



# *Republic of Zambia*

## **Diagnostic Review of Consumer Protection and Financial Literacy**

Volume I: Key Findings and Recommendations

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## **ABBREVIATIONS AND ACRONYMS**

AMIZ	Association of Microfinance Institutions of Zambia
AML	Anti-Money Laundering
APR	Annual Percentage Rate
ATM	Automated teller machine
BAZ	Bankers Association of Zambia
BBR	Branchless Banking Regulations
BFS	Banking and Financial Services
BFSA	Banking and Financial Services Act
BoZ	Bank of Zambia
BZA	Bank of Zambia Act
CBP	Code of Banking Practice
CCPA	Competition and Consumer Protection Act
CCPC	Competition and Consumer Protection Commission
CCPT	Competition and Consumer Tribunal
CIU	Collective investment undertakings
CPFL	Consumer protection and financial literacy
CRA	Credit reporting agency
DFID	Department for International Development
DP Bill	Deposit Protection Bill
DPP	Data Protection Principles
FECU	Financial Education Coordinating Unit
FEF	Financial Education Fund
FIC	Financial Intelligence Centre Act
FSDP	Financial Sector Development Plan
IAZ	Insurers Association of Zambia
IBAZ	Insurance Brokers Association of Zambia
IIZ	Insurance Institute of Zambia
KYC	Know Your Customer
LSE	Lusaka Stock Exchange
MFI	Microfinance institution
MNO	Mobile network operators
MOA	Ministry of Agriculture
MOFNP	Ministry of Finance and National Planning
MOU	Memorandum of Understanding
NPL	Non-Performing Loan
NPSA	National Payment Systems Act
PIA	Pensions and Insurance Authority
PIN	Personal identification number
PSRA	Pension Scheme Regulation Act

SEC	Securities and Exchange Commission
SME	Small and Medium Enterprise
SRO	Self Regulatory Organization
TPL	Third party liability
WOCCU	World Council of Credit Unions
ZAPF	Zambian Association of Pension Funds
ZCF	Zambia Cooperative Federation
ZIBF	Zambian Institute of Banking and Financial Services
ZNCB	Zambia National Commercial Bank

**This Diagnostic Review is a product of the staff of the International Bank for Reconstruction and Development/The World Bank. The findings, interpretations, and conclusions expressed herein do not necessarily reflect the views of the Executive Directors of the World Bank or the governments they represent.**

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<sup>1</sup> The CPFL Review is part of the World Bank Program on Consumer Protection and Financial Literacy, which seeks to identify key measures in strengthening financial consumer protection to help build consumer trust in the financial sector—and expand the confidence of households to wisely use financial services. CPFL Reviews against Good Practices have been conducted by the World Bank in both middle as well as low income countries. These include Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Kazakhstan, Latvia, Lithuania, Malawi, Mozambique, Nicaragua, Romania, the Russian Federation, Slovakia, South Africa, Tajikistan and Ukraine.



# Republic of Zambia

## Diagnostic Review of Consumer Protection and Financial Literacy

Volume I – Key Findings and Recommendations

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## ***EXECUTIVE SUMMARY***

1. **The Diagnostic Review of Consumer Protection and Financial Literacy in Zambia was conducted at the request of the Bank of Zambia (BoZ) and covered: i) banking; ii) non-bank financial institutions; iii) insurance; iv) pensions; and v) securities.** The objectives of the Review were to compare the existing legal and regulatory framework, institutional arrangements, and market practices to good practices and provide recommendations to enhance financial consumer protection and financial literacy in Zambia.

2. **The Review consists of two Volumes.** Volume I summarizes the key findings and recommendations and Volume II presents a detailed assessment of each of the covered sectors compared to the Good Practices. The key findings and recommendations presented in Volume I cover six areas: i) legal and regulatory framework; ii) institutional arrangements; iii) consumer disclosure; iv) business practices; v) dispute resolution mechanisms; and vi) financial education. Key systemic recommendations are presented in Table 1, while a full list of priority recommendations is included in Table 3.

3. **Zambia is one of the countries with highest levels of financial exclusion, which seems to be associated with high costs of financial products and low consumer confidence in formal financial providers.** According to the 2009 FinScope survey, only around 23% of adult population are served by a formal financial institution and 37% use some form of formal or informal financial product. Some respondents mentioned that financial products were too expensive to acquire (e.g. charges, premiums or required minimum balances were too high), while others did not know much about financial products or did not trust financial providers. Increased financial capability and consumer protection aim to help consumers improve their knowledge and understanding of financial products and providers, and strengthen their trust in financial sector. At the same time, consumer protection measures also aim to improve business-to-consumer practices and quality of information provided to consumers, thus promoting healthier competition among financial providers, as well as instilling a culture of transparency, and improving corporate governance practices.

4. **In the context of low financial inclusion, financial consumer protection and education have rightly emerged as priorities for financial sector development in Zambia.** Recent BoZ statistics reported a 47% increase of credit to households from 2009 to 2011, and doubling of total personal loans in the same period. The authorities in Zambia have recognized financial consumer protection and education as means for stimulating sustainable access to finance by protecting the existing financial consumers, attracting new ones into the formal sector, and building trust in the financial system. As a result, the authorities have set up a Financial Education Working Group (FEWG), prepared a financial education strategy, and embarked on a comprehensive reform of systemic financial sector laws (e.g. banking, pensions, securities, insurance, etc.), via the structured Financial Sector Development Plan (FSDP).

5. **The existing legal framework for financial consumer protection is insufficient and burdened with overlapping jurisdictions.** The sector specific laws have limited provisions related to consumer protection and contain a number of deficiencies (e.g. regarding disclosure, business practices, etc.). Credit reporting is regulated by non-binding guidelines issued by the BoZ, and statutory data protection provisions are limited. In addition, there are overlaps between sector specific laws and the Competition and Consumer Protection Act (CCPA). For example, both the CCPA and the Banking and Financial Services Act (BFSA) contain provisions relating to competition in the banking sector, while the former also includes consumer protection provisions applicable to customers of financial institutions.



6. **The legal overlaps translate into overlapping institutional mandates of the three financial sector supervisors – the Bank of Zambia, the Pensions and Insurance Authority (PIA), and the Securities and Exchange Commission (SEC) – and the Competition and Consumer Protection Commission (CCPC), thus complicating the supervision process.** It is therefore suggested that the responsibility for financial consumer protection is entrusted to three financial sector supervisors, given their unique technical expertise and stronger institutional capacity. In this regard, as a first short-term step, the financial sector specific laws should be amended to entrust the BoZ, PIA, and SEC with regulatory and supervisory powers for financial consumer protection which should be separated from their prudential function. At the same time, the CCPA should be amended to make it clear that it does not apply to financial sector, thus resolving the issue of overlapping jurisdictions. Regarding financial sector competition, the responsibility should rest with the CCPC, given its institutional mandate and expertise in specialized competition assessments which are also applicable to the financial sector. However, close coordination of the CCPC with the three sector specific regulators should be required, and the details should be spelled out in a joint Memorandum of Understanding. Finally, separate laws on credit reporting and data protection are recommended.

7. **The internal and external mechanisms for resolution of disputes between consumers and financial institutions are inadequate.** Legally mandated provisions on internal handling of complaints are limited. The provisions should at a minimum set timelines for resolving complaints, require regular reporting to the customer and reasons for adverse decisions, and require reporting of complaint statistics to the regulator. Further, dissatisfied consumers may turn to sector specific regulators, the CCPC, and industry associations to appeal and seek assistance with resolution of complaints; however, due to overlapping mandates and absence of an organized appeals process this is done on ad-hoc basis only. In addition, while consumers can always turn to the court system, this process may take years to complete. This is why it is very important to identify and implement an effective and low cost external dispute resolution system. While the authorities are currently considering two parallel approaches to serve this purpose – a financial services ombudsman and pensions, insurance, and securities tribunals – this process warrants further deliberation and assessment of different models which may be most suitable to Zambia.

8. **In addition to cited measures to overcome structural deficiencies of financial consumer protection architecture, other sector specific consumer protection reforms are proposed as well.** These largely include improving disclosure and transparency related to financial products and services (e.g. regarding key terms and conditions, complaints, etc.), enhancing regulators' institutional capacities, monitoring the market of non-regulated credit institutions, improving business practices (e.g., regarding prepayment fees, calculation of interest, cooling-off period, bundling, debt collection, etc.), and so forth.

