

DA AFGHANISTAN BANK
(CENTRAL BANK OF AFGHANISTAN)
Shariah Compliant Banking – National Shariah Governance
Framework (Full-Fledged IFI version)

National Shariah Governance Framework
(Version for Full-Fledged Islamic Banks)

Accountable Executive & Custodian	Management Board
Policy Owner	Chief Executive Officer

Approved by DAB Governor:	Date	DAB Board Secretary
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7	Custodian of DAB National Shariah Governance Framework	28
8	Effective Date of the Document	28

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1 Introduction

1.1 Purpose

1.1.1 This policy outlines the National Shariah Governance Framework (the “NSGF” or “the Framework”) by Da Afghanistan Bank (hereinafter referred to as “DAB”) which shall be the guiding principles for the Shariah Governance Framework structure of every full-fledged Islamic Financial Institution (hereinafter referred to as “IFI”), operating within the Islamic Republic of Afghanistan.

For the purpose of this policy manual and all other documents concerning Islamic finance issued by DAB, all provisions as provided herein shall refer to IFIs “the Bank”).

1.1.2 The NSGF shall, be read in conjunction with other related laws, regulations and guidelines, as issued by the Islamic Republic of Afghanistan and the DAB.

1.1.3 All relevant stakeholders in DAB and in the Bank are expected to be familiar with the NSGF and understand their roles and responsibilities in order to comply with the NSGF in the letter and spirit of the NSGF.

1.1.4 Given the early stage of development for Islamic Banking activities in the Islamic Republic of Afghanistan, the proposed NSGF is to be viewed as a basic reference document to be further expanded and refined by relevant stakeholders in future. It is anticipated that the DAB Shariah Supervisory Board (hereinafter referred to as “the SSB”) will give some exceptions within the NSGF to accommodate some unavoidable or excessive difficulties (*al-mashaqqah*).

1.1.5 Any particular exemption to any of the provisions as provided herein shall only be permitted via a formal application being submitted by the Bank after prior consultation with its Shariah Board (hereinafter referred to as “the Shariah Board”), to SSB outlining the reasons and justifications for such requests.

1.2 Review and update of policy

1.2.1 The NSGF, may be reviewed by the DAB Islamic Banking Division (hereinafter referred to as “the IBD”) in consultation with the SSB, on an as needed basis. The IBD will consult with the Bank's Shariah Board and the Bank's management to take into account market conditions, risk mitigation strategies and to align with the strategy of the Bank.

1.2.2 Any proposed amendment to be made to the NSGF by DAB, may be permitted as a result of one or more of the following reasons (which are not exhaustive):

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- i. Changes in laws and regulations;
- ii. Changes in functions and activities of the Bank;
- iii. Changes in business processes;
- iv. Changes in the organizational structure of the Bank;
- v. Changes in job roles, duties, and descriptions;
- vi. Any other changes, where the IBD deem necessary to update the Bank's policies and procedures; or
- vii. Any significant modifications arising out of the review of the NSGF by the IBD, as approved by the SSB.

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2 Objectives and scope of application

2.1 Objectives

This Framework is designed to meet the following objectives:

- 2.1.1 Sets out the expectations of DAB on the Bank's Shariah governance structures, processes and arrangements to ensure that all its operations and business activities are in accordance with the principles of Shariah;
- 2.1.2 Provides a comprehensive guidance to the Board of Directors (hereinafter referred to as "the Board"), the Shariah Board and the Management Board of the Bank in discharging their duties in matters relating to Shariah.
- 2.1.3 Outlines the functions of the Bank relating Shariah Compliance.

2.2 This Framework shall be read together with the following:-

- i. Terms of Reference for the Bank's Shariah Board;
- ii. Shariah Review Manual;
- iii. Shariah Compliance Manual; and
- iv. Shariah Board Members Assessment Manual

In the event of a conflict between the interpretation of the terms of the Framework and the appendices, the terms of the Framework shall prevail.

2.3 Scope of Policy

- 2.3.1 For the avoidance of doubt and notwithstanding anything to the contrary herein, the Framework shall be applicable to all full-fledged Islamic Financial Institutions only and shall **exclude** Financial Institutions operating with an Islamic Window and Financial Institutions operating with an Islamic Unit as regulated under the Law of Banking of the Islamic Republic of Afghanistan and under the purview of DAB (as they will be governed under a separate NSGF for Islamic windows) and all full-fledged Conventional Financial Institutions without any Islamic business activity whatsoever.
- 2.3.2 The Shariah governance model and all its functions as highlighted by the Framework are to be implemented collectively with the collaboration of all related functions of the Bank.
- 2.3.3 The application of the Framework is subject to applicable laws as per clause 2.5.

