



FINANCE AND MARKETS GLOBAL PRACTICE

DIAGNOSTIC REVIEW OF CONSUMER PROTECTION AND FINANCIAL LITERACY: VOLUME 1

VIETNAM

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TABLE OF CONTENTS

ABBREVIATIONS AND ACRONYMS	ii
ACKNOWLEDGEMENTS.....	iv
PREFACE.....	v
EXECUTIVE SUMMARY	6
CONTEXT FOR CONSUMER PROTECTION AND FINANCIAL LITERACY	10
I. INTRODUCTION	10
II. FINANCIAL SECTOR.....	10
III. GENERAL FRAMEWORK FOR FINANCIAL CONSUMER PROTECTION IN VIETNAM.....	17
A. INSTITUTIONAL ARRANGEMENTS.....	17
B. LEGAL AND REGULATORY FRAMEWORK	25
C. TRANSPARENCY AND DISCLOSURE.....	32
D. BUSINESS PRACTICES	36
E. COMPLAINTS HANDLING AND DISPUTE RESOLUTION.....	41
F. CONSUMER EMPOWERMENT AND FINANCIAL LITERACY	44
Annex I: List of Recommendations	47
Annex II: Structure of Regulatory Framework	53
Table 1: Summary of High Priority Recommendations.....	7
Table 2: Financial Inclusion in Vietnam (Comparison with Countries in the Region).....	11
Table 3: Institutional Arrangements.....	20

ABBREVIATIONS AND ACRONYMS

ADB	Asian Development Bank
ADR	Alternative dispute resolution
ATM	Automatic Teller Machine
AML Law	Law on Prevention of Money Laundering (No. 07/2012/QH13)
AUM	Assets under management
AVI	Association of Vietnamese Insurers
BISA	Banking Inspection and Supervision Agency
BOD	Board of Directors
CCP	Central Counterparty
CGAP	Consultative Group to Assisst the Poor
CI	Credit institution as defined by the CI Law
CI Law	Law on Credit Institutions (No. 47-2010-QH12)
CIS	Collective investments
CPE	Continuous professional education
CP	Law on Protection of Consumers' Rights (No.59/2010/QH12)
CPFL	Consumer Protection and Financial Literacy
CPD	Consumer Protection Department of VCA
Credit Information Decree	
	Decree on Credit Information Activities (No. 10/2010/ND-CP)
DIV	Deposit Insurance of Vietnam
ETF	Exchange-Traded Fund
GDP	Gross Domestic Product
HNX	Hanoi Stock Exchange
HOSE	Ho Chi Minh City Stock Exchange
IAIS	International Association of Insurance Supervisors (IAIS) and the Organization for Economic Co-operation and Development (OECD)
IB	Law on Insurance Business (No. 24/2000/QH10)
IFC	International Finance Corporation
IOSCO	International Organization of Securities Commissions
ISA	Insurance Supervision Authority
MFI	Micro-Finance Institution
MFWG	Microfinance Working Group
MoCI	Ministry of Culture and Information
MoET	Ministry of Education and Training
MoF	Ministry of Finance
MoIT	Ministry of Industry and Trade
MoJ	Ministry of Justice

NBCI	Non-bank credit institution
NCIC	National Credit Information Center of Vietnam
NFES	National financial education strategy
NGO	Non-governmental organization
OECD	Organization for Economic Co-operation and Development
PCB	Private Credit Bureau
PCF	People's Credit Fund
PCR	Public Credit Registry
ROSCA	Rotating Savings and Credit Association
SBV	State Bank of the Socialist Republic of Vietnam
SBV Law	Law on State Bank of Vietnam (No. 46/2010/QH12)
SC Law	Securities Law (No. 70/2006/QH11)
SME	Small and medium enterprise
SOE	State-Owned enterprise
SSC	State Securities Commission
STI	Securities Training Institute
UPCOM	A platform for trading in unlisted public companies
VBARD	Vietnam Bank for Agriculture and Rural Development
VBSP	Vietnam Bank for Social Policies
VCA	Vietnam Competition Authority
VINASTAS	Vietnam Standards and Consumers Association
VND	Vietnamese Dong
VSD	Vietnam Securities Depository
WB	World Bank

Currency and Equivalent Units

(As of 1 May 2014)

Currency Unit = Vietnamese Dong
(VND)

US\$ 1 = VND 21,124.79

Government Fiscal Year

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This report contains the findings and recommendations from a World Bank mission to Vietnam between May 12 and 22, 2014, which took place for the purposes of a Diagnostic Review on Financial Consumer Protection and Financial Literacy. The banking, non-bank credit institutions, securities, insurance, and credit reporting sectors were considered during the mission as well as financial literacy strategies and programs. The review was undertaken in response to a request from State Bank of the Socialist Republic of Vietnam (SBV). The report also reflects discussions and research which took place following the mission.

The mission team was led by Ros Grady (Task Team Leader, Senior Financial Specialist, GFMDR) and Sameer Goyal, (Co-Task Team Leader, Senior Financial Sector Specialist, GFMDR). The mission team included Eric Haythorne (Consultant, Banking Expert), Ivo Jenik (Consultant, Non-bank Financial Institutions Expert, GFMDR), Tom Karp (Consultant, Insurance Expert), Margaret Miller, (Senior Economist, Credit Reporting and Financial Literacy Expert, GFMDR), Viet Quoc Trieu (Senior Financial Sector Specialist, GFMDR), and Sau-Ngan Wong (Senior Counsel, Securities Expert, GFMDR). Guidance and support was provided by the Hanoi World Bank office. Administrative support was provided by Nguyen Thuy Ngan (Program Assistant, EACVF) and Suran KC Shrestha (Program Assistant, GFMDR).