9. **Financial education initiatives are under way with the launch of the financial education strategy, though steps need to be taken to ensure efficient implementation.** Ideally, the implementation of the Strategy should take into account the results of a baseline survey on the levels of financial capability of the population. Given resource constraints, the authorities are planning to expand the FinScope survey to incorporate questions on financial capability, and implement it by the end of 2012. In case these results are insufficient to facilitate implementation, a full-fledged financial capability survey should be considered in the medium term. Finally, the implementation of financial education measures should follow a phased approach, utilizing pilots prior to full-scale rollout and incorporating impact evaluation mechanisms from the outset.

**Table 1: List of Key Systemic Recommendations**

Key Systemic Recommendations	Responsible Party	Priority
1. Incorporate relevant financial consumer protection provisions in the newly proposed draft financial sector laws, entrust the financial sector regulators with related regulatory and supervisory powers, and amend the CCPA so that it is not applicable to consumer protection in financial sector.	MOFNP/BoZ/ PIA/SEC/ CCPC	High
2. Introduce key provisions on consumer disclosure for retail financial products and services, including requirement for Key Facts Statements, in the newly proposed draft financial sector laws.	MOFNP/BoZ/ PIA/SEC	High
3. Establish new divisions/units within the BoZ, the PIA, and the SEC, for supervision of financial consumer protection, which are separate from those responsible for prudential regulation and with a separate reporting line directly to the head of relevant agency.	BoZ/PIA/SEC	High
4. Introduce legal provisions allowing cooling-off period for credit and non-life insurance products during which new customers are allowed to withdraw from already signed contracts.	BoZ/PIA	High
5. Entrust CCPC with a mandate to regulate competition in the financial sector, and clarify responsibility and consistency of approach to regulation of competition issues in financial services sector via single MOU between BoZ, PIA, SEC, and CCPC.	BoZ/ PIA/SEC/CCPC	High
6. Assess various options for effective institutional setup for external dispute resolution mechanism for financial sector.	BoZ PIA/SEC	High
7. Develop requirements for internal dispute resolution process for all financial service providers.	BoZ/PIA/SEC	High
8. Develop a law regulating credit reporting	MOFNP/BoZ	Medium
9. Develop a comprehensive data protection law	MOFNP/ BoZ /PIA/SEC	Medium
10. Identify and implement priority measures in the Financial Education Strategy utilizing and evaluating pilots prior to full scale roll out.	FEWG/FECU <sup>2</sup>	Medium

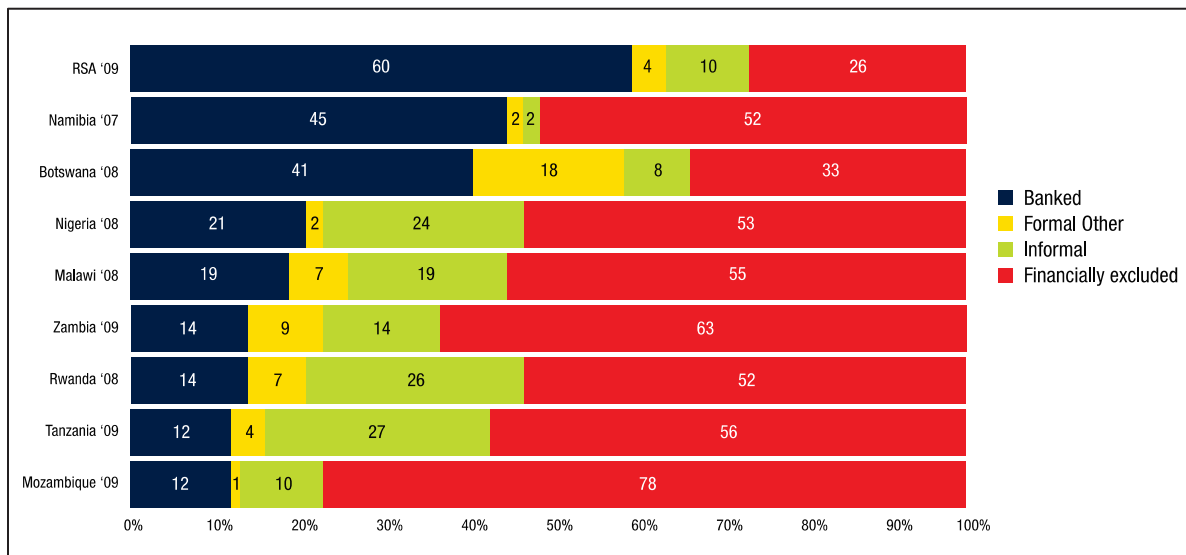
<sup>2</sup> Financial Education Coordination Unit

## I. CONTEXT FOR CPFL IN ZAMBIA

### Importance of financial consumer protection in Zambia

10. **Zambia is one of the countries with the highest levels of financial exclusion.** According to the 2009 FinScope Survey, 63 percent of the population is financially excluded, which is one of the highest percentages in Sub-Saharan Africa (Figure No. 1). Within the segment of the population that uses financial services, almost as many people use informal (22%) as they use formal (23%) mechanisms. Within the formal sector, 14 percent of adults have a bank account, whereas 9 percent have products from non-bank financial institutions. In the rural areas, the level of financial exclusion rises to 66 percent, with equal number of adults using formal bank and non-bank products (9%), and 17% an informal product.

**Figure 1: Financial Access Indicators in Sub-Saharan Africa**

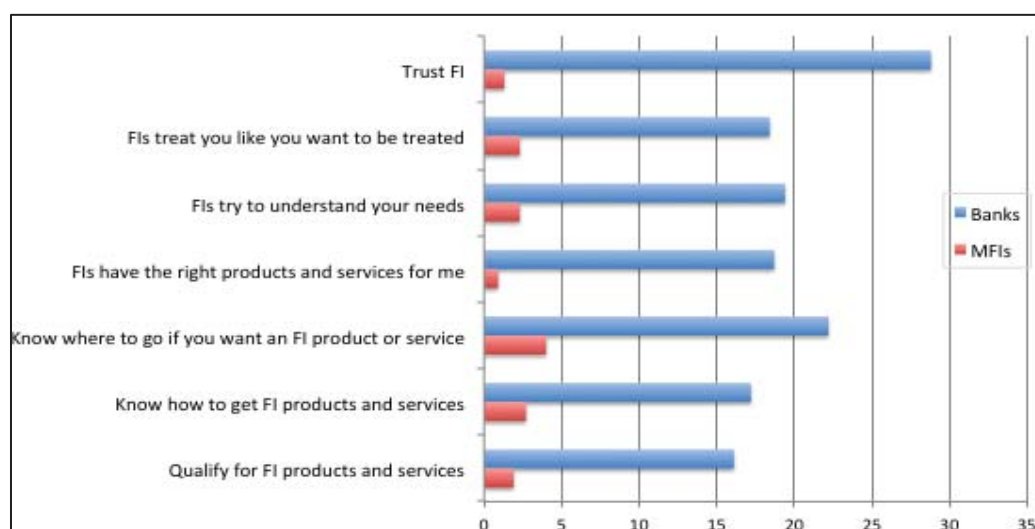


Source: FinScope Survey 2009

11. **High levels of financial exclusion seem to be associated with low levels of consumer confidence, which are in turn related to low financial capability and consumer protection.** The FinScope Survey shows that trust and knowledge about financial products and financial institutions constitute significant demand-side barriers to formal financial inclusion in Zambia. Among those not formally served by financial institutions, the trust in microfinance institutions (MFIs) is extremely low (1%) while their trust in banks, although relatively higher, is also low (22%). In general, these potential consumers do not consider MFIs and banks as institutions that would treat them well or provide them with useful products; furthermore, this segment of the population knows very little about where and how to get a formal financial product or service (Figure No. 2). Also, the main reported reasons for the lack of insurance coverage either includes complete lack of awareness of such products (30%) or the fact that consumers never thought about obtaining insurance (17%).

12. **Another barrier to financial inclusion is related to reported high costs of obtaining financial products, and this is an issue where consumer protection measures could contribute by improving transparency of information and, consequently, fostering competition.** Among the unbanked population surveyed by the FinScope, more than 5% said they did not have a bank account because service charges were too high, whereas 14% said they could not maintain the minimum balance. In the case of insurance, 13% of the uninsured said they could not afford it. Financial consumer protection aims to improve the level of transparency of information given by financial institutions to consumers. Provision of comparable and easy-to-understand information from different financial institutions would allow consumers to do accurate cost comparisons, and for civil society organizations and media to further analyze such information and transmit the results in easier terms to the population, which could promote competition among financial service providers.

**Figure 2: Perceptions of Unserved Population about Financial Institutions**



Source: FinScope Survey 2009

13. **In the context of low levels of financial inclusion, financial consumer protection and education have rightly emerged as priorities for financial sector development in Zambia.** The authorities in Zambia have recognized these priorities as means for stimulating sustainable access to finance by protecting the existing financial consumers, attracting new ones into the formal sector, and building trust in the financial system.

