



Microfinance regulatory and policy assessment in SADC – Case study of Namibia, Tanzania and Zambia

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The views expressed in this document, along with any errors and omissions, are solely those of the authors.

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Acronyms

AFI	Alliance for Financial Inclusion
AFS	AfricInvest Financial Sector Ltd
AMIZ	Association of Microfinance Institutions in Zambia
AML	Anti-Money Laundering
ASCA	Accumulating Savings and Credit Association
BAFIA	Banking and Financial Institutions Act
BON	Bank of Namibia
BOT	Bank of Tanzania
BOZ	Bank of Zambia
BTA	Bank of Tanzania Act
CFT	Combating the Financing of Terrorism
CCBG	Committee of Central Bank Governors
CGAP	Consultative Group to Assist the Poor
CISNA	Committee of Insurance Securities and Non-bank Financial Authorities
CPFL	Consumer Protection and Financial Literacy
CRS	Credit Reporting System
DDACC	Direct Debit and Credit
DID	Développement International Desjardins
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
FATF	Financial Action Task Force
FECU	Financial Education Control Unit
FCA	Fair Competition Act
FICO	Financial Cooperative Societies
FSDP	Financial Sector Development Plan

ID	Identity
KYC	Know Your Client
MFC	Microfinance company
MFI	Microfinance institution
MFRC	Microfinance Regulatory Council
MLA	Micro Lenders Association
MNO	Mobile Network Operator
MOF	Ministry of Finance
NAMFISA	Namibia Financial Institutions Supervisory Authority
NBFI	Non-banking Financial Institution
NFSS	Namibian Financial Sector Strategy
NGO	Non-governmental organisations
NMP	National Microfinance Policy
NSFE	National Strategy on Financial Education
PIA	Pensions and Insurance Authority
RTGS	Real Time Gross Settlement System
SACCO	Savings and Credit Cooperatives
SADC	Southern African Development Community
SAMP	Southern Africa Microfinance Project
SEC	Securities and Exchange Commission
TAMFI	Tanzania Association of Microfinance Institutions
VICOBA	Village Community Banks
VSLAs	Villages Savings and Loans Association
ZECHL	Zambia Electronic Clearing House Limited
ZIPSS	Zambia Interbank Payments and Settlement System

1. Executive summary

1.1 Introduction

The levels of financial inclusion in SADC vary significantly due to the contrasting levels of economic and financial sector development across the fifteen countries. Similarly, microfinance also has varying degrees of penetration. In some countries, microfinance is the primary means of delivering financial services to the masses while in others, which might have a more developed banking sector, microfinance is one of the means of providing access to financial services for low income clients. The difference in the structure of the microfinance sector affects the type of institutions that provide the microfinance products and services and also the type products and services that they offer. The institutions range from SACCOS to commercial banks, and products include, credit, savings, insurance and remittances.

The significance of the microfinance sector in the provision of financial services in a country, the types of institutions involved and the products and services they offer has a direct bearing on the regulatory environment and the regulatory authority. In SADC, with the exception of South Africa, and Botswana, the Central Bank is involved in the regulation of microfinance. For these two countries, non-prudential microfinance regulation and supervision is the responsibility of a non-bank regulator.

This study and report focuses on an in-depth analysis of the microfinance regulations and policies in three countries; Tanzania, Namibia and Zambia, which were deemed to illustrate different aspects of microfinance markets that can be found in SADC:

- Namibia has a thriving commercial micro-lending sector with a solid regulatory framework, and a strong focus on consumer protection compared to the others. The micro-enterprise lending sector is still very small.
- Tanzania has seen the development of a more classical, enterprise focused microfinance sector which includes NGOs, SACCOs, licensed deposit-taking MFIs and microfinance banks. As a result, the regulatory framework focuses more on the prudential requirements for the licensed institutions.
- Zambia combines both enterprise-focused microfinance and a growing consumer lending sector. Recent changes in the legal and regulatory environment have occurred in an attempt to regulate both sectors.

1.2 Key findings

The rest of this chapter summarises the key findings of the assessment of microfinance regulations and policies in the three countries and proposes general principles that could be considered for adoption by regulators in a SADC framework for regulating microfinance.

Financial inclusion and microfinance policy

Although the three countries had different variations of financial inclusion policies, only Tanzania has had a dedicated microfinance policy. Having a dedicated microfinance policy did not necessarily seem to lead to a more comprehensive regulatory and policy environment in Tanzania compared to the other two countries. As microfinance becomes more integrated into mainstream financial services it would be valuable for microfinance to be identified as one of the key means of increasing financial inclusion and should be part of a country's financial inclusion or financial sector deepening strategy.

Definition of microfinance

Regulatory definitions of "microfinance" and "microcredit" should be tightly framed to meet specific regulatory objectives and should not simply be drawn from general literature on microfinance. In this regard the Tanzanian definition which is product-based is effective in recognising that different types of financial institutions can provide microfinance services. Should this be a factor for the region then this definition should be given consideration as a standard definition in the region. Other countries' regulatory frameworks lack clarity or are too broad in that regard.

Regulatory authority

Microfinance regulation tends to be viewed as either prudential or non-prudential, with the former being most relevant for deposit-taking institutions and the latter for market conduct of both deposit and non-deposit taking MFIs. The appropriate entity for supervising microfinance is the Central Bank especially in the case where microfinance is not defined by the type of institutions that are offering the service. It therefore allows banks to provide microfinance services too. Central Banks have the pre-requisite experience and skills to carry out prudential supervision and any non-prudential supervision that may be necessary. Current practice in the region, with the exception of South Africa, is to allow for the licensing of non-bank deposit-taking institutions, hence the need for the Central Bank to be the regulator of such entities. Given the prudential regulatory function and to ensure that all providers of microfinance are subject to the same non-prudential or market conduct rules, the Central Bank is the ideal regulator for microfinance.

Various levels of regulation and supervision

While recognising that the Central Bank is the ideal regulator for microfinance especially in as far as prudential regulation is concerned, in most cases, the Central Bank will not have the capacity to regulate the whole microfinance sector due to the sheer number and diversity of types of entities involved in providing microfinance. Therefore a tiered approach is strongly recommended as it will distinguish the level of supervision and reporting required depending on which tier an institution is licensed under. This will ensure that only institutions which present possible prudential and systemic risk require closer supervision by the Central Bank.

Transformation

Two of the three countries included in the study provided a regulatory framework through which credit only MFIs could transform into deposit-taking MFIs provided the institution met certain prudential requirements associated with a deposit taking financial institution. The extent to which transformation was achieved at scale was dependant on whether the regulation allowed for a transition process for the transforming MFIs to meet the prudential requirements, especially with regards to capital adequacy and ownership. In this regard the regulatory framework in Zambia was more successful in encouraging transformation than the Tanzanian situation.

Interest rate limitation

Six of the 15 countries in SADC have interest rate limits in place. These include two of the surveyed countries, Namibia and Zambia. The limits are meant to protect consumers against excessive pricing but tend to discourage competition and new product development. Close scrutiny of the countries in which interest limits are in place indicates that these are countries in which the consumer credit sector is relatively developed with a high incidence of salary-backed lending while the micro-enterprise lending sector remain comparatively under-developed. The effectiveness of the interest rate limit in terms of protecting against excessive pricing is limited, as it only applies to, or can effectively be enforced with micro-lenders that are registered. Also, introduction of limits may have unintended consequences as was the case in Zambia when the introduction led to increased average loan sizes and tenures in an attempt by MFIs to remain sustainable and profitable. Our recommendation is that as an alternative to interest rate limits, the regulator investigate the possibility of setting and enforcing clear rules on pricing transparency that would encourage clients to compare and choose the best product or at least, have some differentiation in terms of set limits depending on the type of loans.

Financial consumer protection

Generally across the SADC region, with the exception of South Africa, consumer protection does not yet have a clear regulatory framework. In some cases the responsibility of consumer protection for

the financial services sector falls under the authority responsible for general consumer protection for all services and products in the economy. The industry associations such as microfinance or bankers associations often have a Code of Conduct that covers consumer protection principles. Neither one of these two options is adequate for ensuring that the rights of financial services clients are protected as specialist skills and enforcement capacity is required of the authority that will be responsible for enforcing financial consumer protection. It is our recommendation the Central Bank take charge of supervising the enforcement of the rules on financial consumer protection, once clear legislation or regulation is in place, in most SADC countries,.

Adaption of Know Your Client (KYC) rules

KYC rules should be made simple enough for prospective clients to provide proof of identification and residential address taking into account the realities of each country with regards to national identification documents and proof of address. Where necessary, microfinance clients should be permitted to identify themselves and prove their address using a range of ID documents for the registration process, such as a voter's cards, driver's licenses, valid passports, local village council letters or certificates, company- or employer-issued IDs or government-issued IDs.

Branchless banking (agency banking and mobile money)

There are varying levels of development of regulations around agency banking and mobile money across the region. The introduction of agency banking provides a mechanism through which banks and licensed MFIs can extend their services to previously unbanked individuals. Due to the low value transactions that are performed through branchless banking, it is recommended that as the sector is still in nascent stages of development in most of the countries, the rules should be relaxed enough to encourage innovation. In countries such as Tanzania where a light approach to regulating mobile money has been used, the environment has been conducive to the development of that channel as delivery mechanism for financial services with remarkable progress in reaching high numbers of previously financially excluded Tanzanians. The demographic and geographical context of low density and sparse population for many of the countries in SADC makes it challenging to deliver financial services cost-effectively especially to marginal clients. Consequently the use of agency banking and technology options such as mobile banking and mobile connected field officers is an attractive proposition.

1.3 Conclusions and general recommendations

Based on the findings and analysis of the regulatory and policy framework in the three countries, the last part of the report presents conclusions and recommendations at various levels:

1. Regulations and supervisory framework:

This first section summarises the areas where one of the three studied countries had adopted a regulatory framework or practical solution that is in line with the CGAP guidelines or even goes further - proposing a solution to a specific topic. These good practices could be adopted as models by other SADC countries or if circumstance dictate, adapted to their specific environment.

2. Regulators' engagement: Issues that require discussion amongst microfinance regulators.

These are issues where, through the three case studies, we could not establish any best practice that would be worth adopting. Some issues are only emerging in some countries (payroll deduction loans, for instance) or for others, the solution might be different from one context to another. However, sharing of information and experience amongst microfinance regulators would be beneficial to all.

These are also recommendations for which funders such as FinMark Trust and GIZ could engage with regulators and provide some assistance if there is a need for detailed research on a specific issue or for capacity building. This type of intervention could be coupled with discussions amongst regulators and in some cases, could lead to identification of good practice either in the region or elsewhere that could be used as a model for change in the SADC region.

2. Introduction and methodology

2.1 Introduction

This study was conceived during the design of the Southern Africa Microfinance Project (SAMP) in 2013. In consultation with investors, microfinance institutions, banks, associations and other stakeholders, it was evident that conducive microfinance policies and regulations at country level in SADC were still a challenge, influencing the development of the sector and financial inclusion more broadly.

The main objective of this project activity was to evaluate the regulation and supervision framework for microfinance in a sample of three Southern African Development Community (SADC) countries and to determine which elements of these frameworks were more favourable to the development of a thriving microfinance sector as an important contributor to financial inclusion. The study aimed to provide case study insights that can be applied to other countries in the region.

2.2 Methodology

This evaluation was designed and implemented as an evolution of the SADC Microfinance Study (2011)¹. It includes three country case studies that were used to extract lessons of relevance to all countries within SADC. The countries were selected on the basis of the diversity in the structure and composition of the credit markets within these economies namely: Namibia, Tanzania and Zambia to enable comparison of these elements in other environments. The micro-credit sectors in the selected geographies are made up of different combinations of supply of loans to salaried and non-salaried individuals. This supply defines the composition of the credit market.

The country case studies were conducted through on-site stakeholder interviews with key informants including regulators, industry associations, credit bureaus, international experts, microfinance institutions, banks and other financial service providers. The discussions were conducted using a semi-structured interview guide that was developed to explore the policy and legal framework for microfinance in SADC.

The study was mostly guided by the Consultative Group to Assist the Poor (CGAP) guide to regulation and supervision of microfinance, consensus guideline, October 2012. The new guidelines acknowledge the increasing importance of an enabling policy and regulatory framework as contributing factors for financial inclusion.

¹ Genesis Analytics, SADC Microfinance Study. Landscape, regulatory environment, level of monitoring and support. Final progress report commissioned by the FinMark Trust, October 2011.

The guideline includes both prudential regulations for deposit-taking microfinance institutions (MFIs) and non-prudential regulations that apply to all MFIs. While the framework is broad in terms of regulations and policy, it defines microfinance to exclude consumer or personal lending:

"In the CGAP guide, 'microfinance' refers to the provision of formal financial services to poor and low-income (and, for credit, in particular, non-salaried) people, as well as others systematically excluded from the financial system"

"Most microcredit clients are 'micro-entrepreneurs' in the sense that they have their own income-producing activities, they use their loans not only for business purposes but also for non-business purposes, such as consumption smoothing or financing social, medical, and educational expenses. Notwithstanding this, microcredit is distinct from typical consumer credit (e.g., credit cards or deferred payment for purchases), which usually involves scored lending to salaried people."

However consumer lending is an important part of increased access to financial services in most SADC countries and we need to take these products into consideration. We compare the elements retained by the guidelines with another CGAP document, the Focus Note on "Regulatory options to curb debt stress"² which spells out interventions at various levels of market development. Most actions suggested in the focus note such as usage of credit bureaus, rules on responsible lending and affordability assessments as well as complaints mechanisms are envisaged in the CGAP guideline. Two other categories of interventions highlighted in the Focus Note do not appear specifically in the guidelines, namely:

- **Market monitoring for potential signs of debt stress:** *"Regulators can monitor trends in statistical indicators for potential debt stress and assess market practices that may aggravate the risk of debt stress. Early-warning indicators include rapid growth in individual institutions, portfolios with a simultaneous rapid expansion in a number of lending institutions; concentration of lending to certain population segments (e.g., government servants/salaried workers); rapid growth in average loan size or loan term; increased loan rescheduling and refinancing; and increased arrears and default"*.
- **Regulating high risk market practices:** *"Regulators should address market practices that increase the risk of unsound or predatory lending. For instance, payroll deduction facilities have led to debt stress in many countries, often among politically sensitive market segments such as government employees. Similarly, when collection methods are unregulated, the practices of predatory credit providers can become a political issue, even if only small numbers of people are affected. Unsolicited credit and automatic increases in credit limits are further examples of high-*

² CGAP Focus Note 83, March 2013, Gabriel Davel.

risk practices. Regulating such high-risk practices at an early stage can reduce the incentive for high-risk lending without unduly hindering responsible lenders”.

These two elements have been added to this regulatory analysis under the analysis of non-prudential rules³.

For each of the points envisaged in the structure (see annex), we describe the situation in each case study country and compare it with the recommendations or options mentioned in the guidelines. Feedback from stakeholders on positive or negative outcomes of specific rules and policies are also mentioned.

Aside from the aforementioned CGAP documents, we also considered our findings and developed our conclusions and recommendations through building off the work previously undertaken by Genesis Analytics for FinMark Trust and the SADC Committee for Central Bank Governors. In 2011, Genesis Analytics produced SADC country reports on microfinance and a general regional report. The latter presented the overarching SADC trends in terms of regulatory environments, support mechanisms, monitoring frameworks, and level of microfinance activity in the region⁴ while the detailed reports examined the same issues for each country. In some ways, these reports were broader than this research as they looked at elements beyond the regulatory framework, in other ways, they were narrower as they did not analyse all the points that are envisaged in the guidelines, such as consumer protection, rules linked to know your client (KYC), agency and mobile banking. In some countries, the regulatory environment has seen some important changes since 2011 (such as interest rate limitations in Zambia), in others, modifications are envisaged. However, these reports provide valuable information and analytical elements that we took into consideration during this project and in the formulation of the recommendations.

In the conclusion per country, we synthesise the overall findings, consider whether the existing policies and regulations have been in line with best practice and whether they are favourable in terms of improving financial inclusion. We also suggest some changes in the regulatory framework or further study if some points require more investigation before specific modifications can be recommended.

The objectives of the study and the methodology were presented at the inaugural meeting of the Microfinance and Financial Cooperatives (MiFFCO) sub-committee of the Committee of Insurance, Securities and Non-banking Authorities (CISNA) in April 2014 in Dar es Salam. The findings of the studies, conclusions and recommendations were presented and discussed with the MiFFCO in

³ See structure of the report in Annex, under non prudential regulations, b. preventing debt stress through specific interventions, market monitoring and high risk market practices.

⁴ Genesis Analytics, SADC Microfinance Study. Landscape, regulatory environment, level of monitoring and support. Final progress report commissioned by the FinMark Trust, October 2011

November 2014 in Maun, Botswana during the CISNA second bi-annual meeting of 2014. Prior to finalising the report, the draft version was also shared for comment with the regulators in the three case study countries, specifically, Namibia Financial Institutions Regulatory Authority (NAMFISA), Bank of Tanzania (BoT) and Bank of Zambia (BoZ).

3. Tanzania

3.1 Introduction⁵

Like many other countries in Sub-Saharan Africa, Tanzania has been experiencing a decade of sustained economic growth with GDP growth rates above 6%. GDP growth for 2013 was 7% and is projected at 7.2% and 7% for 2014 and 2015 respectively. The growth is largely driven by communications, transport, financial intermediation, construction, agriculture and manufacturing sectors. The main development challenge is that Tanzania's growth is not sufficiently broad-based and poverty levels still remain high – particularly given the relatively low levels of urbanisation. The recent household budget survey results indicate that 28.2% of Tanzanians are poor, and poverty remains more prevalent in rural areas than in urban areas.

Agriculture is the mainstay of the economy contributing up to 28.7% of the GDP. Growth of the sector is constrained by existing infrastructure gaps, including poor road transport – especially in rural areas – and lack of storage facilities. In 2012-2013, strong performance of the communications and trade sub-sectors resulted from increased use of mobile phone services, the start-up of new trade services and an increase in the trade of domestically manufactured and imported goods.

Tanzania's financial sector has been on a growth path for many years. Financial intermediation grew by 11% in 2013. Increased levels of deposits, lending by commercial banks, and the services provided by insurance companies all contributed to this growth. The number of banking institutions increased from 49 in March 2012 to 52 in 2013, while bank branches increased from 521 to 559 during the same period. At the same time, the number of established financial non-governmental organisations (NGOs) and financial companies exceeded 100 and 150, respectively. In addition, Savings and Credit Co-operative Societies (SACCOS) number over 5 000. The increase in the number of commercial banks and other non-bank financial institutions (including several micro-credit institutions/companies and, more recently, mobile phone companies) has resulted in increased competition in the sector and the introduction of new products.

According to the 2012 Global Financial Inclusion Index (Global Findex), only 17% of the adult population in Tanzania has access to formal financial services, and about 56% of the adult population is completely excluded from any form of financial services. It is worth noting, however, that access to financial services has recently been boosted by the fast expanding mobile money services in the country. With an estimated 27 million mobile phone subscribers, mobile money services allow users to store, send and receive money via mobile phones, a particularly useful service in the face of the

⁵ Adapted from: <http://www.africaneconomicoutlook.org/en/2014/Tanzania>

low penetration of traditional banking services in Tanzania. According to the recent FinScope survey, financial inclusion has increased from 45% in 2009 to 73% in 2013. This is attributed to the growth of mobile money access which grew from 7% in 2009 to 43% in 2013. However it remains to be seen if mobile financial services can be used to access other financial services other than remittances as is currently the case.

3.2 The microfinance sector

The beginning of microfinance

Like in many other countries, microfinance began in Tanzania in the 1990s with non-governmental organisations (NGOs) and Savings and Credit Cooperatives (SACCOs) and was linked to poverty alleviation. At the same time, the Government of Tanzania started a series of reforms in the financial sector which included the liberation of the financial sector through the dispositions of the Banking and Financial Institutions Act, 1991 and the restructuring of state-owned banks. The new banking law allowed the establishment of private banks both foreign and locally owned. Following restructuring of state owned banks that included closing of some rural banks, access to banking services was limited to urban areas. During the first half of the 1990s, the government allowed the establishment of specialised banks (i.e. community banks) and promoted the establishment of microfinance institutions. The 1990s witnessed the start of operations of two of the largest MFIs in Tanzania namely, PRIDE and FINCA.

3.3 Establishment of a microfinance policy

The National Microfinance Policy (NMP) was developed in the late 1990s and was officially published in 2000⁶. It places itself firmly within the context of financial services liberalisation. The NMP starts by observing that microfinance services have been slow to develop due to the following issues:

- Lack of institutional sustainability, need for more capacity building of microfinance institutions as well as observed operational weaknesses at SACCO level;
- No common regulatory framework; and
- No system for tracking progress.

Although the words financial inclusion were not used at the time, the NMP objective is clearly to improve access to financial services, as it stresses access to savings, credit and payments services for the rural and urban population. The emphasis is on:

1. MFI sustainability, noting the need to build capacity at the institutional level and remedy institutional weaknesses within SACCOs;
2. Build a common regulatory framework and track progress in the sector; and

⁶ National Micro-Finance Policy, Ministry of Finance, May 2000.

3. Amend the regulatory framework rather than develop something new. The concept of microfinance and a new type of institution (i.e. a Microfinance Company - MFC) were introduced into the Banking and Financial Institutions Act (BAFIA) in 2006. The Central Bank (Bank of Tanzania – BOT) also introduced regulations in 2005 focusing on prudential and non-prudential requirements for MFCs⁷. Therefore, there is no specific law on microfinance. The overall regulatory framework is described below under section 3.6.

The NMP remained the main policy document guiding the development of the microfinance sector in Tanzania and improved access to finance until the recent development of the National Financial Inclusion Framework (2014). Despite its longevity, the major shortfall of the NMP was the lack of a practical implementation framework.

The NMP is currently being reviewed by a team of consultants who have been tasked with analysing the past experience and the present status of microfinance in Tanzania and in other countries, looking at opportunities for developing inclusive finance⁸.

Without prejudging the results of this study, the NMP is perceived as a document which laid down the path for formalising microfinance but that it is now outdated. A starting point would be to gain an understanding of the extent to which the NMP contributed to formalising or transforming the microfinance sector.

3.3 Description of various types of financial institutions

In Tanzania, microfinance services are provided by a wide range of institutions:

NGO MFI and private companies: NGO MFIs include (i) Mixed purpose NGOs that provide credit in addition to other services and (ii) specialised credit only MFIs e.g. PRIDE, YOSEFO, BRAC that are registered as trusts, associations or NGOs. Some NGO MFIs are stand-alone local organisations such as YOSEFO, while others are affiliated with or sponsored by international NGOs. In recent years some MFIs were incorporated under the Companies Act, 2002. These institutions may operate without a license to carry out financial services business. A few have obtained general business licenses issued by the Ministry of Trade and Industries with the approval of the Bank of Tanzania. However such licenses are no longer being issued as the Bank of Tanzania has stopped issuing a no objection to these licenses. The issuing of no objection was a common practice in the past, where the Ministry of Trade would refer any license application related to financial services to BOT for advice. BOT has now restricted itself to issuing licenses for deposit taking MFIs and banks only.