The mission held meetings with representatives of relevant stakeholders, including from SBV, the State Securities Commission (SSC), the Insurance Supervision Authority (ISA), the Ministry of Finance (MoF), the Ministry of Trade and Industry (MoIT), financial institutions, VINASTAS, Vietnam Associations of People's Credit Funds, Vietnam Association of Financial Investors, Vietnam Association of Securities, and Vietnam Banks Association. The mission team is grateful for the support and collaboration of all with whom they met and who have contributed to this report. The team particularly wishes to express its appreciation to the authorities for their assistance during the review.

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PREFACE

The existence of a sound financial consumer protection framework is fundamental to increasing access to, and usage of financial services, and the quality of those financial services, along with supporting further financial sector deepening. Financial consumer protection is a necessary precursor to building trust in the formal financial sector and thus in encouraging financial inclusion. Further, consumer protection helps ensure that expanded access benefits consumers and the economy as a whole. This is because, while increased access can result in significant economic and societal benefits, it can be neutral or even harmful if consumers are not able to (i) exercise their rights as consumers, (ii) select the financial products that suit them best; and (iii) be protected from mis-selling, fraud and other market abuses.

The World Bank has developed the *Good Practices for Financial Consumer Protection*¹ as an assessment tool for diagnostic reviews of a country's consumer protection and financial literacy framework for the financial sector (Good Practices). The Good Practices were developed using international benchmarks, such as the principles released by the Basel Committee, the International Organization of Securities Commissions (IOSCO), the International Association of Insurance Supervisors (IAIS) and the Organization for Economic Co-operation and Development (OECD) recommendations for financial literacy and awareness on pensions, insurance and credit products. The Good Practices incorporate provisions of laws, directives, regulations and codes of business practices from the EU and both developed and developing countries.

The main objective of a review based on the Good Practices (CPFL Review) is to assess the legal, regulatory and institutional frameworks for financial consumer protection in a country, with reference to international practices. The review addresses the following areas: (i) Institutional Arrangements, (ii) Legal and Regulatory Framework, (iii) Transparency and Disclosure, (iv) Business Practices, (v) Complaints Handling and Dispute Resolution Mechanisms, and (vi) Financial Literacy. All parts of a financial sector can be considered including: (i) Banking, (ii) Securities, (iii) Insurance, (iv) Non-Bank Credit Institutions, (v) Private Pensions and (vi) Credit Reporting. CPFL Reviews against Good Practices have been conducted by the World Bank in more than 30 countries worldwide, including many middle and low-income countries. A CPFL Review results in a detailed assessment of each relevant financial segment's consistency with the Good Practices and a report summarizing the key findings for the assessment and prioritized recommendations.

There is an increased international focus on consumer protection in the financial sector. As shown by the World Bank's 2013 Global Survey on Financial Consumer Protection, a legal framework for financial consumer protection exists in 112 out of the 114 countries surveyed. The most common approach is to have a financial sector-specific consumer protection regulatory framework (as exists in 103 countries). The Global Survey also showed that the number of regulatory agencies with a specific responsibility for financial consumer protection increased from 74 in 2010 to 97 in 2013.²

¹ Good Practices For Financial Consumer Protection (World Bank, 2012), available at http://siteresources.worldbank.org/EXTFINANCIALSECTOR/Resources/Good_Practices_for_Financial_CP.pdf (last visited on October 13, 2014).

² For more information see Global Survey on Consumer Protection and Financial Literacy: Oversight Frameworks and Practices in 114 Economies (World Bank, 2014), available at <http://responsiblefinance.worldbank.org/~media/GIAWB/FL/Documents/Publications/CPFL-Global-Survey-114econ-Oversight-2014.pdf> (last visited on September 3, 2014).

EXECUTIVE SUMMARY

1. The findings and recommendations presented in this report cover five sectors of the financial system in Vietnam. The relevant sectors were: (i) Banking, (ii) Securities, (iii) Insurance, (iv) Non-Bank Credit Institutions, and (v) Credit Reporting. The assessment of each one of these sectors covers six areas: (a) Institutional Arrangements, (b) Legal and Regulatory Framework, (c) Transparency and Disclosure, (d) Business Practices, (e) Complaints Handling and Dispute Resolution Mechanisms, and (f) Consumer Awareness and Financial Literacy.

Key Findings

2. In Vietnam, there is a clear commitment to strengthen consumer protection across different sectors, including the financial sector. This is demonstrated by active dialogue with different stakeholders (both public and private sector), the invitation to conduct this review and the Responsible Finance in Vietnam Review conducted by IFC in cooperation with CGAP³; the discussions with civil society groups and the ongoing focus by regulators on consumer protection issues. Regulatory examples include: (i) the Law of Protection of Consumers' Rights of 2010; (ii) the Law on Advertising of 2012; (iii) the numerous other laws, decrees, decisions and circulars which touch on consumer protection issues; and (iv) recent initiatives such as improving a regulatory framework for agent banking (see below).