14. **Measures undertaken by the Zambian government in the past 5 years have contributed to a slight expansion of financial services to new consumers, which highlights the need to have an adequate financial consumer protection framework.** Recent statistics from the Bank of Zambia reported 47% increase in credit to household from 2009 to 2011, whereas the level of total personal loans doubled in the same period. In this context, financial consumer protection and financial education are needed to ensure that expanded financial inclusion benefits consumers and does not create undue risk for households or cause them harm through financial products or services that fail to meet their needs and objectives.

15. **Financial consumer protection fits current national strategies for social and financial sector development.** Improvements in the financial consumer protection framework will contribute to two of the three pillars of the Financial Sector Development Plan (FSDP) Phase II: i) increasing competition, which includes a financial education working group; and ii) increasing access to finance, which identifies the need to expand access to savings and credit and to strengthen micro-finance and insurance industry. At the same time, implementation of the FSDP contributes towards the achievement of the Government's Sixth National Development Plan 2011–2015, which identified limited access to financial services and high cost of finance as constraints to sustained economic growth and poverty reduction. The implementation of this Plan will then help achieving the stated Vision 2030 “making Zambia a prosperous middle-income nation by 2030”.

### **Box 1: Overview of the Zambian Financial Sector**

**The banking sector in Zambia is open, consists of 19 registered commercial banks, is dominated by foreign banks and highly concentrated.** The BoZ appears to have a commendable “open door” policy in relation to the registration of new banks, which is evidenced by the fact that there have been 5 new banks registered since September 2008. However, the market is very concentrated amongst the top 4 banks, which have around 63% of total assets. Further, there are many reports on the lack of competitiveness of the banking sector (e.g., because of similarities in interest rates, fees and products).

**The segment of non-bank credit institutions is dominated by MFIs which target retail clients, including micro-entrepreneurs and, increasingly, salaried employees.** Before the Microfinance Regulations were issued in 2006 under the BFSA, only four MFIs were licensed. Currently, there are 31 MFIs licensed by the BoZ, with total assets representing around 3 percent of the regulated financial sector. Only five licensed MFIs are considered traditional or developmental MFIs, while the others are payroll-based consumer lending companies. Other non-bank credit institutions include 11 leasing companies, which practically do not offer retail leasing products and 3 licensed building societies. In addition, it is estimated that more than 300 unlicensed MFIs operate in Zambia, mostly moneylenders, and some savings and credit cooperatives.

**The insurance industry in Zambia is quite small.** Only 600,000 people or 4% of the population have any form of insurance including compulsory auto insurance. There are 26 insurance companies, 8 life, 15 non-life and 3 reinsurance. Nine companies started to operate in 2012. Neither the life nor the non-life sector is dominated by a single company.

**The pension sector in Zambia is based on private and occupational pension “schemes”.** The schemes were originally dominated by defined benefit schemes but over time have developed primarily into defined contribution schemes. As of the third quarter of 2011, there were 34 defined benefit schemes, 189 defined contribution schemes and 4 hybrid schemes which comprised a total of 227 pension schemes in Zambia. In addition, there were a total of 93,746 members of pension schemes in Zambia, of which 60,274 were active members, 16,456 were pensioners, and 17,016 were deferred pensioners.

**The Zambian securities market is a small, frontier market.** The Lusaka Stock Exchange (LSE) has a listing of 20 companies and a market capitalization of approximately \$9.4 billion. There are 9 companies which are “quoted” on the LSE but are not qualified for listing. In addition, there are 14 dealers, 7 investment advisors, and 6 collective investment undertakings.

## II. FRAMEWORK FOR FINANCIAL CONSUMER PROTECTION IN ZAMBIA

### Legal and Regulatory Framework

16. **There are five key laws relevant for consumer protection issues in the covered sectors, while the authorities are currently overhauling the entire legal framework for financial sector.** See Table 2 below for the list of relevant laws. Neither the existing laws nor the newly proposed drafts are fully addressing all deficiencies in the area of financial consumer protection.

**Table 2: Key Laws Relevant to Consumer Protection**

Sector	Name of the Law	Responsible Institution
Banking and Microfinance	Banking and Financial Services Act	BoZ
Insurance	Insurance Act	PIA
Pensions	Pension Scheme Regulation Act	PIA
Securities	Securities Act	SEC
All	Competition and Consumer Protection Act	CCPC

17. **The existing and newly proposed legal provisions for financial consumer protection are inadequate.** The current laws contain a number of gaps (e.g., regarding disclosure, business practices, etc.), and in addition, there are overlaps between sector specific laws and the Competition and Consumer Protection Act (CCPA). For example, both the CCPA and the Banking and Financial Services Act (BFSA) contain provisions relating to competition in the banking sector. Further, there are consumer protection provisions in the CCPA applicable to customers of financial institutions. The CCPA contains prohibitions on unfair trading practices, false or misleading representations, advertising and unfair terms, all of which could be applied to financial services and products regulated by the sector specific regulators. These provisions have potential to overlap with provisions in the sector specific laws (for example in relation to disclosures and false and misleading advertising) resulting in practical coordination issues. The newly proposed draft sector laws will amplify this position. For example, the newly proposed draft BFSA covers unfair terms and unfair business practices (as does the CCPA at present), and includes new competition provisions which will directly overlap with those in the CCPA. Unless stated otherwise, this review primarily refers to the current legal and regulatory framework.

18. **The banking laws of Zambia contain limited consumer protection provisions which are supervised by scarce BoZ banking supervision staff and overlap with CCPA provisions.** Relevant provisions are in the BFSA, and the related regulations (Cost of Borrowing and Deposit Charges & Interest respectively). The enforcing authority for these laws is the BoZ. Supervision occurs through BoZ banking supervision officers and is primarily focused on advertising interest rates and fees and charges applicable to consumer products and services, the setting of the benchmark bank Policy Rate for consumer loans, and dealing with consumer complaints. The CCPA also contains various consumer protection provisions applicable to banking products and services, but the Competition and Consumer Protection Commission (CCPC) does not appear to have the necessary resources or expertise with only 8 consumer protection officers (for both financial and non-financial sector issues). Finally, the proposed new draft BFSA introduces new consumer protection provisions related to matters such as unfair business practices, unfair terms, prescribing benchmark base rates, and controlling default interest charges and fees and service charges.

19. **There are also very limited data protection provisions applicable to consumers of financial services, and no comprehensive data protection law to safeguard the personal information of consumers or to facilitate the operations of credit reference agencies.** The BFSA currently contains limited provisions dealing with the confidentiality of customer information, but does not give consumers common protection such as rights of access and limitations on the collection and use of personal information. Another example is the Pensions Act which does not include any specific privacy or confidentiality provisions protecting information of pension fund members.

20. **The credit reporting system is regulated by non-binding industry-wide Guidelines, issued by the BoZ instead of a separate law or regulation.** Zambia has a non-binding licensing regime for credit reporting agencies and a detailed, but non-binding, Credit Data (Privacy) Code. Further, the BoZ Directive on Submission of Credit Data and Utilization of Credit Reference Services from 2008, which is also non-binding, requires all financial services providers to submit credit data to credit reference agencies and to use their services before providing credit to any customer. The Guidelines contain some consumer protection provisions, such as rights of access and correction and obligations regarding data access and notices to consumers. However, they also include a number of gaps. For example, there is no provision for credit reporting agencies to obtain data relevant government agencies - such as those responsible for the electoral roll, the national identification system, registration of companies, or the new Financial Intelligence Centre - which could enhance the process of verifying personal identity. Also, the consumers do not have an automatic right of access to their credit data. None of the existing instruments are binding though compliance is strongly encouraged in that the applicable Guidelines make it clear that non-compliance will be an “unsafe and unsound” practice for the purposes of the BFSA. This approach is in contrast to that taken in relation to a breach of regulations, where there are specific provisions for the imposition of fines or imprisonment for a breach (ss. 124 and 125 of the BFSA). It is also important to notice that the guidelines, codes, and directives are issued only by the BoZ, whereas the statutory instruments or regulations are prepared by the BoZ but issued by the Ministry of Finance and National Planning (MOFNP).

21. **There appears to be widespread development of mobile banking and payment services without adequate regulation or supervision.** This is occurring through financial institutions, telecommunications providers, payment systems providers, remittance services providers, and the postal service. These developments are supported by an open and facilitative approach from the BoZ and will be regulated in the near future when the draft Branchless Banking Regulations (BB Regulations) and the draft National Payment Systems Guidelines on Electronic Money Issuance come into effect as regulations. This is expected to occur in the third quarter of 2012 when the current consultation period ends. The Guidelines are to be re-issued as regulations when they are finalized (E-Money Regulations).