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2.3.4 In the event of any inconsistencies that explicitly contravene any principles of Shariah, between the Framework herein and other relevant policies and procedures of the Bank, the Framework herein shall prevail.

2.4 Related Documents - Sources of Shariah Law

2.4.1 Primary Sources of the Shariah are the *Qur'an* (the Holy Book of Islam revealed to the Prophet Muhammad (SAW) and the *Sunnah* (Traditions) of the Prophet Muhammad (SAW).

2.4.2 Secondary sources of the Shariah include, but are not limited to:-

- i. *Ijma'* - Consensus of the scholars on certain rules of Islamic law;
- ii. *Qiyas* – Juridical analogy (based on a clear injunction passed on previous incident);
- iii. *Istihsan* – Juristic preference for stronger evidence over juridical analogy;
- iv. *Al Masalih al-Mursalah* – No definite judgment in the Shariah but allowed due to it being of general benefit to the community; and
- v. *Ijtihad* - the process of making a legal decision by independent interpretation of the primary sources.

2.5 The framework is issued pursuant to Article 2.2 of the Afghanistan Bank Law gazetted on 12/17/2003 (corresponding to) 30/10/1382 of the Law of Da Afghanistan Bank and Article 87 (General Banking Principles) of Law of Banking in Afghanistan.

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3 Governance and Oversight

3.1 Board of Directors, Board Risk Policy Committee and Management Board

3.1.1 Pursuant to Article 50.2 of the Law of Banking, the Supreme Council of DAB (hereinafter referred to as “SC”) shall be the authority for approval of the NSGF in accordance with the Law of Banking. Adoption of the NSGF at the Bank level shall be undertaken by the Bank’s Policy committee or other relevant supervisory authority on behalf of the Shariah Board, Board of Directors and subject to the Board’s endorsement and/or ratification.

3.2 Chief Executive Officer (“the CEO”)

3.2.1 The CEO of the Bank shall be the NSGF owner for the Bank providing, in consultation with the Management Board and the Bank’s Shariah Board, the necessary oversight which shall consider the following:

- i) ensuring the current business strategy, risk appetite, risk universe, governance framework and business structures are in line with the Bank’s framework and objectives;
- ii) ensuring that detailed procedures are in place across the Bank to ensure compliance with the NSGF;
- iii) assisting in providing subject matter expertise, support and technical guidance to the business; and
- iv) communicating the NSGF to the business unit and concerned functions and ensuring it is understood.

3.2.2 The CEO and the Management Board shall be consulted on dealing with executive decisions and/or actionable issues arising from the implementation of NSGF process and any deficiencies.

3.3 The Management Board (“the Management”)

3.3.1 The Management shall be the Accountable Executive (hereinafter referred to as “AE”) of the NSGF for the Bank.

3.3.2 The Management assumes oversight and supervisory responsibilities for the functions specified in the NSGF, and ultimate responsibility for the ongoing review and for any application for exemption to the provision of NSGF.

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3.3.3 Any deviations or exemptions to the NSGF must be based on a proposal by the Management to the DAB SSB. The Management shall, prior to that application, discuss and deliberate on same thoroughly in consultation with the Bank's Shariah Board to seek for guidance or approval on the subject matter.

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4 Overview of National Shariah Governance Framework

4.1 Da Afghanistan Bank (“DAB”) Operations in Afghanistan

Da Afghanistan Bank (“DAB”) was established by Article 1 of the Afghanistan Bank Law published in the Official Gazette on the 17th of December 2003 and any amendments thereto (hereinafter referred to as “the Islamic Republic of Afghanistan Bank Law”). The primary objective of Da Afghanistan Bank is to achieve and to maintain domestic price stability.

The secondary objectives of Da Afghanistan Bank, which are subordinated to the primary objective of Da Afghanistan Bank, are to foster the liquidity, solvency and effective` functioning of a stable market based financial system, and to promote a safe, sound and efficient national payment system.

The basic tasks of DAB (which are set out in Article 2 of the Islamic Republic of Afghanistan Bank Law) are as follows:

- 4.1.1. Formulate, adopt and execute the monetary policy of the Islamic Republic of Afghanistan;
- 4.1.2. To formulate, adopt and execute the foreign exchange policy and exchange arrangements of the Islamic Republic of Afghanistan;
- 4.1.3. Hold and manage the official foreign exchange reserves of the Islamic Republic of Afghanistan;
- 4.1.4. Print and issue Afghani banknotes and coins;
- 4.1.5. Act as banker and adviser to, and as fiscal agent of the State;
- 4.1.6. License, regulate and supervise banks, foreign exchange dealers, money service providers, payment system operators, securities service providers, securities transfer system operators; and
- 4.1.7. Establish, maintain and promote sound and efficient systems for payments, for transfers of securities issued by the Islamic Republic of Afghanistan or DAB, and for the clearing and settlement of payment transactions and transactions in such securities.