3. The legal and regulatory framework for consumer protection in the financial sector, and related supervisory arrangements, are at a nascent stage of development. Particular concerns include: (i) the apparently low levels of consumer protection-related capacity and resources within the various regulators and supervisors; (ii) the lack of clarity as to the supervisory responsibilities in relation to consumer protection matters between, on the one hand, the financial sector-specific regulators (SBV, ISA and SSC) and, on the other hand, the VCA; (iii) the complexity of the legal and regulatory framework; (iv) the lack of a clear coordination and consultation mechanism between VCA, SBV, ISA and SSC in relation to consumer protection policy, regulatory and supervisory issues although it is noted that Article 47 of the CP Law provides for the common State administration of consumer protection and for the related responsibilities of MoIT to carry out that administration; (v) the limited supervision and enforcement of the few consumer protection rules which do exist; (vi) the limited consumer protection laws relating specifically to financial services (although there are relevant rules in place, there is not universal financial sector coverage of rules in relation to transparency of product prices, commissions, terms and conditions; credit cards; staff training; and product suitability advice requirements); (vii) an incomplete regulatory framework for mobile payments and electronic payments (e.g. concerning non-cash payments systems, electronic transactions, ATMs and debit card fees), in relation to matters such as safeguarding the funds of pre-paid customers, unauthorized transactions, mistaken payments, data protection and electronic disclosures of information to consumers; (viii) the lack of supervision and regulation of certain lenders and deposit-takers such as unlicensed microfinance organizations (MFIs); (ix) the absence of standardized requirements for internal complaints resolution regimes; and (x) limitations in relation to consumer rights in the credit reporting system.

³ Responsible Finance in Vietnam (IFC, 2014).

4. Financial inclusion in Vietnam remains low as compared to other countries in the region. In 2011 the percentage of the population with an account at a formal financial institution was 21.4% as compared to 54.9% on average in developing countries of the region of East Asia and Pacific, and from all borrowers in 2011 only 36.9% borrowed money from a formal lender as compared to 71.3% in neighboring Thailand. Further information is provided below (see Table 2).

5. Finally, financial literacy strategies and programs need to be improved. In particular: (i) a survey on financial literacy (or on the more general concept of financial capability) is still to be conducted; (ii) there are few programs in place in the public or private sectors; (iii) a national strategy on financial literacy needs to be developed; and (iv) the various regulators play a limited role in relation to improving financial literacy. This position is a significant concern given the low levels of financial inclusion in Vietnam as described below (see Table 2).

Key Recommendations

6. A summary of High Priority Recommendations is outlined in Table 1 below. All recommendations (including medium and low priority recommendations) are provided in the Vol. II of this report.

Table 1: Summary of High Priority Recommendations

SECTOR	RECOMMENDATION	RESPONSIBILITY	TERM*
INSTITUTIONAL ARRANGEMENTS			
Cross-cutting	Agencies with consumer protection functions should be granted resources to ensure appropriate staffing, tools and capacity for consumer protection	SBV, SSC, ISA, VCA	ST
	Establish a coordination and consultation mechanism for all financial consumer protection regulators, agree on joint priorities, roles and responsibilities	SBV, SSC, ISA, VCA, MoCI	ST
	Consider VCA's supervisory role in relation to financial consumer protection and SBV's leading position as a financial market conduct supervisory authority	MoF, SBV, SSC, ISA, VCA	MT
	Support consumer organizations (especially VINASTAS) through funding and training	Govt, SBV, SSC, ISA	MT
Banking/ NBCI	Separate prudential and consumer protection supervision for CIs	SBV	MT
	Establish overall, consistent regulatory and supervisory arrangements for public and private sector credit reporting	Govt	MT
LEGAL AND REGULATORY FRAMEWORK			
Cross-cutting	Review / update product suitability standards/ needs analysis regarding securities, insurance and non-credit products sold or distributed by financial institutions	Govt, SBV, SSC, ISA	MT
	Consider development of a single consumer protection regime for the financial services sector and consolidating existing laws (covering e.g. transparency and disclosure, responsible lending standards, sales practices, staff and intermediary training requirements, advertising, privacy and data protection, and dispute resolution mechanisms)	Govt, SBV, SSC, ISA, VCA	LT
Banking/ NBCI	Prohibit unreasonable prepayment penalties / account closure fees	Govt, SBV	ST

SECTOR	RECOMMENDATION	RESPONSIBILITY	TERM*
	Develop a specific consumer protection regulatory regime for digital financial services covering, e.g., safeguarding client funds, unauthorized transactions, mistaken payments, data protection and electronic disclosures and contracts	Govt, SBV	MT
	Enhance the consumer protection regulatory framework for NCIC	Govt, SBV	MT
	Remove competition barriers for private credit bureaus	Govt	LT
NBCI	Establish a level playing field for different types of NBCIs, especially deposit-taking MFIs, and implement framework and processes for supervision of (currently) unauthorized entities such as non-licensed MFIs and enforce rules against such entities	Govt, SBV	MT
Securities	Require dissemination and implementation of Codes of Conduct prepared by securities intermediaries	SSC, industry associations	MT
TRANSPARENCY AND CONSUMER DISCLOSURE			
Cross-cutting	Develop Key Facts Statements for standard banking, NBCI, insurance and securities products and require their use	SSC,ISA	ST
Banking/ NBCI	Require banks and NBCIs to provide SBV standard form contracts for review and supervisory follow-up	SBV	ST
	Require regular account statements from credit institutions	SBV	ST
	Require that consumers be notified of an adverse credit decision based on credit report	SBV	ST
	Strengthen the disclosure regime for credit and deposit products (e.g. disclosure of terms, conditions and prices with explanations of the disclosed information when needed)	Govt, SBV	MT
	Develop total cost of credit disclosure requirements	Govt, SBV	MT
	Develop a price comparison website	Govt, SBV	LT
BUSINESS CONDUCT			
Cross-cutting	Require financial institutions to periodically train all staff and intermediaries that deal with consumers as to legal requirements, product features and risks, complaints processes etc.	Govt, SBV, SSC, ISA	ST
Banking/ NBCI	Require / enforce calculation of interest on a declining balance basis	SBV	ST
	Enforce responsible lending standards and provide consumer relief for breaches	Govt, SBV	MT
DISPUTE RESOLUTION MECHANISMS			
Cross-cutting	Require all financial institutions to adopt and publicize a common, consistent process for complaints handling, to maintain and analyze complaints data and to report data to regulators	Govt, SBV, SSC, ISA	ST
	Require all financial sector regulators to establish a dedicated unit to address consumer complaints, with power to make binding decisions and publicize complaints data	Govt, SBV, SSC, ISA	ST
FINANCIAL LITERACY			