⁷ Government Notice No. 80 on Regulation on Microfinance Companies and Microcredit Activities, 2005

⁸ A consultancy service to review the national microfinance policy of year 2000, Inception report, 2014

Commercial banks: Some commercial banks have direct participation in microfinance. These include Akiba Commercial Bank, CRDB, Maendeleo Commercial Bank and DCB Commercial bank. Banks also participate in the microfinance industry indirectly, through commercially priced wholesale loans or special loan programs e.g. loans to smallholder farmers.

Community banks: The Banking and Financial Institutions Act (2006) allows for the establishment of community banks which are licensed financial institutions allowed to operate in specific administrative regions of Tanzania. These banks are permitted to provide a full range of banking services. There are presently 12 community banks in Tanzania. One of the former community banks, Dar es Salaam Community Bank, recently transformed into a commercial bank which may operate without any geographical restrictions.

Microfinance companies: Under the NMP and the modified regulatory framework, it was anticipated that the biggest MFIs operating as NGOs would be transformed into microfinance companies and big SACCOS would be transformed into Financial Cooperatives (FICOS). To date there are only three prudentially regulated MFCs. Two of them were credit only NGO MFIs before transformation (i.e., FINCA and Vision Fund) and one is a newly established entity called EFC.

SACCOS: SACCOS are the main providers of microfinance services in Tanzania, especially in the rural areas. The Cooperatives Act covers the operations of all cooperatives including SACCOS. In 2013 a new Cooperative Law was passed which established the Cooperative Development Commission, replacing the Registrar of Cooperatives. In Tanzania there are over 5,000 SACCOS that are subject to supervision by the Cooperative Development Commissioner (CDC). However in practise the supervision is not taking place due to the large number of cooperatives and limited capacity of the CDC. The Microfinance and Credit Activities regulations (2005) allows for the transformation of large SACCOS into Financial Cooperative Societies (FICOS). To date there are no FICOS.

Consumer lending companies: Like many SADC countries, Tanzania has seen the emergence of consumer lenders that provide payroll-based lending. The main targeted groups are civil servants and to a lesser extent, private sector salaried individuals.

It is worth noting that consumer lending companies being for-profit institutions need to get a license from the Ministry of Trade by registering a company. BOT is also supposed to be involved in the process by granting a 'no-objection' opinion on lending activities. However as alluded to earlier BOT has stopped issuing the 'no objection' hence the Ministry of Trade has not been able to register any new companies involved in lending in the recent past.

New providers and delivery mechanisms

Overtime, microfinance and other financial services available to Tanzanians have become more diverse with new providers joining the industry. New entrants have brought alternative products and

services that include money transfers, micro-insurance and credit/payment delivery mechanisms. A micro-insurance regulation that allows the establishment of micro-insurance companies is in place. The latest developments in payment mechanisms available in Tanzania is the use of mobile phones for money transfers, payments and deposits. Mobile banking allows microfinance clients to receive loan disbursements and make payments through their mobile phone, reducing costly trips to MFIs or bank branches. These providers include M-Pesa (Vodacom), Tigo Pesa (Tigo), Easy Pesa (Zantel) and Airtel money (Airtel). Recently M-Pesa (in partnership with Commercial Bank of Africa) introduced savings and loan products through mobile phone, M-Pawa.

Informal microfinance providers

Informal, non-regulated microfinance providers include; Rotating and Savings Associations (ROSCAs), Village Community Banks (VICOBA) or Villages Savings and Loans Association (VSLAs) and Accumulated Savings and Credit Associations (ASCAS). These are major players in the industry and were recognised by the NMP.

3.4 Products

Products and services provided by microfinance institutions in Tanzania include savings, micro-loans, money transfers and payments. Micro-loans are mainly delivered through the solidarity group lending methodology (Grameen bank approach) and micro-enterprise individual lending. These methodologies are used by all players including commercial banks. Money transfers are mainly carried out through Mobile Money Operators (MNOs- M-pesa, Tigo pesa, Airtel Money and Easy Money) and Western Union.

Formal deposit and savings products are mostly provided by commercial, community banks MFCs and SACCOS (but restricted to members only). As noted by FinScope (2013)⁹ the proportion of adults saving through formal channels has risen significantly: in the banking sector from 8.6% in 2009 to 13% in 2013 and in non-bank formal savings, from 7.2% to 25.6%.

On the consumer lending side, loans range from very short term (30 days or less until the next salary) up to 60 months and are available to civil servants and other formally employed people.

All banks providing microfinance services offer savings and deposit products which are adapted to the needs of the low income population with very low account opening balance requirements; between USD0.60 to USD12.00 Therefore exclusion in terms of savings due to minimum account balance is uncommon except for high-end banks such as Citi Bank.

Credit-only NGOs do take mandatory savings as a pre-condition for receiving a loan but are not authorised to intermediate those funds.

⁹ www.finscope.co.za

Other products provided by banks and community banks to low income clients include micro-insurance, micro-leasing, money transfers and payments.

3.5 Financial inclusion strategy

Tanzania has for the first time adopted an inclusive policy document entitled the *National Financial Inclusion Framework, a Public-Private Stakeholders' Initiative (2014-2016)*. This strategic document defines financial inclusion as "The regular use of financial services, through payment infrastructure to manage cash flows and mitigate shocks, which are delivered by formal providers through a range of appropriate services with dignity and fairness".

As opposed to the NMP, the National Financial Inclusion Framework sets specific targets in terms of outreach and usage of financial services. The document includes core indicators that should be reached by 2016, such as:

- 25% of people to be within 5 km of a financial access point;
- 50% of Tanzanians using a financial access point at least one time per week;
- 25% of Tanzanians who have at least 2 weeks of household income in their electronic account, and;
- 25% of people/businesses with their profiles registered in the credit reference bureau.

Core enablers for achieving these indicators are defined as:

1. Proximity of financial access points – which includes promoting distribution channels such as agent banking, mobile phone financial services, and point of sale devices;
2. Payment infrastructure – improving ICT payment platforms;
3. Store of value infrastructure – by increasing the use of mobile phone financial services and other electronic platforms; and
4. Store of information infrastructure – which includes a database on potential clients' profiles, credit histories and collateral.

The role of the microfinance sector is not clearly set while other sectors such as mobile banking feature prominently in the framework. It seems that the microfinance sector needs to play an active role in defining itself and how it will fit into the proposed strategy hence the significance of the current process to review the NMP.

The National Financial Inclusion Framework has also identified required changes in the policy and regulatory framework to enable these goals, namely the:

- Establishment of a risk-based tiered KYC process. At present, the uniform process is a major barrier to entry for customers who do not have the required documents to prove their identity and address;

- Increased engagement of the credit reference bureau although regulatory interventions are not defined in the document;
- Establishment of a central collateral database; and
- Ensuring that customers are informed and protected through relevant consumer education and protection interventions.

3.6 Legal and regulatory framework

As described above, microfinance services in Tanzania are provided through a variety of different institutional forms under various Acts of Parliament. These include; the Banking and Financial Institution Act (2006), Bank of Tanzania Act (2006), Cooperatives Act (2013), non-governmental organisation Act (2002), Companies Act (2002) and Trustees Incorporation Act (2002).

The Banking and Financial Institutions Act, 2006 (BAFIA) provides the foundations for the licensing, regulation and supervision by the Bank of Tanzania of various categories of deposit-taking institutions: banks, microfinance companies (MFCs), housing finance companies and financial cooperatives (FICOS). BAFIA makes microfinance an integral part of the national financial system as formal financial institutions.

In parallel with BAFIA, the **Bank of Tanzania Act (BTA), 2006** introduces non-bank formal financial institutions¹⁰ - including implicitly microfinance institutions - as a legal business and an integral part of the national financial system as in this Act, unless the context requires otherwise:

"Banking business means the business of receiving funds from the general public through the acceptance of deposits payable upon demand or after a fixed period or after notice, or any similar operation through the frequent sale or placement of bonds, certificates, notes or other securities, and to use such funds, in whole or in part, for loans or investments for the account of and at the risk of the person doing such business;

Financial institution means an entity engaged in the business of banking, but limited as to size, locations served, or permitted activities, as prescribed by the Bank or required by the terms and conditions of its license;"

Government Notice No. 80 on Regulation on Microfinance Companies and Microcredit Activities, 2005 regulates MFCs, microcredit activities by all financial institutions, FICOs activities, as well as internal controls and internal audit. The regulations cover prudential regulations for MFCs and prescribe conditions related to minimum core capital and other licensing provisions, lending limits, capital adequacy, asset quality, and reporting requirements on micro-loan portfolios. The regulations also provide for loan classification and provisioning schedules.

¹⁰ Tanzania Diagnostic Review of Consumer Protection and Financial Literacy, World Bank, July 2013.

The regulations on microcredit activities also require all institutions engaged in microcredit to assign unique identification numbers to their clients and to report to a credit databank on the loan portfolio information in the format prescribed by BOT (section 18, Government Notice No. 80 on Regulation on Microfinance Companies and Microcredit Activities, 2005). This requires installation of appropriate management information systems (MIS) and adequate human capacity.

Cooperative Societies Act, 2013 makes provision for registration of various levels of co-operatives. At the primary level, cooperatives involved in financial intermediation include SACCOs and cooperative banks.

Financial Cooperative Societies Regulation, 2005: These regulations were issued to regulate the biggest SACCOs that would be licensed as FICOs. However this has never been implemented. FICOs were expected to be registered by the Registrar of Cooperatives and be subjected to the FICO rules. In addition, FICOs were expected to adopt accounting and prudential guidelines established in the BOT regulations as well as other regulations applicable to institutions engaged in financial intermediation.

The Non-Governmental Organization Act, 2002 establishes the rules on creation and registration of all NGOs operating in Tanzania, irrespective of their social mission. There is no specific provision for NGOs providing microfinance services.

Companies Act, 2002: This law establishes the rules around creation and registration of companies for profit and not-for-profit companies. These companies are incorporated as companies limited by guarantee or as companies limited by shares but again there is no specific provision for companies providing financial services.

Trustees Incorporation Act, 2002: Some organisations are incorporated under this law which provides the legal basis for them to provide microfinance services although the law does not specifically allow such corporation to carry out microfinance business.

The legal framework does not seem as robust as needed since it does not cover all types of financial institutions in a coherent manner. There are several overlaps and gaps with supervisory responsibilities falling across different government authorities. This ultimately results in regulatory uncertainty for some institutions. Stakeholders - through Tanzania Association of Microfinance Institutions (TAMFI) and the Government - are contributing to drafting of a microfinance law that aims to be more comprehensive.

Table 1: Summary of the Microfinance Regulatory Framework in Tanzania

Institution	Legal basis for regulation	Supervisory authority
Microfinance companies	Banking and Financial Institutions Act, 2006 (BAFIA)	Bank of Tanzania (BOT)
Commercial banks	BAFIA, 2006	BOT
Community banks	BAFIA, 2006	BOT
Savings and Credit Cooperatives	Cooperative Act (This law applies to financial and non-financial cooperatives)	Ministry of Agriculture and Cooperatives Development through the Commissioner for Cooperatives
NGOs, consumer lenders and other non-regulated credit providers	None Note: Various Acts provide a basis for registration as NGO or for profit companies (NGOs Act number 24 of 2002, Companies Act 2002-Companies Limited by Guarantee, and Trustees Incorporation Act (Cap 318))	None.

3.7 Definition of microfinance

Key point in the Guidelines: Regulatory definitions of “microfinance” and “microcredit” should be tightly framed to meet specific regulatory objectives and should not simply be drawn from general literature on microfinance.

Although there is no direct legal definition of microfinance in Tanzania, BAFIA defines a microfinance company as *“a financial institution incorporated as a company limited by shares formed to undertake banking business primarily with households, small holder farmers and micro-enterprises in rural or urban areas of Tanzania Mainland and Tanzania Zanzibar”*.

This definition seems to be linked to increased access to finance to individuals and to small and micro-businesses. It could lead to some abuse if applications for MFCs had been granted to a large number of applicants. However, the opposite happened and so far only three licenses have been granted.

Microcredit is defined in the Government Notice No. 80 on Regulation on Microfinance Companies and Microcredit Activities, 2005 as *“a credit accommodation whose security may include non-traditional collateral, granted to a natural person, individually or in a group, whose income depends on his own business or economic activity and who may lack formal financial statements and other accounting and operational records”*.

That definition corresponds to a broad concept of microcredit based on the absence of traditional collateral and the informal aspect of micro-business. It is a fairly adequate definition for the Tanzanian context. However, it does not take consumer micro-credit market into consideration. This aspect will be addressed later in the general conclusions about different regulatory frameworks.

3.8 Licensing process

Key points in the Guidelines: The regulatory framework should—absent particular local factors, such as extreme corruption in the NGO sector—permit both NGOs and commercial companies to engage in micro-lending. Issuance of a permit to engage in micro-lending should be straightforward, involving a public registry and a simple process, but not prudential regulation.

Tanzania has a hybrid licensing system: BOT is responsible for licensing commercial banks, community banks and MFCs. SACCOs are under the supervision of the Commission for Development of Cooperatives, while NGOs and commercial lenders do not have a formal license to carry out financial services business. This has led to a situation where a sizable part of the financial sector, institutions providing micro-enterprise and/or consumer credit, are not licensed or even registered for providing financial services. This in turn means that these institutions are totally unregulated and unsupervised including for market conduct.

3.9 Institutional transformation

Key point in the Guidelines: To facilitate transformation of NGO MFIs into for-profit companies licensed to accept retail deposits, regulators may want to consider temporary or permanent adjustment of certain prudential requirements.

Transformation of NGOs into regulated deposit-taking MFIs was one strategic option envisaged in the NMP to improve access to finance and grow the microfinance sector. However, the policy document made it clear that it would remain the choice of each institution as to whether to become a deposit-taking institution or not:

"NGOs are particularly important in reaching very poor or difficult to serve clients and in developing and testing innovative products and service delivery mechanisms. NGOs will not be subject to financial regulation and supervision as long as they do not accept voluntary deposits. NGOs wishing to gain permission to accept deposits will have to become licensed regulated institutions with appropriate shareholding and governance structures, adequate capitalisation and profitable operations. That will require their transformation from NGOs into other organisational forms. It is their responsibility to learn and apply best practices in microfinance, and to structure their operations so as to reduce and eliminate their dependence on subsidies and donor funds, to the maximum degree compatible to reaching their target populations."

So far, two NGOs have transformed into MFCs and a new institution has been licensed as a MFC. The first entity to apply for a MFC license was a newcomer (EFC) that was established by Développement

International Desjardins (DID), an investee of the Desjardins Group together with AfricInvest Financial Sector Ltd (AFS) and a local investor, Dunduliza Company Limited, in 2010. DID has worked to support the creation, development and strengthening of sustainable financial institutions, since 1970.

The second MFC that obtained a license in 2013 is FINCA. FINCA is the first MFI that transformed itself from an NGO status to a for-profit, deposit taking institution in Tanzania. In 2014, SEDA was also transformed into a deposit taking institution and changed its name to Vision Fund. Vision Fund is owned by World Vision.

Other MFIs that have been operating in the microfinance sector such as BRAC Tanzania (since 2006) and PRIDE (since 1994), have so far remained NGOs, despite substantial lending portfolios well above 100,000 credit clients each. It seems that for most NGOs, the advantages of becoming a deposit-taking institution have been outweighed by the constraints. On the positive side, the main incentive to become a MFC is being able to take deposits from the public while outside funding should also become more available as regulated institutions are more credible. However, it appears that certain constraints around shareholding, the burden of reporting and a lack of clarity regarding the transformation process has prevented NGOs from transforming.

3.9 Prudential regulations

Key points in the Guidelines: The primary reasons for prudential regulation of depository institutions are (1) to protect the country's financial system by preventing the failure of one institution from leading to the failure of others, and (2) to protect small depositors. If prudential regulation does not focus closely enough on these two objectives, scarce supervisory resources can be wasted, institutions can be saddled with unnecessary compliance burdens, and development of the financial sector can be constrained.

Commercial and community banks providing microcredit are under the same prudential rules as other banks. The BOT has adapted the banking regulation to fit the specific characteristics of a microcredit portfolio. The Microfinance Companies and Microcredit Activities Regulations, 2005 provide the basis for off-site and on-site supervision of financial institutions licensed by BOT which are engaged in microfinance activities. The regulations provide specific rules on provisioning, capital adequacy, credit concentration and collaterals. For instance, BOT does not require that microloans be tied up to formal collateral that would need to be registered in the collateral register. Instead BOT uses the institutions credit policy to assess whether or not a Bank or MFC is managing the credit risk within their micro-lending portfolio adequately or not.

As for MFCs, the licensing and prudential requirements are also similar to banks, except when the rules in Government Notice No. 80 on Regulation of Microfinance Companies and Microcredit Activities (2005) stipulate otherwise. The main differentiating rules established by the regulations on MFCs are as follows:

- Minimum core capital is much lower than banks at USD 475,000 (800 million Shillings) for a nation-wide MFC. Minimum capital for commercial banks has been raised to USD11.85 million (20 billion Shillings) in 2011;
- A majority shareholder may be authorised by BOT to own up to 66% of shares;
- The pre-licensing evaluation process may consider a management and technical assistance agreement with a specialised institution in microfinance;
- The board must comprises of five directors, amongst whom two must have experience in microfinance;
- Activities are more restrictive than bank activities. For instance a MFC may not provide current accounts (various savings accounts are authorised), cheques, and foreign exchange or invest in enterprise capital;
- The type and amount of credit may also be limited by BOT on a temporary or permanent basis;
- Maximum single loan to core capital should be limited to 1% for micro-loans with no traditional collateral, up to 3% if there is registered collateral;
- Maximum deposit maintained in a single bank by one depositor does not exceed 25%; and
- Capital adequacy: MFCs need to maintain core capital of 10% minimum of total risk weighted assets and maintain total capital of 15% minimum of total risk weighted assets; as a comparison, commercial banks are required to maintain total capital of 10%.

Financial institutions providing microfinance services consider some of the microfinance regulations to be restrictive and not in the interests of the microfinance industry. Issues of concern include:

Provisioning

The reserve requirements are quite stringent. As per Government Notice No. 80 on Regulation on Microfinance Companies and Microcredit Activities (2005) section 22, MFCs are required to start provisioning as soon as a loan is disbursed and must provide for 100% of outstanding loan capital as soon as a loan is 45 days past due:

Table 2: Tanzania provisioning policy

# of days past due	Classification	Provisioning
Current	Current	2%
Up to 15 days	Especially mentioned	25%
16 to 30 days	Substandard	50%
31 to 45 days	Doubtful	75%
More than 45days	Loss	100%

Restrictive lending operations for MFCs

Under section 13 (4) of the Government Notice No. 80 on Regulation on Microfinance Companies and Microcredit Activities(2005) for loans secured by collateral registered in a public registry and value of which is at least 125% of the security an MFC *"cannot issue more than 3% of core capital; for loans secured by personal guarantee, goods not registered in public registry or any other guarantee specifies in the lending policy that the MFC cannot issue more than 1% of core capital and for loans secured by a combination of the above a MFC cannot issue more than 2% of core capital"*. One of the key approaches of delivery of microfinance services is the use of step-up lending methodology where the amount of loans is increased progressively as part of the process to build creditworthy clients. In the opinion of some MFIs (which are target for transformation into MFCs), these rules leads to MFC loosing good clients who have been able to prove that they can repay bigger loans over a period of time.

Loan to deposit ratio

The loan to deposit ratio should be at least 80%. This requirement is primarily meant to encourage deposit taking and intermediation and discourage external sourcing of on-lending capital at the expense of intermediation. This rule posed a real challenge for institutions such as FINCA that are in the process of transforming from credit-only institutions. Transforming institutions have been given a grace period of five years to comply.

All these rules are in line with the CGAP guidelines: "Some prudential norms developed for conventional banking don't fit well with the risks and requirements of microfinance, which involves different products and services". The regulations strike a balance between risk management adapted to specific microcredit products, the need for stronger capital adequacy requirements, good governance and prudent liquidity management.

3.11 Supervisory authority

Key points in the Guidelines: In most cases, the best supervisor for depository microfinance will be the authority responsible for commercial banks.

The supervisory authority for all commercial banks, community banks and MFCs is the BOT - Directorate of Banking Supervision. The directorate is well respected by all licensed institutions. As the number of licensed MFCs is very limited, the increased burden on the capacity for supervising licensed institutions has been manageable.

3.12 Non-prudential regulations

Permission to lend

Key points in the Guidelines: The regulatory framework should—absent particular local factors, such as extreme corruption in the NGO sector—permit both NGOs and commercial companies to engage in micro lending.

For non-deposit taking institutions, there is no registration procedure or formal permission to lend, other than the non-objection from BOT during for-profit company registration. As a result, there is no list of lenders or centralised data available on MFIs, consumer lenders and their portfolios. This means that the BOT has no visibility of trends in the market with regards to indebtedness, credit risk or loan portfolio performance.

Preventing debt stress through specific interventions

Key points in the Guidelines: Regulation should address aggressive or coercive sales practices as well as “predatory” lending designed to take advantage of borrowers’ lack of education or experience.

Restraints on abusive collection practices may be needed, but care is required in defining what is abusive.

Short term payroll consumer lending has become available in Tanzania as in most SADC countries. However, apart from the registration with the Ministry of Trade and the required authorisation to open new branches, there is no licensing process and no supervision of consumer lenders. There is no data on potential over-indebtedness and no market monitoring for potential signs of debt stress.

Also some practices which seem common in Tanzania have been considered as high risk in other markets since they increase the risk of unsound or predatory lending. For instance, payroll deduction facilities which are available for loans taken up by civil servants have led to debt stress in some countries and many regulators have introduced mechanisms of managing this risk such as affordability thresholds, limiting the number or purpose of payroll loans or controlling the payroll deduction codes. Similarly, the practice of lenders using the borrower’s debit card and personal identification number (PIN) to repay a loan has been outlawed in several countries. Although this practice is officially un-documented in Tanzania, it was mentioned several times during interviews.

Credit Reporting System

Key points in the Guidelines: It is critical for the healthy development of microfinance to foster the development of broad and deep credit information databases that includes current loan balances and negative and positive information on the past payment behaviour of poor customers, particularly in markets approaching saturation. Micro lenders (of whatever legal form) and borrowers are better served by credit reporting that draws from comprehensive payment data rather than just micro-credit data.

The Bank of Tanzania has facilitated the development of credit information sharing through the establishment of a public credit reference databank at the Bank of Tanzania and the licensing of two private credit reference bureaus. The credit reference databank's existence and operation is governed by the Bank of Tanzania Credit Reference Bureau Regulations, 2012 and by the Bank of Tanzania Credit Reference Databank, Regulations, 2012.

The first private credit bureau, Credit Infosys was licensed in June 2013 and launched operations in the same month. The second credit bureau, Dunn & Bradstreet was granted a license in September 2013 and commenced operations in December 2013. While all stakeholders welcome the existence of the credit bureaus in the market, there are mixed views about their current level of contribution to facilitating increased access to credit. One major concern is the quality and volume of data that is available in the databank hosted by BOT that the two credit bureaus have to utilise. The perception is that the databank is not geared towards facilitating financial inclusion as the data collection is designed primarily for those in formal employment. The credit bureaus and the credit providers also have concerns about the complex interfaces required for submitting data to the credit database which results in less reliable data being submitted.

