan Bank and any Code of Conduct on credit reporting.

#### **ARTICLE 36 - DUTIES OF THE USER/SUBSCRIBER**

It shall be the duty of the subscriber to:

- A. Obtain prior consent from consumers regarding the sharing of their credit data with the CIB and third parties, as well as for inquiring the CIB;
- B. Store and maintain record of the consumers' consent for the duration of the loan and credit agreement;
- C. Supply the licensed CIB with information on its whole consumers' credit history or the consumers that filed an application within that institution;
- D. Supply the information in the terms and format agreed with the CIB and established under the service agreement and Code of Conduct signed by the data provider/user and the CIB;
- E. Provide accurate updated information and correct any information according with the provisions of this regulation;
- F. Notify the consumer in case of adverse action and provide the consumer with a copy of the credit report which was the base for the decision;
- G. Dedicate a specific unit with trained personnel to provide sufficient protection to consumers regarding their data in compliance with this regulation.

#### **ARTICLE 37 - PRICING AND COMMERCIAL POLICIES**

- (1) The CIB can charge the subscribers a fee based on the type of information service provided and according to the established pricing policy and price list.
- (2) The CIB will autonomously establish its price lists for the provision of its services.
- (3) The price list must be made available to the public and communicated to Da Afghanistan Bank .
- (4) The CIB cannot establish operational criteria or policies that are contrary to the provisions of this regulation, nor can they prevent subscribers or affiliates from providing information to or requesting information from any other CIB, nor can they establish limits on the number of consultations that the users can carry out, as long as they are made under the provisions of this regulation.
- (5) The price for the reports provided to the consumers must be approved by Da Afghanistan Bank .
- (6) [Da Afghanistan Bank may charge such fees from the users, necessary as far as, to cover the operational costs of the internal CIB

## **PART V- RIGHTS OF THE CONSUMERS**

### **ARTICLE 38 - RIGHT TO BE INFORMED**

- (1) Users shall inform the consumers, before or at the time of soliciting their consent, of:
  - A. the purpose of the collection, processing, dissemination of information;
  - B. the consumers' rights to check their own credit history as well as to challenge and correct erroneous information;
  - C. the name, address and telephone number of the CIB that has provided information about them.
- (2) Detailed information regarding how to access and/or correct data shall be provided by the CIBs.

### **ARTICLE 39 – CONSUMERS' RIGHT OF ACCESS TO THE INFORMATION**

- (1) A consumer has the right to receive a copy of the information maintained by a CIB on his/her own credit history, under the form of a credit report, upon presentation of a signed request integrated by proof of identity.
- (2) The request may be presented in any of the following forms:
  - A. in person
  - B. in writing upon presentation of sufficient proof of identity
  - C. on-line if adequate measures are in place to avoid unauthorized access and protect the consumer
- (3) The credit history shall also be accompanied by:
  - A. a list of users accessing the consumer data during the previous 6 months
  - B. detailed information on any codes used in the credit report or bureau scores so that the consumer can unmistakably interpret the meaning
  - C. the name of the user/s that provided the data
- (4) The CIB must present the requested credit report in a clear, complete and accessible form, in such a manner that it is self-explanatory, and must make it available to the consumer within a term not longer than three (5) working days, upon receipt of the consumer request.
- (5) The Credit Report must allow the consumer to know clearly and precisely the situation of his/her credit history.
- (6) The consumer will have the right to obtain a credit report free of charge once a year, and always in all those disputed cases where the data error is attributable to the data provider / subscriber or the CIB
- (7) The fee for further access shall be reasonable according to administrative costs borne by the CIB, and approved by Da Afghanistan Bank. .

### **ARTICLE 40 - RIGHT TO BE NOTIFIED IN CASE OF ADVERSE ACTION**

When an adverse action has been taken by the lender against the consumer, based in whole or in part on the information contained in a credit report received from a CIB, the consumer must be informed of such event by the lender, and the lender must provide a copy of the credit report that served as a base for the adverse decision.

### **ARTICLE 41 - RIGHT TO CHALLENGE DATA**

- (1) If the consumer that is not satisfied with the accuracy of information contained in a report coming from a CIB, has the right to file a claim addressed to the specialized consumer unit of the CIB.

