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The following Act, adopted by the Jatiya Sangsad has got the assent of the President on 16th Sraban, 1413/16th July 2006 and this Act is being made public hereby for appraisal of all: -

Act no 32 of 2006

The law has been enacted in order to establish an authority and formulate rules on related matters for efficient regulation of micro credit programs ensuring transparency and accountability in the activities of micro credit organizations operating in Bangladesh.

Since the establishment of an authority and formulation of rules on related matters for efficient regulation of micro credit programs ensuring transparency and accountability in the activities of micro credit organizations operating in Bangladesh is essential:

Therefore the following Act is enacted hereby: --

First Chapter
Opening

1. Brief title – (1) This Act will be called as Micro Credit Regulatory Authority Act, 2006.

(2) The Act shall be enforced allover Bangladesh

(3) The Act shall be enforceable from the date to be fixed by the government through official gazette notification.

2. Definition – If not contrary to the matter or relevance, under this law –

(1) “The financing agency” means any micro credit organization or any government or non-government or foreign organization offering loans or grants to any micro credit organization.

(2) “Deposit,” means any deposit kept by a member or client of a micro credit organization and the amount is refundable on the basis of demand or through other means;

(3) “Depositor” means any person against whose name the micro credit organization accepts and keeps deposit.

(4) “Executive Vice President” means the Executive Vice President appointed under clause 10;

(5) “Authority” means micro credit regulatory authority established under clause 4.

(6) “Constitution” means, in whatever name it is called, the main document on the structure, aims and objectives and directions for operations of any micro credit organization;

(7) “Client” means any such person who takes the service of the micro credit organization;

(8) “Chairman” means chairman of the board of directors;

(9) “Fund” means the fund formed under clause 12;

(10) “Poor” means any landless or person without any resource and any person identified to be poor to shall be included in this category;

(11) “Resolved” means determined through rules;

(12) “Managing Council” means managing council of the micro credit organization;

(13) “Board of Directors” means the board of directors of the Authority;

(14) “Code of Criminal Procedure” means Code of Criminal Procedure, 1898 (Act V of 1898)

(15) “Person without resource” means a person whose daily income does not exceed the fixed daily income and the market price of whose movable and

immovable assets is less than the market price of fixed area of land;

(16) "Rules" means rules formulated under this Act;

(17) "Landless" means the area of whose whole cultivable land is less than fixed area of land;

(18) "Member" means the member of the board of directors;

(19) "Certificate" means certificate given under clause 15;

(20) "Service Charge" means the financial exchange price under pre-determined rate to be paid by the loan recipient against the amount borrowed for a certain period from any micro credit organization;

(21) "Micro Credit Organization" means any micro credit organization, in whatever name it is called, certified to operate run micro credit program under this Act, (and) registered under –

(a) The Societies Registration Act, 1860 (Act XXI of 1860);

(b) The Trust Act, 1882 (Act II of 1882);

(c) The Voluntary Social Welfare Agencies (Registration and Control) Ordinance, 1961 (Ord. No XL VI of 1961);

(d) Samabaya Samity Ain (cooperative societies act) (Act no 47 of 2001); or

(e) Company Ain (company act) (act 18 of 1994).

(22) "Micro Credit" means loan facilities offered by micro credit organization certified under this Act for poverty alleviation, employment generation and facilitate a small entrepreneur.

3. Domination of the Act -- Whatever is laid down in other laws valid for the present, the regulations of this Act shall be enforced.

Second Chapter Establishment of the Authority, etc

4. Establishment of the Authority, etc – (1) To fulfill the objectives of this law, an authority to be called as Micro Credit Regulatory Authority shall be established;

(2) The Authority shall be a statutory organization, it will have a permanent continuity and a general seal and subject to the regulations of this Act, it shall have the authority and right to - amass both movable and immovable properties, keep those in possession and handover those, sign agreement and perform other activities. It can sue using its name and be sued too.

5. General Management – The matters and generation management and administration of the Authority shall be entrusted upon a Board of Directors and whatever power the Authority can apply and whatever activities the Board can perform, the Board shall also apply those powers and perform those activities.