One view expressed by market players is that the credit bureaus would operate more efficiently if they were responsible for their own data collection instead of having to use the centralised databank. It was felt that the private bureaus are better positioned to ensure data integrity and up-time unlike the BOT databank which goes offline occasionally. BOT could further enhance the operations of the credit bureaus by increasing the volume of data available by putting in regulations in place that require all credit providers and not only regulated financial institutions to submit data to the credit bureaus. Currently non-regulated MFIs are not obliged to register with the credit reference bureaus and credit reference databank.

Reporting and institutional transparency

Key points in the Guidelines: If regular reporting is required of lending-only MFIs, then the content and frequency of reports should be tailored to specific regulatory purposes and should be much lighter than what prudential reporting by deposit-takers would be. In addition, the requirements should be harmonized as much as possible, with reporting requirements

At the moment, no institution is tracking the performance of the overall microfinance sector. TAMFI has been willing to take up that responsibility, therefore, there are proposed recommendations that all credit providers be registered with TAMFI and required to adhere to minimum reporting

standards¹¹. TAMFI's membership includes some commercial banks involved in microfinance, NGOs, MFCs and sizable SACCOS.

BOT provides statistics on the banking sector. Ernst & Young also publishes a detailed annual "*Tanzania Banking Sector Performance Review*". However, there is very little analysis in these documents that focuses on microfinance.

Consumer protection

Key points in the Guidelines: As much as possible, all providers of a given financial service should be held to the same consumer protection standards.

There is no financial consumer legislation or regulation per se in Tanzania and the regulatory framework for financial consumer protection is highly fragmented. In theory, BOT has the responsibility for enforcing the entire spectrum of banking and financial institutions legislation, including aspects of financial consumer protection. However, the Bank of Tanzania Act (BTA), 2006 does not include any explicit provisions regarding financial consumer protection.

With regards to consumer protection, all banks and other financial institutions licensed by BOT (including MFCs) should be compliant with section 49 of BAFIA which establishes a few limited rules in terms of fair lending and collection practices. Other microfinance institutions including NGOs and consumer lenders are not required to operate under these rules.

The Fair Competition Act (FCA) also includes provisions applicable to services which should include microfinance. The applicable FCA rules cover misleading or deceptive conduct, misleading advertising, harassment and coercion, unconscionable conduct as well as the establishment of a redress mechanism.

There are also several other rules on financial consumer protection but these are only applicable to some types of institutions. The Guidelines on Agent Banking Institutions, 2013 stipulates that a banking institution offering agent banking services should have a complaints handling system capable of efficiently and quickly redressing customer complaints. The draft Electronic Payments Schemes and Products Guideline requires banks that are applying to operate an electronic payment scheme to ensure transparency and set up efficient dispute resolution mechanisms. Finally, the Credit Reference Bureau Regulations prescribes that Credit Reference Bureaus should have

¹¹ "All registered Microfinance agencies shall submit quarterly finance and operational reports to TAMFI or any successor thereof. "Microfinance Act Working Draft", Cap. 395, TAMFI.

procedures to ensure that questions, concerns and complaints of credit information subjects and data providers are treated equitably and consistently in a timely and efficient manner.

The current regime contains a number of gaps, including:

- Rules on transparent, clear, and comparable disclosure of key terms and conditions;
- A standard method for the calculation of credit pricing; and
- The obligation to provide regular account statements to clients.

In 2011, TAMFI issued a Code of Conduct that promotes responsible microfinance services, namely 'The Code of Standards of Practices for Microfinance Institutions in Tanzania'. The Code of Conduct establishes that "*the provisions of the code of conduct are obligatory for all member institutions of the TAMFI and their acceptance and application represents one of the basic pre-conditions for the TAMFI membership.*" The code establishes standards of practice in the following areas:

- Interest rate and pricing transparency;
- Customer complaint resolution;
- Transparency on financial and social performance;
- Fair treatment of clients; and
- Collection practices.

However, for these rules to be effective, TAMFI will need to develop a system to assist members in complying with the Code of Conduct, monitor compliance and apply sanctions if necessary.

In summary, financial consumer protection would benefit from development in Tanzania. The few rules that exist are either not monitored and/or only apply to certain categories of institutions. As provision of financial services expands, there is a need to develop consumer protection rules that would apply to all financial institutions in terms of:

- Adequacy and transparency of information - giving clients accurate and understandable information about pricing and product terms;
- Fair treatment - avoiding abusive lending and collection practices and other unethical treatment of clients; and
- Recourse - providing clients with an effective mechanism for addressing complaints and resolving errors or disputes.

The difficulty however will be to figure out how to apply financial consumer protection rules to the non-regulated financial institutions. That question will be discussed into the overall conclusion of this comparative study.

The current supervision framework that involves a multiplicity of regulators with limited enforcement capacity is also not conducive to effective financial consumer protection. In the opinion

of the World Bank¹², “overall, the monitoring and enforcement of the existing financial consumer protection rules are weak because of a limited number of specialised staff and insufficient resources”.

Key points in the Guidelines: Applying Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) rules for conventional banking to tiny microfinance transactions can seriously limit access unless a risk-based approach is adopted.

The same report recommended that “Given the prevailing tiered structure in the microfinance sector, the responsibility of coordinating, overseeing, and enforcing consumer protection for non-deposit taking semi-formal MFIs¹³ should be delegated to a central government body with adequate powers and

Key points in the Guidelines: Restraints on foreign investment or management can sometimes hinder the development of financial services for the poor. NGOs should be permitted to own shares in for-profit MFIs that specifically target the poor.

institutional capacity to ensure enforcement, possibly BOT or MOF¹⁴”. In our opinion, the Ministry of Finance does not have the capacity to supervise financial institutions, therefore the BOT is the best option for regulating and supervising market conduct issues in the financial sector.

Limitation on ownership

There is no limitation on foreign shareholding of licensed institutions in Tanzania. However, there is a limitation on majority shareholders as per section 15(1) BAFIA i.e. no single shareholder may hold more than 20% of shares in a licensed institution. This is applicable to local and foreign investors. NGOs transforming into MFC may be exempted by BOT; in this case, the main shareholder may hold up to 66% of shares provided they have a good track record and the corporate body is financially strong enough to inject additional capital into the new entity in case such need arises. Most local or domestic NGO MFIs are not likely to benefit from this exemption unlike their counterpart MFI affiliated with international organisations such as FINCA International and Vision Fund International.

Secure transactions

Although it only affects a small part of the overall microfinance credit portfolio, it has been noted that the current legal setting does not ensure quick and efficient enforcement of the loan contract and realisation of collateral in the case of default. The National Financial Inclusion Framework priority areas include the development of a central collateral database that would be used and accessed by all financial services providers.

¹² World bank TANZANIA Diagnostic Review of Consumer Protection and Financial Literacy Volume I Key Findings and Recommendations, 2013

¹³ These include financial NGOs and credit-only MFIs. See Table 3 for further information.

¹⁴ Ministry of Finance.

Financial crime

Key points in the Guidelines: Legal and judicial reform to support secured transactions—in particular, a collateral law and accessible collateral registries—may facilitate microfinance, although typical microcredit is effectively unsecured.

KYC requirements as defined by BOT include providing an official identity document with a picture and proof of residence (including a letter from local authority). This is only required for licensed financial institutions. Therefore MFIs that only provide credit services and consumer lenders are not required to adhere to KYC rules.

This set of rules is both lenient in the range of institutions not obliged to comply and stringent in terms of proof of identity and address. In most countries, all financial institutions must comply with KYC requirements, as the Financial Action Task Force (FATF)¹⁵ recommendations extend to a wide range of activities, including taking deposits from the public, consumer lending, and providing formal or informal money transfers (although enforcing rules for informal transactions poses obvious challenges). Tanzania is a member of Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), the coordination body in charge of applying anti-money laundering measures¹⁶. On the other hand, existing requirements are a barrier for increasing access to financial services especially for banks and deposit-taking MFIs as clients already accessing credit are not able to open savings accounts until they meet the KYC requirements. In Kenya for instance, an existing credit client of an MFI is by default considered to be KYC compliant as the MFI, its officers and other clients will already have intimate knowledge of the client.

Branchless banking: Agency banking

Key points in the Guidelines: A suitable regulatory framework for branchless banking should include (i) conditions for bank and non-bank use of agents or other third parties as a customer interface; (ii) a flexible, risk-based AML/CFT regime; (iii) a clear regulatory regime for non-banks to issue electronically stored value; (iv) consumer protection tailored to the branchless context; and (v) payments system regulation that allows (at least in the long term) broad interoperability and interconnectivity.

In 2013, BOT introduced comprehensive agent banking guidelines that allow banks and other licensed financial institutions to appoint retail agents as a delivery channel for their services¹⁷.

¹⁵ Financial Action Task Force.

¹⁶ Eastern and Southern Africa Anti-Money Laundering Group.

¹⁷ This overview on branchless banking is summarized from Adam Lovett, Tanzania introduces agent banking regulations, 2013.

According to these guidelines, the bank or financial institution should obtain prior written permission of BOT before it may conduct banking through an agent. The approval process requires the proposed agent to sign up to a standard agency agreement and for a detailed due diligence, risk assessment and feasibility study to be carried out of the proposed agent's suitability. In order to be eligible as an agent, the entity must have a trading track record of at least two years and, once appointed, the licensed bank or financial institution is required to conduct regular checks and audits to ensure that the agent is operating its business in a fully compliant manner in terms of not only the agent's terms of appointment and the regulatory requirements imposed upon the principal, but also in terms of the operation of the agent's own business.

The appointment of agents may not be done on an exclusive basis, nor is an agent permitted to only conduct agent banking (i.e. it must operate another business in its own right). An approved agent may carry out the following activities: taking cash deposits and withdrawals; facilitating cash disbursements and loan repayments; cash payment of utility bills, social security and retirement benefits; funds transfer; provide mini-bank statements; and collect customer documentation relating to account opening, loan and bank card applications. Importantly agents are not permitted to accept issue or otherwise deal in cheque transactions, or carry out a transaction where a transactional receipt or acknowledgement cannot be generated.

The guidelines also stipulate minimum performance criteria that agents must meet. In particular agents must be: capable of transmitting data over secure channels; performing electronic transactions on a real time basis; reversing incomplete transactions; and generating an audit trail.

Agents are expressly prohibited from delegating or sub-contracting any of their agent banking activities and may not charge fees directly to customers.

Key points in the Guidelines: Branchless banking—using technologies, such as mobile phones and smartcard readers, to transmit transaction details and using existing retail establishments to act as the principal customer interface—holds the promise of significantly expanding financial access by lowering transaction costs for the lender and improving convenience for the customer.

Mobile money

Mobile money is already reaching a large number of low-income and previously unbanked customers in Tanzania, moving millions of households (mostly low-income) from a cash-only economy into the formal financial system. Like in Kenya, Mobile Network Operators (MNOs) are allowed to offer mobile money services directly. The sector now includes four MNOs and 14 banks offering mobile banking services. The number of mobile money accounts now exceeds the number of bank accounts

in the country at 31.8 million along with an agent network of over 153,000 agents as at the end of December 2013.

BOT together with the telecommunications regulator have played a relatively low-key role in the market by ensuring a level playing field and encouraging competition. For example, e-money providers are not allowed to enter into exclusive contracts with agents. All non-bank e-money providers were asked to open up e-money trust accounts with banks and are required to ensure that 100 percent of the float is maintained in these accounts.

The KYC rules are also less stringent for mobile money providers than for other financial institutions. MNOs are allowed to accept a range of identity (ID) documents for the registration process. Currently, a customer's identity can be verified with a voter's card, driver's license, valid passport, local village council letter or certificate, company- or employer-issued ID, and government-issued ID. Vodacom also accepts reference identification, which allows a family member, employer, or friend with a recognised ID document to vouch for a customer's identity during registration.

3.13 Conclusions

Microfinance policy

Microfinance in a broad sense, i.e. providing adequate savings, credit and other products adapted to the needs of the low income population, has made remarkable progress in Tanzania since the 1990s. In fact, Tanzania might be considered as a model for other SADC countries in terms of providing access to productive microcredit to the informal sector as well as very low barriers to opening a deposit or savings account.

Tanzania has had the insight to include and encourage commercial banks to engage in microfinance activities and to provide prudential rules accommodating the particularities of microcredit portfolios. FinScope 2013 clearly shows that the strategy has been successful. The NMP included the objective of allowing the transformation of microfinance institutions into microfinance companies. However, the take up has been limited and an analysis should determine whether transformation of MFIs is still an objective in line with the National Financial Inclusion Framework and, if so, whether the envisaged new microfinance policy should include interventions that would facilitate the process. Another weakness of the NMP was the absence of measurable targets related to access to financial services. The National Financial Inclusion Framework is a very positive step as it is the first strategic document that focuses on financial inclusion through the overall financial sector and includes clear targets as well as monitoring mechanisms. Microfinance however does not seem to have a specific role to play in that strategy.

Various levels of regulation and supervision

It was envisaged that the biggest SACCOs would become FICOs under the supervision of BOT but this was never implemented. The risks of having a substantial part of the financial system collapsing, particularly where low income people deposit their savings, needs to be taken into account and prudential rules applied to SACCOs. That can only be carried out, after the stakeholders agree on whether to enforce transformation of the largest SACCOs in FICOs or alternatively to develop a different regulatory framework that would offer more security to these depositors.

Generally speaking, one of the main weaknesses in the microfinance sector is the existing dichotomy between highly regulated institutions (banks and MFCs) and non-regulated institutions such as NGOs and commercial consumer lenders. It would be advisable for BOT to develop a unique limited licensing framework or even a simple registration process for credit-only microfinance institutions and other credit institutions. Market conduct rules, dealing with consumer protection or other issues should apply to all institutions in a similar way. Minimum information on credit portfolios should also be reported to the BOT at least on an annual basis, but preferably quarterly to enable market monitoring.

Prudential rules for deposit-taking institutions

Prudential rules for MFC are reasonable and strike a good balance between areas where smaller deposit taking institutions should be held to high standards and areas where flexibility is advised. The rules on non-traditional collateral for microcredit portfolio that apply to banks and MFCs have also been an enabling factor in microcredit activities in the banking sector. There are some areas where deposit-taking institutions seem unduly constrained by prudential rules, such as provisioning. The microfinance sector should propose some revisions to these rules and open a dialogue with BOT.

Financial consumer protection

Consumer protection does not have a clear regulatory framework at the moment, as the few existing rules only apply to part of the financial services industry. Aside from that, short term, salary-based consumer lending, which is highly susceptible to abuse, is not regulated at all. A unique framework on consumer protection would offer consistency and universal coverage to the financial services consumer.

According to the Consumer Protection and Financial Literacy (CPFL) diagnostic mission conducted by the World Bank in 2013 in Tanzania, the BOT is currently championing the effort to establish a Financial Regulators Forum comprising all financial regulators and the Ministry of Finance. Our recommendation is that BOT seems to be the institution with the best experience to take charge of supervising the enforcement of the rules on financial consumer protection, once clear legislation or regulation is in place.

Adoption of KYC rules

KYC rules should be reviewed to allow all microfinance clients to identify themselves and prove their address as easily as when opening a mobile money account. Clients should be allowed to provide a range of ID documents for the registration process, such as a voter's cards, driver's licenses, valid passports, local village council letters or certificates, company- or employer-issued IDs or government-issued IDs.

Agency banking and mobile money

The regulations related to these areas are adequate and have been conducive to achieving remarkable progress in reaching high numbers of previously financially excluded Tanzanians while establishing minimum standard to preserve the safety of these channels.

The introduction of agent banking provides a mechanism through which banks and licensed MFIs can extend their services to previously unbanked individuals. This should be a further incentive for NGOs to transform into licensed institutions.

4. Namibia

4.1 Introduction¹⁸

Namibia's economy is very intertwined with the South African and global economy. Its performance tends to fluctuate with the global economy due to the significant contribution to the GDP of mineral exports such as diamonds and the service sector, specifically tourism. The GDP growth slowed down slightly from 5% in 2012 to 4.2% in 2013 due to the negative impact of drought conditions and a weak global demand for mineral exports. While the growth prospects look promising, risks associated with the global and South African economic outlook remain high. In terms of poverty alleviation, Namibia has achieved notable reduction in poverty, but pockets of poverty persist while unemployment and inequality are still disturbingly high. The country is classified as an upper middle-income country, with a gross national income (GNI) per capita income of approximately USD 5 610 in 2012, but with an unacceptably high Gini coefficient, estimated at 0.597 in 2009/10, making Namibia one of the most unequal societies in the world.

Namibia has one of the most developed financial systems in Africa, albeit comprising a number of significant limitations. Benefiting from close ties with South Africa, Namibia's banking institutions remain sound, profitable, and adequately capitalised. As a result of its strong financial foundation, the banking system has remained resilient to shocks emanating from the global and euro-area financial crises. In 2012 annual credit extended to the private sector rose by 14% the highest in four years, from 11.3% over the same period in 2011. The surge was largely driven by sustained expansion in borrowing from both businesses and individuals, particularly mortgage loans. The Bank of Namibia is considering more stringent loan-to-value ratios and strengthening and modernising the regulations for non-bank financial institutions. Although it is better than in most African countries, the financial sector is characterised by deficiencies including limited competition and a high concentration of majority-owned South African commercial banks (three out of five).

The proportion of the financially excluded population fell from 51% in 2007 to 31% in 2011 according to the latest (2011) FinScope Consumer Survey for Namibia. Access to finance is still low due to weak financial literacy, lack of collateral and limited effective demand for financial services due to low income as a result of high poverty and unemployment. Following the launching of the Namibia Financial Sector Strategy 2011-21 in August 2012 and the opening of the SME Bank in December 2012, the enactment of the new Banking Institutions Bill 2014, when completed, is expected to further strengthen the regulatory framework for microfinance banking institutions as part of a series

¹⁸ Adapted from: <http://www.africaneconomicoutlook.org/en/2014/Namibia>

of measures aimed at promoting financial inclusion. In addition, the Ministry of Finance is spearheading the Namibia Financial Literacy Initiative, together with the financial sector, in order to increase financial literacy, hence increase access to financial services.

4.2 Introduction to the microfinance sector

In understanding the level of financial inclusion in Namibia one has to take into account the low population density of the country. Namibia has the second lowest population density in the world after Mongolia. It is a vast country with a population of only 2.1million according to the last national census of 2011. This low population density presents a significant challenge for delivery of financial services outside of the main urban areas where the commercial banks are concentrated. For many years microfinance has been seen as a possible solution for delivering financial services cost-effectively to the sparsely populated rural areas.

The Namibian microfinance sector is at a nascent stage of development. Like in most countries in the Southern African region, the sector is dominated by commercial micro-lenders and a smaller number of institutions focusing on micro-enterprise lending. Micro-lending in this context refers to consumer lending, or microfinance for non-productive/developmental use. It is mainly used to refer to small loans that are provided to the low income but formally employed credit market segment. Micro-enterprise finance is a relatively new sector with only two MFIs clearly targeting this market segment. SME finance is similarly under-developed.

The microfinance regulatory framework does not explicitly allow for deposit-taking microfinance institutions.

4.3 Description of various types of institutions

NAMFISA registered lenders

The micro-lending sector is composed of companies mainly registered with the non-bank regulator, Namibia Financial Institutions Supervisory Authority (NAMFISA). The list of registered micro-lenders, which is also available on the NAMIFISA website, does not distinguish between consumer lending and micro-lending for developmental purposes such as education, housing, agriculture or micro-enterprise.

Payroll lenders

A limited number of micro-lenders have received endorsement from the government to lend to government employees on the basis that they are lending for developmental purposes, in particular for education. For this reason government facilitates preferential deduction of loan instalments for these lenders through a payroll deduction code. The micro-lenders that have a payroll deduction

code for the civil service are (i.e. providing microcredit to civil servants) Letshego, TrustCo, Edu loans, Blue Finance, Ned loans (previously FinEd) and the Michelle McLean Childrens' Trust.

Developmental lenders

There are a few institutions that focus on poor individuals, micro-enterprises as well as SME lending is:

- **FIDES Bank:** FIDES was initially established as a microfinance institution to provide the rural northern communities of Namibia with financial services. After running a successful pilot microfinance programme for a couple of years FIDES applied for a provisional banking license to the Bank of Namibia, in order for it provide a more diversified product range and to increase its outreach. The provisional banking license was granted in 2009 and FIDES has been operating as microfinance bank since. Its operations still remain concentrated in the Northern regions of Namibia.
- **SME Bank:** Was founded in 2013 by the Government of Namibia following the dissolution of the Small Business Credit Guarantee Trust and was transformed into a fully-fledged commercial banking institution. The SME Bank focuses on micro, small and medium enterprises, with a specific focus on rural communities and previously disadvantaged individuals (PDIs). As the bank has a full commercial banking license it also offers banking services to individuals and companies that are not necessarily SMEs, through retail and corporate banking.
- **NamPost Savings Bank:** is an important player in providing financial services to low income Namibians, especially in remote areas. NamPost's flagship product an affordable SmartCard Savings Account available to any Namibian, uses finger-print biometric technology for verification of identification. NamPost Savings Bank also offers investment products such as Fixed Term Deposits, Call Accounts, Notice Accounts and Save-As-You-Earn accounts. NamPost also offer funeral cover to SmartCard clients. Every Post Office branch country-wide is a Savings Bank branch. NamPost Savings Bank also have Point of Sales machines in different retail shops country-wide, where SmartCard holders can make use of the SmartCard to transact. The mandate of NamPost Savings Bank was recently reviewed to incorporate a lending component. The intention is for NamPost to play the role of a specialised microfinance banking institution that serves the low income segment of the population. It is envisaged that this arrangement will enable the NamPost Savings Bank to extend the required services, given its extensive branch network. Note that NamPost currently has a subsidiary called POSTFIN which is primarily a micro-lender (consumer lending) providing credit to low income but formally employed market segments.
- **Kongalend:** Comprises two entities, a Bewind Trust and a limited company operating as an investment fund manager for the Trust. Kongalend manages investment capital of USD13.62

million (N\$150 million) in partnership with the Government Institutions Pension Fund (GIPF), through which its range of microfinance products is financed.

4.4 Products

Microfinance in Namibia is predominantly consumer lending and commonly referred to as microcredit as opposed to microfinance which is used to refer to developmental lending. There is a limited level of diversification in terms of product offerings in the consumer micro-credit market with two standard micro-credit products offered by NAMFISA registered lenders, namely:

- **30-day loans:** Lenders provide short term loans aligned with individuals salary payments, covering salaried people who are short on cash until their next salary payment. Some lenders still use a repayment mechanism which entails using the debtor's ATM card and his/her PIN to collect repayment.¹⁹
- **Term loans:** Loans of up to USD5,450 (N\$60,000) for consumption purposes. A few lenders such as TrustCo focus on education loans and fund school and university fees but term loans are also provided for general use. Term loans can be up to 60 months in duration, although in practice they rarely exceed 24 months. Term loans are primarily repaid through payroll deductions.

Aside from these two micro-loan products, the other products on offer in the market include:

- **Micro-enterprise loans:** These loans include solidarity group lending, especially in the rural areas, as well as individual lending for micro and small enterprise owners. The group methodology portfolio seems to perform better than individual lending with a concentration of micro-enterprise lending in Namibia in the northern rural regions. According to the FinScope 2011, FIDES, the main provider of microfinance, was utilising primarily group lending and operating in North-Central regions focused on the rural areas. It was reporting just over 5,000 micro-borrowers (through group lending) and 200 SME borrowers (individual lending). The group lending clients are required to save on a compulsory basis as part of the lending methodology.
- **Deposits and savings:** FIDES Bank is the only microfinance focused institution that has been allowed to take deposits (outside of the group lending methodology) by virtue of holding a banking license. However, the bank has not been very proactive in promoting savings products with the ratio of savings to credit standing at 40% (FIDES Bank interview, 2014). The deposit product is very basic and uses a passbook to record transactions for the client. There is no fee for opening, withdrawal and depositing money into the accounts.