SECTOR	RECOMMENDATION	RESPONSIBILITY	TERM*
Cross-cutting	Appoint a government agency (e.g. MoF) with leadership role in financial capability and financial literacy, with active support from key financial sector regulators and other stakeholders	MoF in cooperation with SBV, SSC, ISA	ST
	Undertake a national survey of financial capability	Govt	ST
	Develop pilot programs for raising awareness and strengthening financial capability using mass media and innovative delivery channels	MoF, SBV, SSC, ISA, industry associations	ST
	Incorporate financial capability into K-12 curriculum reform program	MOET, SBV	MT
	Develop a national strategy for financial capability	MoF in cooperation with other stakeholders	MT

Note: A reference to "laws" includes a reference to laws, decrees, decisions and circulars

* ST (short term) = 1 year, MT (medium term) = 2 years, LT (long term) = 3 years

CONTEXT FOR CONSUMER PROTECTION AND FINANCIAL LITERACY

I. INTRODUCTION

7. The existence of a sound financial consumer protection framework is fundamental to increasing both access and usage of financial services, the quality of those financial services, and supporting further financial system deepening. Financial consumer protection is a necessary precursor to building trust in the formal financial system and hence in encouraging financial inclusion. Further, consumer protection will help ensure that expanded access benefits consumers and the economy as a whole. This is because, while increased access can result in significant economic and societal benefits and enhance financial stability, it can be neutral or even harmful if consumers are not able to: (i) exercise their rights as consumers; (ii) select the financial products that suit them best and (iii) be protected from mis-selling, fraud, and other market abuses. In addition, it is a necessary complement to such a consumer protection framework that consumers have the levels of financial literacy necessary to access the benefits of the framework.

8. The Vietnamese authorities have demonstrated a deep commitment to consumer protection in the financial sector. This has been shown (amongst other things) by continuous legislative activities including Ordinance No. 13/1999/PL-UBTVQH10 on the Protection of Consumers' Interests, replaced by the Law No. 59/2010/QH12 on Protection of Consumer's Rights adopted on November 17, 2010, Decree No. 99/2011/ND-CP and Decree No. 19/2012/ND-CP adopted in order to implement the Law on Protection of Consumer Rights. While the previous focus was rather on non-financial services, now financial consumer protection is getting into the spotlight; for instance in 2013, Vietnam increased disclosure requirements in investment services for publicly held companies in cases of related-party transactions. Yet, much more needs to be done in the area of financial consumer protection.

II. FINANCIAL SECTOR

9. Some financial sector indicators are comparable to those of Vietnam's regional peers. Vietnam's GDP for 2013 was US \$171.4 billion.⁴ The whole financial sector is estimated to represent 402% of GDP at approximately VND 14555.571 trillion (US \$689 billion).⁵ Domestic credit provided by the private sector represented 104.9% of GDP in 2012, which is comparable with other countries in the region such as Malaysia, Singapore, and Thailand with the indicators 134%, 96%, and 170% respectively.⁶

10. Lending by banks has been expanding, albeit with relatively high NPL levels. In 2013, the growth in lending by banks was estimated at 17.6% as compared to 16.4% in 2012,⁷ while the NPL ratio published by the Bank Inspection and Supervision Agency (BISA) was 5.7%.⁸ NPLs are predominantly driven by defaults of institutional borrowers (specifically in the real-estate sector), including SOEs, as the market for retail lending remains rather underdeveloped.⁹ Thus, responsible

⁴ See World Bank Data available at <http://data.worldbank.org/country/Vietnam> (last visited on August 13, 2014).

⁵ Industry Report: Financial Services in Vietnam (The Economist Intelligence Unit, 2013).

⁶ See World Bank Data available at <http://data.worldbank.org/indicator/FS.AST.DOMS.GD.ZS> (last visited on August 13, 2014).

⁷ Industry Report: Financial Services in Vietnam, 3 (The Economist Intelligence Unit, 2013).

⁸ Taking Stock: An Update on Vietnam's Recent Economic Developments, 28 (World Bank, 2014). As noted in the report "...independent analysts believe the aggregate figure could be 3-4 times higher if international accounting and NPL classification standards are applied."

⁹ In 2011, only 16.2% of the population older than 15 years had taken a loan from a financial institution in the previous year as compared to 49.39% of firms with a bank loan or line of credit (see World Bank Findex Data).

and sound lending practices continue to be important for the credit sector. Better understanding of its root cause will be possible once an SBV Circular on loan classification and provisioning is implemented.¹⁰

11. Vietnam has high levels of financial exclusion, as shown in the 2011 World Bank Findex Report. Specifically, the Global Findex showed that only 16% of the population older than 15 years took a loan from a financial institution, while only 21% of the population had an account at a formal financial institution. Other financial inclusion data shows that Vietnam does not compare favorably with other countries in the Region (see Table 2 below). These figures emphasize that access to financial services needs to be improved while there is also the need for a strong consumer protection framework which can help build consumers' trust in the financial sector and assist in meeting financial inclusion targets.

