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## LOOKING BACK – DEVELOPMENTS IN THE MICROFINANCE REGULATIONS OF MYANMAR IN 2020

The microfinance regulators in Myanmar namely the Financial Regulatory Authority (“FRD”) and its Microfinance Business Supervisory Committee (“MBSC”) had issued several directives and instructions in 2020, many of which were aimed at regulating microfinance businesses as well as supporting borrowers of micro-credit who had been affected by the pandemic.

Below is a summary of the main directives and instructions.

### **Lending to civil servants, private company staff and own staff**

The MBSC issued Directive 1/2020 on 27 January 2020 which provides for the procedure for MFIs to lend to individuals such as civil servants, private company staff and their own staff, in addition to the class of borrowers already covered under the Microfinance Business Law, 2011 (“MBL”).

The loan amount, interest rate, applicable service charges etc. for these loans will be governed under the directives issued by the MBSC from time to time.

### **Highlights of this note**

- ▶ Lending to civil servants, private company staff and own staff
- ▶ Reporting of funds received from UN sanctioned entities
- ▶ Interest period calculation methods
- ▶ Regulation of MFI activities during the pandemic period
- ▶ Inspection of company premises jointly by MLIP and MOHS
- ▶ Extension of deadline for transformation of INGO/ NGO to company
- ▶ Loan programmes with Myanma Economic Bank
- ▶ Provisioning bad debts
- ▶ Debt repayment relief for MFI customers in Yangon, Bago and Rakhine

MFIs should apply for and obtain the approval of MBSC prior to disbursing loans to private company staff. MFIs should notify the MBSC prior to disbursing loans to its own staff.

The directive clarifies that MFI loans to civil servants would be similar to loans given to its other customers. Thus, only the civil servant (and not the department where he is employed) will be responsible for repayment. Accordingly, the MFI lender must not:

1. seek the recommendation or guarantee of the relevant department, or
2. deduct the loan amount from the salary of the relevant civil servant, or
3. exert pressure on the relevant department for the loans in default, or
4. force the department to take action against that civil servant under the Civil Servant Law.

#### **Reporting of funds received from UN sanctioned entities**

The FRD issued Letter No. Nga Ka Sa/ Policy (253/2020) on 25 March 2020 informing reporting organisations (which includes MFIs) (collectively, "ROs") of the letter issued by the Central Committee for Counter Terrorism ("CCCT") that declared all individuals,

organizations, associations or groups formed under the United Nations ("UN") Security Council Resolution No. 1267/1989/2253 and 1988 as terrorists and terrorist groups.

The FRD letter informed the ROs to do the following:

1. check the websites of UN Security Council as well as the Myanmar Financial Intelligence Unit for the published list of sanctioned entities, from time to time;
2. check customer accounts to see if such accounts hold funds from any sanctioned entity and report their findings to the CCTC;
3. impound the funds received from sanctioned entities, without delay, and transfer them to the CCTC.

#### **Interest period calculation methods**

The FRD issued Letter No. Nga Ka Sa/ Ka 1/6 (177/2020) on 26 March 2020 informing the MFIs about methods for calculation of interest periods in relation to different types of loans.

#### **Regulation of MFI activities during the pandemic period**

The MBSC issued Directive 2/2020 on 6 April 2020 whereby it provided for

1. temporary suspension of certain licensed activities of MFIs;

2. temporary suspension of specific functions of the FRD and
3. prohibition on MFIs from forcibly collecting loan repayments from their customers.

The MBSC further issued Letter No. Ka Ka - 1/6 (318/2020) on 29 April 2020, which extended the effectiveness of this directive till 15 May 2020.

MFIs were required to suspend the following activities between 6 April 2020 to 30 April 2020 ("**Temporary Suspension Period**"):

1. accepting new members,
2. accepting savings deposits,
3. organising financial awareness programs,
4. disbursing loans/collecting loan repayments from large groups of people assembled at a place.

During this period, an MFI was permitted to keep up to five (5) staff in office for attending to urgent matters such as with respect to loans to members, voluntary repayment of loans etc. MFIs were also required to appoint a staff member to communicate with the FRD during this time.

The directive also provided for suspension of the following functions of the FRD during the Temporary Suspension Period:

1. issuing temporary and permanent licenses to deposit-taking MFIs;
2. granting approval for extension of business territory, opening new branch office, changing the address of branch office, changing the address of head office;
3. granting approval for new financial services;
4. approval for changing shareholder and board of directors of MFIs;
5. suspend the process of ground inspection – the head office of MFIs had to prepare and submit monthly report to the FRD.

However, the MOPFI could accept applications from MFIs seeking



approval of loans and increase of capital during this period.

The directive restricted MFIs from forcibly collecting loan and interest repayments from its customers during the Temporary Suspension Period. The duration of application of this prohibition was extended by issue of instructions subsequently.

The FRD on 14 April 2020 issued Letter No. Ka Ka – 1/6 (226/2020) warning MFIs that were forcibly collecting loan repayments in violation of Directive 2/2020. The MBSC issued Letter No. Ka Ka-1/6 (464/2020) MBSC on 14 June 2020 urging MFIs to collect loan repayments only from those that are capable of such repayment – for those not able to do so, MFIs are required to develop plans to reschedule repayments or refinance the loan. Subsequently, on 13 September 2020, the MBSC issued Letter No. Ka Ka-1/6 (785/2020) which warned MFIs with administrative penalties if they forcibly collected loan repayments from their customers.