- (2) The consumer shall provide sufficient evidence to support his request, including:
  - A. proper identification of the consumer
  - B. documents proving the inaccuracy
  - C. written application requesting the investigation
- (3) When a consumer challenges the accuracy of information held by a CIB as illegal, inaccurate, erroneous or outdated, the CIB may:
  - A. If the accuracy is attributable to the subscriber/data provider inform the data provider and follow the procedures established under the manual of operations for consumer's rights.
  - B. If the inaccuracy is attributable to a public source notify them and instruct them to provide adequate information;
- (4) The CIB shall resolve the matter within 45 days upon receipt of the consumer request.
- (5) The following deadlines must be respected by both the CIB and the data provider/subscriber:
  - A. Five (5) working days for the CIB to send the request to the data provider.
  - B. Ten (10) working days for the data provider to investigate and respond confirming the data or correcting the data if proved wrong.
  - C. Five (5) working days for the CIB to correct the data and provide a definitive response to the consumer.
- (6) After receiving the answer from the subscriber, the CIB shall then on behalf of the subscriber:
  - A. Modify the data in the terms contained in the request;
  - B. Delete the data;
- (7) Throughout the investigation period the CIB shall include a flag in the consumer's report, near the account disputed, indicating that it has been challenged by the consumer.
- (8) If reasonable grounds are presented, and always after 20 working days from the receipt of the claim, the CIB will allow the consumer to introduce a message in the credit report, containing up to 100 words, explaining the reason for the dispute.
- (9) In case the correction process is not completed for any reason within the established twenty (20) working days period, the CIB will have to temporarily withdraw the complete record, until the dispute is settled, and put a flag on the credit history indicating that the record is under the process of being corrected.
- (10) Upon a satisfactory resolution of the dispute for the consumer the CIB must send the amended credit report to all subscribers who requested a report about that consumer during the six (6) months prior to the date in which the dispute was raised.
- (11) Data providers and the CIBs shall put in place adequate procedures to ensure the compliance with these terms and deadlines,
- (12) The users/subscribers shall develop an operating manual concerning consumer rights which shall be complied with by the users/subscribers at all times.
- (13) Da Afghanistan Bank may from time to time provide guidance to users/subscriber to to improve the operating manual to be developed under sub-clause 12 of this Article.

#### **ARTICLE 42 - RESOLUTION OF DISPUTES**

- (1) In case the consumer is not satisfied with the response of either the CIB or the data provider/subscriber a complaint may be submitted to Da Afghanistan Bank .
- (2) Da Afghanistan Bank shall investigate the matter and resolve it in accordance with the provisions of this regulation.
- (3) This settlement shall not take more than twenty (20) working days and shall be considered effective and definitive.
- (4) A consumer dissatisfied with the resolution of Da Afghanistan Bank, may appeal Courts established under the provision of Article 108 of Da Afghanistan Bank Law, in addition to any remedy available to such consumer by way of appeal to the Courts through ordinary jurisdiction.

## **PART VI VIOLATIONS AND PENALTIES**

### **ARTICLE 43 - VIOLATIONS OF THE CIB AND PENALTIES**

- (1) All proven contravention to this Regulation and its additional amendments, and/or Da Afghanistan Bank's directives and circulars to implement this regulation, shall be assessed by Da Afghanistan Bank that will have to determine if a violations have happened and consider the appropriate penalties.
- (2) Da Afghanistan Bank shall impose penalties to the CIB when it:
  - A. unlawfully modifies deletes or damages information from its database
  - B. fails to adopt security measures that are necessary to protect data from unauthorized access or misuse
  - C. fails to adopt data quality controls and monitoring of the files to be loaded onto the CIB
  - D. fails to provide the annual compliance report
  - E. fails to update at least once a year the security contingency plan (DRP)
  - F. fails to respect the confidentiality limits imposed by this regulation
  - G. fails to apply and respect consumers' rights
- (3) Any CIB that breaches the provisions of this regulation or any regulatory norms enforced by Da Afghanistan Bank and related to this regulation, shall be liable to the following administrative sanctions:
  - A. Warning
  - B. A fine up to AFN 100,000 in the event of repeated breach
  - C. Temporary suspension of the CIB activities, for a maximum period of three (3) months
  - D. Dissolve the Board of the violating company and appoint a representative to manage it for a maximum period of six (6) months that can be renewed for another six (6) months. The appointed representative shall consult the general assembly of the violating company to select a new Board, merge with another company, or liquidate the company
  - E. Revocation of the license
- (4) Every time Da Afghanistan Bank has reason to believe that a person/company is exercising the CIB's activity without a license it shall require the submission of the books, account and files of the person/company to ascertain whether there has been a violation.
- (5) Any person exercising the activity of a CIB without a license or refusing to produce the documentation requested by Da Afghanistan Bank for examination, shall be liable to a fine of AFN 12500 per day and criminal prosecution as per ordinary law.
- (6) Any Board of Directors' member or general manager, who breaches the provisions of this regulation or any regulatory norms enacted by Da Afghanistan Bank, shall be liable to the following administrative sanctions:
  - A. Warning;
  - B. Personal fines to be paid by the member of the Board of Directors and the general manager, according to the gravity of the misdeed, up to twelve times the monthly remuneration of the violating person.
  - C. Temporary suspension of the activities of the member of the Board of Directors or the general manager, or revocation.
- (7) Da Afghanistan Bank may enforce one or several sanctions to the same case according to the gravity of the offences.
- (8) Sanctions shall be enforced by Da Afghanistan Bank without prejudice to those stipulated by the law.