22. **The enforcement ability of the Pensions and Insurance Authority (PIA) is limited to the suspension of the license.** The absence of a regulatory ladder giving powers to PIA to deal with violations through a series of increasing penalties, depending on the seriousness or the frequency of the transgression, is limiting PIA’s enforcement effectiveness. The proposed new Insurance Act will allow fines in some cases.

23. **The Pensions Act indicates that the contributions to a pension fund are not part of the assets of a pension fund member or employer in the event of their bankruptcy, or in the event of an attempt to attach such contributions due to a judgment against a member.** However, this “segregation” provision does not extend to the assets of a manager, administrator or custodian of the funds, thus leaving the customer funds potentially subject to attachment in the event of the bankruptcy of, or a judgment against, a manager, administrator, or custodian. This presents a serious gap in the segregation and protection of the assets of a pension fund, which could result in the loss of the member’s funds.

## **Key Recommendations**

24. **The legislative overlaps in the area of financial consumer protection should be addressed.** Taking into account the current Zambian context, the overlaps could be addressed through newly proposed financial sector specific laws. The newly proposed draft laws should incorporate all key financial consumer protection provisions included in the CCPA and other laws, and include additional relevant provisions (e.g. disclosure requirements, complaints handling mechanisms, unfair terms, false and misleading advertising, debt collection, etc.). At the same time, the CCPA should be amended to make it clear that it does not apply to consumer protection in financial sector. This would remove the legislative overlaps and ensure a consistent and harmonized legal framework for financial consumer protection. Some improvements in consumer protection could also be addressed in the short term through regulations without the need to make major changes in the legal framework (e.g. key facts statements, customer accounts handling rules).
25. **Responsibility for competition in the financial services sector should be entrusted to CCPC, but it should be required to consult with the BoZ, PIA, and SEC.** The proposed new draft of the BFSAs contains various competition provisions which overlap with those in the CCPA. If the proposed changes are adopted, they will amplify the overlap between the supervisory responsibilities of the BoZ and the CCPC. Instead of this approach, it is recommended that while CCPC should have responsibility for competition in the financial services sector, it should be required to consult with the relevant regulators pursuant to the terms of a Memorandum of Understanding (MoU). Ideally, all three financial services supervisors (the BoZ, the PIA and the SEC) would be party to a single MoU with the CCPC.
26. **A law regulating credit reporting should be developed.** The law should cover licensing, mandatory requirements for credit institutions to obtain credit reports and update reported data (i.e. both financial and non-financial), and other important provisions specific to such agencies in line with international good practices<sup>3</sup>.
27. **A comprehensive legal framework for the protection of personal data relating to financial services should be developed.** The proposed data protection law would cover e.g. use, disclosure, collection, security of financial sector data and, importantly, credit reporting activities. It is considered important that Zambia develops data protection law given, in particular, the increased flows in personal data resulting from the increase in the use of mobile banking and payments systems, and the need to build trust in the financial sector to encourage financial inclusion. The law should be consistent with the proposed new laws on cyber-crime and computer security.
28. **The legal provisions for segregation of pension funds from assets of managers, administrators and custodians should be strengthened.** One of the most important risks to a pension fund or other form of collective investment is the loss of the customer funds due to a lack of legal separation of the fund's assets from the assets of the entities that manage and service the fund. The law should be clear and strong on the segregation of fund assets and their insulation from the financial condition and legal liabilities of the fund's managers and service providers.
29. **A regulatory ladder should be provided for the PIA in the new Insurance Act.** Other mechanisms such as black listing directors and prohibiting products could be added to the quiver. This will further facilitate PIA's enforcement ability.

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<sup>3</sup> See *General Principles for Credit Reporting*, 2011. The World Bank.



### ***Institutional Arrangements for Financial Consumer Protection Supervision***

30. **There are three specialized financial sector supervisory agencies: i) the Bank of Zambia; ii) the Pensions and Insurance Authority; and the Securities and Exchange Commission.**

31. **The BoZ is responsible for formulating and implementing monetary policy, managing the operation of the payment and settlement system, as well as licensing, regulation, and supervision of financial institutions in order to ensure a safe and sound financial system.** In particular, the BoZ supervises commercial banks, development banks, savings and credit banks, leasing companies, building societies, microfinance institutions (deposit taking ones with capital above ZMK 250 million and non-deposit taking MFIs with capital above ZMK 25 million), credit bureaus, bureaus de change, and payment service providers. In addition, there are a number of small non-deposit taking microfinance institutions with capital lower than ZMK 25 million which are neither licensed nor supervised by BoZ.

32. **The PIA has regulatory and supervisory functions over insurance and reinsurance companies and intermediaries, claims agents, assessors, loss adjusters, pension schemes, fund managers, administrators and custodians.** Even though the BoZ and the PIA are corporate bodies that have regulatory functions, the authority to issue regulations ultimately relies on the MOFNP, according to the laws that set up both agencies.

33. **The SEC is the authority responsible for the supervision and the development of the capital market.** It is also responsible for licensing, regulation and supervision of its participants, namely securities exchanges, securities brokers and dealers, investment advisors, and collective investment schemes.

34. **There are three other non-specialized government authorities with regulatory and supervisory powers in the financial sector, namely: i) the MOFNP; ii) the Ministry of Agriculture (MOA); and iii) the CCPC.** The MOFNP is the authority in charge of licensing, regulating and supervising moneylenders. In addition, it appoints the boards of directors of the state-owned savings and credit bank. The MOA is in charge of registering all types of cooperatives as well as providing them with assistance and advisory services, promoting the development of the sector, and issuing specific rules. The CCPA of 2010 transformed the Zambia Competition Commission into the CCPC, a body under the Ministry of Commerce Trade and Industry in charge of promoting competition and protecting consumers against unfair trading practices in the entire economy. The CCPC may recommend the Ministry the issuance of regulations under the CCPA, as well as appoint inspectors to ensure compliance with the CCPA.

35. **There are also industry associations with limited degrees of involvement in consumer protection issues.** The *Bankers Association of Zambia (BAZ)* developed a voluntary code of conduct aimed to set harmonized standards that the association's members should follow when dealing with customers. The *Insurers Association of Zambia (IAZ)* has issued a principles-based code of conduct, which deals with consumer protection and awareness issues, and provides for the expulsion of a company from the association for breach of the code. The *Insurance Brokers Association of Zambia (IBAZ)* has a committee to investigate complaints, as well as an appeals committee. The *Insurance Institute of Zambia (IIZ)* is a professional body that coordinates and develops professional standards for the insurance and pension industries. In the capital market, the *Lusaka Stock Exchange (LSE)* has issued four sets of regulations including conduct requirements for its members and listed companies.

36. **Institutional arrangements for financial consumer protection and competition are fragmented, with limited mandate, and overlapping jurisdictions.** As noted earlier, in addition to three regulators responsible for financial sector oversight - namely the BoZ, the PIA, and the SEC - the CCPC has the responsibility for general consumer protection in Zambia, including in relation to financial products and services. Also, the MOA and MOFNP are responsible for registration and record keeping of cooperatives and money lenders, respectively. Further, there is no adequate institutional capacity for consumer protection supervision in financial sector, and due to the cited overlaps the supervision process is inefficient. Moreover, the existing arrangements include only limited human and administrative resources, and are insufficient in ensuring proper supervision. Some of the mentioned overlaps are presented graphically below.

Min. Agriculture (Cooperatives Act)	Min. Finance (Money Lenders Act)	Bank of Zambia (Banking & Financial Services Act)	Pensions & Insurance Authority (Insurance Law)	Securities Exchange Commission (Securities Law)
*Registration *Record-keeping	*Registration *Record-keeping	*Registration *Prudential / financial regulation * Disclosure *Data protection *Record-keeping	*Registration *Prudential / financial regulation * Disclosure *Data protection *Record-keeping	*Registration *Prudential / financial regulation * Disclosure *Data protection *Record-keeping
<ul style="list-style-type: none"> <li>•Unfair and anti-competitive trade practices (financial sector)</li> <li>•False or misleading representation (financial sector)</li> <li>•Unfair contract terms, price display (financial sector)</li> <li>•Responses to complaints (financial sector)</li> </ul>				
<ul style="list-style-type: none"> <li>•Mergers &amp; Acquisitions</li> <li>•Unfair contract terms (non-financial sectors)</li> <li>•False or misleading representations (non-financial sectors)</li> <li>•Unfair &amp; anti-competitive trade practices (non-financial sectors)</li> <li>•Responses to complaints (non-financial sectors)</li> </ul>				
<b>Competition and Consumer Protection Commission (Competition and Consumer Protection Act)</b>				

### ***Key Recommendations***

37. **Regulation and supervision of financial consumer protection should rest with the existing financial sector regulators.** In the short term, consumer protection provisions in the newly proposed draft financial sector laws and subsequent regulations should be enforced by the BoZ, the PIA and the SEC. The reason for proposing existing financial sector regulators to house this function is due to their highly specialized expertise and institutional focus on the financial sector.