Table 2: Financial Inclusion in Vietnam (Comparison with Countries in the Region)

Country / Region	Account at a formal financial institution (% age 15+)	Account used for business purposes (% age 15+)	Saved any money in the past year (% age 15+)	Saved at a financial institution in the past year (% age 15+)	Loan in the past year (% age 15+)	Loan from a financial institution in the past year (% age 15+)
<i>Cambodia</i>	3.7%	0.2%	31%	0.8%	59.5%	19.5%
<i>Bangladesh</i>	39.6%	5.5%	26.8%	16.6%	37.3%	23.3%
<i>Indonesia</i>	19.6%	3.2%	40.5%	15.2%	49.1%	8.5%
<i>Malaysia</i>	66.2%	6.5%	51%	35.4%	32.5%	11.2%
<i>Laos</i>	26.8%	4.5%	54.5%	19.4%	32.5%	18.1%
<i>Philippines</i>	26.6%	5.6%	45.5%	14.7%	58.1%	10.5%
<i>Sri Lanka</i>	68.5%	4.6%	36.3%	28.1%	34.1%	17.7%
<i>Taiwan</i>	87.3%	10.2%	58.1%	45.7%	24%	9.6%
<i>Thailand</i>	72.7%	8.7%	60%	42.8%	27.2%	19.4%
Vietnam	21.4%	3.8%	35.3%	7.7%	43.9%	16.2%
<i>East Asia & Pacific (developing only)</i>	54.9%	3.2%	39.8%	28.4%	33.8%	8.6%

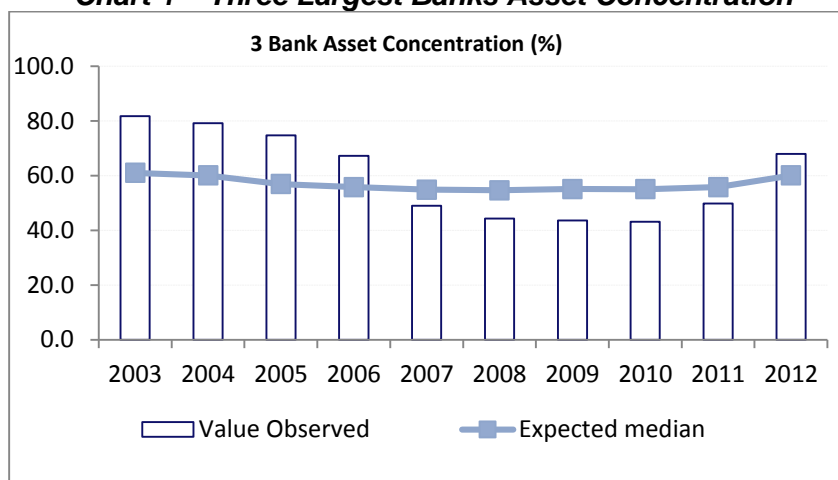
Source: Global Findex (2011)

¹⁰ Full implementation of the Circular has been postponed until April 2015 (see Taking Stock: An Update on Vietnam's Recent Economic Developments, 8 (World Bank, 2014)).

a. Banking and Non- Bank Credit Institutions (NBCIs) Sectors

12. The banking industry in Vietnam (broadly interpreted) consists of a variety of different private and state-owned banking institutions. According to the latest figures available at the time of the mission, the banking sector comprises 1 state-owned/controlled policy bank (Vietnam Bank for Social Policies) and 1 development bank (Vietnam Bank for Agriculture and Rural Development), 5 other state-owned banks, 37 joint-stock commercial banks, 5 fully foreign-owned banks, 4 joint-venture banks, 1 cooperative bank, and 51 branches of foreign banks.¹¹ Taken together, the banking system's¹² total assets in 2012 were US\$258.9 billion,¹³ which accounted for 166% the country's 2012 GDP. There is significant concentration in the banking industry with the top 10 banks accounting for approximately 78% of the assets of the entire banking system.¹⁴

Chart 1 – Three Largest Banks Asset Concentration



Source: FinStats Data (2012)

13. The NBCI sector is diverse, with some parts remaining out of the SBV's jurisdiction. NBCIs include licensed and non-licensed MFIs, finance companies, leasing companies, and people's credit funds (PCFs) and retailers providing credit services to customers. Informal NBCIs include rotating savings and credit associations (ROSCAs) and pawnshops. Further, an important financial organization *sui generis* is the Vietnam Bank for Social Policies, which is a state-owned institution providing micro-credit services to poor and near-poor households.¹⁵ VBSP is State-subsidized and is excluded from prudential regulation and supervision exercised by SBV.¹⁶ It is difficult to be precise about the total number of NBCIs operating in Vietnam. The data provided to the mission team suggests that there are currently (i) two licensed MFIs (M7-MFI and TYM);¹⁷ (ii) one policy bank providing microcredit (VBSP);¹⁸ (iii) a cooperative bank (the Cooperative Bank of Vietnam) which

¹¹ SBV Annual Report, 37 (SBV, 2012).

¹² Including also 17 finance companies, 12 finance leasing companies, 1,146 People's Credit Funds and 2 licensed microfinance institutions.

¹³ Responsible Finance in Vietnam, 50 (IFC, 2014).

¹⁴ Source: SBV

¹⁵ VBSP was established by Decision No.131/2002/QĐ-TTg on establishment of Vietnam Bank for Social Policies.

¹⁶ The Government guarantees solvency of the VBSP and the VBSP is exempted from deposit insurance, tax and other obligations to the state budget. Supervision of VBSP's operations is ensured by its specific governance model: members of the governing board that consists of the Board of Directors (BOD) at central level and BOD representatives in provincial and district level are appointed by state agencies and mass organizations. The Governor of the State Bank of Vietnam is the BOD Chairperson. See Development Strategy up to 2020, 2 (VBSP, 2012).

¹⁷ Prof. PhD. Nguyen Kim Anh, The Sustainability of Microfinance Institutions in Vietnam: Circumstances and Implications, 20 (Transport Publishing House, 2013). The mission team was told that the uncertainty regarding the incomplete regulatory framework for MFIs discourages non-licensed (semi-formal and informal) credit institutions from becoming licensed MFIs.