¹⁹ Card and Pin repayment method entails the micro-lender holding onto the borrower's ATM card so that the borrower cannot have access to his/her salary when it is deposited into the bank account without the presence of the microlender. Only after the micro-lender and the borrower visit the ATM together and withdraw the loan repayment/instalment is the card handed back to the borrower.

In November 2012 the commercial banks launched a low-cost basic retail bank account. This account is treated as a necessity rather than a money making product for commercial banks, to allow more people to bank. This was in line with a Bank of Namibia directive to all banks to launch and implement a Basic Bank Account before 31 October 2012 for individuals earning USD182 (N\$2000) or less per month. The uptake of the Basic Bank Account has reportedly been²⁰ “phenomenal” (BON Governor, 2013).

4.5 Namibia Financial Sector Strategy 2011-2021

The Namibian Financial Sector Strategy (NFSS) 2011-2021 is part of the broader National Development Plan and Vision 2030 developed by the Government of Namibia. Ultimately the Strategy aims to contribute to fostering economic growth and poverty alleviation by addressing issues relating to capital and financial market development, ownership of financial institutions, access to finance, consumer protection and financial literacy. One of the five focus areas of the NFSS is Financial Inclusion with two specific sub-focus areas:

- Consumer financial literacy and protection
- Access to financial services and products. Increasing access to financial services in the Northern region of the country is a priority area.

Financial exclusion fell from 51% (baseline) in 2007 to 31% in 2011 (FinScope) in part due to the NFSS and initiatives such as the Basic Bank Account. The target under the NFSS is to reduce the exclusion rate to 26% by 2021. Microfinance is a contributing mechanism in achieving the targets; consequently the Banking Institutions Act, 1998 is being amended (Banking Institutions Bill of 2013) to provide for the licensing of deposit-taking microfinance banks either through transformation of existing MFIs or greenfields institutions.

4.6 Legal and regulatory framework

There is a clear distinction in Namibia between the banking sector regulation and supervision and the regulation and supervision of non-banking financial institutions such as MFIs.

The Central Bank – Bank of Namibia (BON) is in charge of prudential regulation and licensing of the commercial banking sector. The Bank of Namibia regulates and supervises the five commercial banks (First National Bank Namibia Limited, Standard Bank Namibia Limited, NedBank Namibia Limited, Bank Windhoek Namibia Limited and SME Bank) and one micro-finance bank (FIDES Bank Namibia Limited). FIDES Bank’s operations are relatively small in comparison to that of the other five commercial banks. More recently E-Bank was issued a banking license in May 2014 and is yet to

²⁰ According to the statement made by the Bank of Namibia governor at the official opening of the FIDES branch in Katutura, Windhoek, 24 October 2013.

begin operations. It has a strong financial inclusion agenda and will have mobile banking as one its main delivery channels.

Namibia Financial Institutions Supervisory Authority (NAMFISA) regulates and supervises the non-banking financial sector in Namibia. Micro-lenders are one of the categories of financial institutions falling under NAMFISA's supervision. Others include the Namibian Stock Exchange, long-term and short-term insurance, asset management, collective investment schemes (unit trusts), pension funds, medical aid funds, public accountants and auditors, stock brokers, brokers and agents of insurance companies.

At the moment, the basis for regulation of the micro-lending sector is the Usury Act No. 73 of 1968 and the Exemption Notices issued there under (Notices Nos. 189 and 196 of 25 August 2004) that allows lenders registered with NAMFISA to charge interest rates and other fees over and above the Usury limit. Based on the exemption, NAMFISA has the authority to regulate micro-lenders not only on pricing but also on other matters related to market conduct and in particular client protection. The exemption to the Usury Act is similar to the regulatory framework that was in place in South Africa from 1999 to 2005 with the Microfinance Regulatory Council (MFRC) regulating the micro-lending sector²¹. Legally, it is a rather convoluted way to regulate micro-lending as it gives extensive power to the Minister of Finance, who could change the level of interest rate at any time without any consultation. NAMFISA and the Ministry of Finance are aware of the weaknesses of the existing regulatory framework and intend to overhaul the entire Usury Act. The exemption to the Usury law is based on the size of loan: Micro-lenders registered with NAMFISA may charge twice the usury limit on loans of up to USD4,550 (N\$50,000).

Another issue with the existing exemption notice is that it mentions that micro-lenders need to be members of a micro-lenders' controlling body that has been approved by NAMFISA. In South Africa, the same formulation was used to get micro-lenders to be "members" of the Micro Finance Regulatory Council, which was considered as a self-regulatory body. In Namibia, however, NAMFISA is a public law entity that answers to Government. Micro-lenders need to be a member of the Micro Lenders Association (MLA) which is an industry association, not a regulatory entity.

4.7 Legislation and regulation in development

NAMFISA has initiated a process of updating the regulatory framework of the Namibian non-banking financial sector by introducing a new Financial Institutions and Markets Bill. The Bill will replace and consolidate several outdated statutes when it is enacted. Furthermore, the new Bill will be supported by subordinate legislation consisting of Prudential and Market Conduct Standards and Regulations, which are currently being drafted. The rules related to non-bank lenders will be included in the new

²¹ The exemption notice first came into play in South Africa in 1992 but the MFRC was established by the exemption notice of 1999.

legislation and regulation. In terms of market conduct for the credit industry, Namibia is considering a Credit Act, fairly similar to the National Credit Act in South Africa that would regulate all the credit activities provided to individuals in the country. A limitation on the interest rate and cost of credit will probably still be part of the legislation. Microfinance, due to its perceived high operational cost, would again benefit from a higher limit in terms of the cost of credit.

The BON has also simultaneously started to develop a regulatory framework for microfinance deposit taking institutions. BON is also working on draft regulations that will focus on adapting banking rules to suit microfinance banking institutions in terms of capital adequacy levels, branch infrastructure requirements, license fees, ownership, loan loss provisioning, collateral and collateral substitutes.

4.8 Definition of microfinance

Key points in the Guidelines: Regulatory definitions of “microfinance” and “microcredit” should be tightly framed to meet specific regulatory objectives and should not simply be drawn from general literature on microfinance.

There is no legal definition of microfinance in Namibia. Micro-lending is indirectly defined by the exemption to the Usury Act which considers that loans benefiting from the exemption cannot be above USD4,550 (N\$50,000). Furthermore microfinance is deemed to refer to not only low value credit but it should also be for developmental purposes accompanied by savings product targeted at low income segments. These informal definitions are drawn from general microfinance literature and practice contrary to the CGAP guidelines. The proposed new Credit Act and Microfinance Regulations to be developed by NAMFISA and BON respectively will be a significant improvement on the status quo if they include specific definitions of what micro-credit and microfinance are under the regulations.

4.9 Licensing process

Permission to lend

Key points in the Guidelines: The regulatory framework should—absent particular local factors, such as extreme corruption in the NGO sector—permit both NGOs and commercial companies to engage in micro-lending. Issuance of a permit to engage in micro-lending should be straightforward, involving a public registry and a simple process, but not prudential regulation.

Micro-lenders’ registration with NAMFISA is optional. There is no obligation to register for lenders willing to comply with Usury limits. In this case, lenders that are not registered are not regulated by NAMFISA or any other authority and there is no avenue for consumers to complain. Another

peculiarity is that banks cannot register with NAMFISA to benefit from the exemption to the Usury Act. For a commercial bank to operate under the Usury Act and benefit from the exemption limits it has to set up a subsidiary that would be registered with and regulated by NAMFISA. Banks in Namibia have therefore created non-bank subsidiaries that are registered with NAMFISA.

According to members of the micro-lending sector, there are also lenders who are not registered under the exemption to the Usury Act but still charge rates over the Usury limits. As there is no legal requirement for all micro-lenders to register with NAMFISA there are many known cases of micro-lenders operating outside the Usury limits or engaging in exploitative practices. However, NAMFISA is unable to prosecute them as they are not under their authority.

A perception from the micro-lending sector is that the registration process under NAMFISA is becoming more and more strenuous and constitutes a barrier to entry. For instance NAMFISA does not publish all the requirements for registration. There is a view that the requirements that are communicated to a prospective micro-lender seeking to register change, depending on which officer from NAMFISA they are consulting. For instance, sole proprietorship is not acceptable - any lender needs to be a close corporation. On the other hand NAMIFISA insists that the more vigorous licensing requirements are meant to weed out 'unscrupulous' or exploitative lenders who undermine the whole sector. This lack of transparency about the requirements seems to suggest that the regulator is relying on subjectivity to license institutions and has a lack of perceived authority to address market conduct challenges with licensed institutions after they are licensed. The cost of regulation is also fairly high for micro-lenders as NAMFISA charges a 1% levy on lending capital disbursed.

Institutional transformation

Key points in the Guidelines: To facilitate transformation of NGO MFIs into for-profit companies licensed to accept retail deposits, regulators may want to consider temporary or permanent adjustment of certain prudential requirements.

There is currently no tiered legal framework that permits microfinance institutions or micro-lenders to accept deposits from the public. However, that might change in the near future with the BON Financial Institution Bill. Once enacted, the Financial Institution Bill would allow for Microfinance Banking Institutions. The new bill will allow for a second tier bank or microfinance bank with 'lower' licensing requirements with regards to capital and infrastructure than that of a commercial bank but without unduly compromising on risk. This will enable more institutions similar to FIDES Bank to operate.

As per interviews with stakeholders, transformation to the proposed second tier bank is an option considered by several Namibian institutions. Transformation of NGOs into regulated deposit-taking

MFI is one strategic option envisaged by the new bill. For instance the developmental micro-lender Kongalend Financial Services has indicated that a deposit-taking license is an attractive option for its future plans.

Some of the biggest commercial micro-lenders (e.g. FinAid) are also considering transforming into deposit-taking institutions once the regulatory framework allows this. They see this as an attractive option not only because of the possible capital that can be mobilised but more importantly the value added services they can provide through transaction/savings accounts and access to the payment system. Lack of access to the national payment system is the main reason provided by micro-lenders for resorting to the 'card and pin' loan repayment method. However, the above benefits of being able to collect deposits and operate transactional and savings accounts would have to be weighed up against the cost of licensing and compliance to determine whether there would be an overall benefit to the institution. Ultimately this benefit could also be passed on to the clients in the form of more affordable and relevant products. The bill is also meant to attract new entrants into the microfinance sector to set up greenfield microfinance banks.

4.10 Prudential regulations

Key points in the Guidelines: The primary reasons for prudential regulation of depository institutions are (1) to protect the country's financial system by preventing the failure of one institution from leading to the failure of others, and (2) to protect small depositors. If prudential regulation does not focus closely enough on these two objectives, scarce supervisory resources can be wasted, institutions can be saddled with unnecessary compliance burdens, and development of the financial sector can be constrained.

Since deposit-taking MFIs or microfinance banks are not yet legally allowed, there are no prudential regulations other than for commercial banks and for FIDES Microfinance Bank. At the moment, MFIs are allowed to take compulsory savings as security as part of the group lending methodology. There is no specific regulations regarding this but the BON is aware of the practice and allows it as long as these deposits are maintained in a trust account and appear as a liability on the MFI's balance sheet. Deposit insurance is currently not practiced in Namibia but is one of the elements that are being considered for implementation under the NFSS.

Supervisory authority

Key points in the Guidelines: In most cases, the best supervisor for depository microfinance will be the authority responsible for commercial banks.

The supervisory authority for deposit-taking institutions is the Bank of Namibia - Directorate of Banking Supervision. The directorate is well respected by all licensed banks. The Bank of Namibia is

currently working on new legislation that will provide for the existence of deposit taking MFIs or microfinance banks. Once the new legislation is in place, the deposit taking MFIs that will be licensed under it, will be regulated by BON.

It is also interesting to note that NamPost Savings Bank, one of the biggest providers of financial services to low-income Namibians is presently regulated by the Post and Telecommunications Act, 1992 and under the supervision of the Minister of Information and Communication Technology. This might change as the Government is considering turning NamPost Savings Bank into a commercial entity. At the moment, should NamPost consider banking activities that are beyond what the Savings Bank is currently mandated to perform, there would be a need to amend the Act allowing NamPost the mandate to manage a savings bank. At the same time, if NamPost is transformed into a commercial bank, it will need to meet the regulatory requirements of the BON.

As mentioned, NAMFISA supervises all micro-lenders that are registered and wish to benefit from the exemption to the Usury Act. NAMFISA receives quarterly reports from micro-lenders and also carries out periodic onsite inspections.

4.11 Non-prudential regulations

Permission to lend

Key points in the Guidelines: The regulatory framework should—absent particular local factors, such as extreme corruption in the NGO sector—permit both NGOs and commercial companies to engage in micro lending.

In terms of the current legal framework there is no strict requirement for a micro-lender to obtain permission or to register with NAMFISA or any other authority before commencing micro-lending operations. However, non-bank financial institutions that wish to benefit from the exemption to the Usury Act need to fulfil the requirements of the Usury Act Exemption notice and be registered with NAMFISA. Therefore if a micro-lender was to operate within the Usury Act such an institution would not need to be registered with NAMFISA. However, it appears as though there are micro-lenders operating with fees in excess of the Usury Act that are not registered with NAMFISA and hence do not technically qualify under the Exemption notice. This could in part be attributed to the 'strict' or subjective/ambiguous registration requirements causing some of the micro-lenders to operate outside of the legal framework.

Credit Reporting System

Key points in the Guidelines: It is critical for the healthy development of microfinance to foster the development of broad and deep credit information databases that includes current loan balances and negative and positive information on the past payment behaviour of poor customers, particularly in markets approaching saturation. Micro-lenders (of whatever legal form) and borrowers are better served by credit reporting that draws from comprehensive payment data rather than just micro-credit data.

There are two private credit bureaus operating in Namibia: Compuscan and TransUnion. Compuscan serves the micro-lending industry almost exclusively. NAMFISA requires that all micro-lenders registered with it subscribe to a credit bureau. Due to the prominence of Compuscan in the micro-lending sector and the fact that the micro-lenders do not necessarily want to subscribe to both credit bureaus, there is an implied requirement that the subscription should be with Compuscan and not TransUnion. The latter serves the higher end of the credit market which includes the commercial banks and retail credit providers such as furniture and clothing stores. Hence, there is a challenge in terms of a fragmented credit information set in the sector – which may not be problematic for the moment – but could be in future. This situation is further perpetuated by the fact that NAMFISA stipulates that before a micro-lender can grant a loan, the prospective applicant should not have an outstanding loan with any other micro-lender.

NAMFISA does not provide any stipulation about a prospective client's credit listing on the credit bureau with regards to other credit providers such as retail and furniture stores. Considering that micro-lenders clients also receive credit from other credit providers this situation is not ideal as the micro-lender is not able to get a complete picture of the level of indebtedness of some of their clients.

In practice there is no credit information sharing across the different credit market segments, in particular between the micro-lending markets that report to Compuscan and the other credit providers that report to TransUnion. This absence of information sharing is in part due to the absence of a regulatory framework for credit reporting systems and credit bureaus. BON has drafted regulations on credit bureaus which will also contain provisions on data privacy and data integrity.

In terms of policy, credit reporting systems are seen as having the potential to play a big role in advancing financial inclusion. The existing databases are seen as being limited in terms of volume and quality of data, especially considering that they contain mostly negative information. As a consequence BON is exploring the idea of a national register of credit. Due to an information campaign by financial institutions and the authorities, people are becoming more aware of the consequences of a negative credit record, as credit checks are also used for job applicants, for instance.

At the moment there is no use of credit bureau data for micro and small enterprises as all information currently being reported is for individuals. According to TransUnion, micro and small enterprise data would benefit from access to Ministry of Trade data on MSMEs. However the Ministry currently restricts access to its data.

Reliable data sharing will enable more effective determination of disposable income and affordability. Under the current situation a micro-lender can deduct up to half of a client's net salary.

Considering the information asymmetries that exist due to lack of effective credit information sharing, what is intended to be half of a net salary can in reality be significantly in excess of this limit.

Another unintended effect of NAMFISA's guidelines is that the micro-lender will not take the client off Compuscan when they want to apply for another loan. As a consequence the client cannot obtain another loan from competing micro-lenders. The initial micro-lender will offer the borrower another loan (instead of allowing the borrower to go to the competitor) thus perpetually tying the client in.

Reporting and institutional transparency

Key points in the Guidelines: If regular reporting is required of lending-only MFIs, then the content and frequency of reports should be tailored to specific regulatory purposes and should be much lighter than what prudential reporting by deposit-takers would be. In addition, the requirements should be harmonised as much as possible, with reporting requirements

NAMFISA has a quarterly report on size of the industry and publishes statistics on the micro-lending sector based on institutions that are registered with it. As of May 2014 there were about 400 micro-lenders registered with NAMFISA. This means that complete industry statistics are not available given that some micro-lenders are not registered with NAMFISA. It remains unclear how many institutions are operating without registration. The statistics that are recorded and published on a quarterly basis are broken down by Term Lenders and Payday Lenders. Below is the table of statistics for the sector for the four quarters of 2013.

Table 3: Extract from NAMFISA quarterly statistical bulletin

	Q1 - 2013	Q2 - 2013	Q3 - 2013	Q4 - 2013
Value of loan disbursed USD	40 689	41 094	59 340	62 004
Term lenders USD	27 366	28 124	46 723	46 948
Payday lenders USD	13 324	12 970	12 618	15 056
Number of loans (Total)	168 253	155 612	158 599	179 003
Term loans	26 504	23 770	32 200	32 322
Payday loans	141 749	131 842	126 399	146 681
Average term loan value USD	1 033	1 183	1 451	1 453
Average payday loan value USD	94	98	100	103

The statistics indicate that while there is no significant change in the Payday loans, the Term loans portfolio grew by more than 70% from the first quarter to the last quarter of 2013. This can be explained by the increase in the average size of the Term loan from USD1,000 (N\$11,000) to USD1,450 (N\$16,000) over the same period.

Consumer protection

Key points in the Guidelines: As much as possible, all providers of a given financial service should be held to the same consumer protection standards.

Namibia does not have a Consumer Protection Act or any other similar legislation meant to protect the consumer. The Competition Act is currently under review and the expectation is that consumer protection provisions will be included in the revised Act. However, it does not seem as if there will be a specific focus on financial services and products.

The Bank of Namibia and the Bankers' Association of Namibia have developed an industry Code of Banking practice. This is a voluntary code which sets standards of good banking practice for financial institutions to follow when dealing with customers. The code is detailed, clearly drafted and includes a comprehensive set of rules dealing with: access to services, disclosure, confidentiality and privacy, fair marketing and advertising, equal treatment, provision of credit, assessing affordability, internal dispute resolution and rules specific to various products. The code also established a complaint mechanism within the BON, which is accessible to any client who is unable to have their case resolved through an internal resolution mechanism (with a bank).

MLA Namibia, also has a code of conduct that applies to all micro-lenders registered with NAMFISA which is less detailed than the Code of Banking Practice but re-states several rules in place in the NAMFISA regulation. No complaint mechanism exists (although there is such a mechanism at NAMFISA level) and it is not clear how the association would monitor the implementation of the code.

NAMFISA's rules require that the credit providers communicate the total cost of credit clearly to the client under every credit agreement. To help ensure this, NAMFISA has a standard loan application format that all micro-lenders are expected to use that discloses the various pricing components. According to micro-lenders, the rules in the exemption notice discourage electronic transactions as it requires a physically signed loan agreement (not digital or voice). This creates barriers to electronic access: granting loans through cellphones, for instance, is not possible.

Regarding affordability, no explicit directive is given except that the monthly instalment should not exceed one third of the disposable income (net pay) after all statutory obligations. The one third limit is stipulated in the Labour Act. Aside from that, micro-lenders are also forbidden from granting a microloan to any person who still has a loan with another micro-lender. This rule prevents over-indebtedness to a certain extent. However, this is a narrow view as it does not consider all other

types of credit, such as store credit which is widely available in Namibia and within the same target market as micro-lenders.

Repayments through bank card and PIN, which has been outlawed in several countries, including neighbouring South Africa still exist in Namibia because, according to micro-lender representatives, this is the only payment instrument available in some parts of the market. MLA Namibia believes that this needs to change and as a consequence card and PIN are not permitted under its rules. However, the absence of an interoperable bank payment system increases the incentive to continue to use the card and PIN method for collections. There are currently three proposals on how to achieve this. The obstacle is the banks' willingness to move this forward quickly. Banks are still free to take their own business decision on participation of financial service providers on the payment system.

Several of the large micro-lenders such as TrustCo have an internal customer care-department that is meant to resolve customer complaints. In the absence of an internal recourse system by a micro-lender or where they are unable to resolve an issue to the satisfaction of the client, NAMFISA has a 'Complaints Department' in place. Members of the public are able to lodge complaints to NAMFISA but only after they have tried to resolve the issue first with the micro-lender (which is the norm).

Limitation on interest rates

Key points in the Guidelines: Interest rate caps can restrict access by making it impossible to serve small or remote borrowers. It may be politically difficult to set a cap that is high enough to cover the unavoidable costs of micro-lending and a profit margin high enough to attract capital to low-income financial services.

Interest rates are restricted by law in Namibia. The Usury Act 73 of 1968 as enacted before Namibia's independence from South Africa provides for the limitation and disclosure of finance charges on loan and credit transactions and sets maximum rates of interest for loans. The current Usury limit is 8.5 percent per annum but micro-lenders regulated by NAMFISA can benefit from the exemption notice and charge up to twice that percentage.

On 30-day loans, lenders are authorised to charge 30% upfront on the loan amount. This is not part of the exemption notice to the Usury Act but has been tolerated by NAMFISA and is therefore standard practice in the micro-lending sector.

While this level of pricing might be adequate for consumer lenders, micro-enterprise lenders cannot price adequately for risks and costs. At the same time, this limitation seems to lead to a lack of competition on pricing since each micro-lender is charging for credit at the same level, i.e. right at the maximum authorised by the Usury regulation, even for lenders that bear a minimum risk of non-

repayment, such as the institutions providing microloans to civil servants through payroll deduction. There is also no product diversification, perhaps due to the fact that lenders may not be able to price for higher risk or extend the amount of the loan or the period over what is authorised in the exemption notice.

NAMFISA and the Government of Namibia are considering repealing the Usury Act and replacing it with broader legislation regulating credit in a similar way to the South African National Credit Act. The question on whether interest rates and pricing should be capped has not been decided as yet with different stakeholders having various opinions on the matter.

4.12 Payment system

Key points in the Guidelines: Regulation of access to payment systems needs to balance promotion of competition against the risk of discouraging innovation.

Access to a reliable payment system is a big issue in Namibia, especially for commercial micro-lenders. The repayment methodology assumes that people will not pay voluntarily and therefore lenders try to find ways to access their clients' income as soon as possible after the due date and time of salary transfer. The main issue arises out of the fact that one of the main payment mechanisms has preferential access to the borrower's income before the others. The payroll deduction payment method, which is available to only a few credit providers who have a deduction code, entails that they have their loan instalment deducted from the net pay of the borrower before it is transferred to the borrower's bank account. All other credit providers who do not have a deduction code then have to fall in line to receive the loan or credit repayment instalments from the borrower's bank account through the bank payment systems or debit orders.