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5 Compliance with Shariah Principles

- 5.1 The Shariah, literally, translates to “*the guided way*”. It is the Divine framework and guidance that outlines the principles of Islamic beliefs and covers the basic tenets for how man is to conduct his social and economic activities. In dealing with economic or any business activities the elements of usury (“*Riba*”), gambling (“*Maisir*”), uncertainty (“*Gharar*”) and matters which are not permissible (“*Haram*”) are prohibited.
- 5.2 It is a prerequisite for the validity of an IFI, Islamic Window and Islamic Unit that none of its contracts or business aspects should contravene any express or implied Shariah sanctions. Shariah provides the Divine guidance by Allah Almighty and, therefore, it is necessary for any transaction to be in conformity with the Divine rules and regulations. Any transaction, which fails to be practiced in conformity with such rules and regulations, will therefore become invalid.
- 5.3 DAB places great importance in ensuring that the overall Islamic financial system of the Banks in the Islamic Republic of Afghanistan operate in accordance with Shariah principles. This is to be achieved through the wholesale adoption of Shariah Board international Islamic best practices.
- 5.4 DAB also requires that all Banks operating in the Islamic Republic of Afghanistan must operate in accordance with the highest ethical standards. DAB leaves Shariah compliance aspects of the Bank to be a matter under the purview of the Shariah Board of the Bank.
- 5.5 Each Bank must adopt the guiding principles as provided in the NSGF with the primary objective of enhancing the role of the Bank’s Board, the Shariah Board and the Management in relation to Shariah matters, including enhancing the relevant key business functions having the responsibility to execute the Shariah research and compliance functions aimed at the attainment of a Shariah based operating environment.
- 5.6 DAB, taking into consideration the nascent stage of Islamic Finance in the Islamic Republic of Afghanistan, hereby temporarily authorises the Banks to outsource any of its Shariah Governance or operational functions as well as its Shariah Board to an external Shariah board or a third-party Shariah consultancy/service provider or a previously approved Shariah scholar who sits on the Shariah Board of other Banks in the Islamic Republic of Afghanistan (hereinafter referred to as “the Outsourced Scholar”) provided that this complies with the requirements as provided under the Guidelines on Outsourcing of Islamic Banking Operations as issued by DAB. DAB may

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authorise the Outsourced Scholar to sit on any number of Shariah Boards in the Islamic Republic of Afghanistan for any period that it deems reasonable.

- 5.7 It is recommended that at least one (1) competent Shariah expert be retained by the Bank to head its Shariah Department and be tasked with the responsibility of Shariah-compliance.
- 5.8 The Bank's Shariah Board shall be an independent entity of the Bank which shall consist of qualified Shariah scholars appointed by the Management on behalf of the Bank's Board. The Shariah Board members shall comprise of persons with appropriate qualifications and experience in Shariah who are able to deliberate Islamic Finance issues brought before them and provide sound Shariah decisions to the Bank.
- 5.9 The SSB hereby reserves the right to interview all proposed members of the Shariah Board and the proposed head of the Management of the Bank (hereinafter referred to as "the Proposed Person") to satisfy itself that the Proposed Person is suitable for the appointment. This interview may take place in person or via electronic means that are acceptable to the SSB. Confirmation of the mode of interview shall be issued by the SSB two (2) weeks in advance of the proposed interview to the Bank.
- 5.10 The Bank shall notify the SSB at least ten (10) weeks in advance of the proposed appointment to either their Shariah Board or Head of their the Management and shall furnish the Curricular Vitae of the Proposed Person to the SSB and any other material requested in writing by the SSB. Upon receipt of all information requested by the SSB, the SSB shall confirm to the Bank in writing that it has sufficient information to come to a determination (hereinafter referred to as "the Sufficient Information Letter"). For the avoidance of doubt, the issuance of a Sufficient Information Letter does not preclude the SSB from asking questions of the Proposed Person outside the contents of the information supplied to it.
- 5.11 The SSB may then hold the interview in a manner of its choosing pursuant to Clause 5.9 above and may elect to confirm the Proposed Person as suitable for the Bank to hire or the SSB shall confirm that the person is not suitable. The decision of the SSB in this matter is final and the Proposed Person shall have no recourse to the courts of the Islamic Republic of Afghanistan to appeal this decision.
- 5.12 In the event that the Proposed Person is found not suitable, the SSB may, in its absolute discretion furnish reasons for this decision and /or suggest certain personal development programmes that the Proposed Person may undertake in order to re-apply to be a Proposed Person.