¹⁸ SBV Annual Report, 37 (SBV, 2012).

provides capital and other support services to 1,146 PCFs; (iv) 18 finance companies;¹⁹ (v) 12 leasing companies;²⁰ (vi) several unlicensed MFIs; and (vii) an unspecified number of informal credit providers.

14. The NBCI industry reflects various country-specific features. In particular, microfinance lending (including facilities offered by MFIs and VBSP) is partially intertwined with the system of local government through the involvement of the Peoples' Committees and mass organizations such as the Women's Union and the Farmer's Union. Those institutions help to identify and approve potential borrowers and assist with supervising the repayment and management of their facilities. Moreover, the Women's Union owns 100% of a licensed microfinance institution – TYM. VBSP manages a portfolio of outstanding loans of 113,921 billion VND²¹ as compared to 99 billion VND²² and 608 billion VND²³ in the case of M7-MFI and TYM respectively.

b. Insurance Sector

15. The insurance industry is still nascent but growing fast along with the growth in the economy. While gross premiums written and industry assets have more than doubled over the last 5 years, the insurance penetration ratio (gross premiums as a share of GDP) has increased only marginally to approximately 1.85%. Non-life insurance business grew 10.3% in 2012 reaching VND 22.8 trillion, while in the same time the life insurance grew 14.8% reaching VND 18.4 trillion.²⁴ Agents are the main distribution channel for personal lines non-life products and life products, but insurers are beginning to use banks, telemarketing, on-line platforms and post offices as alternative channels. There are over 200,000 agents, but many are part-time and there is very high turnover and movement between insurers.²⁵

16. Both the non-life and life insurance sectors have numerous insurers but most of the business is concentrated in a few insurers. The non-life insurance market has 29 insurers with a limited number of foreign stakeholders and is reasonably concentrated with the top 5 insurers writing approximately 70% of the premiums. The main personal lines products are motor vehicle, health and personal accident, and property with claims ratios (claims as a percent of premiums) for these classes being respectively 53%, 22% and 37%, so profitability is good. The life insurance market has 15 insurers with a high degree of foreign ownership or investment and is quite concentrated with the top 3 insurers receiving approximately 75% of the premiums. The major products are endowment savings, term life and investment insurance, with very few whole of life or annuities sold, and life insurers can also provide health insurance as part of a life insurance package.²⁶

17. Insurance is highly regulated, including detailed regulation of non-life mandatory insurance products and all life and health insurance products. Some types of non-life insurance are compulsory (e.g. civil liability for motor vehicle owners) and for these the Ministry of Finance (MoF) sets the policy clauses, premium scales and minimum sums insured and an insurer licensed for these classes cannot refuse to underwrite. Insurance policy clauses and premium scales for health insurance and life insurance products must be ratified by MoF. Life agent training, certification and management is also heavily regulated. MoF also sets caps on commissions payable for all insurance products, which vary by product type.

¹⁹ SBV Annual Report, 37 (SBV, 2012).

²⁰ SBV Annual Report, 37 (SBV, 2012).

²¹ Data refers to December 2012. See VBSP Annual Report 2012.

²² Data refers to December 2013. See M7-MFI Progress Report 2014.

²³ Data refers to December 2013. See TYM Annual Report 2013.

²⁴ Overview of Vietnam Insurance Market in 2012 (AVI, 2012).

²⁵ Overview of Vietnam Insurance Market in 2012 (AVI, 2012).

²⁶ Overview of Vietnam Insurance Market in 2012 (AVI, 2012) and data available at AVI's website: <http://avi.org.vn>.

c. Securities Sector

18. As at end of December 31, 2013, there were 2 licensed stock exchanges, 104 licensed securities companies and 381 licenses issued to securities practitioners. These comprised 289 brokerage licenses and 92 analyst licenses. For the asset management industry, the State Securities Commission (SSC) has issued 147 professional fund management licenses and 1,099 fund management professional certificates.²⁷ Industry assets under management (AUM) were approximately 100 trillion VND (about US\$4.8 billion).

19. Vietnam's formal market is a highly retail market.²⁸ As at the end of 2012, the number of investors' accounts in the VSD system was 1,264,030 of which domestic investors made up more than 98%.²⁹ Additionally, more than 90 percent of transactions by volume were by retail investors. Retail investors access a narrow range of products in the securities markets, including listed shares and corporate bonds and open-end collective investment funds.

20. Vietnam stock markets are highly concentrated and relatively illiquid. The top 40 companies by market capitalization accounted for approximately 75% of the entire market. As of December 31, 2013, 308 stocks were listed on the Ho Chi Minh City Stock Exchange (HOSE) with a total market capitalization of approximately VND 842,105 billion or 23.5% of GDP³⁰. HOSE is the leading stock market in Vietnam, currently accounting for 85% of total market capitalization. As of December 31, 2013, 377 companies were listed in the Hanoi Stock Exchange (HNX) with total market capitalization of approximately VND 87,512 billion.³¹ The total market capitalization of both HOSE and HNX in 2013 stood at approximately VND 949 trillion, equivalent to 26.5% of GDP.³² Further, a new trading floor for unlisted public companies (UPCOM) was launched at the Hanoi Securities Center in June 2009.

²⁷ SSC Annual Report 2013.

²⁸ As an example, 94 securities companies which are members of HOSE provide services for over 1,282,071 individual trading accounts or close to 80% of their total number of trading accounts.

²⁹ VSD Annual Report 2012, 20 (VSD, 2012), available at vsd.vn/Systems/2013/07/16/2vsd-ar12_0407-15h-full.pdf (last visited on August 13, 2014).