38. **At the same time, the supervision arrangements for financial consumer protection should be separated from the prudential function and properly resourced.** Separation of functions is required to avoid a perceived and real conflict of interest which could result from the different nature of prudential and market conduct objectives; the former is focussed on solvency while the focus of the latter is on consumer protection and a single agency might give priority to one over the other. Therefore, having a single unit covering both functions is likely to exacerbate this perception of conflict. A further concern with combining functions is that prudential and market conduct regulation requires fundamentally different skills and experience amongst relevant officers.

39. **A sustainable and practical way to ensure proper market conduct oversight in the Zambian context would be to establish a new consumer protection division within each of the existing financial sector regulators (BoZ, PIA, and SEC).** Also, these units should be separated from those responsible for prudential supervision, and with a separate reporting line directly to the head of the relevant agency. A training program on consumer protection should be developed for the staff of this new division. There should also be a close and regular consultation amongst all three regulators. Having in mind budgetary and human resource constraints, initially these divisions might be established with a limited number of staff and gradually expanded.

## Box 2: International approaches to consumer protection regulation and supervision

**Single agency approach.** One institutional approach is to have a single authority in charge of prudential and market conduct supervision. This is the case in Portugal, where a specialized Banking Conduct Supervision Department of the Central Bank of Portugal is responsible not only for the regulation and supervision of the market conduct of credit institutions, but also the promotion of financial literacy. Placing consumer protection in the same central bank department as prudential supervision creates potential conflicts with the traditional and long-standing prudential supervisory roles. Prudential supervision can, however, provide useful early warning signals for business conduct supervision. International experience shows that, if central banks adopt consumer protection as part of their mandate, business conduct supervision should be separate from prudential supervision and have adequate specialized staff and resources to perform its responsibilities effectively in order to avoid conflicts of interest.

**Specialized financial consumer protection agency.** Some countries have established one or more specialized regulators for financial consumer protection. Australia was the first country to set up a so-called ‘twin peak’ structure where the Market Conduct Regulator is responsible for overseeing the way in which market participants behave, while the other peak – the Prudential Regulator – is charged with overseeing the financial health, safety and soundness of market participants. This approach was followed by the Netherlands. Recent trends in financial consumer regulation point to the development of such specialized agencies, as seen in the creation of the Financial Consumer Agency of Canada (2001), the establishment of the Consumer Financial Protection Bureau in the United States (2011) and the proposed Financial Conduct Authority of the United Kingdom. Conflicts of interest can thereby be avoided between oversight that focuses on ensuring the stability of the financial system as a whole, and supervision that seeks to ensure that individual consumers of financial services are protected in the market. While this model has the advantage of clearly defined objectives and mandates of the respective agencies, the challenge is to provide a new financial consumer protection agency with sufficient authority and credibility within the financial system.

**General consumer protection body.** A third approach is for a body with jurisdiction to cover all consumer protection issues to be required to include financial products and services in its mandate as well. This is the case in Brazil, where many consumer protection rights are guaranteed in the Consumer Protection Code. The Department for Consumer Protection and Defense (housed at the Ministry of Justice) has oversight over consumer protection in general, including financial consumer protection issues, although the Central Bank of Brazil covers some financial services issues not mentioned in the Code. The challenge of the general consumer protection agency approach is to provide sufficient resources in order to handle financial services issues properly since technical aspects of financial services require specialized staff with sector-specific knowledge and expertise.

40. **The staff appointed for supervision of new laws relating to electronic financial services should be properly trained.** In particular, it is important that supervisory staff have detailed knowledge of the different technologies that may be used for delivery of financial services and all the attendant risks. The BoZ is also encouraged to require regulated entities to undertake customer awareness campaigns of the nature of Internet and mobile banking, how to securely conduct transactions and how to safeguard personal identification numbers (PINs) and other security devices. These sorts of issues could also be included in the financial education programs.

41. **The BoZ should undertake market monitoring of non-supervised microfinance institutions and increase consumer awareness about their operations.** To this end, the BoZ could consider commissioning a study about their operations which could be updated every two years, and conducting extensive consumer awareness campaigns which would also cover these institutions.

42. **The institutional capacity of the SEC should be strengthened with more staff and training.** Although a large part of the legal infrastructure for consumer/investor protection has been put in place, the SEC does not have the capacity, either in terms of manpower or training, to fully implement the regulatory structure.

### III. CONSUMER DISCLOSURE

#### *Key Findings*

43. **The existing disclosure requirements for financial services and products are insufficient.** For example, there are only limited requirements for upfront disclosure of terms and conditions, interest and fees and charges. There are no requirements for disclosure of the method of calculation of interest charges, for a Key Facts Statement, for periodic statements of account, for personalized notice of changes to terms and conditions, fees and interest rates, or for notice of fees payable for use of an automated teller machine (ATM). Further, the requirements which exist do not take into account the possibility of banking services being provided electronically. Also, in the insurance sector there is no requirement for a policy holder to receive an explanation about the features of the policy. In addition, there is no requirement for disclosure documents to be informative and facilitate comparison, or to have a minimum font size (for example 10 point font), to be simply expressed, or to be in the most commonly spoken local languages.

44. **BoZ publishes comparative tables of charges, fees, commissions and cost of borrowing, for credits offered by each licensed MFI, but the frequency, quality, and public availability could be improved.** The tables are published in newspapers twice a year, while the most recent information published on the BoZ's website dates back to 2009. There have been no major consumer awareness campaigns on the existence and usefulness of these tables, or to encourage comparison shopping. Further, since there are no clear guidelines on calculations of interest rates and cost of borrowing, the information may not be comparable.

45. **There is no detailed set of requirements for the disclosure of terms and conditions prior to entering into a contract between a securities licensee and a customer.** Section 15 of the Securities Business Conduct Rules requires a written contract for customer accounts. Section 16 states that a contract under Section 15 or otherwise should contain adequate detail as to the basis of the services provided. However, there is neither definition of "adequate detail" nor specification of what the acceptable parameters of the terms and conditions should be, except in the case of avoidance of liability. The Rules should set out a specific minimum amount of disclosure as to terms and conditions.

#### *Key Recommendations*

46. **Transparency should be improved with the introduction of a comprehensive disclosure regime for financial services and products.** This could be achieved by introducing key provisions in the proposed amendments to the financial sector laws, such as requirements for transparent, clear, simple and comparable disclosure of key terms and conditions, interest rates, fees and charges; regular account statements; minimum font size for complex disclosures in pre-sale documents and advertisements, and so forth. More detailed requirements could be incorporated into new or existing supplementary regulations; for example, the format and terminologies used for key facts statements of different retail financial products, and standard calculation methods of interest rates.

### Box 3: Key Facts Statement

**A key facts statement is a standardized one or two-page document written in easy-to-read print and plain language, that describes key terms and conditions of a specific retail financial product.** A key facts statement neither replaces nor is a part of the terms and conditions for a financial product or service, but is required to be given to a consumer prior to starting a contractual relationship with a financial institution (e.g. opening an account or signing a loan agreement).

**The simplicity of the key fact statement aims to help consumers better understand the features, terms and conditions of the product or service, and to provide them with useful information in the process of acquiring a financial product, and during the life of the financial product.** The standardization of the key fact statement allows for comparability of offers from different providers of the same type of financial product. Both features aim to increase consumers' familiarity with the concepts included in the key facts statement, which would facilitate the transmission of financial education messages regarding such concepts.

**The key facts statements should not only clearly indicate all fees and charges related to a financial product, but also inform consumers about their basic rights, including the mechanisms available in the event of a complaint.** For example, for consumer loans the key facts statement should include: (1) the total amount of the loan; (2) the amounts of monthly payments; (3) the final maturity of the loan; (4) the total amount of payments to be made; (5) all fees, including prepayment and overdue penalty fees, possible taxes for remittances, and any other charges that could be incurred; (6) any required deposits or advance payments; (7) if the interest rate is variable, the basis on which the calculation is made; (8) any additional insurance that is required (such as personal mortgage insurance); (9) any prepayment penalty; and (10) if the credit is used to finance a product, the cash price of the product without financing charges.