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- 5.13 The Bank may send a panel of Proposed Persons to be considered by the SSB subject to the proviso that the Bank cannot send more than 3 names forward per vacant position. The final decision whether to hire an SSB approved Proposed Person shall be a matter for the Bank.
- 5.14 Notwithstanding the above, the SSB may waive the requirement set out in clause 5.9. for individual Proposed Persons. It shall inform the Bank of its waiver in writing and such waiver shall be deemed confirmation that the Proposed Person is suitable pursuant to clause 5.11 above.
- 5.15 In the event that an application to confirm a Proposed Person rests with the SSB for in excess of three (3) months after the issuance of the Sufficient Information Letter, the Bank may use the Sufficient Information Letter as deemed acceptance of the Proposed Person and the Bank may proceed to hire the Proposed Person in its absolute discretion.

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6 Structure of the National Shariah Governance Framework

6.1 The Framework is divided into six (6) sections, with each section focusing on one governing principle, as follows:

Section	Key Areas	Explanation
I	General Requirement of the Framework	This section outlines the general requirements of the Framework, which describes the essential key functions or key organs. Note: For the purposes of this Framework, key functions or key organs refer to the functions in implementing Shariah governance at the Bank.
II	Rights, Duties and Accountabilities	This section outlines the level of accountability and responsibility expected of the Bank's Board, Bank's Shariah Board and the Management.
III	Independence	This section aims to safeguard the independence of the Shariah Board in ensuring sound Shariah decision-making and emphasis on the role of the Board in recognizing the independence of the Shariah Board.
IV	Competency	This section highlights requirements and expected competencies to ensure key functions are capable of implementing Shariah governance.
V	Confidentiality and Consistency	This section outlines the minimum set of rules that emphasizes the importance of observing and preserving confidentiality, and improving the level of consistency in decision-making by the Shariah Board.
VI	Internal Shariah Functions	This section prescribes the internal Shariah Functions.

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SECTION I: General Requirements of the Bank Shariah Governance Structure

6.1.1 It is the duty and responsibility of the Bank to establish a sound and robust internal Shariah Governance Framework ("SGF") for its Islamic Banking activities and such framework shall be adopted based on the guiding principles as enshrined by this NSGF as issued by DAB with emphasis placed on the roles of key functionalities in ensuring effective adaptation and implementation of the NSGF.

6.1.2 The Bank shall ensure that the aims and operations of its business activities are in compliance with Shariah principles at all times. An end-to-end control mechanism shall be established in all aspects of its business operations to ensure that its overall activities are Shariah compliant.

Note: Shariah compliant refers to compliance to Shariah rulings and decisions issued by the Bank's Shariah Board or by other relevant bodies such as the SSB.

6.1.3 A sound and robust SGF is reflected by effective and responsible Board of Directors and the Management Board, an independent Shariah Board that is both competent and accountable, supported by a strong Internal Shariah Management



6.1.4 The end-to-end Shariah compliant control mechanism will be executed through four (4) lines of defense that cater for both pre-execution and post-execution stages.

Table 1.0 overleaf illustrates a model structure and respective functions that are involved in each line of defence.