³⁰ HOSE Annual Report 2013, 42 (HOSE, 2013), available at http://www.hsx.vn/hsx_en/Modules/annual/annual_files/BCTN-ANNUAL%20REPORT%202013.pdf (last visited on August 13, 2014).

³¹ HNX Annual Report 2013 (HNX 2013), available at <http://hnx.vn/documents/18/133563/BCTN+HNX+2013+%28English%29.pdf?version=1.0> (last visited on August 13, 2014).

³² SSC Annual Report 2013.

d. Credit Reporting

21. Vietnam has both a public credit registry, known as the National Credit Information Center (NCIC³³) and a private credit bureau with the international firm, CRIF, as its technical partner. The NCIC has by far the more complete database at this point in time, as it collects data on a mandatory basis from all regulated financial institutions. While the NCIC has existed for 20 years, it significantly upgraded and expanded its operations in 2008-09 and so most of the data are from the last five years. At the time this report was prepared, the NCIC had data on approximately 47 million customers. As is typically the case with public credit registries, the data is focused on regulated FIs (including VBSP) and does not include trade creditors, utilities, retailers and other alternative sources of data. The private credit bureau (PCB) has 23 members and began operations in early 2014. Only participating financial institutions – the “members” – provide or receive data from the PCB. Although it is now operating, data in the PCB’s coverage is limited since there are indications that members may be providing only selective information on their lending portfolio, and not sharing all data (such as positive data on credit repayment) or not reporting on all customer types (such as small businesses). During the mission, PCB management indicated that the database included approximately 1 million borrowers. The limitations for both the public credit registry and private credit bureau result in partial coverage of the Vietnamese credit market with the 2014 WBG Doing Business indicators showing 41.8% of credits are included in the credit reporting system.³⁴

22. The legal and regulatory framework for consumer protection in credit reporting needs to be improved. The primary concern is the lack of any adverse action notification requirement. There is no obligation on the part of financial providers to disclose to consumers that data in their credit report was used to take a negative decision such as denial of credit. Also, borrowers should be actively informed about their right to check their credit records annually and dispute wrong or inaccurate records since it appears that consumers are not aware of such a right and/or do not know how to exercise this right.³⁵

23. Another point of concern is that the NCIC is part of the supervisory framework for the PCB.³⁶ This situation poses a potential conflict of interest as the two organizations could theoretically compete for business and data from non-regulated credit providers in the economy as both extend their reach in the future. However it needs to be noted that after the mission took place changes in legislation have been made which (at least partially) mitigate this potential conflict of interest. In September 18, 2014, SBV issued Circular No. 27/2014/TT-NHNN, on amendments to Circular No. 16/2010/TT-NHNN providing guidance on implementation of Decree No. 10/2010/ND-CO, on Credit Information. Circular No. 27, among other changes, shifted the primary responsibility for licensing of private credit bureaus from NCIC to BISA.³⁷ Similarly, BISA has replaced NCIC in receiving regulatory returns.³⁸

³³ The National Credit Information Center was previously called the Credit Information Center.

³⁴ Doing Business Data available at www.doingbusiness.org/data/exploreeconomies/vietnam/#getting-credit.

³⁵ While NCIC has records on millions of people only 43 complaints were recorded in 2013. In 2014, NCIC processed 24 cases of written appeals and complaints from credit institutions and borrowers and over 1000 queries and requests in other than written form (e.g. by telephone or email).

³⁶ Pursuant to Circular No. 16/2010/TT-NHNN, which guides operations of private credit registries, NCIC is part of the oversight and supervisory apparatus for PCBs. For instance, NCIC checked the completeness and validity of information provided by applicants for a credit bureau certificate (see Article 7(2)(a)(ii) of Circular No. 16/2010/TT-NHNN as amended). Further, during inspection of operations BISA may request NCIC to appoint officers to join the inspection team (see Article 16(2) of Circular No. 16/2010/TT-NHNN as amended).

³⁷ Compare the original Article 7(1) of Circular No. 16/2010/TT-NHNN with Article 3(1) of Circular No. 27/2014/TT-NHNN.

³⁸ See Article 17(4) of Circular No. 16/2010/TT-NHNN as amended.

e. Financial Literacy

24. Consumer empowerment and financial capability are under-developed and more can be done to strengthen these skills. A national survey of financial capability has not been undertaken so information on consumers' financial knowledge, skills, attitudes and behaviors is lacking, but these capacities are widely believed to be weak among the mass of the population. This could be changed by implementing financial literacy programs focused, among other things, on the complexities of the new financial products and services that are being introduced into the financial sector such as certain types of loans, credit cards, insurance, investments and mobile banking products.

25. There are a few financial literacy programs that currently exist, which are promising and often involve partnerships between financial providers and civil society. Examples include the Practical Money Skills Program funded by Visa³⁹ and delivered by the public relations firm Ogilvy and the Global Financial Education Program⁴⁰ funded by the Citi Foundation and delivered by the Dariu Foundation and Save the Children and the Money Minded Program⁴¹ run by ANZ, each of which are reaching thousands of people each year using a variety of online, social media and in-person training activities. In fact, the use of mass media, including entertainment programs such as soap operas, dramas or children's shows may be an especially effective way to increase financial capability.⁴² In Vietnam, television broadcasters are interested in programming that strengthens financial capability while also entertaining audiences.⁴³

26. Within the public sector there is awareness of the need for financial literacy strategies and programs by regulators and policymakers. However, their involvement in the topic is very limited due to a combination of a lack of resources, lack of expertise in how to approach the issue and over-reliance on financial institutions to provide financial education. Government however, has an important role to play, in catalyzing and coordinating financial capability activities and developing a national strategy, in measuring the level of financial capability in the population to inform policies and program designs and in helping to develop financial skills for youth as well as for vulnerable populations. The planned curriculum reform for grades K-12 may provide a unique opportunity to strengthen the financial capability of Vietnam's population if financial education can be incorporated in a meaningful way.