6. Formation of the Board of Directors, etc – (1) The Authority shall have a Board of Directors comprising the following members: i.e. –

- (a) Governor of Bangladesh Bank, by virtue of his position, who shall also be the chairman of the Board of Directors;
- (b) Six government officials or persons to be nominated by the government;
- (c) Executive Vice Chairman, by virtue of his position, who shall also be the member-secretary of the Board of Directors;

(2) The nominated members shall generally remain in their posts for three years from the date of their appointment:

But there remains a condition that, despite the expiry of the three-year tenure a member shall remain in his/ her post until his/her successor is appointed and takes the charge.

(3) Other than the government officials as pointed out in sub-clause (1), any nominated member can resign tendering his/ her signed resignation letter addressed to the chairman.

(4) Any act or the activities of the Board of Directors shall not be illegal or no question regarding them (activities) can be raised only because of a vacuum in the formation of the Board of Directors alone.

7. Head Office of the Authority, etc – The head office of the Authority shall be in Dhaka, but if the Authority thinks it necessary, a branch of the Authority can be set up anywhere in Bangladesh with the prior approval of the government.

8. Meeting – (1) Subject to other provisions of this clause, the Board of Directors shall fix its rules of business.

(2) The Secretary General shall convene meetings of the Board of Directors in consultation with the Chairman.

(3) The Chairman shall preside over all the meetings of the Board of Directors.

(4) The other matters relating to the meetings will be determined by the rules.

9. Responsibilities and Activities of the Authority – The responsibilities and activities of the Authority are as following, i.e. –

- (a) Issue certificates for running micro credit organization to alleviate poverty of the country's poor people and their overall welfare. Cancellation of certificate;
- (b) Preserve, examine and analyze the data on establishment of micro credit organization and their field level supervision;
- (c) Merge of micro credit organization;
- (d) Take necessary steps for auditing of the accounts of the micro credit organization at the request of the financing agency;
- (e) Send information as sought by the financing agency;
- (f) Formulate policy;
- (g) Take any step to perform the responsibilities as mentioned above.

10. Executive Vice Chairman – (1) The Authority shall have an Executive Vice Chairman to be appointed by the government having at least the status of a joint secretary.

(2) The conditions of service of the Executive Vice Chairman will be determined by the government.

(3) The Executive Vice Chairman shall be the executive chief of the Authority and he will be responsible for implementation of all decisions of the Board of Directors and he will carryout other activities as directed by the Board of Directors.

11. Officers-employees, etc – In order to perform properly its activities, the Authority can appoint necessary numbers of officers, advisers, experts and employees and the service condition of theirs shall be determined by the Board of Directors.

Third Chapter Financial matters of the Authority, etc

12. The fund of the Authority – (1) The Authority shall have a fund and it will constitute with following types of finances –

- (a) Grants offered by the government;
- (b) Certificate fees;
- (c) Amount realized as fine by the Authority from micro credit organizations;
- (d) Finance received from any other sources by the Authority;

- (e) Annual fees paid by the micro credit organizations to the Authority;
- (f) Grants received from any foreign government, agency or international organizations with prior permission of the government.

(2) With the approval of the Board of Directors, all the money of the Authority shall be deposited with any scheduled bank in the name of the Authority and the fund shall be operated in a particular procedure.

(3) The money of the fund shall be spent to carryout the activities to be accomplished under this Act and to achieve the objectives of the Authority bear the cost of its development expenditures.

But the a condition remains that, the procedures, policies, rules and rules and regulations of the government in regard to expenditure of the Fund, if any, shall have to be followed.

Explanation – The term “schedule bank” shall refer to Schedule Bank as defined in Article 2(J) of Bangladesh Bank Order, 1972 (P.O. 127 of 1972).

13. Annual Budget Description – The Authority shall submit to the government for its approval an annual budget description within a time frame to be fixed by the government ahead of the end of every fiscal and it will point out an amount to be needed by the Authority from the government for the (coming) fiscal.

14. Accounting and Auditing – (1) The Authority shall maintain its accounts properly and prepare an annual report on the accounts.

(2) Auditor and Comptroller General of Bangladesh, hereafter called as Auditor General (in this act), shall examine every year the accounts of the Authority and submit a copy of the audit report to the government and the Authority.