Access to the formal payment system is dominated by large commercial banks. Although dedicated payment service providers may also be able to participate indirectly in the payment system, the costs may be prohibitive for non-banks. The contention between banks and non-bank credit providers is that banks deduct any instalment due to them before any other financial service provider can be paid. In an ideal situation, as is the case in more developed financial markets, the payment system allows for randomised access for deductions from the bank accounts in which the salary is deposited as opposed to preferred access, hence giving every credit provider equal access to the salary. This encourages a more healthy extension of credit since all providers should be able to deduct their repayments based on a more rigorous affordability assessment during the application process, not just the ones who get a preferential deduction.

In Namibia FNB is currently the only bank that provides a payment system where other credit providers, can access the accounts of FNB clients and make the loan deductions automatically once

the salary is deposited. The absence of an open and fair payment system has led to micro-lenders resorting to the 'card and PIN' method for loan repayment. Many and in particular the regulator argue that the 'card and PIN' method is not a payment but a collection system that inconveniences and exploits the consumer. While the 'card and PIN' system is prohibited under the current rules, its use is rampant. It can be expected that until a fully open and functional system is in place that micro-lenders will have an 'almost justifiable' reason to continue using the 'card and PIN' system.

A new regulation, 'The Payment System Determination' Regulation (BON), 2013, now allows non-banks to participate in the payment system. The non-banks permitted to participate in the payment system are payment system providers who add another layer of inter-connectivity other than BON and the commercial banks through which non-bank financial service providers such as the micro-lenders can have access to the payment system. The payment system determination of 2013 is considered to be one of the most progressive in the region and is envisaged to contribute to the promotion of financial inclusion.

In addition to the payment system determination that will allow micro-lenders to potentially participate in the payment system directly, there are also third party solution providers such as Real Pay and PayMate that provide micro-lenders with an option to participate in the payment system and consequently a means for loan repayment other than 'card and PIN'.

The payment system is one of the issues to be addressed in the new credit regulation considering the significance of payment systems in the sector. Also this is intended to address the issue of preferential deduction through the payroll system. It must be noted that while the payroll deduction code does provide preferential deduction for the participating lenders and possibly reduces their credit risk, it is not beneficial to the credit sector as a whole due to the information asymmetries it promotes.

4.13 Limitation on ownership

Key points in the Guidelines: Restraints on foreign investment or management can sometimes hinder the development of financial services for the poor. NGOs should be permitted to own shares in for-profit MFIs that specifically target the poor.

There is no limitation on foreign shareholding of licensed institutions in Namibia. It will be interesting to see if the legislation under development related to second tier microfinance banks will face any provisions around foreign ownership. In other countries where the second tier-microfinance bank has been introduced the issue of foreign ownership or controlling interests with regards to the international microfinance networks has proved to be contentious and hindered entrance of international investors into the sector.

The issue of foreign ownership which is to some extent linked to the requirement of having 'fit and proper' principle officers or directors is more relevant for deposit taking institutions and less so for credit only, micro-lenders (that make up the majority in Namibia). This is because the latter is putting their own capital at risk unlike deposit taking institutions who also risk their depositors' funds.

4.14 Financial crime

Key points in the Guidelines: Applying Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) rules for conventional banking to tiny microfinance transactions can seriously limit access unless a risk-based approach is adopted.

In conformance with international banking standards, NAMFISA seem to be applying strict rules for licensing applications of new micro-lenders who have to prove where the lending capital comes from and that they are 'fit and proper' based on the Financial and Intelligence Act. The requirements are stricter than what is usually required of micro-lenders in other countries in the region and as a consequence is seen as unnecessarily bureaucratic or deliberately used as a barrier to registration for new micro-lenders.

4.15 Branchless banking

Key points in the Guidelines: Branchless banking—using technologies, such as mobile phones and smartcard readers, to transmit transaction details and using existing retail establishments to act as the principal customer interface—holds the promise of significantly expanding financial access by lowering transaction costs for the lender and improving convenience for the customer.

Branchless banking in the realm of microfinance and financial inclusion is synonymous with the use of agents for the provision of financial services and at times in conjunction with the use of mobile phone technology for the transmission of transactions.

Agency banking: is the use of a business other than an outlet of the financial service provider to interact with the client and provide the selected financial transactions on-behalf of the micro-lender in this case. The current regulatory framework in Namibia does not permit the use of agency banking hence micro-lenders need to have a physical outlet in the geographical areas that they operate in. This limits their areas of operation due to the infrastructure requirements and cost of setting up branches.

Mobile banking: Mobile banking is still in its infancy in Namibia. While it promises to be a cost-effective channel for advancing financial inclusion, and in particular microfinance, it will need an enabling regulatory environment for it to develop. For instance permitting the use of agents would contribute to development of mobile banking as clients require outlets at which to cash in and cash out funds to and from their mobile wallets.

Current mobile money solutions in Namibia include FNB's e-wallet and Mobipay. While these solutions do contribute to the payment channels available, they have very limited contribution to financial inclusion as they tend to rely on existing and limited infrastructure such as ATM or pre-requisite bank accounts or limited use like payments or remittances only.

4.16 Conclusions

Financial inclusion and microfinance policy

The role of microfinance in achieving financial inclusion in Namibia seems focused on the extent to which new microfinance institutions involved in developmental lending (microenterprise lending in particular) can be encouraged to enter the market. The existing micro-lending institutions are seen as playing a limited or no role in increasing financial inclusion primarily because they target and serve the formally employed market segment that is already accessing financial services but not necessarily credit.

Licensing and permission to lend

The licensing requirements for micro-lenders with NAMFISA are far more stringent and ambiguous than required in other countries. This has led to an 'under-ground' micro-lending subsector in Namibia that operates outside the law. These unauthorised micro-lenders are not subject to any market conduct rules and hence have the potential to exploit and abuse borrowers. Anecdotal evidence of this exists. While it may be argued that the requirements are meant to limit the number of micro-lenders, NAMFISA may want to revisit some of its licensing requirements with a view to reducing the barriers to entry so as to have as many of the micro-lenders in operation being registered and under its supervision as opposed to them operating illegally. Currently there is limited capacity for NAMFISA to clamp down on the illegal micro-lenders.

Deposit-taking microfinance institutions

The Namibian microfinance sector, regulators and private sector MFIs are seemingly all in agreement that the next step for the sector and financial inclusion is to have a regulatory framework that will allow for deposit-taking microfinance institutions, similar to the FIDES Bank that was licensed on exception. However, the introduction of the second tier microfinance bank should be approached with caution and take into account several issues:

- **Deposit insurance:** A second tier microfinance bank usually requires less restrictive requirements than those of traditional commercial banks. Considering the possible additional risk that they may pose to depositors, their introduction should be undertaken alongside the introduction of a deposit insurance scheme that would safeguard small depositors' funds up to a reasonable limit. This may be critical in assuring the depositor's confidence in the second tier banks.
- **Lessons to be learned:** The proposed second tier microfinance bank is meant to operate on a similar basis to the existing FIDES Bank of Namibia. Our research indicates that FIDES Bank has had limited success in terms of portfolio quality and outreach and that its operation might be transformed with less or no focus on SME and micro-enterprise credit. It may be worth exploring, in more detail, what challenges constrained the growth and sustainability of FIDES Bank and to what extent these are being addressed in the proposed Microfinance Bill. BON will also benefit from the experience of other Central Banks in the region that have undertaken a similar approach to introducing a second tier commercial bank structure for microfinance but have met with limited success. For instance, Tanzania introduced a microfinance tiered banking structure in 2008. Since then only one greenfield microfinance bank was setup and two micro-lending institutions transformed into deposit taking microfinance companies (one in 2013 and the other in 2014).

Financial consumer protection

There is no consumer protection legislation specific to the financial sector in place in Namibia at present. However there are market conduct rules specific to the banking sector and to the registered micro-lending sector.

The Bankers Association of Namibia together with BON set up the 'Banking Code of Practice' that clearly stipulates rules that its members are expected to adhere to in terms of the treatment of client complaints and recourse mechanisms. The question remains on the level of supervision and enforcement of these rules.

Lenders registered with NAMFISA need to adhere to a set of rules which focus mostly on pricing, disclosure and complaint mechanisms available to the client. Equally the micro-lending sector also has a Code of Conduct which covers fair treatment of clients. However the MLA Code of Conduct is based on the NAMFISA regulations and guidelines only and is not as detailed or actionable as the Bank Code of Practice. As the NAMFISA rules on client protection are not well structured either, the microfinance and micro-lending sector consumer protection rules have room for significant improvement. It is recommended that a more holistic framework around market conduct and client protection be developed that will cut across the whole financial sector and not just rules specific to the micro-lending or microfinance sectors. For this a coordinated effort will be required between

NAMFISA and BON and close consultation with relevant stakeholders. The downside of not following a coordinated approach will be a perpetuation of fragmentation in the market brought about by two different sets of rules, regulators, etc.

Interest rate limitation

The Usury limit is meant to protect consumers against excessive pricing but discourages competition and new product development. The interest rate limit is also limited in its ability to protect against excessive pricing as it only applies or can be enforced with micro-lenders that are registered. Since the legislation is under review, the authorities should investigate the possibility of either doing away with Usury limits with clear rules on pricing transparency that would encourage clients to compare and choose the best product or at least, have some differentiation in terms of set limits depending on the type of loans.

Agency banking and mobile money

The Namibian demographic and geographical context of low density and sparse population makes it challenging to deliver financial services cost-effectively especially to marginal clients. Consequently the use of agency banking and technology options such as mobile banking and mobile connected field officers is an attractive proposition. However the current regulatory framework does not permit the use of agency banking for commercial banks, let alone for microfinance institutions and micro-lenders. The development and implementation of regulations on agency banking by BON and other relevant stakeholders should be placed as high priority to encourage innovation and agency arrangements and partnership between financial services providers and other entities closer to the grassroots in the delivery of financial services. The relevant regulations will need establishing minimum standards to preserve the safety of these alternative delivery channels.

5. Zambia

5.1 Introduction²²

Zambia currently has one of the fastest growing economies in the world and attained middle income status in 2012. Real GDP growth is projected to increase to 7.1% and 7.4% in 2014 and 2015 from 6.5 in 2013. It recently issued two Euro Bonds (USD750 million in September 2012 and USD1 billion in April 2014), indicating the high levels of confidence that foreign investors have in the economy.

However, Zambia's impressive economic growth has not translated into improved livelihoods for all. Equitable distribution of wealth remains low with poverty levels reported at 60% in 2010. While the economy has been growing, the disparity between the rich and the poor has been widening. Poverty remains geographically defined with extreme poverty concentrated in the rural areas while reducing in the urban areas.

The Zambian economy still remains heavily dependent on copper mining with the sector employing about 10% of the formal sector. It is also the single most important recipient of foreign direct investment. Agriculture is the most important sector from a socio-economic point of view, providing employment opportunities for 60% of the country's informally employed population of 4.9 million and 8% of the only 900 000 formally employed. Zambia's financial sector is among the fastest growing in the economy, exceeding 12% in 2013. The sector accounts for about 7% of GDP. Despite Fitch highlighting that the pace of credit growth in Zambia has exceeded the threshold at which there is a higher risk of stress in the banking system (15%), financial sector growth is still expected to remain robust in the medium term. The sector is characterised by low financial intermediation, with limited access to financial services for the rural population and low-to-middle income earners, high costs of funds and an undeveloped money and capital market. In urban areas the banking network and branches are expanding, with increasing numbers of available ATMs.

Increasing access to financial services, especially for the youth and in the rural areas is seen as one of the ways of fostering employment opportunities and reducing poverty levels. Access to credit in particular should contribute towards the start-up and growth of MSMEs that would provide employment. As a consequence, development of the microfinance sector is one of the priorities of the Central Bank and Government of Zambia. Based on the results of the FinScope Survey of 2009, only 37.3% of adult Zambians had access to financial services. Access to credit was significantly less at 17.9%. The bulk of credit in Zambia is provided through payroll loans to the formally employed. It represents 32% of the total credit portfolio with both commercial banks and MFIs active in the sector.

²² Adapted from: <http://www.africaneconomicoutlook.org/en/2014/Zambia>

According to the Global Findex 2011, 21% of adult population had an account at a formal financial institution compared to 17% in 2009 (FinScope), while only 6% had access to credit from a formal financial institution.

5.2 The microfinance sector

In the 1990s, Zambia experienced financial sector distress, resulting in the closure of nine banks. Bank closures led to a loss of confidence and a shift of deposits from small, indigenous, locally owned institutions that catered for the average Zambian to foreign-owned banks which were perceived to be “safer” but whose products and services were outside the reach and affordability of most Zambians. This led to significant gaps in the provision of financial services, especially to populations in the rural areas, where a significant proportion of the poor reside.

As of June 2014, there were 33 MFIs licensed by the Bank of Zambia. There are two main types of microfinance providers: payroll based consumer lenders and microenterprise or developmental lenders (“conventional” microfinance). Of the 33 licensed microfinance providers, 23 are payroll based consumer lenders and accounted for 92% of the microfinance sector’s total assets. Out of the 33 MFIs only ten are developmental lenders. Ten MFIs are licensed as deposit taking financial institutions of which five are developmental MFIs and the other five consumer-payroll lending MFIs. While the last five years have seen an increase in the number of registered MFIs from 25 in 2009 to 33 in 2014, the majority of new entrants have been consumer lenders, concentrated in the main urban areas.

Table 4: Summary of licensed MFIs in Zambia

Institution	Developmental	Commercial (consumer lending)	Total
Deposit taking	5	5	10
Non-deposit taking	5	18	23
Total	10	23	33

Source: BOZ, 2014

However, the last two years has seen a shift, in which, some of the consumer-lending focused MFIs have been making a transition into developmental lending with a focus on microenterprise credit. These, more commercially, oriented MFIs are anxious to explore innovations around digital finance that will ensure that their microfinance operations are able to achieve levels of outreach and sustainability at a much greater scale than the traditional developmental MFIs.

5.3 Description of various types of institutions

Association of Microfinance Institutions in Zambia (AMIZ)

The Association of Microfinance Institutions in Zambia (AMIZ) is a member-owned and run organisation. AMIZ has been in operation since 1998. Since its inception, it has focused on improving

the policy framework for microfinance in Zambia and promoting best practices. The organisation is run on a day-to-day basis by an Executive Secretary who reports to the board. The board consists of elected members from the senior management of member MFIs.

Membership to AMIZ is open to both developmental lending and consumer-payroll lending MFIs. As of July 2014 of the 33 MFIs registered with BOZ, twenty were active members of AMIZ. Over the last couple of years the membership (as evidenced by the fully paid subscriptions) fluctuated between 20 and 27. The developmental MFIs dominate the membership of AMIZ holding twelve out of the twenty memberships.

Following the introduction of the interest rate caps by BOZ in 2013, AMIZ has experienced the emergence of a chasm between the developmental and consumer lenders. This is primarily because the developmental lenders perceived the relatively high interest rates that consumer lenders charged before the interest rate caps as the main reason behind BOZ introducing them. This in turn has led to some of the more dominant developmental lending MFIs pushing for the 'expulsion' of consumer lending MFIs from AMIZ, thereby leaving it as a developmental lending MFI association only. As a consequence, some of the consumer-payroll lending MFIs have set up a new association called the Zambia Association of Commercial Lending Institutions (ZACLI).

Payroll lenders

The majority of MFIs in Zambia are involved in consumer-payroll lending and target the formally employed sector through payroll lending. Payroll-lending microfinance is relatively new, having only emerged in Zambia about ten years ago following the privatisation of the mines and several other previously state owned parastatals. While there are a few indigenous consumer micro-lenders, the dominant ones originate from South Africa and have operations in several other African countries. These include Bayport, Blue, Letshego and IZWE. The indigenous ones include Meanwood, M-Finance, Elpe, Bomach and many others. The consumer lending MFIs predominantly use payroll deductions for the collections of loans by entering into scheme loan arrangements with employers who deduct the loan instalment from the salary of borrowers each month and remit the funds to the MFI. It should be noted that this product and methodology is used not only by the MFIs but also by the commercial banks to provide consumer credit. The income levels of this market segment range from the low-income blue collar jobs like miners and farm labourers to middle-income civil servants.

The growth of the consumer-payroll lending microfinance sector has been significant in the past few years which raised concern on the risk of client abuse through exploitative pricing, over-indebtedness and systemic risks that may potentially arise in the sector. As a consequence the regulator, BOZ, has put in place measures including the interest caps introduced in 2012 and is presently considering new regulation to control the sector further.

Developmental lenders

The developmental lending MFI subsector in Zambia, like in other developing/emerging countries, began driven by international NGOs with a focus on socio-economic empowerment primarily driven and supported by donor funding. The dominant NGOs acting in this space, that initiated MFIs that remain active today, albeit with a more commercial/sustainability focus include:

- MicroBankers Trust that was set up as a joint venture of the Government of the Republic of Zambia (GRZ) and the European Union (EU), through the Ministry of Community Development and Social Services (MCDSS)
- Cetzam initially part of the Opportunity International network and setup with a strong Christian ethos;
- FINCA Zambia, part of the FINCA International network;
- Vision Fund Zambia (previously known as Harnos), part of the Vision Fund International microfinance network and an affiliate to World Vision International; and
- EFC Zambia (previously known as Pulse Holding Zambia), was set up as a project in 1995 by Care UK and received significant support from DFID.

Other significant players in the developmental microfinance space in Zambia include:

- AB Bank Zambia, a member of the LFS network, is a MSME focused commercial bank that started operating in Zambia in 2011. AB Bank is unique in the sense that it is the only commercial bank that has a specific focus on MSME.
- Agora Zambia has a pro-poor rural focus and was set up with the support of Concern WorldWide and other shareholders. It commenced operations in 2011 and as of June 2014 had grown its outreach to 10,000 clients making it one of Zambia's largest and fastest growing MFIs.

5.4 Products

Until early 2000 the only microfinance products on the Zambian market was either the traditional Grameen style group lending loan or the village banking model. The primary providers of this product were the NGO MFIs such as FINCA and Cetzam. During the mid-2000s the sector saw the entry of commercially driven consumer lending MFIs which introduced payroll lending loan, targeted at the low to mid income borrowers in the formally employed market segment. At about the same time, the NGO developmental MFIs were also going through a transformational process driven in line with their need to achieve financial sustainability. This led to the introduction of individual loans targeting slightly larger micro-enterprises, accessing relatively larger loans. The transformation process, enabled by the new microfinance regulation in 2006, also saw some of the large developmental MFIs

acquire a deposit taking licence and as a consequence begin mobilising voluntary savings. Below is a full range of services that microfinance institutions in Zambia are able to provide:

Micro-enterprise loans: Offered by the developmental MFIs using both solidarity group lending especially in the rural areas, as well as individual lending for micro and small enterprise owners.

- **Group loans:** Lenders provide very short term loans, to micro-entrepreneurs who are mainly women in rural areas and are organised in solidarity groups as a substitute to traditional collateral. Loan amounts range from USD32 (K200) to USD810 (K5,000), with terms ranging from two weeks to up to 6 months. Repayment frequency can be weekly, bi-weekly or monthly.
- **Individual loans:** Loans of up to USD8,100 (K50,000) -these are accessed by the larger micro-entrepreneurs who have a track record with an MFI and usually would have graduated from a group loan. Collateral is required for these loans in the form of fixed assets. Loan terms range from 3 months to 24 months.

Payroll loans: Offered mainly by commercial banks and consumer MFIs through salary loan scheme arrangements with employers. Loan amounts range from 30-day pay-day loans up to five years (60 months) for large loan amounts. Amounts range from USD162 (K1,000) to USD8,100(K50,000). The commercial banks tend to extend the loans for the higher amounts and longer periods in the range described above.

Deposits and savings: Following the implementation of the Microfinance Regulations in 2006, a number of the large MFIs were able to license as Tier I – deposit taking MFIs. These include Cetzam, FINCA, EFC (then Pulse Holding) and Vision Fund (then Harmos).

An interesting phenomenon in Zambia in the last two to three years has been the emergence or transformation of some MFIs to deliver both developmental lending focused on MSME loans as well as consumer lending focused on the low income but formally employed sector through payroll lending.

Two examples are:

- Cetzam has traditionally been a developmental lending MFI focused on MSME credit. However it struggled over the years to attain scale and achieve financial sustainability. As a consequence two years ago (in 2012), the board made a strategic decision to venture into payroll lending but for productive purposes and not consumption. This was done on the basis that payroll lending is regarded as relatively more efficient and profitable than MSME lending. It was intended that the proceeds and profits from payroll lending would be used to subsidise the MSME lending activities. To ensure that the MFI did not experience mission drift and lose focus of its primary objective of development and supporting the MSME sector, it set a maximum limit of 20% of its overall portfolio for the payroll lending.

- MFinance which started off as a consumer lending only MFI using payroll lending has been making a shift towards developmental MSME lending. It currently has only 20% of its total portfolio in MSME lending but is in transition and has set a target of eventually having 80% of its portfolio being in MSME lending as opposed to consumer payroll lending.

5.5 Zambia Financial Sector Strategy

Financial Sector Development Plan (FSDP)

In an effort to achieve the objective of becoming a prosperous middle income country by the year 2030 (Vision 2030), the Government of Zambia in collaboration with development partners has been implementing the Financial Sector Development Plan (FSDP) since 2004. FSDP II (an extension of the initial FSDP) which ran from 2010 to 2012²³ defined the following three priority areas as critical for the development of the financial sector:

- Market infrastructure;
- Enhancing or increasing competition; and
- Aligning access to finance with the real economy.

The third component includes among its areas of focus:

- Strengthening the microfinance industry;
- Expanding access to development and housing finance; and
- Enhancing and developing a buoyant secondary market in money and capital markets.

These are all critical to the development of the microfinance sector and financial inclusion in general. Some progress has been made in translating these policies into regulations or implementing activities which increased access to microfinance services. Most notable are the following changes, although some still remain work in progress:

- **The Banking and Financial Services Act of 2006** which for the first time contained microfinance specific regulations. This allowed for re-categorisation and licensing of microfinance institutions as well as for deposit taking MFIs which, has led to increased intermediation and the introduction of new products. MFIs that are now able to take deposits include Cetzam, EFC and FINCA.
- The recapitalisation and the strategic turn-around of state-owned financial institutions (including the Development Bank of Zambia and NATSAVE) which are involved in microfinance and increasing the general level of access to finance.
- The introduction and enhanced use of the Credit Reference Bureau (CRB) thereby reducing the credit risk for all lenders. Perceptions from the market indicate that the positive impact of

²³ FSDP II has been extended to run until December 2014. The FSDP III framework is presently being worked on.

the credit bureau is growing as it matures and has more data providers reporting to it on a consistent basis. This was viewed as being unlikely to happen in its first few years of operation.