**ARTICLE 44 - VIOLATIONS OF THE DATA PROVIDER / SUBSCRIBER AND PENALTIES**

- (1) Da Afghanistan Bank shall impose penalties to the data provider / subscribers that having signed a service contract and the Code of Conduct with the CIB:
  - A. fails to supply data
  - B. fails to inquire the CIB
  - C. utilizes the information received from the CIB for a different purpose than the ones permitted under this regulation
  - D. fails to ensure that consumers' rights as prescribed by this regulation are not enforced and respected by the data provider / subscriber
  - E. fails to correct data within the terms established by this regulation when, upon a request of the consumer, evidence shows that data is not accurate
  - F. acts in opposition to the provision prescribed by this regulation
- (2) Administrative penalties as well as financial penalties may be considered
- (3) Under the above circumstances, penalties will range from AFN 12500 to AFN100.000

**ARTICLE 45 - VIOLATIONS FOR UNLAWFUL DISCLOSURE**

- (1) Any member of Board of Directors, any officer, employee, person who in capacity whatsoever, participates, or participated in the processing or management of the CIB and of the data, shall maintain a strict professional confidentiality over the information, except for the purposes allowed by this regulation.
- (2) An officer or employee of a CIB or subscriber that intentionally provides information concerning an individual from the CIB's files to an unauthorized person shall be liable to a fine of AFN 500,000 and to one year imprisonment.
- (3) An unauthorized person who intentionally obtains information regarding a consumer from a CIB or subscriber, under false pretences commits an offence and is liable to a fine of AFN250,000 and to one year imprisonment.

**ARTICLE 46 - REVOCATION OF LICENSE**

- (1) Da Afghanistan Bank may also revoke the license of a CIB in the event that this latter:
  - A. does not start business/development within six months after the issuance of its license
  - B. has obtained the approval through false declarations or through any other unauthorized mean;
  - C. does not fulfill anymore the conditions by virtue of which the approval was granted;
  - D. has failed to comply with terms and conditions established in the license or under this regulation;
  - E. does not comply with the regulations to protect consumers' rights;
  - F. breaches seriously or repeatedly the provision of this regulation, the instructions of Da Afghanistan Bank or the conditions of its functioning authorization;
  - G. ceases its activity.
- (2) Da Afghanistan Bank shall notify the CIB in writing of the revocation and publish notification of the revocation in the Gazette and two daily national newspapers in circulation in the Islamic Republic of Afghanistan.

**ARTICLE 47 - LIQUIDATION**

- (1) Subject to the resolution of Da Afghanistan Bank the CIB may be liquidated according to the applicable companies' law and any applicable law for the time being in force.
- (2) The CIB activities may be suspended for other reasons including the revocation of license, the issuance of a winding up order or any other similar orders established under the laws of the Islamic Republic of Afghanistan.
- (3) In case of liquidation the database containing information related to the credit history of the consumers shall be transferred to Da Afghanistan Bank that shall resolve if the CIB activities can be continued, or whether the data shall be:

- A. Transferred to another operating CIB
- B. Returned to each data provider
- C. Destroyed
- D. Kept by Da Afghanistan Bank