**Key facts statements could first be established for basic retail financial products such as consumer loans and basic savings accounts, and later for more complex ones like mortgage loans, life insurance policies, and collective investment funds.** The key facts statements could be developed by the financial regulator, but in close collaboration with the financial industry associations. It is important to also undertake consumer testing surveys of alternative key facts statements in order to make sure that the model chosen is the easiest to understand and covers all key information needed by consumers (e.g., the US Federal Reserve Board has conducted extensive testing of disclosure requirements, especially for credit cards, and the results have been used to revise and improve disclosure requirements). It is also important that key facts statements be available in the language most spoken in the location where the financial product is offered. Finally, it is important that an adequate supervisory mechanism (e.g., mystery shopping) is established to ensure that retail financial officers give and explain the key facts statements to their customers.

**Several countries have already implemented key facts statements.** Examples include Ghana's "Pre-Agreement Truth in Lending Disclosure Statement" and Peru's "Hoja Resumen" (Summary Sheet) for consumer loans; South Africa's "Pre-Agreement Disclosure" for consumer credit products; Hong Kong's "Product Key Facts Statement" for unit trusts and mutual funds, investment-linked assurance schemes and unlisted structured investment products.

47. **New disclosure requirement for the use of electronic channels to deliver financial services, such as mobile phones, smart cards, and the Internet should be imposed.** In particular, it is recommended that there be disclosure of the terms and conditions that specifically apply to use of the channel (such as the services that the channel can be used for, how and when), including any applicable fees and charges. Such disclosures should be provided directly to the relevant customer (notices in an agent's premises should not be considered to be sufficient for this purpose). There should also be clear rules and procedures as to who has liability in the case of fraud, mistaken payments, other unauthorized transactions and system failures when electronic channels are used for financial services. In summary, it is proposed that the rule should be that unless a loss is directly attributable to a customer (e.g. because they have disclosed their PINs), they should not be liable for any loss caused by such an event. These disclosures should be made to a customer before first use of electronic service.

48. **The SEC should require that all licensees provide to customers a copy of all of the terms and conditions of the contract for services provided and that the terms contain the terms and conditions in detail.** There should be a requirement for a written contract setting out these terms and conditions for non-discretionary accounts.

## IV. BUSINESS PRACTICES

### *Key Findings*

49. **A number of business practices by banks and other credit institutions appear to be a concern.** For example, interest is charged on a flat, rather than a reducing balance, basis and there are no controls over prepayment fees where the loan is secured by real estate. In addition, responsible lending provisions need enhancement. At present, there are no requirements for responsible lending practices (such as a requirement to assess a customer's ability to repay a loan without substantial hardship before the facility is provided), other than the requirement for banks and other credit institutions to obtain a credit report before advancing credit, and to submit data to a credit reporting agency. Finally, permitted practices for debt collection need clarification. There are no rules on this issue at present, and it is considered important that there is legal certainty as to what are permitted debt collection practices.

50. **The current version, and the proposed draft amendments, of the BFSA incorporate some provisions dealing with business practices, but do not solve all issues.** The current BFSA has provisions on false or misleading advertisement, anti-competitive conduct, customer record keeping, and confidentiality. The proposed new draft BFSA incorporates new provisions on business practices. Clause 67 deals with responsible lending, but it falls short to provide adequate consumer protection. Clause 70 proposes to limit the amount of arrears interest to the principal owing when the loan becomes non-performing. In addition, clauses 62 and 65 would give the BoZ the general ability to impose interest rate caps or unlimited power to control what fees can be charged, which would have a negative effective in financial sector development.

51. **There is a widespread requirement to pay for credit life insurance as a condition of taking out a loan.** It is understood that in such cases the premiums and commissions are not separately disclosed, no choice of insurer is given, and no refund of the up-front premium is provided if the loan is paid out early. The concerns regarding the choice of an insurer would appear to be covered by clause 71 of the proposed draft BFSA, but the others remain.

52. **The voluntary industry Code of Banking Practice (CBP) is comprehensive and deals with a number of the identified disclosure and business practice issues, but is of limited effectiveness.** The CBP contains comprehensive provisions dealing with disclosure, product suitability, ability to repay, electronic banking products, financial difficulties, data transparency, and complaints. However, the CBP has very limited enforcement mechanisms and very poor public visibility. Further, the BAZ secretariat is poorly resourced, although they appear committed to the need for consumer protection.

53. **There are few general business practices rules applicable to the microfinance sector.** Although there is no industry code of conduct, few MFIs have endorsed the Smart Campaign's client protection principles, trained staff to become assessors, or undertaken self-assessment of compliance with the principles. There are no rules on tying practices, and MFIs often require credit-life insurance for individual loans offered by a single insurer. Also, they do not disclose the premium paid up-front, and may offer a policy for a period longer than the duration of a short-term loan, which would create overlap with consecutive loans.

54. **To ensure better understanding of the cost associated with microfinance products, a study focusing on the cost of credit and interest rates is being finalized.** The results should help understand better the reasons behind the levels of interest rates and costs charged by developmental MFIs and payroll-based MFIs.

55. **There is no cooling off requirement for general or non-life insurance products under the current laws.** Currently, there is only a provision of a 30-day cooling-off period for life insurance products, while in the pensions sector this provision does not apply given that no private pension plans are available.

56. **Although representatives of market institutions must have a license to engage in sales activities, there is no legal requirement for the SEC or an industry association under the SEC's supervision to administer a competency examination to the representatives.** Under Securities Conduct of Business Rules Section 14, a licensee is responsible for verifying the fit and proper character of any representative working for it. This responsibility is important but does not go far enough. The SEC, or a supervised industry organization, should also supervise the competency of sales people.

57. **Further, while the Securities Act and the Securities Compensation Fund Regulations provide for a clear procedure for the scope and operation of the Compensation Fund, it is seriously underfunded and could not cover a significant default by a broker.** The Compensation Fund has procedures for resolution of claims and payouts. There have not been any examples of these procedures in action, so it is difficult to determine their promptness in practice. There is also a Guarantee Fund at the Central Depository (a subsidiary of the Lusaka Stock Exchange) that exists to ensure that all trades are effectuated, even if a broker defaults. This fund is also underfunded.

58. **While the Insurance Act provides for a policyholder guarantee fund - the Fidelity Fund - designed to compensate policy holders in case of company insolvency, it has not been made operational yet.** The statutory instrument to establish the fund has never been issued by the MOFNP. Further, the current value of the Fund is insufficient to protect the policyholders.

### ***Key Recommendations***

59. **Subject to few exceptions, loan prepayment fees should be prohibited for the sake of fairness and competition.** Such a prohibition would cover early repayment of installments and early repayment of the entire outstanding balance. There should be an exception for reasonable administrative costs and, for fixed rate facilities, a charge to take account of differences in the interest rate payable under the facility and prevailing at the time of the prepayment.

60. **Default interest charges should relate only to the outstanding repayment(s) and enforcement expenses should be reasonable.** A lender should only be able to recover a default rate of interest on the amount in default (i.e. not the whole principal) for the period that the default continues. Further, enforcement expenses should be required to be reasonable (whether they are internal, such as administrative costs of the lender, or external expenses, such as legal expenses or third party debt collection costs). Apart from these proposals, it is not recommended that there be any limitation on the amount that can be charged in a default situation. In particular, it is not recommended for the amount of arrears interest to be limited to the principal owing when the loan becomes non-performing.

61. **General controls over interest rates and fees are not recommended.** The BoZ should not have a general ability to impose interest rate caps or unlimited power to control what fees can be charged. This is because such measures can lead to restricted access where lenders cannot recover costs and a lack of transparency where the effect of such controls is that lenders impose other costs on borrowers. A requirement for transparency of interest rates and fees and charges is considered to be a preferable approach.

62. **Mandatory rules relating to debt collection should be developed.** At a minimum, there should be a clear prohibition on harassing debtors (which is in the proposed new draft BFSAs). There should also be rules regarding the frequency and timing of contact, as well as who can be contacted and the permitted methods of contacting a person (e.g. whether it is permissible to contact them at their place of work). Consideration should also be given to a review of the practices relating to imprisonment of debtors and to seizure of goods in relation to unsecured loans.



63. **Greater transparency and new rules should be provided in relation to insurance products sold by banks and MFIs.** The consumers should have a choice of selecting the insurer. Further, where there is a tied insurance contract, banks and MFIs should be required to give a proportionate refund of the applicable premium if the consumer pays out a loan before the expiration date of the insurance policy. Finally, it is recommended that there be separate disclosure of premiums and commissions.