Fourth Chapter Certificate, etc

15. Certificate, etc – (1) Without the certificate of the Authority, no micro credit organization shall run any micro credit program.

(2) If any micro credit organization remains engaged in running micro credit program prior to the enactment of this Act, the concerned micro credit organization shall have to submit an application to the Authority for a certificate according to the provision of the clause 16 within six months after the enforcement of this Act.

(3) Whatever is laid down in sub-clause 91), until the Authority accept or reject the application submitted under sub-clause 2, the applicant can continue its activities.

16. Procedure of issuing certificate – (1) The person intending to set up micro credit organization to run micro credit program will have to submit application to the Authority in prescribed form and procedure.

(2) Under this clause the applicant shall have to pay certain amount of fee for issuance of the certificate and its renewal.

(3) On receiving the application under sub-clause (1), the Authority shall verify the information submitted along with the application and issue the certificate in favor of the applicant within the specified time and in specific procedure.

(4) If the application of the applicant is considered as 'not acceptable' the Authority shall have to apprise the applicant in writing pointing out the reasons for the decision within a specific time and in due procedure giving the applicant scopes for hearing logically.

(5) If the application is rejected under sub-clause (4), the aggrieved person can file an application to the Authority for reconsideration of the matter within thirty (30) days of being apprised of the decision and in regard to such applications, the order to be issued by the Authority shall be deemed final.

17. Conditions of the certificate, etc – (1) The conditions and jurisdictions of the certificate issued under this Act, scrapping or temporary suspension of the certificate, return of the certificate and adequacy of the capital of the micro credit organization, income feasibility and all other related issues shall be determined by rules.

(2) Any certificate or the ownership achieved under it, shall not be transferable, completely to partially, and any such transfer shall be void.

(3) While issuing the certificate under sub-clause (3) of clause 16, the Authority can impose any condition consistent with this Act or rules framed under this Act in the concerned certificate and the Authority may change the condition any time.

(4) If the condition is changed under sub-clause (3), every organization that obtained the certificate shall be bound to comply with the (changed) condition.

18. Payment of annual fess by the micro credit organization receiving the certificate: Each of the micro credit organization that received the certificate shall have to pay the annual or any other fee to the Authority.

Fifth Chapter
Matter relating to micro credit institution

19. Depositor Security Fund – (1) The Authority shall form and maintain a fund to be called Depositor Security Fund in order to secure the depositors of the micro credit institution.

(2) The Fund to be constituted under sub-clause (1) will be maintained and run following specific procedure.

20. Change of the constitution – No micro credit institution can change, amend, extend or scrap its constitution without prior approval of the Authority.

21. Publishing list of institutions – (1) The Authority shall make public through a government gazette notification the list of micro credit organizations providing their names, addresses and local jurisdictions.

(2) Within 2 (two) of the expiry of the fiscal the Authority shall supply the list of micro credit institutions received certificates under this Act to Bangladesh Bank and the government.

(3) The Authority shall publish the information related to the suspension or scrapping of certificates of micro credit institutions in national or, if necessary, in local dailies.

22. Accounts and Budget of micro credit institutions – (1) All micro credit institutions shall maintain their accounts in prescribed manner to be directed by the Authority.

(2) All micro credit institutions shall prepare their budget or annual financial description ahead of the end of every fiscal for the next financial year and prepare their annual profit and loss accounts and balance sheet in prescribed manner and submit a copy of those to the Authority.

(3) Each of the micro credit institutions shall follow the directives to be issued by the Authority from time to time.

23. Protection of interest of the financing agency: To protect the interest of the financing agency, each of the micro credit institutions, which obtained certificates, shall –

- (a) Not use the amount of loan or grant received from the financing agency in any head or purpose other than the pledged head or purpose;
- (b) According to the demand of the financing agency –
 - (i) Submit report to it within the time frame following the format to be

prescribed by the financing agency;

(ii) Cooperate for inspection of area and examination of any record or document related to any loan or grant provided;

24. Authority and activities of micro credit institutions – (1) The main task of all micro credit institutions shall be to run micro credit program under the conditions laid down in this Act and provide related supports.