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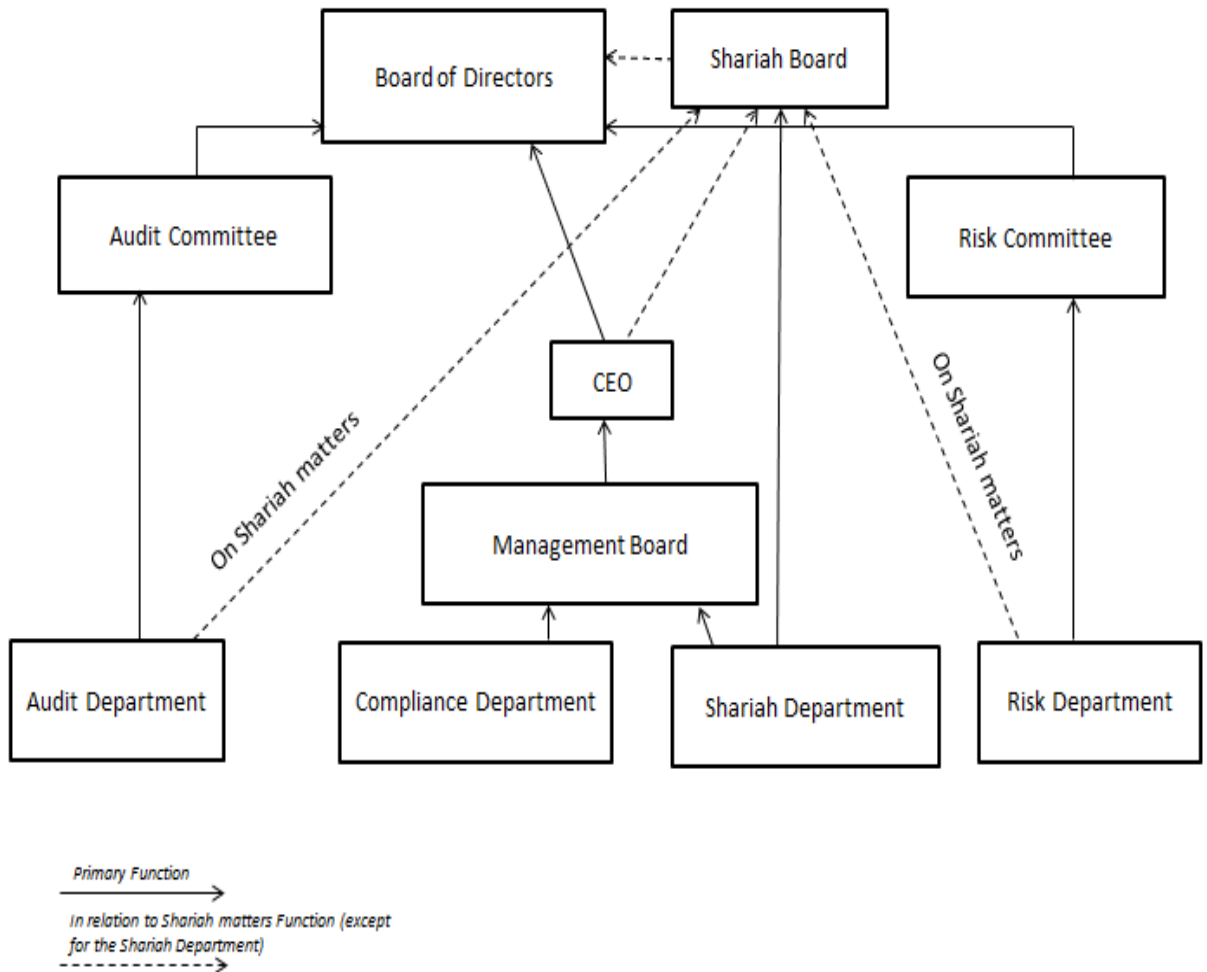
High Level Committees	
Board Oversight	<ul style="list-style-type: none"> • Board of Directors • Board Risk Policy Committees <ul style="list-style-type: none"> ➢ Risk Committee ➢ Audit Committee
Special Committee Oversight	<ul style="list-style-type: none"> • Management Board
Working Level	
Line of Defence 1:; Business units and Support units	<ul style="list-style-type: none"> • Departments that are involved in product development, services and activities
Line of Defence 2: Shariah Management	<ul style="list-style-type: none"> • Shariah Department

Table 1.0: Two (2) Lines of Defence in the Bank’s Shariah Governance Framework

Note  Reporting line of working level to inform high level committees of the status of the Bank’s Shariah compliance
 Line of defence /execution of working committees

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Illustration 1.0: Shariah Governance Framework Model for Banks



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6.1.5 The Framework comprises of the following Shariah key components:

- i) The Bank's Shariah Board overseeing the Shariah compliance aspects of the Bank's overall operations and the other relevant committees' overseeing the operational aspects of the Bank's operations..

The Bank's Shariah Board with qualified members who are able to deliberate Islamic finance issues brought before them and provides sound Shariah decisions.

- ii) The Management's responsibilities includes providing adequate resources and capable manpower support to every function involved in the implementation of Shariah governance, in order to ensure that the execution of all operations are in accordance with the Shariah principles.

- iii) The Bank's Shariah Department which shall be responsible for conducting ground works on all Shariah-related matters of the Islamic business activities of the Bank. This department shall consist of officer(s) who holds at least a bachelor's degree in Shariah which includes the study in Usul Fiqh (the origin of Islamic law) and Fiqh Muamalat (Islamic transaction/commercial law)

- iv) Over time a capacity shall be developed within the Bank's Shariah Department's to include the following broad responsibilities:

- a) Shariah Research Unit/function will conduct research on Shariah issues and ensuring that all structures, terms and conditions, legal documentation and operational process flow and procedures are Shariah compliant.

- b) The Shariah Review Unit/function will provide regular assessment on Shariah compliance in the activities and operations of the Bank with the objective of ensuring that the activities and operations carried out by the Bank does not contravene Shariah principles.