National Strategy on Financial Education

The National Strategy on Financial Education (NSFE) for Zambia sets out the framework for improving the financial education of the Zambia population. The development of the strategy is an integral component of the Zambian Government's FSDP. The primary purpose of the strategy is to empower Zambians with the knowledge, understanding, skills, motivation and the confidence needed in order to help them secure positive financial outcomes for themselves and their families by 2017. The implementation of the NSFE is being led by the three financial sector regulators namely the BoZ, the Pensions and Insurance Authority (PIA) and the Securities and Exchange Commission (SEC) through the Financial Education Coordination Unit (FECU), which is currently housed at the BoZ. Increased financial literacy levels should result in increased consumption and uptake of financial services which has thus motivated BOZ, PIA and the SEC to develop the NSFE strategy with the support of interested stakeholders. The current phase of the NSFE runs from 2012 to 2017.

5.6 Legislation

Banking and Financial Services Act (BFSA), 1994 and the Banking and Financial Services (Microfinance) Regulations, 2006.

The regulations and acts that intervene in the banking and financial sector and that are enforced by BOZ include the Banking and Financial Services Act of 1994 and the ancillary Microfinance Regulation of 2006.

In April 2012, BOZ announced the introduction of a BOZ Policy Interest Rate. The Policy Rate is used to influence monetary and credit conditions, and allows the BOZ to signal an increase or a decrease in the price of credit in the market. To announce changes to the BOZ Policy Rate, BOZ issues monthly communiqués that explain its monetary policy stance. The first BOZ Policy Rate was 9% for the month of April 2012, and had increased to 9.25% at the start of 2013. As of July 2014 the Policy Rate was 12%. Other than stimulating monetary policy, another purpose of the Policy Rate was to introduce a certain level of transparency in the pricing of credit in the financial sector.

BOZ is also responsible for prudential supervision for financial institutions. Regulatory policies brought in 2012 saw a significant increase in the capital reserves required for commercial banks to operate within the country. Locally owned banks are required to have a capital base of USD 16.5m (K104m) whilst foreign owned banks were required to have a minimum capital base of USD 82m (K520 million). These measures, which were brought into effect by the end of 2012 were explained as

a way of encouraging the banks to increase their lending activities. However this did not materialise, as interest rates still remained very high until the introduction on the interest rate caps.

5.7 Legal and regulatory framework

There is a clear distinction in Zambia between the banking sector regulation and supervision authority and the regulation and supervision authority for non-bank financial institutions such as pension, insurance and capital markets. The microfinance sector regulation and supervision falls under the same regulator as the banking sector and is supervised by the Bank of Zambia.

The Central Bank – Bank of Zambia (BOZ) is responsible for the regulation and supervision of financial service providers which includes banks and microfinance institutions. As at 30 September 2014, there were 19 commercial banks and 33 MFIs (10 deposit taking and 23 non-deposit taking) licensed by the BoZ.

BoZ currently regulates the microfinance sector under the BFSAs and the Microfinance Regulations, 2006 which came into effect in 2006. The Microfinance Regulations were primarily intended to bring MFIs under the regulatory ambit of the BoZ, to strengthen the sector and ensure accountability and transparency in operations and more importantly a smooth integration of the sector into the mainstream financial sector. This provided them with a regulatory framework under which they could grow and extend their outreach to the country's rural areas and to low income clients. Consequently the regulatory framework provided for the existence of deposit taking MFIs.

To a limited extent the Microfinance Regulations of 2006 have resulted in increased access to financial services as evidenced by the proliferation of MFIs, with six of them being deposit taking institutions targeting low income economically active clients. However, one unintended consequence of the regulations is that it also created a 'safe' regulatory framework under which the consumer-payroll lending MFIs could also operate and grow unabated. These have tended to be concentrated in the urban areas and targeted those in formal employment using payroll deductions. As a result the number of salaried individuals who are highly indebted appears to be increasing. In recent years, there have been numerous reports of employees who ended up with negative salaries on their pay slips, due to irresponsible lending on the part of the lender, a lack of understanding of the actual cost and terms of borrowing by the borrower, or a combination of the two. The issue of over-indebtedness, exploitative pricing and the limited success in increasing financial access to rural, informal sectors and MSMEs has prompted the Bank of Zambia to take the decision to revisit and review its existing microfinance regulations.

5.8 Legislation and regulation in development

Microfinance Services Bill, 2014

In light of recent developments in the microfinance and credit market in Zambia, the BOZ has started a regulatory reform process in order to ensure that the regulatory framework remains current and relevant to microfinance activities. This started in 2013 with the introduction of interest rate caps. This has been followed by proposed amendments to the Microfinance Regulations of 2006 in the form of the Microfinance Services Bill of 2014. The following sections discuss the microfinance regulations and will refer to both the Microfinance Regulations of 2006 currently in force and the Microfinance Services Bill of 2014 depending on the case and its relevance to its specific context.

BOZ has requested comments and feedback from MFIs and other stakeholders in the sector on the Draft Microfinance Services Bill of 2014.

The table below summarises the various regulations and acts that make up the microfinance regulatory framework in Zambia.

Table 5: Summary of the microfinance regulatory framework in Zambia

Institution	Legal basis for regulation	Supervisory Authority
Microfinance institutions: Tier I (deposit taking) and Tier II (non-deposit)	Banking and Financial Services (Microfinance) Regulations 2006 Microfinance Services Bill, 2014.	Bank of Zambia (BOZ)
Money lenders and MFI Tier III	Money Lenders Act, 1964	Ministry of Finance and National Planning (MOF)
Savings and Credit Cooperatives	Cooperative Societies Act, 1998	Ministry of Agriculture

5.9 Definition of microfinance

Key points in the Guidelines: Regulatory definitions of “microfinance” and “microcredit” should be tightly framed to meet specific regulatory objectives and should not simply be drawn from general literature on microfinance.

There is no legal definition of microfinance in Zambia under the current Microfinance Regulations of 2006. However the regulation does define microfinance services as:

“The provision of services primarily to small or micro enterprises or low income customers and includes the following: (a) the provision of credit facilities usually characterised by frequent repayments; and (b) the acceptance of remittances and any other.”

The regulations go on to define a low income customer and micro-credit respectively as the following:

- *"Low income customer" means a person who is economically active, receives low income and does not have access to formal financial institutions;*
- *"Micro-credit" means a credit facility that does not exceed five per centum of the primary capital of a licensed microfinance institution, as prescribed by the Bank of Zambia.*

These definitions were meant to provide certainty as to what microfinance is and is not for regulatory purposes as well as for the purpose of identifying what services the government would like to promote in its quest to promote financial inclusion. This definition of microfinance is broad and it includes micro-credit for formally employed but low income individuals. The definition has also not succeeded in limiting microcredit to small loan sizes only. Depending on the level of primary capital of an institution, 5% of a primary capital of a large licensed MFI can be as high as several thousands of dollars, significantly higher than the small loan size the regulation intended.

These gaps in the definition of microfinance have resulted in the classification of services offered by consumer-payroll lending institutions with individual loans of up to USD11,000 (K70,000) and with terms of up to 60 months being classified as microfinance. As a result the BOZ has provided further guidelines in the form of circulars to distinguish the MFIs that are predominantly involved in developmental microfinance and referred to them as MFIs and the MFIs that are predominantly involved in consumer – payroll lending as other Non-banking Financial Institutions (NBFIs). This was contained in Circular no. 8/2012 of January 2013. The criteria that are used for distinguishing MFIs (developmental) from other MFIs involved in consumer lending are as follow:

1. The percentage of loans to micro and small scale enterprises should not be less than 80 percent of the total loan portfolio of the MFI;
2. The average loan size per borrower of the MFI shall not exceed USD400 (K2,500); and
3. The percentage of the loans to individuals in formal employment does not exceed 20 percent of the MFI's loan portfolio.

At the time of introducing this distinction, the main purpose was to make way for the introduction of interest rate caps with the developmental MFIs having a higher cap than the consumer lending MFIs. The rationale provided by BOZ for making this distinction was due to their understanding and realisation that the developmental microfinance has higher operating costs. In an attempt not to stifle the sector's development and instead encourage its growth, developmental lenders were allowed by the BOZ to apply a higher interest rate cap.

Proposed changes in the Microfinance Services Bill 2014

Under the proposed new legislation, the definition of microfinance will explicitly distinguish between microfinance services aimed at the informal sector and MSMEs and financial services aimed at the formally employed. The main purpose of this distinction will be to ensure that the two types of institutions offering the two different micro-credit product categories fall under two different

regulatory frameworks. BOZ hopes that by distinguishing the MFIs involved in developmental micro finance from those involved in consumer lending, they will be able to better support each of these types of services by putting in place an enabling regulatory environment that will lead to the extension of services to the relatively excluded informal sector and rural areas.

Under the Draft Microfinance Services Bill 2014, microfinance services are defined as:

"The provision of financial services primarily to micro or small enterprises and low income customers, usually characterised by the use of collateral substitutes, except salaried backed loans, or any other services that BOZ may designate."

Furthermore, a microfinance institution will be defined as:

"a person (natural or unnatural person) licensed to carry on, conduct, engage in or transact in microfinance service in Zambia."

5.10 Licensing process – permission to lend

Key points in the Guidelines: The regulatory framework should—absent particular local factors, such as extreme corruption in the NGO sector—permit both NGOs and commercial companies to engage in micro-lending. Issuance of a permit to engage in micro-lending should be straightforward, involving a public registry and a simple process, but not prudential regulation.

Licensing of any person/institution involved in the provision of microfinance services is mandatory in Zambia. BOZ is responsible for the licensing of Tier I and Tier II MFIs. Tier I and Tier II MFIs are classified depending on their paid-up capital.

- Tier I: Deposit taking MFI with minimum capital of K2.5m (USD405,000).
- Tier II: Non-deposit taking MFI with minimum paid up capital of K100,000 (USD16,200).
- Tier III: Non-deposit taking MFIs with capital of less than K100,000 (USD16,200).

Tier I - deposit taking microfinance institution may provide any of the following services:

- (a) Credit facilities
- (b) Linkage banking
- (c) In-country transfers
- (d) Savings
- (e) Such other service as the Bank of Zambia may prescribe

Tier II – non-deposit taking MFIs can only be engaged in providing micro-credit facilities.

There are two other regulatory authorities with regulatory and supervisory power in the microfinance sector:

- **The Ministry of Finance** is responsible for supervising the money lenders that are registered by the Subordinate courts under the Money Lenders Act. It is also mandatory for all entities seeking to engage in the business of money lending to be licensed under the Money Lenders Act of 1964. However, this mandatory requirement to register is not enforced. A study conducted in 2012 indicates that only 39 money lenders were registered countrywide whereas anecdotal evidence indicates that more than one hundred money lenders were operating illegally especially in Lusaka and on the Copper-belt provinces. To obtain a license, Money Lenders are required under the Act, to register with a Subordinate Court and to obtain a certificate. Based on the certificate, the Ministry of Finance will then issue a Money Lender's License (section 4.1 & section 4.2 of the Money Lenders Act). Under the Draft Microfinance Services Bill of 2014, BOZ proposes a 'Delegated Supervision' regulatory framework for Tier III MFIs under which these would be required to report to and be supervised by an entity yet to be identified or named by BOZ.
- **The Ministry of Agriculture** is in charge of registering all types of cooperatives, including financial cooperatives as well as providing them with assistance and advisory services. The financial cooperatives would usually be formed to support a primary activity that the cooperative members are involved in, such as agriculture, or employment sector.

5.11 Institutional transformation

Key point in the Guidelines: To facilitate transformation of NGO MFIs into for-profit companies licensed to accept retail deposits, regulators may want to consider temporary or permanent adjustment of certain prudential requirements.

Institutional transformation was driven by the intention of having MFIs being involved in deposit mobilisation and intermediation. The basis for this objective was that an alternative to banks had to be found to deliver financial services to marginal clients, low income clients and in rural areas. MFIs could achieve this more cost effectively than banks. This was facilitated by the Microfinance Regulations of 2006 allowing for the formation or transformation of credit only MFIs into Tier I deposit taking MFIs.

There are currently ten Tier I- deposit taking MFIs. Of these, seven were in existence as micro-credit providers when the Microfinance Regulations of 2006 came into effect and have subsequently converted to Tier I. In this regard one can say that the transformation objective has been realised. The seven MFIs that went through the transformation process included FINCA, Vision Fund (formerly Harnos), EFC (formerly Pulse), Cetzam, Microbankers Trust, Madison Finance and Bayport. Graypages, Genesis and Microfinance Zambia are the other Tier I MFIs that did not go through a transformation process but were also able to obtain a Tier I license through their initial registration.

It is worth noting that a couple of the large Tier I MFIs have expressed an interest in applying for a full banking license in the mid-term (two to three years). However, following the raising of the minimum capital requirement by BOZ for commercial banks in 2012 to K104 million for locally owned banks and to K520 million for foreign owned, this transformation is no longer attainable for most of them in that time frame.

5.12 Prudential regulations

Key points in the Guidelines: The primary reasons for prudential regulation of depository institutions are (1) to protect the country's financial system by preventing the failure of one institution from leading to the failure of others, and (2) to protect small depositors. If prudential regulation does not focus closely enough on these two objectives, scarce supervisory resources can be wasted, institutions can be saddled with unnecessary compliance burdens, and development of the financial sector can be constrained.

Supervisory authority

Key points in the Guidelines: In most cases, the best supervisor for depository microfinance will be the authority responsible for commercial banks.

Tiers I and II MFIs are under the regulation and supervision of the Non-Bank Financial Institutions Supervision Department of the Bank of Zambia. They are supervised under the provisions of the Banking and Financial Services (Microfinance) Regulations of 2006.

The microfinance prudential regulations are an adapted form of the banking regulations to fit the specific characteristics of microfinance activities. The regulations provide for the on-site inspection and reporting formats as well as frequency of reporting by licensed MFIs to BOZ. Some of the prudential regulations for microfinance include:

- A Tier I MFI must be an incorporated company. This is meant to enhance the level of corporate governance for deposit taking MFIs.
- A Tier II MFI can be an incorporated company or an entity/NGO listed under the Societies Act.
- A licensed MFI should have at-least five directors of which the majority (three) should permanently reside in Zambia.
- Minimum paid up capital for deposit taking MFIs is K2.5 million compared to K104m for local commercial banks.
- No single shareholder may hold more than 25% of shares in a Tier I MFI and no more than 50% of shares in a Tier II MFI.

- Activities of Tier I MFIs are more restrictive than banks' activities. For instance a Tier I MFI may not provide current accounts (various savings accounts are authorised), cheques and foreign exchange.

The current microfinance regulation does not provide specific rules on the classification and provisioning of non-performing loans although it provides a schedule for reporting. The absence of specific regulation is a serious weakness, hence in the draft Microfinance Bill of 2014, a new chapter has been included focusing specifically on non-performing loans, their classification and provision.

The bill specifically defines non-performing credit as:

"A credit facility under which (a) principal or interest on it is due and unpaid for three instalment payments or ninety days, whichever period is shorter, or more or (b) interest payments equal to three instalment payments or ninety days, whichever period is shorter, or more have been capitalised, refinanced, renegotiated or rolled over."

The criteria for assessing non-performing credit facilities apply regardless of the type of security held on the loans. However, cash or savings and time deposit balance held as security may be deducted from the outstanding balance of the credit facility before determining specific provisions. The schedule below provides the framework, calculations and definitions for the various classification and required provision.

Table 6: BOZ non-performing loan classifications and provisioning rules

Reporting Microfinance Institution: _____

Reporting Date: _____

	K' millions (A)	Provision % (B)	Provision (C) = (A) * (B)	Provision (D) = (A) * (B)	Net loans (F) = (A) – (D)	Suspended Interest
Current portfolio (Pass)					o	
Current rescheduled loan portfolio		10%		o		
Portfolio past due 1-29 days – (Normal)		10%		o		
Portfolio past due 1 instalment or 30 days, whichever period is shorter, or more but less than 90 days (Watch)		25%		o		
Portfolio past due 3 instalments or 90 days, whichever period is shorter 119 days (Substandard)		50%		o		
Portfolio past due 4 instalments or 120 days, whichever period is shorter 179 days		75%		o		

(Doubtful)						
Portfolio past due 6 instalments or 180 days, whichever period is shorter or more (Loss)		100%		0		

Extract from Draft Microfinance Services Bill 2014

5.13 Non-prudential regulations – permission to lend

Key points in the Guidelines: The regulatory framework should—absent particular local factors, such as extreme corruption in the NGO sector—permit both NGOs and commercial companies to engage in micro-lending. Issuance of a permit to engage in micro-lending should be straightforward, involving a public registry and a simple process, but not prudential regulation.

Although there is a legal requirement for all providers of microfinance and micro-lending in Zambia to register, this is not enforced. BOZ is able to exercise its mandate to license the operations of Tier I and Tier II MFIs in part due to its centralised mode of operation. However the licensing and enforcement of Tier III MFIs is done on a haphazard basis due in part to the decentralised nature of subordinate courts that have the responsibility of issuing certificates to them. As a consequence there is no reliable record of the number of Tier III – micro-lending businesses operating in Zambia. The proposed 'Delegated Supervision' framework being proposed by BOZ is meant to address some of the challenges of the current regulatory framework for Tier III MFIs and the Money Lenders Act.

5.14 Credit reporting system

Key points in the Guidelines: It is critical for the healthy development of microfinance to foster the development of broad and deep credit information databases that includes current loan balances and negative and positive information on the past payment behaviour of poor customers, particularly in markets approaching saturation. Micro lenders (of whatever legal form) and borrowers are better served by credit reporting that draws from comprehensive payment data rather than just micro-credit data.

There is one private credit bureau operating in Zambia. Credit Reference Bureau Africa Limited (CRBAL) trading as Transunion was licensed under the Credit Reference Services (Licensing) Guidelines, 2006 on 6 June 2006 and commenced operations in 2008. Its operations are guided by the Credit Data (Privacy) Code. A directive was issued in December 2008 requesting all credit providers that are licensed by BOZ to submit their data to the Credit Bureau and use the information it provides for credit screening purposes before granting credit. Other than the commercial banks, this included the MFIs, building societies, leasing businesses and the savings and credit bank

(NATSAVE). The Credit Bureau Agency guidelines of 2006 definition of credit providers includes that the Micro-lenders licensed under the Money Lenders Act and any business that also provides credit through the leasing or purchase of goods on hire-purchase. However, these are not explicitly required to submit data or utilise the services of a credit bureau.

As the volume of data has increased over the years, the quality of credit reports has also improved. The sentiments expressed by the market on the role played by the credit bureau have been positive. The common view is that the credit culture is improving as a growing number of individuals get to have a credit record and are able to appreciate the consequences of having a positive or a negative credit record. The Credit Bureau provides a standard credit report on an individual's repayment pattern for a 24 month period covering information such as full- payment, part payment, skipped payments, days in arrears, worst days in arrears, unpaid debit orders and cheques. Besides that, the Credit Bureau also provides value added services such as 'Skip trace' (location of missing borrowers) and business reports. The Credit Bureau will also be introducing credit scoring on the Zambian market in the near future.

One area that remains unresolved and could have increased significance for the Credit Bureau is the development of a legal framework that would require all credit providers including those not regulated by BOZ such as the retail furniture stores and utility companies to report to the Credit Bureau. Currently a few of these businesses report to the Credit Bureau, but only on a voluntary basis. As of June 2014 there were a total of sixty institutions consistently providing data to the Credit Bureau. These included 25 MFIs, 9 commercial banks, 3 building societies, 6 leasing companies. Others that provided data on a voluntary basis were mobile operators, retail furniture stores, real estate agents and trade/sector cooperatives. It was not clear why there is such a low representation of the commercial banks (9/21) considering that they are all required by the law to submit data to the Credit Bureau.

Even in the absence of a legal framework and without the direct intervention of a regulator such as BOZ, there is a private sector led initiative to encourage information and data sharing by all credit providers. With the financial support of FinMark Trust, the coordinator for the Zambia Credit Reporting Alliance (ZAMCRA) has recently been appointed and will be responsible for the development of this credit information sharing platform. ZAMCRA is part of a SADC regional initiative that is running in six countries including Zambia. The other five countries are Zimbabwe, Botswana, Namibia, Lesotho and Swaziland. For MFIs, especially those involved in payroll lending, the ZAMCRA initiative is a welcomed one as they target the same clients but at present they only have a partial view of their clients' credit behaviour as reported by institutions submitting data to BOZ.

5.15 Reporting and institutional transparency

Key points in the Guidelines: If regular reporting is required of lending-only MFIs, then the content and frequency of reports should be tailored to specific regulatory purposes and should be much lighter than what prudential reporting by deposit-takers would be. In addition, the requirements should be harmonised as much as possible, with reporting requirements

There is limited information on the overall credit or microfinance market in Zambia. It is limited in the sense that only institutions licensed by BOZ report on a systematic basis to any central registry. While Tier I and II MFIs report to BOZ, Tier III MFIs and other institutions, such as micro-lenders registered under the Micro-lenders Act and NGOs and MFIs registered under the Societies Act and Cooperatives and Societies Act, have no reporting structure or obligations. As a consequence there is no reporting structure or framework that provides an overall picture of the microfinance sector in Zambia.

Despite this, it can be convincingly argued that the significant portion of the microfinance sector falls under the licensed MFIs of BOZ under the Tier I and II classifications. The information on these two types of institutions should give a realistic view of the size of the sector. However, one area of concern under the current reporting framework is that the data available from BOZ on the microfinance sector does not distinguish between consumer-payroll lending microfinance and developmental microfinance which is more relevant for the financial inclusion agenda.

The figures presented in the table below are an attempt to make this distinction following the classification of MFIs by BOZ as being either microfinance service providers (developmental) or all other NBFIs (consumer-payroll MFIs). This has been done for the purpose of implementing differentiated interest caps in 2013 for the two categories of MFIs.

Table 7: Client outreach in Zambia by institution type

Number of clients	2013	2012	2011
Microfinance service providers (Developmental MFIs)	87 714	75 824	56 301
All other NBFIs (Consumer-payroll MFIs)	169 949	162 383	139 402
Total MFI sector	257 663	238 207	195 703

Source: Compiled from BOZ reports

Table 8: Year-on-year growth in client outreach

Number of clients (Year-on-year growth rate) %	2012 to 2013	2011 to 2012
Microfinance service providers (Developmental MFIs)	16%	35%
All other NBFIs (Consumer-payroll MFIs)	5%	16%
Total MFI sector	8%	22%

Source: Compiled from BOZ reports

The proposed 'Delegated Supervision' for Tier III MFIs will bring the Tier III Micro Lenders into one reporting and supervision framework, supposedly under one centralised jurisdiction rather than under the jurisdiction of multiple different subordinate courts. This will improve the completeness of data on the credit market in Zambia, provided there is also increased enforcement capacity in order to ensure that all micro-lenders are licensed unlike the current situation where a large portion of Tier 3 MFIs and micro-lenders go unregistered and/or unlicensed and unregulated.

5.16 Consumer protection

Key points in the Guidelines: As much as possible, all providers of a given financial service should be held to the same consumer protection standards.

There is no regulation specific to consumer protection under the existing Microfinance Regulations of 2006. However the Draft Microfinance Services Bill 2014 has an entire chapter dedicated to consumer protection. The National Financial Education Strategy is also geared towards protecting the consumer by improving their knowledge and capacity to make informed financial choices and possibly avoid exploitation by financial service providers.

More broadly speaking Zambia does have a consumer protection regulation, the Competition and Consumer Protection Act of 2010 that is enforced by the Competition and Consumer Protection Commission (CCPC). The CCPC falls under the Ministry of Finance. While the CCPC is meant to cover all sectors, products and services, it has limited capacity and limited expertise to intervene in the banking and microfinance sector because of the specialist knowledge required to effectively police the financial sector. As a result, CCPC has entered into a Memorandum of Understanding with BOZ as the sector regulator, to ensure that it can obtain technical guidance when necessary to carry out its consumer protection and market conduct role in the banking and microfinance sector.