(2) Particularly, without affecting the totality of the Act, each of the micro credit institutions shall have the authority and responsibility as mentioned below. i.e.:-

- (a) Provide loan supports to poor people to make them comfortable and self-reliant;
- (b) Provide advice and support to the poor people for carrying out different economic activities;
- (c) Accept deposit from members of the micro credit institution;
- (d) Opening bank account for offering micro credit;
- (e) Receive loan or grant from banks or any other sources for developing funds;
- (f) Invest the surplus fund, if any, in sectors approved by the Authority;
- (g) Receive service charge for the credit services in the rate to be determined by the Authority;
- (h) Offer different types of insurance services and other social development-oriented loan facilities for the loan recipients and members of their families.

(3) Without the approval of the Authority, no micro credit institution shall undertake any program or enter into any transaction contrary to the provision or objectives of this clause, run businesses or offer any other service.

25. Rules relating to bankruptcy – If any micro credit institution is declared bankrupt, the Bankruptcy Act, 1997 (Act no 10 of 1997) shall be applicable for the case.

26. Shutting/Sequestration – The High Court Division can order shutting of any micro credit institution on the basis of a petition of the Authority if –

- (a) The certificate of the institution is cancelled;
- (b) The institution becomes unable to pay for its liabilities;
- (c) The institution receives punishment for violating any provision of this Act.

27. Chief executive/members, etc of the micro credit institution – (1) Each of the micro credit institutions shall have a chief executive, who shall be appointed by the Board of Directors of the institution.

(2) The chief executive, appointed under the sub-clause (1), shall discharge

responsibilities as the secretary of the Board of Directors of the concerned micro credit institution.

(3) No paid official or employee of any micro credit institution shall be a member of the general body or Board of Directors of the concerned micro credit institution.

28 – Disqualification for being a member of Board of Directors, chief executive, etc of a micro credit institution – (1) No person who has been declared bankrupt or once was a bankrupt or was punished by a criminal court for any offence of moral turpitude or for misappropriation of fund or if the Authority becomes satisfied that the person had been removed from his responsibly for any of these reasons, the person concerned will not be able to be or remain as chairman or member, or chief executive, or chief finance officer of the Board of Directors of any institution.

(2) Under this Act the chairman of the Board of Directors or chief executive or any other person involved directly with the management any micro credit institution which was declared closed will not be able to be the chairman of the Board of Directors or chief executive or any other post of any institution requiring direct involvement in its management without prior approval of the Authority.

(3) No person can simultaneously be a paid official of more than one micro credit institution.

29. Removal of a member of Board of Directors, chief executive officer, etc of a micro credit institute – (1) If the Authority becomes satisfied that the chairman or any member of the Board of Directors or the chief executive officer of a micro credit institution is needed to be removed to prevent any harmful activity against the clients and depositors of the institution or for ensuring appropriate management of the institution, the Authority, by an order at any time, can remove the chairman or any member of the Board of Directors or the chief executive officer from their post, writing down the reason behind the action.

(2) Before issuing any order under sub-clause (1), the person to be issued the order, must be given reasonable scopes for show cause (for self-defense).

30. Reserved Fund – (1) Every micro credit institution will have a Reserved Fund and the fund will be operated in a resolved manner.

(2) No amount will be spent from the Reserved Fund without prior permission of the Authority.

31. Offering of dividend – (1) No micro credit institution can offer any dividend without the approval of the Authority.

(2) Whatever may be laid down in sub-clause (1), No micro credit institution, whose tax was exempted by the government or if it received any other financial assistance from the government, can distribute any dividend.

32. Receipt of deposit – (1) No micro credit institution can receive any deposit from anybody other than its members.

(2) If any such deposit is received from a member by the micro credit institution, the member shall have to be given instantly the acknowledgement with proper entry in the passbooks, if any, and in appropriate cases issuing receipts.

(3) No micro credit institution, without prior approval of the Authority, shall use or invest the deposit in any head other than the heads resolved by the Authority.

(4) No approval can be given under sub-clause (3) for investment of the deposit in any head linked to individual interest.

33. Charge and priority – In a case where a charge is created on a property of a person in the favor of a micro credit institution for receipt of any service from the micro credit institution, the charge in favor of the micro credit institution shall get the priority over all other charges created on the same property.