- c) The Shariah Advisory Unit/function will provide advisory support to the Management in relation to the Bank's Shariah compliant operations in accordance to decisions and rulings issued by the Bank's Shariah Board.

- d) The Shariah Compliance Unit/function will provide continuous assessment from the local laws and regulatory purview of the

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Shariah Compliant activities to ensure compliance at the regulatory level and inform the Management Board immediately in situation where there may be a conflict between the Shariah and regulatory laws to avoid regulatory sanctions.

- e) The Shariah Risk Management Unit / function will identify all possible Shariah non-compliance risks and, where appropriate, remedial measures that need to be taken to reduce the risks and a continuous Shariah Audit of processes and deliverables, as well as determining that such processes and outcomes satisfy the needs of the Shariah.
- f) The Shariah Audit Unit / function will undertake periodical assessment to provide an independent assessment and objective assurance designed to add value and improve the degree of compliance of the Bank's business operations.
- g) The Shariah Secretariat Unit / function with its responsibilities include coordinating meetings, compiling proposal papers, disseminating Shariah decisions to stakeholders and engaging with relevant parties who wish to seek further deliberations of issues from the Shariah Board.

The timetable for the development of the functions outlined above shall be determined by the SSB taking into account the development of the Islamic business activities of the Bank and Islamic Finance in the Islamic Republic of Afghanistan in general.

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SECTION II: Rights, Duties and Accountabilities

Board of Directors (hereinafter referred to as “the Board”)

- 6.2.1 The Board shall ultimately be accountable and responsible on the adaptation and implementation of the NSGF within the Bank's governance structure, by putting in place the appropriate mechanisms to discharge the responsibilities. The Board shall perform diligent oversight over the effective functioning of the NSGF.
- 6.2.2 Notwithstanding the final decisions and instructions from the Shariah key functions, the Board may intervene or enquire into the operations of the Bank and in the case where the Board has any reason to believe that the Bank has carried on any activity that is non-compliant to Shariah principles, it may order or direct that a prompt rectification measure to be taken by the Bank. The Bank shall, in consultation with the Bank's Shariah Board, comply with such order.

Shariah Board of the Bank

- 6.2.3 The Bank's Shariah Board shall be the highest authority in making the final decision on matters related to the Shariah in the Bank's course of business operation at the Bank's level. Therefore, the Bank's Shariah Board is responsible for the views, decisions and advices provided to the Bank and is expected to deliberate every arising issue extensively and in-depth before arriving at any decision. In doing so, the Bank's Shariah Board has the right to call upon any relevant party in the Bank or convene a meeting with the identified relevant parties to facilitate the decision making.
- 6.2.4 The Bank's Shariah Board is expected to perform an oversight role on Shariah matters related to the Bank's operations and activities through the observations and reports from the Shariah Department by identifying possible Shariah issues, if any, and propose the necessary corrective measures.
- 6.2.5 The Shariah Board is expected to provide assistance to the Management or any related party thereof in overseeing the enforcement and implementation of the Shariah Board resolutions. The Shariah Board has the responsibility to disclose sufficient information on the Bank's state of compliance in its annual financial report as per the requirements under applicable laws during the tenor of the Shariah Board's appointment.
- 6.2.6 Other duties and accountabilities of the Shariah Board and the governing operation procedures for the Shariah Board shall further be spelt out in the terms of reference (hereinafter referred to as “TOR”) of the Shariah Board of the Bank.

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6.2.7 In addition to the abovementioned duties and accountabilities, the members of the Shariah Board are expected to observe other relevant provisions herein contained.

Management Board

6.2.8 The Management shall assume the duty of ensuring the operative execution of the Framework by the Bank by monitoring the performance of the relevant parties as prescribed herein and the discharge of such duties satisfies the minimum requirements of the Framework. The Management is ultimately accountable for the establishment and overall governance of the Framework and the abidance thereof by the relevant parties. The Management shall also assume the duty of overseeing that the implementation of the resolutions (religious decree/edict from a qualified scholar) issued by the Shariah Board are managed by its various reporting lines and that the provisions in the Framework are complied with.

6.2.9 The Management is expected to understand the Shariah non-compliance risks. Shariah non-compliance risks refer to possible failures to meet the obligation to satisfy the Shariah principles or in other words, possible incidences of Shariah non-compliance associated with Islamic finance business and the issues relating to such risks, as well as its potential implications to the Bank arising from such failures to comply.

6.2.10 Alongside a sound Shariah governance structure, the Management is under the obligation to ensure that other relevant policies and strategies that may enhance the Shariah compliance environment including effective communications, sufficient and impartial disclosures and others are well administered throughout the relevant units.