There are also industry associations with limited degrees of involvement in consumer protection issues. The Bankers Association of Zambia (BAZ) has developed a voluntary code of conduct that aims to set harmonised standards to be followed by members of the BAZ when dealing with customers. Similarly, the Association of Microfinance Institutions in Zambia (AMIZ) has a code of conduct for its members. On a related issue, AMIZ was also a partner of the Microfinance Transparent Pricing Initiative and through this, has promoted transparent pricing amongst its members.

5.17 Limitation on interest rates

Key points in the Guidelines: Interest rate caps can restrict access by making it impossible to serve small or remote borrowers. It may be politically difficult to set a cap that is high enough to cover the unavoidable costs of micro-lending and a profit margin high enough to attract capital to low-income financial services.

In January 2013 BOZ introduced interest rate caps for the NBFIs and microfinance sector. This followed the introduction of interest rate ceilings for commercial banks in December 2012. The introduction of interest rate ceilings saw the contraction of the microfinance sector. Some MFIs stopped lending completely while others would only grant new loans to existing clients.

The introduction of interest rate caps also saw, for the first time, an official move by BOZ to distinguish developmental MFIs from consumer-payroll lending MFIs. Developmental MFIs had a higher interest rate cap of 42%, calculated using the commercial bank interest rate cap (18.25%) multiplied by a factor of 2.302. The other NBFIs (payroll lending MFIs) had a lower interest rate cap of 30%, calculated using the commercial bank rate (18.25%) multiplied by a factor of 1.644.

Following the increase of the commercial bank interest rate cap to 28% in June 2014, the MFIs and NBFIs interest rate caps rose to 64% and 46% respectively. They were calculated using the same formulas explained above.

One area of contention, especially for the NBFIs, around the introduction of interest rate caps arose from the fact that the cap for banks and MFIs refers to an effective annual interest rate, the cap for other NBFIs (consumer-payroll MFIs) refers to the effective annual interest rate including insurance costs.

5.18 Payment system

Key points in the Guidelines: Regulation of access to payment systems needs to balance promotion of competition against the risk of discouraging innovation.

There are three main components to Zambia's electronic payment system infrastructure. These consist of the following:

1. Zambia Interbank Payments and Settlement System (ZIPSS): ZIPSS is Zambia Real Time Gross Settlement System (RTGS). Launched in 2004, this is the main national and interbank payment platform. Its main purpose is to reduce credit and payment risks between banks by allowing for settlement on real-time basis. ZIPSS is run by BOZ.
2. Zambia Electronic Clearing House Limited (ZECHL): ZECHL is the privately run and managed clearing house with shareholding split 50% between BOZ and 50% by the banks that existed at the time of its formation in 1999. New banks that did not exist at the time of formation of ZECHL have no shareholding in ZECHL. However, negotiations are underway to allow the commercial banks with no shareholding in ZECHL to buy shares. Further negotiations are underway to allow access of NBFIs to ZECHL via sponsor banks. ZECHL is used primarily for the clearing of cheques and electronic interbank direct debit and credit debit transfers (Electronic Funds Transfers/DDACC).

3. Zamlink, is a privately owned and run bank switch. Finsbury Investment, part of the Finance Bank group, owns 50% of Zamlink. As a result, for competitive reasons, it is not used by the other main large banks. The Zamlink switch facilitates ATM withdrawals (and deposits for Finance Bank only), electronic airtime vending and a VISA Gateway. Participating banks in Zamlink include 1) Finance Bank 2) Investrust Bank 3) Intermarket Bank 4) Access Bank 5) Natsave and 6) BancABC.

As evidenced from the payment infrastructure outlined above, Zambia has made remarkable progress in modernising its national payment system, but there remains a long way to go until most of the population can benefit from convenient, accessible and affordable electronic payments. There is no single major regulatory or policy obstacle limiting progress, despite the fact that the applicable framework can still be improved. Although there is a push for financial inclusion by the government and BOZ, few banks seem to be interested in the low-income market, as there is still much room for profitability and innovation amongst the high-end market segments. For the non-bank financial institutions, and in particular for the MFIs involved in consumer credit market, the existence of an alternative collections mechanism in the form of payroll deduction by mutual agreement with the employer makes the need for an effective, interoperable and open payment system less relevant. As a consequence the fact that the MFIs are not participating in the payment system is currently not a major factor for their operations unlike in other countries where payroll lending is limited. However, from a consumer protection point of view, payroll deduction is seen as a mechanism that may lead to reckless lending, as it limits the need for lenders to assess affordability.

5.19 Financial crime

Key points in the Guidelines: Applying Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) rules for conventional banking to tiny microfinance transactions can seriously limit access unless a risk-based approach is adopted.

The banking and microfinance sector in Zambia is subject to a relatively flexible anti-money laundering regulatory regime. As far as Know Your Client (KYC) is concerned, this is aided in part by the fact that a national ID system exists in Zambia that is relatively reliable. Despite this, banks tend to be overly conservative in their requirements for the opening of new accounts which could potentially be related to their limited interest in, or knowledge of, the low-end segments. Alternatively, this could be linked to the lack of a tiered regulatory framework for account opening and customer due diligence, which could be addressed by BOZ through future regulations. This would be especially relevant for the microfinance sector where the profile of clients presents a significantly low risk with regards to the AML and CFT objectives of the Zambian authorities.

5.20 Branchless banking

Key points in the Guidelines: Branchless banking—using technologies, such as mobile phones and smartcard readers, to transmit transaction details and using existing retail establishments to act as the principal customer interface—holds the promise of significantly expanding financial access by lowering transaction costs for the lender and improving convenience for the customer.

Branchless banking in the realm of microfinance and financial inclusion is synonymous with the use of agents for the provision of financial services and at times, in conjunction with the use of mobile phone technology for the transmission of transactions.

Zambia has issued guidelines for both the use of agents and mobile money for the financial sector. It is worth noting that Zambia is one of the pioneers of mobile money with Celpay having commenced mobile money transactions in 2002. Since the enactment of the National Payments Systems Act of 2007, when Celpay was the only designated payment business in Zambia, there have been three additional mobile money providers that have entered the market. These include Airtel Money, MTN Money and Zoono (previously Mobile Transactions Zambia).

The e-money regulation has resulted in the growth of mobile money and its contribution towards extending financial services especially to the rural and peri-urban areas of Zambia. The table below indicates that mobile money agents provide the most extensive touch points for financial services country-wide.

Table 9: Channel outreach in Zambia

Touch point	Bank branches	ATMs	ZamPost branches	Mobile money agents	POS	Kazang terminals
Number	286	537	127	4,700	1,784	1,800
Per 100,000 inhabitants	2.20	4.12	0.97	36.1	13.67	13.85

Source: Mapping the Retail Payment System landscape in Zambia, BFA, 2012

Increasingly MFIs are becoming part of the mobile money landscape by becoming agents of the mobile money providers. This is done to generate a source of additional revenue for the MFIs but also to make use of an existing, flexible but innovative delivery channel for the provision of financial services by an MFI, primarily the disbursement and collection of loan repayments. The regulatory environment in Zambia supports this initiative by having issued guidelines that allow MFIs to engage in agency banking. The larger, more commercial MFIs, have also developed their own mobile payment solutions that provide mobile money transfer services as well as being a platform for the delivery of their own microfinance services, including savings. BOZ provides guidelines and limits for the mobile money/wallet accounts as part of its prudential oversight.

5.21 Country conclusions

Microfinance policy

Unlike several other countries in the SADC region, Zambia does not have a specific microfinance policy. Microfinance is identified as one of the priority areas in the FSDP, but beyond that, no policy documents exist on microfinance.

However, the microfinance regulations, current and proposed, all clearly indicate that the government, through BOZ, recognises microfinance as one of the main means of extending access to financial services for the under-banked and un-banked. BOZ has taken a holistic view to microfinance, encompassing not only micro-credit and savings but also remittances and micro-insurance. This is evidenced by the microfinance regulatory framework of 2006 that was aimed at encouraging MFIs that met the licensing requirement to become involved in savings mobilisation, with the understanding that they were better suited for extending not only credit but savings to low income and rural clients, i.e. markets that the commercial banks were not reaching. Relative to other countries, the transformation objective seems to have been achieved in Zambia.

One peculiarity of the Zambia microfinance sector over the last ten years has been the rapid expansion of the consumer-payroll lending sector. BOZ recognises that this subsector is fulfilling an important need in the market and has played a pioneering role in opening up the consumer credit market in Zambia to the masses. The MFIs have successfully used the payroll lending approach and made it popular, leading to the mainstream commercial banks also entering the personal lending space using the same methodology.

However, the developmental microfinance subsector has not done nearly as well as the consumer-payroll lending in term of sustainability and expansion. This is despite the two subsectors operating under the same regulatory framework. This has led to BOZ revisiting its regulations, initially by issuing statutory instruments and circulars and now through the Draft Microfinance Services Regulations Bill, 2014. The cornerstone of these regulatory changes has been to encourage more developmental microfinance, while tightening regulations for consumer-microfinance. As a consequence, BOZ had to come up with regulations that distinguish the two types of institutions offering the two different products. It remains to be seen whether this approach will achieve the intended purpose of encouraging developmental lending or may lead to the unintended consequence of constraining the credit sector as a whole.

Various levels of regulation and supervision

The microfinance regulatory framework uses a tiered approach with BOZ, MoF and MoA being the regulators for the microfinance subsectors. While the tier I and II MFIs are relatively adequately supervised, the Tier III – the supervision of moneylenders subsector by the MoF under the

Moneylenders Act lacks sufficient capacity. Although the sector is relatively small, it has the capacity of negatively affecting the whole microfinance sector through market conduct issues such as abusive and exploitative practices that may take place and affect the reputation of the sector and entrench unethical conduct.

The proposal by BOZ to introduce a delegated supervision framework to cover Tier III MFIs including moneylenders is welcome. If well-coordinated, it would provide a means by which consistent market conduct rules, dealing with consumer protection or other issues could apply to all institutions in a similar way. Minimum information on credit portfolio should also be reported at least on an annual basis.

Prudential rules for deposit-taking institutions

Prudential rules for Tier I MFIs are reasonable and strike a good balance between areas where smaller deposit taking institutions should be held to high standards and areas where flexibility is advised.

Interest rate limits

The recently introduced interest rate limits have already led to an unintended consequence of constraining the credit sector. The tiered approach is a clear indication of which products or market segments BOZ would like to promote. Also the recent upward adjustment of the ceilings by BOZ is commendable and indicates the regulator's flexibility to respond to the market realities.

Financial consumer protection

Consumer protection does not have a clear regulatory framework at the moment. Consumer-payroll lending which is highly susceptible to abuse and may even pose potential systemic risk is being viewed with caution and is currently receiving special attention from BOZ. A unique framework on consumer protection would offer consistency and universal coverage for financial services consumers. Our recommendation is that BOZ be the only institution to take charge of supervising the enforcement of rules on financial consumer protection for the banking and microfinance sector. A clear legislation or regulatory framework should be in place, as opposed to the current situation where the responsibility is shared with CCPC and MOF (for institutions registered under the Money Lenders Act) and MoA (for Cooperatives) hence leading to ambiguity and ineffectiveness.

Agency banking and mobile money

The regulations related to these areas are adequate and are already leading to noticeable growth in mobile money services. What remains to be seen is the extent to which the combination of mobile money and agency banking will be able to contribute to financial inclusion in a transformative way. MFIs are well positioned to take advantage of both mobile money and agency banking as part of their delivery model.

6. Comparative country analysis

Issue and principle in the guideline	Tanzania	Namibia	Zambia	Gaps
<p>1. Type of regulator</p> <p><i>In most cases, the best supervisor for depository microfinance will be the authority responsible for commercial banks.</i></p>	<p>Central Bank for banks and deposit taking MFIs. Non-deposit taking MFIs, including consumer lenders are unregulated. No focus on market conduct.</p>	<p>Central Bank for banks and (in progress) for deposit-taking MFIs Namfisa regulates microlenders for market conduct.</p>	<p>Central Bank for banks and licensed institutions (deposit taking and non-deposit taking MFIs if share capital is above K100, 000 (USD15,700).</p>	<p>The solutions adopted are in line with the guidelines as the Central Banks use their expertise in banking regulation to supervise deposit taking MFIs. However in the case of both Tanzania and Zambia, the Central Banks are less effective in market conduct regulation. Market conduct is also a specialist role requiring different skills sets and expertise than prudential supervision.</p>
<p>2. Effectiveness and cost of supervision</p> <p><i>In relation to the assets being supervised, specialised MFIs can—especially in the initial stages—be considerably more expensive to supervise than full-service banks</i></p> <p><i>Financial cooperatives—at least the larger ones—need prudential supervision by a specialised financial oversight agency that has the requisite skill, independence, resources, and powers.</i></p>	<p>Prudential regulation by BoT is effective for MFIs and for banks with microfinance activities.</p> <p>For the large sector of financial coops, the supervision is ineffective</p>	<p>Prudential regulation by BoN is effective (although experience has been limited to one MFI so far).</p> <p>Non-prudential supervision by NAMFISA is good but could improve by increasing the resources on micro-lending supervision; the regulator’s main focus is more on insurance and asset management sectors than on credit providing</p>	<p>Effective prudential regulation for institutions licensed by BOZ. However limited capacity to carry out effective non-prudential/market conduct supervision, even for the Tier II MFIs that are licensed by BOZ.</p> <p>There is no supervision at all for the small money-lenders that are not licensed by BOZ</p>	<p>Central Banks provide effective prudential supervision to MFIs, especially when the number of MFIs requiring prudential regulation (deposit taking) is low. Non-prudential /market conduct supervision on all credit providers would require more human resources which the Central Banks might not have at the moment.</p> <p>Funding model for market conduct in Namibia is interesting (NAMFISA charges a 1% levy on lending capital disbursed) but the resources collected</p>

Issue and principle in the guideline	Tanzania	Namibia	Zambia	Gaps
<p>3. Definition of microfinance in legislation or regulation</p> <p><i>Regulatory definitions of "microfinance" and "microcredit" should be tightly framed to meet specific regulatory objectives and should not simply be drawn from general literature on microfinance</i></p>	<p>Yes, limited to definition of microcredit: <i>credit accommodation whose security may include non-traditional collateral, granted to a natural person, individually or in a group, whose income depends on his own business or economic activity and who may lack formal financial statements and other accounting and operational records</i></p>	<p>institution.</p> <p>No definition of microfinance in existing framework or in the Bill. Micro-lending is indirectly defined by the exemption to the Usury Act which considers that loans benefiting from the exemption cannot be above N\$ 50,000</p>	<p>Yes, definition of microfinance services and microcredit in the current regulation. However, current definition of microcredit (credit facility that does not exceed five per centum of the primary capital of the MFI) is inadequate for regulation and financial inclusion purposes.</p>	<p>need to be applied directly to microlenders' supervision.</p> <p>Supervision of large financial coops is an issue that could threaten safety of deposits in countries where the sector attract large numbers of small depositors. Despite conducive legislation, it has been difficult to apply proper prudential supervision to that sector.</p> <p>The Tanzanian definition is effective in recognising that different types of financial institutions can provide microfinance services. Should this be a factor for the region then this definition should be given consideration as a standard definition in the region. Other countries' regulatory framework lack clarity or are too broad in that regard.</p>
<p>4. Deposit taking MFIs</p> <p><i>Several countries have built technically sound new regulatory windows for microfinance but have seen little response.</i></p>	<p>Yes adequate window, but transformation has been slow</p>	<p>Not yet. There is a Bill that would allow for deposit taking MFIs. Several MFIs and commercial micro-lenders</p>	<p>Yes. However, MFIs have not been effective in increasing access to savings as compared services offered by banks. E.g</p>	<p>The take on by MFIs on becoming deposit taking institutions has showed mixed results in improving financial inclusion. Where allowing deposit-taking MFIs is under consideration like</p>

Issue and principle in the guideline	Tanzania	Namibia	Zambia	Gaps
<p><i>Conversely, most of the successful new depository windows are in countries that already had a strong microcredit industry before the window was put in place.</i></p> <p>5. Define process for MF transforming into deposit taking</p> <p><i>To facilitate transformation of NGO MFIs into for-profit companies licensed to accept retail deposits, regulators may want to consider temporary or permanent adjustment of certain prudential requirements.</i></p> <p>6. Prudential requirements for deposit-taking MFIs</p> <p><i>The primary reasons for prudential regulation of depository institutions are (1) to protect the country's financial system by preventing the failure of one institution from leading to the failure of others, and (2) to protect small depositors. If prudential regulation does not focus closely enough on</i></p>	<p>No clear path was initially set up, but there are now a few provisions, on ownership for instance</p> <p>Yes, mostly adequate. A few areas, including high levels of provisioning might need to be reviewed.</p>	<p>are considering transformation</p> <p>No indication that the proposed new regulations are geared towards transforming existing institutions. On the contrary the new regulations will aim to encourage the setup of new/greenfield institutions.</p> <p>No, the Bill available at present does not specify prudential requirements. The future regulation would be specific to MFIs.</p>	<p>Absence of ATMs and or/cards by MFIs has made it difficult for them to attract significant savings</p> <p>MFIs can transform from tier I. (non-deposit taking) to tier II. Main change is capital requirement. Minimum of K2.5m (USD392,500). There are also no barriers to entry of new MFIs at Tier I level.</p> <p>Yes. Adequate. Regulations have been complemented with guidelines and statutory instruments to address changing market circumstances.</p>	<p>in Namibia, policy makers should determine whether the existing environment hinders institutions from providing savings services for the poor. E.g Use of mobile and agents as opposed to physical branches. If existing regulation does not present a barrier, or if the real binding constraint lies for instance in very low population density, deposit-taking MFIs might not necessarily improve access.</p> <p>A clear path on transformation can facilitate the process. E.g the Zambia model allowed for a transition period under which transforming institutions were given time to meet the requirements as they moved from Tier II to Tier I.</p> <p>Prudential requirements need to be transparent and set into regulations. Prudential regulations should not just be taken from the commercial banking sector and applied to microfinance. For instance rules on minimum capital, permitted activities, capital adequacy, unsecured lending limits, loan-loss provision, governance, branching requirements,</p>

Issue and principle in the guideline	Tanzania	Namibia	Zambia	Gaps
<p><i>these two objectives, scarce supervisory resources can be wasted, institutions can be saddled with unnecessary compliance burdens, and development of the financial sector can be constrained</i></p>				<p>reserves, insider lending should be specific to deposit-taking MFIS. For details see the CGAP guidelines pp 21 to 33²⁴.</p> <p>From time to time, the regulators should review these requirements and adapt them to the level of risk in the sector.</p>
<p>7. Registration or licensing process for non-deposit taking MF institutions; permission to lend.</p> <p><i>The regulatory framework should—absent particular local factors, such as extreme corruption in the NGO sector—permit both NGOs and commercial companies to engage in micro-lending.</i></p> <p><i>Issuance of a permit to engage in micro-lending should be straightforward, involving a public registry and a simple process, but not prudential regulation.</i></p>	<p>No, there is no requirement at all to register as a financial non-deposit taking institution. As a result there is no reliable information even on the number of such institutions</p>	<p>Yes registration with NAMFISA, but only if institution wants to benefit from the exemption to the Usury Act (higher interest rate cap allowed). Most institutions of any significant size are registered.</p>	<p>Yes for all lenders with a capital of more than K100,000 (USD15,700). It is also mandatory for micro-lenders with capital below K100,000 (USD15,700) to register with local magistrate under the Money Lenders Act. However there is no enforcement capacity at that level, so many money lenders are unregistered</p>	<p>This is a serious concern that, in some countries like Tanzania, a sizable part of the microfinance sector is operating under the radar. This is also the case for the commercial micro-lending sector. This specific sector, especially when using the payroll deduction methodology (instalments being deducted directly from salary), is a potential source of abuse and should be monitored closely. The monitoring process used by the NCA in South Africa, and some extent by NAMFISA in Namibia, can be considered as best practice.</p>
<p>8. Deposit insurance</p> <p><i>If a country requires commercial banks to participate in a deposit insurance scheme,</i></p>	<p>Yes, all banks and financial institutions licensed by BOT are mandatory members of the deposit</p>	<p>No, there is no deposit insurance scheme, even for banks.</p>	<p>No, there is no deposit insurance scheme, even for banks</p>	<p>Only Tanzania has a deposit insurance scheme protecting small depositors. Other countries should follow that example which might assist in</p>

²⁴ A guide to Supervision and Regulation of Microfinance, Consensus Guidelines, October 2012, CGAP.