34. Running of micro credit program by organization formed to run various types of businesses – Whatever may be laid down in this Act, any organization intending to carryout different types of poverty alleviation activities and run micro credit program in their support must obtain certificate under this Act.

Sixth Chapter Offense, punishment, etc

35. Punishments for some offences – (1) Any of the activities as described below by any person shall be deemed as offence under this Act –

- (a) Running of micro credit program without certificate under this Act or continue such activity; Or
- (b) Continuation of micro credit program even after cancellation of certificate of the micro credit institution; or
- (c) Deliberate presentation of false or misleading information in the application seeking to obtain the certificate; or
- (d) Failure in fulfilling any of the conditions of this Act; or
- (e) Carrying out of any activity defying the provisions of this Act or the directives of the Authority; or
- (f) Misuse of power with an objective to gain something directly or indirectly; or

(g) Creation of indiscipline in the functioning of the micro credit institution.

(2) If any person is convicted for offences under sub-clause (1), he/ she shall be punishable with imprisonment not more than one year, or penalty not exceeding Taka 5 (five) lakh, or both.

36. Imposition of administrative fine for non-cooperation – If any official or employee of a micro credit institution, during any inspection, investigation or auditing under this Act, fails to submit or present any account book, or document or information as demanded by the inspector, investigator or auditor, or if he (official, employee of the micro credit institution) bars in questioning or provide false information while being testified in line with the provisions of this Act, the Authority, instead of taking any other action under this Act, after giving him/her scopes of show cause, may fine him/her an amount not exceeding his/her 1 (one) month's of salary, which can be realized through deducting his/her salary.

37. Authority of imposing administrative fine – (1) If any person violates this Act or any rule framed under its purview or commit any offence under this Act or in cases where administrative fine can be imposed, the Authority in all those matters, instead of filing criminal cases, may impose fines up to an amount of Taka 5 (five) lakh, considering the extent of the violation of the Act or the offence committed.

(2) In cases of imposing administrative fines, the Authority shall issue a notice upon the concerned violator or offender conveying him/ her that he/ she may get freed from the liabilities through paying the amount penalized as administrative fine admitting his/ her offence within a resolved time limit and he/ she can give a statement, if any, on the matter to the Authority.

(3) The procedure of issuing notice under this Act shall be resolved through rules.

(4) After the issuance of the notice under sub-clause (2), the person accused of violation or offence as mentioned in the notice, can pay the full amount of fine as pointed out in the notice admitting the violation or offence, or apply for reducing the amount of the penalty or seek acquittal denying the allegation in writing providing necessary document or information in his/ her defense.

(5) If any application is made under sub-clause (4), the Authority after considering the application shall, without any delay, convey its decision on the matter to the applicant.

(6) The decision of the Authority under sub-clause 95) shall be final.

(7) If any violator or offender does not pay the amount of administrative fine imposed upon him under this Act or does not appear before the Authority despite

being noticed within 30 (thirty) days, his/ her act shall be considered as an offence under this Act.

38. Disposal of Administrative Fine and Financial Penalty – The amount of money realized as fine under this Act or the rules under its purview shall be deposited at the Fund.

39. Investigation in cases of suspicious activities – If it appears before the Authority or it has reasons to believe that any person is running micro credit program defying any provision of this Act, the Authority or any official authorized by the Authority –

- (a) Can order him/ her (suspected offender) to furnish any information, document, paper, accounts and records under his control within the timeframe specified for such purpose; and
- (b) Can carryout searches and seize relevant documents, files, books, accounts and records entering into any premise from where such activities are being run.

40. Offences committed by a company, etc – If any offence is committed by a company or micro credit institution under this Act, every director, manager, secretary, partner, official and employee directly linked to the said offence shall be considered to have committed the offence, unless can prove that it was committed beyond his knowledge or he had tried his level best to prevent it.

Explanation – Under this clause –

- (a) “Company” will mean any commercial entity, partnership business, association, grouping and even organization; and
- (b) “Director” in cases of commercial enterprises will mean any partner and also members of its Board of Directors.

41. No court shall entertain any case on any offence under this Act for trial without written complain of the Authority or any of its officials authorized for this purpose.