6.2.11 The Management is expected to make available or take all reasonable measures to make available to the Shariah Board the relevant information, records and other related documents of the Bank in a prompt and timely manner to assist the Shariah Board in arriving at informed resolution, advice and decision in a prompt and timely manner.

6.2.12 The Management shall endeavour to provide continuous learning and training programs to the Bank's key internal stakeholders and relevant staff involved in the Shariah and finance matters to enable sufficient exposure to the current developments in Shariah related matters.

6.2.13 The Management shall develop and adopt a holistic culture of Shariah compliance within the organization of the Bank. In an effort to create coherence in the understanding and execution of the Shariah principles between the Shariah key functions and the frontline staff, the Management

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shall also provide sufficient information to the frontline staff via briefings, training and any other suitable means.

6.2.14 It is the duty of the Management to ensure that the Shariah policies and procedures provide clarity on matters related to the end-to-end process of Shariah governance in the overall business operation of the Bank and that the Shariah Board resolutions are accessible to the relevant parties at all times. The Management shall also be responsible in ensuring that the Bank's operations are executed in accordance with Shariah compliant policies and procedures, and to constantly review and update the Shariah compliant policies and procedures to reflect current market practices and developments.

6.2.15 In the event that it is resolved by the Shariah Board that certain operations of the Bank are carried out in a manner that is not Shariah compliant, the Shariah Board shall specify whether it deems the breach to be a minor or accidental breach of Shariah compliance or it deems the breach to be a serious, deliberate or fundamental breach of Shariah compliance.

- i. In the event that the Shariah Board deems the breach to be a minor or accidental breach of Shariah compliance, the Management shall (and is not restricted to):
 - a) take immediate steps to isolate and eliminate this Shariah non-compliance (up to and including ceasing to taking on new business of the Shariah non-compliant product or service;
 - b) purify any tainted income;
 - c) within 90 (ninety) days of becoming aware of such Shariah non-compliance or such further period as may be permitted by the CEO, prepare a report to the Shariah Board as the case may be outlining how this Shariah non-compliance occurred and how the Bank dealt with the matter; and
 - d) provide additional training to staff involved in the Shariah non-compliance to reduce the likelihood of its reoccurrence.

Notwithstanding the above, any repetition of Shariah non-compliant event although minor in nature, may be regarded by the Shariah Board as a serious deliberate or fundamental breach of compliance.

- ii. In the event that the Bank's Shariah Board deems the non-compliance to be a serious deliberate or fundamental breach of Shariah compliance, the Management shall:

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- a) immediately notify the Board of Directors of the fact;
- b) immediately cease to take on any new business related to the Shariah non-compliant business;
- c) within thirty (30) days of becoming aware of such Shariah non-compliance or such further period as may be permitted by the Shariah Board, furnish a plan to rectify the state of Shariah non-compliance, to be endorsed by the Shariah Board and duly approved by the Board;
- d) purify the tainted income arising out of such non-compliance;
- e) provide additional training to staff involved in the Shariah non-compliance to eliminate the likelihood of its re-occurrence;
- f) Notify the IBD of DAB of the breach which may, if the IBD deems necessary, inform the DAB SSB of the breach and request that the SSB deliberate on how to rectify the matter. For the avoidance of doubt the SSB may not impose sanctions on any employee of the Bank for such non-compliance. The Bank shall deal with the employee(s) responsible for the breach internally.
- g) The SSB may, however, suggest administrative and or oversight procedures to the Bank to avoid similar breaches in future.

6.2.16 The Management may nominate and delegate the duties and responsibilities to a particular unit but the delegation thereof shall not obviate the oversight accountability assumed by the Management.

6.2.17 In addition to the abovementioned duties and accountabilities, the Management shall observe other related provisions herein contained.

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SECTION III: Independence

- 6.3.1 Independence of the Shariah Board shall be observed at all times in exercising their duties to make objective and informed judgment.
- 6.3.2 The Board of Directors shall recognize the independence of the Shariah Board and ensure that the Shariah Board is free from any undue influence that would hamper the Shariah Board from exercising objective judgment in deliberating issues brought before them. Correspondingly, the Shariah Board is expected to make sound decisions on Shariah matters in an independent and objective manner.
- 6.3.3 The Shariah Board shall report to the Board of Directors and regularly inform the Board on relevant Shariah matters.
- 6.3.4 The Board, through the Management, shall ensure that all decisions made by the Shariah Board are duly observed and implemented by the Bank. Decisions made by the Shariah Board should not be set aside or modified without its consent.
- 6.3.5 The Shariah Board shall have access to accurate, timely and complete information from the Management. If the information provided is insufficient, the Shariah Board may request for additional information which shall be duly provided by the Management.
- 6.3.6 In the event where the Shariah Board is not provided with the required information, the Board of Directors shall be informed of the fact and appropriate action shall be taken to rectify the situation. Where appropriate, the Board shall consider taking the necessary punitive measures against parties who intentionally fail to extend the required information.
- 6.3.7 Where the Shariah Board has reason to believe that the Bank has been carrying on Shariah non-compliant activities, the Shariah Board shall inform the Board and to recommend suitable measures to rectify the situation.