64. **The results of a study on the determinants of the cost of credit for MFIs should be broadly discussed and disseminated.** The results should help understand better the reasons behind the levels of interest rates and costs charged by developmental MFIs and payroll-based MFIs. This should complement the dissemination of comparative costs of borrowing from MFIs in newspapers and radio shows.

65. **It is recommended to introduce a reasonable cooling off period for all credit products and non-life insurance products.** It is, however, recognized that in some cases there may be a need for some qualification to an automatic right of cooling off. For example, there could be a right to retain reasonable administrative fees relating to the cancellation of the contract or for the application for the facility. Further, it may be that the right should not apply where there has been a drawdown of a credit facility.

66. **The SEC should create and administer examinations to test the professional competence of securities sales people.** Sales people are the interface between the financial institutions and their customers. They need to be properly trained in order to give professional service to the customers in providing investment advice. The SEC needs to be able to determine if the sales people have sufficient skills to carry out their responsibilities and the use of an examination is the most common way of making this determination.

67. **The securities brokers need to increase the funding of both the Compensation Fund and the Guarantee Fund.** Since the law has provided for the creation of the Compensation Fund in order to protect investors in the event of bankruptcy of a broker, the fund should be sufficiently capitalized to carry out its function. It is one of the core methods for protecting retail investors and should be fully established. Since the Guarantee Fund at the Central Depository is critical for the smooth operation of the exchange in the event that a broker defaults, it also must be well capitalized.

68. **The Fidelity Fund (under the Insurance Act) should also be operationalized as a matter of urgency.** To this end, the required statutory provisions need to be implemented. In addition, arrangements need to be made to ensure adequate and sustainable funding. The Zambian authorities should increase awareness on the role of policyholder protection funds by not only consumers, but also policymakers and insurance representatives.

## V. DISPUTE RESOLUTION

### *Key Findings*

69. **Financial consumers do not have access to adequate mechanisms for the resolution of their complaints with financial institutions.** The laws only include limited provisions on internal handling of complaints by regulated financial institutions. For example, the BFSA requires financial institutions regulated by the BoZ to have internal complaints handling procedures and make them available in writing to their customers, to designate a person responsible for complaint handling, and to create and maintain a record of all complaints received for at least 2 years. However, there are no minimum procedure requirements (e.g. as to timelines) and no requirement to submit complaints statistics to the BoZ. In practice, while some MFIs visibly display complaints procedures on their premises, others only comply by having a suggestion box. In addition, while most insurance companies have an internal complaints procedure, there are no requirements under the Insurance Act for any particular process or procedure to be followed. There is no dispute resolution procedure established in the Pensions Act either.

70. **The existing mechanisms for external dispute resolution, including the court system, industry associations, and existing regulators, are not efficient.** Consumers dissatisfied with responses from financial institutions can turn to the regulators - BoZ, PIA, SEC, and CCPC - as well as industry associations. Even though all of these institutions may mediate and help resolve complaints, this is done on *ad-hoc* basis only. Consumers also have access to the Small Claims Court, but in practice the Court is not used for financial consumer complaints; moreover, the Court does not have expertise in the financial sector and the process also may take years to complete. Finally, while the authorities are currently considering two parallel approaches to serve this purpose, namely a Financial Services Ombudsman (for the purposes of the BFSA) and two Tribunals (for pensions and insurance, and securities), very limited information is available about their proposed structure, mandate, and operational setup.

71. **The SEC does not have a statutory responsibility for collecting and analyzing data related to complaints and disputes.** Otherwise, the Securities Act and regulations provide for a comprehensive legal regime for the protection of investors in securities.

### *Key Recommendations*

72. **Financial services providers should be required to meet internal dispute resolution standards approved by the relevant regulator.** At a minimum, the standards should set timelines for resolving complaints, require regular reporting to the customer and reasons for adverse decisions, and require reporting of complaint statistics to the regulator. International standards on complaint resolution could be helpful in this context.

73. **Increasing effectiveness of external dispute resolution process is crucial. In this regard, a single external institutional mechanism covering the entire financial sector should be considered.** However, further analysis is needed to identify the most effective institutional setup. Such an analysis should explore different models, and the costing and effectiveness of each in the Zambian context. The proposal for several authorities in charge of resolving disputes (i.e. Financial Services Ombudsman and Tribunals) may make it more difficult for consumers to know where to go when needing redress - especially for products related to different sectors, such as credit-life insurance - and allow for inconsistent approaches and procedures. In this regard, further deliberation is required to determine the feasibility of proposed options for external dispute resolution. Whatever the model adopted, it should be clear that the relevant activities (e.g. to award compensation to a consumer) are within the functions and powers of the relevant entity. Box 4 below lists three approaches to external alternative dispute resolution schemes.

#### Box 4: Models of Alternative Dispute Resolution Schemes

**To further improve access to justice for citizens, governments often take further steps to provide alternative dispute resolution systems.** These systems are designed to allow for an out-of court-decision to be taken when parties fail to arrive voluntarily to a conclusion to a complaint. Three main types of alternative dispute resolution schemes have been applied elsewhere:

**Ombudsmen established by financial services associations:** Decision by such an ombudsman is not legally binding but his findings are usually respected by financial institutions voluntarily as a part of self-regulation of the market, sometimes with financial companies even publicly declaring to be bound by the ombudsman's decisions. In countries, such as Germany, an industry-based ombudsman structure for each part of the financial sector has proven effective. However, in the case of such an ombudsman structure established by professional association, attention should be paid to the presence of conflicts of interest. Also, consumers may perceive the ombudsman as someone who will always decide in favor of the financial institution and against the consumer.

**Statutory independent ombudsmen:** In this approach, the ombudsman has functions and powers set up by national laws and members appointed by government authority. For example, the UK established a scheme by law to function as an independent institution, while Armenia legally requires financial institutions to join a central bank-approved ombudsman scheme with binding rules for all member institutions. A single statutory ombudsman would make it easy for consumers to identify to which agency they should submit their inquiries and complaints. While this model has the advantage of clearly defined objectives and mandates the challenge is to provide the new ombudsman with sufficient authority and resources.

**Complaints handling structures established within the regulatory and supervisory agency:** A third model is the set-up of a complaints handling structure within a regulatory and supervisory agency. For example in the case of Spain there are complaints departments in the three financial sector regulators. While this model has the advantage of using existing institutional arrangements to build upon, the challenge is to ensure independence of such a structure, avoid conflicts of interest, and ensure that the usually non-binding recommendation is implemented by the regulated entity.

74. **The SEC should be made responsible for collecting and analyzing complaints in the securities sector.** One of the best ways to get an early warning of misconduct by a broker is through customer complaints. Although not all complaints give rise to an investigation by the SEC, an ongoing analysis of the complaints can determine if there is a serious single incident or pattern of misconduct on the part of a broker that merits the attention of the SEC.

## VI. FINANCIAL EDUCATION

### *Key Findings*

75. **Although no comprehensive financial capability survey has been conducted in Zambia yet, results from the FinScope survey show that in general the population lacks basic financial knowledge and skills.** As mentioned in the first section of this Volume, the 2009 FinScope survey showed that many people are not familiar with basic financial concepts, lack awareness of available financial products and services, and have low trust and confidence in financial institutions.

76. **Government, financial sector and civil society institutions have all undertaken some financial education initiatives in Zambia, but their efforts have been largely uncoordinated, and with limited outreach and impact.** The BoZ has played a leading role in the development of a national financial education strategy, and has been publishing limited information on financial charges (although the information available on its website is from 2009 for MFIs and 2011 for banks). The PIA has organized consumer awareness activities through road shows, trade fairs, and the media. Financial sector actors such as the BAZ, the Zambian Cooperative Federation and individual providers (most notably Zanaco<sup>4</sup>, but also Barclays Bank<sup>5</sup>, Finca and others) have implemented different types of initiatives, especially for micro and SMEs and employees in their workplace. Non-government organizations such as Junior Achievement, Children International and Camfed have mostly focused on initiatives for school children. Also, Microfinance Opportunities has included a mobile payment provider in Zambia (Mobile Transactions) to participate in a three-year multi-country project to design and develop financial education programs that support the adoption and sustained use of branchless banking among low-income populations.<sup>6</sup>

77. **Taking into account these initial results, in 2010 the Zambian authorities embarked on the development of a comprehensive financial education strategy under the FSDP.** The elaboration of the strategy was commissioned by the BoZ and overseen by the FSDP's Financial Education Working Group, with technical support from FinMark Trust. Based on the input of relevant stakeholders from the public sector, the financial sector, the private sector and the civil society, the National Strategy on Financial Education was finalized and then approved by the Government in the third quarter of 2012. The primary objective of the strategy is "to empower Zambians with knowledge, understanding, skills, motivation and confidence to help them to secure positive financial outcomes for themselves and their families by 2017", whereas the long-term goal is "a financially educated Zambian population by 2030". The strategy is comprehensive and includes programs targeted for children (through school curriculum and through extra-curricular activities); for the youth (in universities, colleges and other learning institutions, as well as in youth development centres and other agencies); for adults (in the workplace, for small-scale farmers, for micro and SMEs and through teachable moments); as well as cross-cutting initiatives (through appropriate media and through a website).