42. Cognizance of offence and bail – The offences under this Act are non-cognizable and bailable.

43. Enforcement of Criminal Procedure Code – The Criminal Procedure Code shall be applicable for investigation of the offence committed under this Act, appeal and other related matters, provided those are inconsistent with this Act.

Seventh Chapter Miscellaneous

44. Measures to be taken in cases of organizations unable to pay liabilities – (1) If any micro credit institution has reasons to doubt that it may not be able to pay the liabilities of its clients or it is faced with a situation as a result of which may force it to suspend the payments it owe to the clients, the concerned micro credit institution shall apprise the matter to the Authority in writing.

(2) After being apprised of any matter under sub-clause (1), the Authority shall issue necessary directives to the concerned micro credit institution and the micro credit institution shall be obligated to carry out the directives.

45. Submission of report to the government – Within 3 (three) months after the end of every year under English calendar, the Authority shall submit an annual report containing the descriptions of its activities in that year to the government and the government shall take measures to table at Parliament as soon as possible.

46. Indemnity for action done with good faith – No legal proceedings can be drawn against the Chairman or any member of the Authority or any officer or employee for their any action done with utmost good faith affect any person or if there are possibilities that their actions can affect any person.

47. Authorization – The Authority can bestow any of its power/ authority, given to it under this Act or any rule framed under the purview of the Act, to the Executive Vice Chairman or to any of its (Authority's) officials employees through orders in writing.

48. Procedures to be followed for issuing orders, circulars, etc – The Authority will follow orders, directives, circulars or any other legal documents issued by Bangladesh Bank for banking and financial sector while issuing or formulating any order, directive, circular or any other legal document under this Act or rules framed under its purview.

49. The authority of the government in resolving complication – If any complication arises out in implementing the provisions of this Act, the government may, through gazette notification, provide directives on what the Authority should do giving clarification or explanation of the provision or the rule.

But condition remains that no action can be taken under this clause after two years following the enactment of the Act.

50. Formulation of rule on some matters – (1) The matters relating to the amassing permanent asset, amount of loan to be accepted and offered, time limit for repayment of loan, preservation of savings against loan, confidentiality of information provided, transfer of documents, security fund of depositors, outstanding loan, facilities and responsibilities of members, joint financing,

standard of service and other related matters shall be resolved through rules.

(2) Provisions of imprisonment, fine or both can be kept in the rule to be framed under sub-clause (1), but the term of imprisonment and amount of penalty shall not exceed the term and amount mentioned in this Act.

51. Authority for framing rules – (1) To fulfill the objectives of the Act, The Authority can frame rules with prior approval of the government and through gazette notification.

(2) The rules can be framed on all the matters mentioned below or any matter other than those which were mentioned clearly (earlier) without affecting the totality of the above mentioned authority (power).

- (a) Reserved Fund of micro credit institution and conditions for its operation;
- (b) Necessary conditions for running micro credit program by the micro credit institution;
- (c) Conditions for investment in small trading with small capital and cottage industry;
- (d) Conditions for spending parts of the income of the micro credit institution to achieve the goals and objectives of the micro credit institution;
- (e) Carrying out activities in the area as specified in the certificate;
- (f) Internal auditing and accounting policy and standards;
- (g) Preservation of files, documents and records;
- (h) Descriptions, reports and returns to be submitted;
- (i) Limit of micro credit program;
- (j) Procedures to be followed for carrying out programs in an efficient and transparent manner;
- (k) Controlling heads of expenditures;
- (l) Rights and responsibilities of members of micro credit institution;
- (m) Collection and preservation of deposits;
- (n) Utilization of profit earned;
- (o) Qualification/ criterion, appointment and salaries- allowances of chief executive officers of micro credit institutions;
- (p) Provisioning against loan sanctioned and writing off loans; and
- (q) Inspection, investigation and auditing of micro credit organization.

(3) The Authority may, until the framing of rules under this clause, carry out its activities through general or special orders published in official gazette:

But the condition remains there any such order shall remain valid for 2 (two) years from the date it was issued.

52. Publication of English translation of this Act – After the introduction of this Act

the government shall publish an authentic English Text of the Bengali version of this Act.

But the condition remains that in case of any contradiction between the Bengali and English versions, Bengali version shall take the precedence.

ATM Ataur Rahman
Secretary

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