Issue and principle in the guideline	Tanzania	Namibia	Zambia	Gaps
<p><i>then it may wish to consider imposing the same requirement on prudentially supervised deposit-taking MFIs as well (including at least larger financial cooperatives).</i></p> <p>9. Credit reporting system</p> <p><i>It is critical for the healthy development of microfinance to foster the development of broad and deep credit information. Micro-lenders and borrowers are better served by credit reporting that draws from comprehensive payment data rather than just micro-credit data.</i></p> <p>10. Reporting on the MF sector</p> <p><i>If regular reporting is required of lending-only MFIs, then the content and frequency of reports should be tailored to specific regulatory purposes and should be much lighter than what prudential reporting by deposit-takers would be. In addition, the requirements should be harmonised as much as possible, with reporting requirements imposed by other regulatory authorities (e.g., the regulator of NGOs).</i></p>	<p>insurance scheme.</p> <p>Yes CRS in place, but the perceived value of available information is still poor.</p> <p>No reliable national ID</p> <p>Poor level of reporting since a large part of the sector does not report to any regulator. There is no reporting by the MF association neither.</p>	<p>Yes private credit bureaus. The perceived value of available information is good but there are silos between the information available to the micro-lending sector and other sectors, such as the banks. Namibia has a well-functioning ID system that can be used to identify borrowers. Namibia is</p> <p>Good information and public reporting available from NAMFISA on registered micro-lenders.</p>	<p>Yes, CRS is in place. The perceived value of available information is growing as data provided and volume of data grows. Zambia has a national ID system that functions relatively well.</p> <p>Some reporting by licensed institutions to BOZ but no sector specific or distinction by product is made available by BOZ. Limited reporting by the MF sector association.</p>	<p>increasing the trust level of depositors in MFIs and micro-finance banks.</p> <p>Credit information sharing platforms must be facilitated and where necessary initiated by the regulator. However the best systems in the region, such as in Namibia, are those managed by the private sector which has been more innovative and efficient. Even more so considering that the required data providers will be other than those just falling under the jurisdiction of the banking and microfinance regulator.</p> <p>Reporting needs to be taken seriously. It can be done at several levels: regulator, association but is essential for investors and to promote transparency in the microfinance sector. Reliable information is also required for any meaningful financial inclusion strategy initiatives to be effective.</p>

Issue and principle in the guideline	Tanzania	Namibia	Zambia	Gaps
<p>11. Consumer protection</p> <p><i>As much as possible, all providers of a given financial service should be held to the same consumer protection standards.</i></p>	<p>There is no specific financial consumer regulation and the few rules applying financial consumer protection are fragmented. In theory, BOT has responsibility for enforcing aspects of financial consumer protection but capacity in that regard is low.</p>	<p>The standards are good for institution registered with NAMFISA but do not apply to other credit providers.</p> <p>There is a Code of Conduct for banks which is good in theory but enforcement is questionable.</p>	<p>Limited – No financial sector specific consumer protection regulation. There are industry codes of conducts for the bank and microfinance sector but enforcement is questionable as it is subject to self –regulation. CCPC has responsibility for enforcing generic consumer protection. Capacity and knowledge are low for effective consumer protection in financial sector.</p>	<p>None of the regulatory frameworks are ideal. Namibia is the most advanced country but the framework remains fragmented in terms of rules applied to various providers of financial services.</p> <p>Banking and microfinance specific regulation on consumer protection is required with dedicated unit, resources and skills for effective implementation especially in active consumer credit markets.</p>
<p>12. Transparency</p> <p><i>Microfinance providers should be required to give clients clear and complete information about services offered, including their terms and costs.</i></p>	<p>Weak framework: There are no clear rules on transparent, clear, and comparable disclosure of key terms and conditions, on a standard method for calculation of credit pricing and no clear obligation to provide regular account statements to clients.</p>	<p>The rules on transparency of pricing are adequate for NAMFISA registered institutions, as they have to indicate various component of pricing, according to a standard and easy to understand format.</p>	<p>Weak framework: There are limited (not sufficient) guidelines: standards on calculation. Methods of cost of credit are available but not for components of costs and pricing to be communicated.</p> <p>Introduction of interest caps has put more scrutiny on cost of lending but it has also led to inconsistent and less transparent pricing, as</p>	<p>NAMFISA's standard form and rules for advanced disclosure (which were adapted from the South African standards) are good practice that could be adopted in other countries. The South African standard form is available on http://www.ncr.org.za/forms/Form%2020/Form%2020-English.pdf</p>

Issue and principle in the guideline	Tanzania	Namibia	Zambia	Gaps
<p>13. Limits on interest rate and/or pricing</p> <p><i>Interest rate caps can restrict access by making it impossible to serve small or remote borrowers. It may be politically difficult to set a cap that is high enough to cover the unavoidable costs of micro-lending and a profit margin high enough to attract capital to low-income financial services.</i></p>	<p>No limits established by law or regulation</p>	<p>Yes, Usury Act and Exemption notice differentiate caps for microloans provided by institutions registered with NAMFISA and other types of credit</p>	<p>different type of institutions have be given different methods of calculating total cost of credit.</p> <p>Yes. Effective interest rate limits for the whole retail credit market since 2013. Tiered by commercial banks, consumer lenders and then developmental MFIs in ascending order. When caps were introduced, it led to a contraction of the credit market with microfinance being the most affected.</p>	<p>The introduction of pricing limitations can weigh heavily on the diversity of products and the viability of institutions providing credit in most difficult markets. In Namibia the variety of credit products is very limited. In Zambia, the sustainability of some MFIs is threatened.</p> <p>If there is limitation, interest rate caps should be set at a level that permits sustainable microfinance operations while eliminating excessive profits. In most countries, it means setting up different limits for consumer lending and micro-enterprise lending. The caps should also be adaptable and monitored closely by the regulator .</p>
<p>14. Rules on affordability and over-indebtedness</p> <p><i>Assessment of a loan applicant's cash flow and repayment capacity is a cornerstone of sound loan underwriting, at least for individual lending models.</i></p>	<p>There is no regulation requiring MFIs to ensure that a financial product offered to consumers is affordable, and to make a creditworthiness assessment.</p>	<p>NAMFISA has stringent rules on affordability for registered institutions: each person may only have one microloan at a time According to NAMFISA, over-indebtedness is kept</p>	<p>Affordability rules have been adopted by the industry based on Civil service guidelines and not through regulations. New draft regulations propose affordability rules more</p>	<p>As shown in other markets (South Africa, India, South America), over-indebtedness can become an issue (1) when the microfinance market becomes saturated, (2) when consumer lending is left unsupervised, especially if method of repayment are</p>

Issue and principle in the guideline	Tanzania	Namibia	Zambia	Gaps
<p>15. Recourses</p> <p><i>The consumer's ability to lodge complaints and seek redress is an important part of financial consumer protection. For most microfinance consumers, judicial recourse will not be a viable option for many reasons, so the focus needs to be on alternatives.</i></p>	<p>There is no clear indication of over-indebtedness but it would be really difficult to measure this at present.</p> <p>In theory there is a complaint handling mechanism at the Fair Competition Commission but this is ineffective for the microfinance sector.</p> <p>TAMFI also has rules in its Code of Conduct and foresee the creation of a recourse mechanism at Association level.</p> <p>However, none of that is enforced.</p>	<p>under control thanks to rules in place.</p> <p>External recourse mechanisms are in place at NAMFISA and BoN level.</p> <p>Internal recourse mechanisms are also required. NAMFISA publishes statistics related to various types of complaints.</p>	<p>relaxed than current industry practice</p> <p>There are signs of client over indebtedness in the consumer market.</p> <p>Licensed MFIs are required to establish procedures for handling customers' complaints. Only some MFIs visibly display in their premises information about the consumers' right to complain and the MFIs' procedures to handle complaints. There is a perception but no proof that consumers are aware that they have recourse to BOZ as a final resort. The CCPC also has a mandate to address complaints but due to the specialist nature of financial services will defer to BOZ.</p>	<p>based on being paid without an active payment from the consumer. Some rules geared to avoiding over-indebtedness are required. Tanzania is particularly lacking at the moment and Zambia as well, to a certain extend.</p> <p>Regulation should prescribe the availability of internal recourse mechanisms; the regulator should enforce these rules.</p> <p>Alternatively or in combination with internal recourse mechanism, a complaint handling system should be available either at the regulator's level or within another entity (Association or public mediator/ombudsman).</p> <p>Namibia is the only country that has a good system.</p>
<p>16. Payment system</p> <p><i>Regulation of access to payment systems needs to balance promotion of competition against the risk of discouraging innovation.</i></p>	<p>Access to the payment system does not seem to be an issue in Tanzania.</p>	<p>Access to a reliable payment system is a crucial issue for consumer lenders in Namibia who want to be able to be on an equal level</p>	<p>Payment system is not an issue due to the wide-spread use of payroll lending. As payroll lending becomes a regulatory</p>	<p>Ideally, the participants in a payment system would set requirements to ensure the system's integrity and not to limit competition. But the reality is that formal payment systems are, like</p>

Issue and principle in the guideline	Tanzania	Namibia	Zambia	Gaps
<p>17. Payroll deduction</p> <p><i>For consumer lending to salaried employees, some countries have banned automatic collections, such as payroll deductions</i></p>	<p>A few consumer lenders have agreements with employers to have access to payroll deduction.</p>	<p>The practice is limited to a few micro-lenders accredited for the civil service and to some private sector clients. The civil service uses developmental lending as the main criteria for allowing payroll deduction. E.g For Education or housing.</p>	<p>concern it will put pressure on finding alternative payment options which should be inclusive</p> <p>This practice is widespread in both the civil service and private sector. Rules in place for civil service but number of lenders accessing the civil service payment system is very high.</p>	<p>in Namibia, typically dominated by large commercial banks that have little interest to open up the system.</p> <p>The regulator might have to take measure or apply pressure to open up the system without compromising it.</p> <p>This practice is considered as increasing the risk for over-indebtedness and even in some cases, might pose systemic risk. Regulators should monitor that practice closely (as BOZ has started doing so, by commissioning a study) and impose rules on lenders to check affordability. Namibia has imposed specific rules to lenders accredited to lend to civil servants.</p>
<p>18. Limitations on ownership</p> <p><i>Restraints on foreign investment or management can sometimes hinder the development of financial services for the poor.</i></p>	<p>Yes some restrictions</p>	<p>No restriction in that regard.</p>	<p>No single shareholder should own more than 25%. No single shareholder should have controlling interest in more than one MFI.</p>	<p>Limitations on ownership might have had negative consequences on transformation of MFIs in Tanzania but have been modified to accommodate foreign NGOs.</p>
<p>19. Secure transaction/adequate collateral law and realization of securities</p> <p><i>Legal and judicial reform to support secured transactions—in particular, a collateral law</i></p>	<p>No, the current legal setting does not ensure quick and efficient enforcement of the loan contract ad realization of</p>	<p>Yes, the laws are adequate.</p>	<p>Yes, the laws are adequate considering that the bulk of microfinance credit is unsecured. In the case of secured credit enforcement</p>	<p>Tanzania has a weak framework in that regard but the National Financial Inclusion Framework priority areas include the development of a central collateral database that would be used</p>

Issue and principle in the guideline	Tanzania	Namibia	Zambia	Gaps
<i>and accessible collateral registries—may facilitate microfinance, although typical microcredit is effectively unsecured.</i>	collateral in case of default.		of loan contract realization of collateral in case of default can still be improved upon.	and accessed by all financial services providers. This should be a priority
<p>20. Financial crime/anti-money laundering</p> <p><i>Applying AML/CFT rules for conventional banking to tiny microfinance transactions can seriously limit access unless a risk-based approach is adopted.</i></p>	The KYC requirements are more stringent for MFIs than for MNOs/mobile money. This is an issue for MFIs trying to serve the unbanked population	<p>The requirements are adequate for proof of identity and address.</p> <p>NAMFISA seems to apply strict rules for licensing applications of new micro-lenders who have to prove where the lending capital comes from and that they are 'fit and proper' based on the Financial and Intelligence Act. The requirements are stricter than what is usually required of micro-lenders in other countries</p>	<p>The KYC requirements are basic and not a barrier to new clients. This is also partly due to existence of reliable national ID system.</p> <p>The requirements for registering a new MFI with regards to shareholders, source of capital and 'fit and proper' for directors and senior officers is no more stringent than most other countries.</p>	National ID and existence of street address greatly facilitate adherence to TAFT guidelines. However, there is some flexibility in applying rules that regulators should be aware of. In Tanzania, KYC rules should be reviewed to allow all microfinance clients to identify themselves and prove their address as easily as when opening a mobile money account.
<p>21. Branchless banking</p> <p><i>Branchless banking depends on the use of agents or other third parties to perform the direct customer interface functions—including, most importantly, taking in and disbursing cash. While there must be some limits on who may act as a third party and</i></p>	Adequate regulation: BOT has introduced comprehensive agent banking guidelines that allow banks and other licensed financial institutions to appoint retail agents as a delivery	The current regulatory framework in Namibia does not permit the use of agent banking. There has been some work done on developing a new regulatory framework.	Enabling regulatory framework in form of guidelines for agency banking. MFIs and banks are both able to use agents.	A conducive regulatory framework is a clear contributing factor to the development of branchless banking/microfinance as well as e-money services. These new types of channels have clearly contributed to the improvement of financial inclusion in Tanzania. In that regard, BoT

Issue and principle in the guideline	Tanzania	Namibia	Zambia	Gaps
<p><i>which functions they can perform, regulators need to understand that overly tight restrictions can seriously impede outreach to the unbanked and under-banked population.</i></p> <p>22. Mobile or e-money</p> <p><i>Nonbank e-money issuers should be subject to appropriate regulation and supervision, including liquidity and solvency-related requirements.</i></p>	<p>channel for their services.</p> <p>The regulation is adequate. BOT together with the telecom regulator have played a relatively low-key role in the market by ensuring a level playing field and encouraging competition between banks and MNOs. That has been a positive factor in developing one of the most vibrant markets for e-money services.</p>	<p>Mobile banking is still in its infancy in Namibia. It could be a cost-effective channel for advancing financial inclusion in remote areas but it will need an enabling regulatory environment to develop.</p>	<p>There is an adequate and enabling regulation. However more can be done to ensure inter-operability of mobile money and payment systems into the banking sector.</p>	<p>guidelines could be a model to other countries.</p> <p>Enabling regulation for mobile money is key due to the high penetration rate of mobile and the sparse populations in so many of the SADC countries. As shown in Tanzania, mobile money can make a significant difference in extending access, provided the regulation recognizes and encourages services beyond basic remittances. E.g permitting savings on mobile wallets up to a certain limit. See also the GSMA article on Mobile Money: Enabling Solutions²⁵ for a description of best regulatory practices.</p>

²⁵ GSMA, Mobile Money: Enabling Solutions, Simone di Castri, February 2013.

7. Conclusion - next steps

This last section of the report presents recommendations at various levels:

1. Regulations and supervisory framework:

This first section summarises the areas where one of the three studied countries had adopted a regulation framework or practical solution that is in line with the CGAP guidelines or even goes further in proposing a solution to a specific topic. These good practices could be adopted as a model by other SADC countries or if circumstance dictate, adapted to a specific environment.

2. Regulators' engagement issues that require discussion amongst microfinance regulators.

These are issues where, through our limited case studies, we could not establish any best practice that would be worth adopting. Some issues are only emerging in some countries (payroll deduction loans, for instance) or for others, the solution might be different from one context to another. Sharing of information and experience amongst microfinance regulators would be beneficial to all.

These are also recommendations for which funders such as FinMark Trust and GIZ could engage with regulators and provide some assistance if there is a need for detailed research on a specific issue or for capacity building. This type of intervention could be coupled with discussions amongst regulators and in some cases, could lead to identification of good practice either in the region or elsewhere that could be used as a model for change in the SADC region.

7.1 Regulations and supervisory framework

This section of the report as well as the comparative table in section 6 above identify some good practice which are in line with the CGAP guidelines; these are some of the practices that could fairly easily serve as models in other SADC countries:

1. **Definition of microfinance;** in that regard, a definition as in Tanzania, which considers microfinance or microcredit as types of financial services that can be provided by different financial service providers is more flexible and might better serve the objectives of financial inclusion. Considering the increasing sophistication of all clients, including microfinance clients, the focus of the definition should be on the client and type of product and less on the institution form.
2. **Central Banks are the ideal prudential regulators** for deposit-taking MFIs. In countries with several years of experience in regulating MFIs like in Tanzania, the Central Bank has been successful in adapting banking prudential requirements to microfinance activities and institutions and has maintained the stability of the deposit-taking MFIs as well as banks involved in microfinance.

3. **Registration of all lenders above a certain threshold of capital:** In some countries like Tanzania, a sizable part of the microfinance sector and the entire consumer lending sector function without any regulation or even simple monitoring. That could lead to serious abuse of clients or even systemic crisis under extreme circumstances. Zambia has established a regulatory framework that provides for the licensing of all lenders of a significant size (above a fairly low capital threshold). This type of framework could be a model for other countries, bearing in mind that the intention is not to over-regulate but to be able to monitor the practice of the entire financial system, especially credit providers..
4. Tanzania is the only studied country in which there is a **deposit insurance scheme**. Moreover, participation in the activities of the deposit insurance board is mandatory for all licensed financial institutions: Commercial Banks, Community Banks, MFC. All financial institutions that collect deposits and are supervised by Bank of Tanzania have to join the deposit scheme. This is a very important safety measure and at the same time promotes smaller deposit-taking institutions. Depositors can then choose to use a MFI or a smaller bank based on products features, proximity and service level rather than restricting themselves to save with a big bank or to keep money at home based on the fear that smaller institutions might fail.
5. Taking into account the South African experience, NAMFISA took significant measures on facilitating **transparency of pricing and conditions of credit**. These South African and Namibian measures (standard format and timing of disclosure) could easily be transposed in other countries. The South African standard form is available on <http://www.ncr.org.za/forms/Form%2020/Form%2020-English.pdf>
6. NAMFISA has also developed an **external recourse mechanism** accessible to all micro-lenders' clients. This mechanism as well as the reporting that NAMFISA provides on type of issues brought to the attention of the regulator could be adopted by other regulators.
7. **Conducive regulations on branchless/agent banking and mobile money** in Tanzania have followed the example of Kenya in establishing rules which are strict enough to ensure the safety of transactions and deposits while being open enough to support the fast development of mobile banking products provided by mobile money operators, banks and MFIs. The branchless banking regulations should be developed taking into account KYC requirements and requirement for registration of mobile subscriber services in countries where they exist to ensure that the different regulations are consistent.

7.2 Regulators' engagement

All microfinance regulators (Central Banks – CCBG, and non- bank CISNA members dealing with MFIs) should benefit from in-depth discussion and resolution on the way forward on the following subjects:

1. **Prudentially regulating large SACCOS:** The Genesis report mentioned that “as it currently stands, half of the countries reviewed prudentially regulate SACCOS, with five of the fourteen countries restricting prudential regulation only to large SACCOS. This is important as members of large SACCOS often have very limited control of the management of the SACCO and thus require protection”. The situation remains a challenge even where new legislation has been enacted. Possible solutions should be discussed by regulators.
2. Most SADC countries need a clearer **regulatory framework on consumer** protection. There are broad questions that should be solved by each country: Is there a need for a new legislation focusing on the entire financial services sector or legislation focusing on credit as in South Africa? However, the SADC regulators could establish guidelines on minimum standards of client protection in the microfinance sector. This discussion could be based on and adapted from existing international standard (such as the principles of the Smart Campaign, CGAP diagnostic studies, World Bank good practice, AFI, G20 10 high level principles of financial consumer protection, Financial Stability Board, etc.).
3. Most SADC countries, in particular those in which over-indebtedness is a growing concern, need to invest in resources for **market conduct supervision**. The market conduct supervision role should ideally be undertaken by a different unit/department from the one responsible for the prudential supervision role even if both fall under the same regulatory institution. This is to avoid any potential conflicts of interest that may arise and ensure the development of specialist skills, as the prudential supervision role usually tends to overshadow the market conduct supervision role.
4. **More specifically, monitoring and sharing the impact of payroll deductions.** This research has identified some trends regarding the development of payroll-lending, its relationship with over-indebtedness and how in some countries’ regulations have had to ‘chase’ developments in this subsector. There are sufficient trends in the three case studies and South Africa which provide a basis for the development of monitoring standards and guidelines for the payroll lending sector that regulators in the region can collectively agree on.
5. **Rules on affordability and measuring over-indebtedness** must be explicit and not be left to self-regulation by the private sector. However the rules should be backed by empirical research if possible and developed in close and open consultation with the sector. Regulators in the region can share these with benchmarks possibly being developed for the region.
6. **Limitations on interest rate or total cost of credit** are generally not advisable but they exist in several SADC countries and it might not be politically feasible to remove these limitations. Regulators from countries where limits exist could share experience on setting up these limits, when and how to adapt them in a way that does not threaten the microfinance sector and how to enforce these rules.

7. Several years after **credit reporting systems** were developed in several SADC countries, regulators should be able to share experience on progress made and where stumbling blocks exist. Based on the findings from the three case studies, the private sector seems to be better placed than the regulator in ensuring efficiency and growth of information sharing. However, the regulator in some markets may need to play a catalytic role at least in putting in place a regulatory framework for the establishment of information sharing businesses – credit bureaus.
8. **Discuss funding model for non-prudential regulation.** Regulators need financial resources to be able to enforce market conduct rules. The funding model of NAMFISA is an example of what can be done.
9. **Opening the domestic/in-country payment systems to non-banks** would increase access to financial services for the under-banked markets that MFIs serve. Open payment systems would favour competition and consequently reduce cost and improve service delivery as a result of a more open playing field between commercial banks and NBFIs. Regulators can learn from each other considering that some countries in the region have significantly more developed payment systems than others.
10. **Reporting from and on the microfinance sector:** as already mentioned in the Genesis study, most SADC countries lack good information on the microfinance sector. SADC regulators could work together on establishing minimum reporting standards, reports that would be produced by regulators on the entire microfinance/micro-credit sector and may be, a yearly consolidated report at SADC level.
11. **Financial crime- KYC.** Most of the countries in the region have similar challenges around KYC due to poor national ID systems and lack of convenient or obvious means to use as proof of residence. The regulators could consider coming up with standards specific to the microfinance sector that take into account the reduced risk that microfinance poses relative to commercial banking KYC requirements. The same approach can be taken for the 'fit and proper' requirements of individuals involved in setting up new MFIs.

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	Country	Organisation	Name	Job title
1	Namibia	Bank of Namibia	Ipumbu Shiimi	Governor
2	Namibia	Bank of Namibia	Romeo Nel et al.	Director Banking Supervision Department
3	Namibia	Compuscan	Corne Van Niekerk	Sales Manager - Namibia & Botswana
4	Namibia	Development Bank of Namibia	John Mbango et al.	Head: Lending
5	Namibia	Government Institutions Pension Fund	Conville Britz	General Manager: Finance & Investment
6	Namibia	Kongalend Financial Services	Tshoombe Ndadi et al.	Executive Chairman
7	Namibia	Ministry of Finance	Penda Ithindi	Deputy Director - Fiscal, Monetary Policy and Financial Markets Development
8	Namibia	Namibia Financial Institutions Supervisory Authority	Kenneth Matomola et al.	Assistant Chief Executive Officer - Supervision
9	Namibia	Namibia Micro Lenders Association/ FinAid	Ronald Weber et al.	Chairperson / Managing Director
10	Namibia	Payments Association of Namibia	Annette Rathenam et al.	Chief Operating Officer
11	Namibia	TransUnion Namibia	Marcha Erni	Country Manager
12	Namibia	TrustCo Finance (Pty) Ltd.	Sakeus Kamati et al.	Head: TrustCo Finance
13	South Africa	Banking Association of South Africa	Maxine Hlaba	Manager SADC Banking Association
14	Tanzania	Akiba Commercial Bank	John Lwande	Managing Director
15	Tanzania	Bank of Tanzania	Flora Rutabanzibwa	Directorate of Economic Research & Policy
16	Tanzania	Bayport Financial Services (Tanzania) Ltd.	Etienne Coetzer et al.	Group Executive
17	Tanzania	CreditInfo Tanzania	Davith Kahwa	Chief Executive Officer
18	Tanzania	DCB Commercial Bank Plc.	Felician Girambo et al.	Chief Manager - Credit

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19	Tanzania	Dun & Bradstreet Credit Bureau (T) Ltd.	Adebowale Atobatele	General Manager
20	Tanzania	Economic and Social Research Foundation	Prof. Haidari Amani et al.	Principal Research Associate
21	Tanzania	Enterprise Finance Centre (Tanzania) Ltd.	Martin Villemure	Chief Executive Officer
22	Tanzania	Financial Sector Deepening Tanzania	Jonathan Kasembe et al.	Technical Manager
23	Tanzania	Finca Tanzania	Issa Ngwegwe	Chief Operations Officers
24	Tanzania	Tanzania Association of Microfinance Institutions (TAMFI)	Winnie Terry et al.	Executive Secretary
25	Zambia	Agora Zambia	Irina Ignatieva*	Chief Executive Officer
26	Zambia	Association of Microfinance Institutions in Zambia	Webster Mate	Executive Secretary
27	Zambia	Bank of Zambia	Sylvester Kabwe	Senior Analyst – Licensing and Enforcement
28	Zambia	Bayport Financial Services (Zambia) Ltd.	Martha Akapelwa et al.	Executive Director
29	Zambia	Cetzam Financial Services Plc.	Kelvin Milambo	Chief Executive Officer
30	Zambia	Credit Reference Bureau (TransUnion) Zambia	Mildred Stephenson	Chief Executive Officer
31	Zambia	Financial Sector Deepening Zambia	Irene Banda*	General Manager
32	Zambia	Madsion Finance Company (Zamba) Ltd.	Ken Simwaba*	Managing Director
33	Zambia	Microfinance Zambia Ltd.	Oswell Kahonde	General Manager

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