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SECTION IV: Competency

- 6.4.1 The key management and other relevant parties, engaged in the activities of the Bank, shall possess adequate competency on the Shariah compliant banking. Every party shall strive towards enhancing the acquired Shariah knowledge by attending internal and external training provided.
- 6.4.2 Besides meeting the requirements of a qualified member of the Shariah Board, the Shariah Board members are expected to equip themselves with relevant knowledge on the current Shariah issues and development as well as to attend relevant training programs provided by key Shariah bodies such as Islamic Fiqh Academy, Accounting and Auditing of Islamic Financial Institutions (“AAOIFI”), Islamic Financial Services Board (“IFSB”) and their successor organisations and other similarly renowned organisations.

The Bank may impose more stringent requirements in the Terms of Reference it agrees with its Shariah Board in particular in relation to qualifications, but same shall not be more lenient than of the SSB TOR which shall be taken as a reference document when drafting the Bank's TOR with its Shariah Board.

- 6.4.3 The Shariah Board members shall be individually assessed and reviewed on the level of competency and overall contribution based on their Shariah deliberations and this shall be done on an annual basis. The assessment methodology and criteria shall be in accordance with the Shariah Board Members' Assessment Manual as issued by DAB.

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SECTION V: Confidentiality and Consistency

- 6.5.1 The Shariah Board shall have the necessary access to both confidential and non-confidential files, records, conversations and draft materials to the extent that are required to facilitate the Shariah Board in making their decisions, views and opinions. Any sensitive information obtained by any member of the Shariah Board shall not be disclosed or used in any manner that may be detrimental to the Bank. Every member of the Shariah Board is entrusted with individual responsibility to observe the principle of confidentiality at all times.
- 6.5.2 Confidential information is information received by the members of the Shariah Board that is not public in nature and has not been authorised to be made public. Confidential information includes, but is not limited to, the following:
- i. information on the development of new products and services;
 - ii. decisions of the Board of Directors or the Management;
 - iii. internal memorandums or reports prepared in connection with matters presented, or to be presented to the Shariah Board;
 - iv. the content or occurrence of conversations among members of the Shariah Board concerning matters deliberated in the meeting and representatives of the Bank;
 - v. the progress status on a business transaction or action that has not been made public;
 - vi. views expressed by various parties in the course of discussions on a particular matter deliberated by the Shariah Board; and
 - vii. any subject matter that the Bank has indicated should not be revealed, such as internal policies and procedures.
- 6.5.3 Notwithstanding the above, the disclosure of sensitive information by the Shariah Board in good faith when reporting a serious Shariah breach to the CEO and the Board as the case may be does not constitute a breach of the confidentiality and consistency code.
- 6.5.4 In order to ensure consistency and quality in the Shariah decisions and resolutions, the Shariah Board is expected to develop a structured process of the decision making that is documented, adopted and maintained at all times to secure credibility of the Shariah Board.
- 6.5.5 The Shariah Board shall use international Islamic Finance best practices for Shariah Boards.
- 6.5.6 In cases where there are uncertainties and material differences of opinions between the Shariah Board members, the Bank may seek advice and refer for a ruling from the DAB SSB.

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6.5.7 In cases of disputes and court proceedings relating to Islamic financial businesses or any Shariah issue arising from the Bank's business operations, both the court and the arbitrator shall take into consideration the published rulings and standards as issued by the DAB SSB or in the absence of any such, upon reference and after deliberation by the SSB. Any rulings made by the SSB arising from a reference made in such proceedings shall be binding on the Bank. In the event where the decision given by the Shariah Board is different from the rulings given by the SSB, the rulings of the SSB shall prevail. However, the Bank's Shariah Board shall be allowed to adopt a more stringent Shariah decision subject to an approval granted by the SSB based on solid reasoning and justification as presented.

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7 Custodian of National Shariah Governance Framework

The Framework shall be under the safe custody of the IBD of DAB. Any changes to the Framework shall be made by the IBD, with prior consultation with the SSB, as reviewed by the DAB Executive Board and upon approval by DAB Supreme Council. A copy of the amended Framework shall be made available to all stakeholders and SSB members for reference and implementation.

8 Effective Date of the Document

The Effective date of the Framework is the _____ day of _____ 20____