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<sup>4</sup> <http://www.zanaco.co.zm/CSR.htm>

<sup>5</sup> <http://www.barclays.com/africa/zambia/banking-on-brighter-futures.html>

<sup>6</sup> [http://microfinanceopportunities.org/case\\_studies/consumer-education-to-support-uptake-and-use-of-branchless-banking-mastercard-foundation/](http://microfinanceopportunities.org/case_studies/consumer-education-to-support-uptake-and-use-of-branchless-banking-mastercard-foundation/)

78. **The National Strategy on Financial Education has highlighted the role of the BoZ as the main coordinator for its implementation.** The strategy has identified a broad range of actors from different sectors (e.g. ministries, financial industry associations, civil society organizations) as implementing partners. The strategy proposes the creation of a Financial Education Coordination Unit (FECU) within the BoZ that will coordinate the actions of the three financial service regulators and manage the overall coordination, prioritisation, fundraising, decision-making, capacity building and communication regarding the implementation process. FECU will be advised by a Financial Education Steering Committee, composed of members of the FSDP's Financial Education Working Group.

79. **One of the first measures envisaged in the monitoring and evaluation framework of the National Strategy on Financial Education is the implementation of a baseline financial education survey.** Due to budgetary constraints, the authorities are unable to conduct a full-fledged financial capability survey in the near term. However, the authorities plan to expand the upcoming FinScope survey to include questions on financial capability that could provide some inputs to refine the plans for implementation of the strategy. It is expected that the survey will be completed before the end of 2012.

### *Key Recommendations*

80. **The implementation of the National Strategy on Financial Education should take into account the results of a baseline survey on the levels of financial capability of the population.** Given the cited resources constraints, the expanded FinScope survey is expected to be conducted by the end of 2012. In case these results are insufficient to facilitate implementation, a full-fledged financial capability survey should be considered in the medium term. In any case, it is recommended that the questionnaires and methodologies used to provide baseline financial capability information had already been tested in other developing countries. A follow-up survey in 3 to 5 years should be carried out to measure any impact at a macro level of the implementation of financial education (and consumer protection) measures, and to justify refinements or revisions of the strategy.

81. **In addition, the implementation of financial education measures should follow a phased approach, utilizing pilots prior to full-scale rollout and incorporating impact evaluation mechanisms from the outset.** It is important to introduce the practice of evaluating the results of educational programs on a small scale, so as to identify the ones that are most beneficial and could be expanded to reach larger target populations. The use of regular surveys and pilot tests should be encouraged (e.g. undertaking financial education surveys in schools before implementing changes in school curricula, evaluating results of pilot programs for specific targeted students before implementing school-wide programs). Lessons could be taken from financial education programs implemented in other countries that have shown initial positive results in terms of effectiveness and impact, such as financial education to remittance recipients in the Pacific region, a comprehensive financial education program for schoolchildren in Brazil, consumer awareness campaigns on the role of the consumer credit regulator in South Africa, or interactive computer games for young students in the USA. Consideration could also be given to the design of randomized control trials, which use controlled groups as a basis for comparison against the results of education programs provided to experimental groups, and would provide an effective means of identifying measures that produced desired positive effects on specific segments of the population. The World Bank, with support of the Russia Financial Literacy and Education Trust Fund is currently developing an operational toolkit on methods for evaluating financial capability programs, which could be useful to the Zambian Financial Education Working Group. The toolkit builds upon lessons learned from more than a dozen evaluation programs implemented by the Trust Fund across the globe<sup>7</sup>.

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<sup>7</sup> <http://www.finlitedu.org/evaluation/wb/>

82. **The Financial Education Working Group should continue reaching out to different types of stakeholders interested in financial education.** For example, the Zambian Cooperative Federation is already providing some basic financial education to an extensive network of cooperative societies reaching out to rural communities. There are also several MFIs currently partnering with mobile payment operators to provide basic training on mobile money to agents, which in turn will communicate this information to new clients. Financial education and consumer awareness campaigns should also take advantage of non-traditional delivery mechanisms (such as radio, cell phones, rural road shows, etc.) to reach out to financially excluded people. Consumer awareness campaigns should pay special attention to messages that would increase not only knowledge but also confidence in the financial sector. For example, these could include simple messages on the benefits of saving, benefits of using a formal financial institution, specific rights of financial consumers (e.g., to complain or to receive clear information), and so forth.

## VII. List of Key Recommendations

**Table 3: Full list of prioritized systemic and sector specific recommendations**

Key Systemic Recommendations	Responsible Party	Priority
1. Incorporate relevant financial consumer protection provisions in the newly proposed draft financial sector laws, entrust the financial sector regulators with related regulatory and supervisory powers, and amend the CCPA so that it is not applicable to consumer protection in financial sector.	MOFNP/PIA/SEC/CCPC	High
2. Introduce key provisions on consumer disclosure for retail financial products and services, including requirement for Key Facts Statements, in the newly proposed draft financial sector laws.	MOFNP/BoZ/PIA/SEC	High
3. Establish new divisions/units within the BoZ, the PIA, and the SEC, for supervision of financial consumer protection, which are separate from those responsible for prudential regulation and with a separate reporting line directly to the head of relevant agency.	BoZ/PIA/SEC	High
4. Introduce legal provisions allowing cooling-off period for credit and non-life insurance products during which new customers are allowed to withdraw from already signed contracts.	BoZ/PIA	High
5. Entrust CCPC with a mandate to regulate competition in the financial sector, and clarify responsibility and ensure consistency of approach to regulation of competition issues in financial services sector via single MOU between BoZ, PIA, SEC, and CCPC.	BoZ/PIA/SEC/CCPC	High
6. Assess various options for effective institutional setup for external dispute resolution mechanism for financial sector.	BoZ PIA/SEC	High
7. Develop requirements for internal dispute resolution process for all financial service providers.	BoZ/PIA/SEC	High
8. Develop a law regulating credit reporting	MOFNP/BoZ	Medium
9. Develop a comprehensive data protection law	MOFNP/ BoZ/PIA/SEC	Medium
10. Identify and implement priority measures in the Financial Education Strategy utilizing and evaluating pilots prior to full scale roll out.	FEWG/FECU	Medium
<b>Banking</b>		
1. Loan prepayment fees should be prohibited, subject to few exceptions.	BoZ	High
2. Default interest charges should relate only to the outstanding repayment(s), and general controls over fees and interest rates should be avoided.	BoZ	High
3. Ensure greater transparency and new rules related to insurance products sold by banks.	BoZ	High
4. Develop mandatory rules related to debt collection.	MOFNP/BoZ	Medium

Key Sector Specific Recommendations	Responsible Party	Priority
<b>Non-Bank Financial Institutions</b>		
1. Undertake market monitoring and increase consumer awareness of the small non-supervised credit institutions	BoZ	Medium
2. Ensure broad dissemination of the results of a study on the determinants of the cost of credit for MFIs	BoZ	Medium
3. Ensure greater transparency and new rules related to insurance products offered by MFIs.	BoZ	High
<b>Insurance</b>		
1. Operationalize the Fidelity Fund	MOFNP/PIA	High
2. A regulatory ladder should be provided for the PIA in the new Insurance Act	PIA	Medium
<b>Pensions</b>		
Strengthen the legal provisions for segregation of pension fund assets for managers, administrators and custodians.	PIA	High
<b>Securities</b>		
1. The institutional capacity of the SEC should be strengthened with more staff and training	MOFNP/SEC	Medium
2. The SEC should create and administer examinations to test the professional competence of securities sales people	SEC	Medium
3. The brokers need to increase the funding of both the Compensation Fund for the investors and the Guarantee Fund at the Central Depository	Brokers/SEC	Medium
4. The SEC should be responsible for collecting and analyzing complaints in the securities sector.	SEC	Medium
5. The SEC should require that all licensees provide to customers a copy of all of the terms and conditions of the contract for services provided and that the terms contain the terms and conditions in detail. There should be a requirement for a written contract setting out these terms and conditions for non-discretionary accounts.	SEC	Medium