### **Inspection of company premises jointly by MLIP and MOHS**

The MBSC issued Letter No. Ka Ka-1/6 (320/2020) on 7 May 2020 requiring MFIs to follow Public Announcement dated 14 April 2020 and the additional Public Announcement dated 3

May 2020 issued by the Ministry of Labour, Immigration and Population (“MLIP”) to factories and workplaces in connection with prevention and control of the pandemic.

Like factories and workplaces, MFIs were also required to fill up a checklist of employee health and related data and submit the same to the MLIP and MOHS in order for inspection of the premises jointly by MLIP and MOHS to ensure that the guidelines relating to prevention and control of the pandemic are being followed by the MFIs.

### **Extension of deadline for transformation of INGO/NGO to company**

The FRD issued Letter No. Nga Ka Sa/ Ka Ka-6 (829/2020) on 22 December 2020 whereby it extended the previous deadline for transformation of INGO/ NGO to a company from 31 December 2020 to 30 June 2021.

### **Loan programmes with Myanmar Economic Bank**

The MBSC issued Directive 3/2020 and Directive 4/2020 on 23 July 2020 which gave MFIs an opportunity to receive loans from the Union Government’s MMK 100 billion-COVID-19 fund. The loans would be disbursed to eligible MFIs by the Myanmar Economic Bank.

### **Short-term Secured and Unsecured Loans**

Directive 3/2020 permitted MFIs with (i) valid business license, (ii) company registration certificate from DICA and (iii) tax clearance certificate from the Internal Revenue Department (the “**Eligibility Criteria**”), to receive secured/unsecured short-term three-year commercial loans, under a loan agreement with MEB on the terms set out in the Directive.

The Directive set out the content of the form of application to be submitted by an MFI to the FRD in order to obtain its approval for receiving such loan.

The Directive required MFIs to, *inter alia*, provide a letter signed by its Board of Directors undertaking to repay the loan, arrange funds for timely repayment and comply with the orders and instructions issued by the MBSC.

The Directive also set out certain guidelines to be followed by the Myanmar Microfinance Association (“**MMFA**”) to ensure that MFIs repay the loan on time and in accordance with agreed terms.

### **Low interest loans to Tea-shops and Restaurants**

Directive 4/2020 permitted MFIs that met the Eligibility Criteria, to receive loans of one (1) year tenor, at one (1) % interest from the MEB for on-lending to tea-shops and restaurants in Nay Pyi Taw, Regions and States, that had to shut down on account of the pandemic (the “**Shops**”).

The borrowing MFI had to apply to the FRD via the MMFA to seek approval for receiving the loan. In the process, the said MFI had to also submit undertakings regarding end-use of the loan as well as its timely repayment.

Upon receiving FRD approval, the MFI could lend to the Shops on the following terms set out in the Directive.

The Shops had to meet the following criteria to be eligible to receive the loans from MFIs:

1. shall have been operating with



a capital of up to MMK 15 million and had to close temporarily due to the effect of the pandemic;

2. shall have up to five (5) workers (however, Shops with five (5) or more workers will be prioritized);
3. shall have been open for one year or longer.
4. shall have obtained a business license from the relevant city development committee or development committees; if there is no business license, the recommendation letter describing that the shop was opened from the relevant administration officer shall be submitted.
5. shall use the loan only for reopening the shop.
6. shall be able to repay the loan in a year.

Further, the owner had to provide relevant ownership documents or alternatively, name two personal guarantors to guarantee repayment of the loan.

### **Balance Amount of Covid-19 Fund to be lent to Grocery Stores**

The FRD issued Letter No. Nga Ka Sa/Ka Ka-6/ (812/2020) on 14 December 2020 which informed that out of the MMK 100 billion COVID-19 fund, an amount of MMK 66.853 billion had been disbursed as loans to 57 microfinance institutions. The balance amount of MMK 33.147 billion was available for disbursement as loans by MFIs to well-established grocery stores on the same terms as the tea-shops and restaurants.

MFIs were required to apply to the FRD via the MMFA before 6 January 2021 to enroll into this programme.

### **Provisioning bad debts**

By way of Letter No. Ka Ka-1/6 (712/2020) dated 2 September 2020, the MBSC informed the MFIs that in light of the economic stress caused due to the pandemic, the MFIs are required to provision for bad debt at the rate of 1% of the loan till the end of December 2020.

### **Debt repayment relief for MFI customers in Yangon, Bago and Rakhine**

The MBSC issued Directive 5/2020 on 27 October 2020 which provides temporary debt repayment relief to MFI customers in Yangon Region, Bago Region and Rakhine State which have been impacted the most by the pandemic.

According to this Directive, principal and interest payments by MFI customers that would have otherwise become due in November and December 2020 would now become due in line with the timeline set in the Directive. MFIs were required to collect the deferred payments during a period of time in 2021 as set out in the Directive.

The MEB will provide a loan in the total amount of the deferred principal and interest for a term of one (1) year to the relevant MFIs.

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