³⁹ See the program's official website: www.practicalmoneyskills.com.vn.

⁴⁰ See the Dariu Foundation's website: daru.org/projects/financial-education.

⁴¹ See ANZ's website: www.anz.com/resources/0/7/074d4938-9944-458c-9997_a59e0e5bdabb/MoneyMinded_Vietnam_2013.pdf?MOD=AJPERES.

⁴² Evidence of this exists from various examples using media for financial education including through a soap opera in Vietnam (Berg and Zia, 2013) and a mini-series in the U.S. for the Hispanic population (Spader and others, 2009).

⁴³ Interviews with representatives of VTV.

III. GENERAL FRAMEWORK FOR FINANCIAL CONSUMER PROTECTION IN VIETNAM

A. INSTITUTIONAL ARRANGEMENTS

27. The institutional arrangements for regulation and supervision of each part of the financial sector merit careful review. Of particular importance are the following issues: who is responsible for consumer protection in each sector? Are there gaps/overlaps/capacity/resource issues to be considered? Is there an appropriate allocation between prudential supervision and consumer protection supervision? Is there co-ordination between multiple agencies? Is the private sector involved e.g. through self-regulatory codes of conduct? There is, however, no “best practice” on how to structure financial consumer protection institutionally. The appropriate model in any country depends on the country-specific characteristics such as size and structure of the financial system and existing regulatory and supervisory arrangements.

General Overview

28. Institutional arrangements reflect the diffused regulatory framework as well as country-specific features. There are multiple regulators and supervisors in the financial sector with responsibility for consumer protection with some potential areas of overlap. All the regulators and supervisors are listed in Table 3 below, which also contains a very high level summary of their responsibilities.

29. The multiple sectorial regulators and supervisors have a limited, specific supervisory focus on financial consumer protection and limited resources and capacity to deal with relevant issues. Individual staff members perform both supervisory functions – prudential and market conduct in relation to the limited consumer protection laws that exist, that is, they are not specialized in consumer protection issues. These arrangements can in principle give rise to tensions between supervising financial institutions and protecting the interests of their customers. Consumer protection and prudential supervision also require different types of supervisory profiles, skills and approaches, with the latter focusing more on quantitative skills and analysis of an institution’s financial soundness, and the former on qualitative skills and assessment of how an institution deals with consumers. Further, market conduct supervision would benefit from an expanded and more systematic use of specific tools relevant to this area such as mystery shopping, customer focus groups and surveys, review of advertising materials or a systematic analysis of customer complaints made to the various mediation services on offer. There are also concerns as to whether the relevant regulators have the required resources (including skills and capacity) for the consumer protection functions they may have to carry out.

30. Although the MoIT, through the Vietnam Competition Authority, appears to have general responsibility for consumer protection in Vietnam, it does not exercise supervisory responsibilities in relation to the financial sector. Under the Law on Protection of Consumers' Rights (CP Law)⁴⁴, *"the protection of consumers' rights"* is a function of the Government.⁴⁵ Within the Government, it is MoIT, which is primarily responsible for implementation of *"the state administration on the protection of consumers' rights."*⁴⁶ In order to exercise this role, MoIT has established the Vietnam Competition Administration Department⁴⁷ also known as the Vietnam Competition Authority (VCA). The potential overlap between the responsibilities of VCA, which operates under MoIT, and the financial sector regulators – SBV, ISA, and SSC – is an issue of concern. VCA clearly has an interest in the financial sector, as evidenced by its discussions with the banking industry and SBV concerning potential regulation of the terms of certain types of standard form contracts relating to use of ATMs and e-banking services and its training sessions regarding consumer protection issues for the finance industry.⁴⁸ However, given their capacity issues, it is not entirely clear whether and to what extent VCA can effectively supervise and enforce consumer protection rules in the financial sector, as well as in other types of consumer markets. Of the total VCA staff of about 100, eleven make up its Department of Consumer Protection and they have responsibility for all consumer protection matters covered by the CP Law. VCA also tends naturally to defer to SBV on consumer protection matters of relevance to the banking industry, especially given its limited direct experience of Vietnam's financial services industry.

31. There is in any event some ambiguity as to whether the CP Law applies to the financial sector and accordingly as to the extent of the VCA's responsibilities in that regard. Some Vietnamese experts interviewed consider that the CP Law takes precedence over sector specific laws such as the Credit Institutions Law (CI Law) since the former covers consumers in relation to their use of *"services"*, without there being any narrowing in the CP Law in relation to the meaning of that term.⁴⁹ Others, however, believe that the sector specific laws govern on the basis that, in civil law jurisdictions such as Vietnam, a law that deals exclusively with a specific subject matter prevails over any law that covers the same subject matter in a general way. The CI Law itself does not shed much light on the issue. Article 3(2) of the CI Law provides that *"[w]here this Law and another law contain different provisions on establishment, organization, operation, special control, restructuring and dissolution of credit institutions....the provisions of this Law shall prevail."* Regarding market conduct and consumer protection, the quoted provision is only relevant with respect to Article 10 of the CI Law, which provides for protection of client interests and thus may potentially interfere with provisions of the CP Law. Thus, depending upon one's point of view, financial institutions may or may not be bound by the CP Law and may or may not be subject to supervision by VCA. Alternatively, it is claimed by some that sector supervisory agencies (e.g. SBV) are empowered to supervise application of the CP Law by the financial institutions they supervise. In any event, it is understood that the CP Law is not systematically monitored or enforced by SBV, VCA or any other authority so far as the financial sector is concerned with exceptions mentioned further in this report.

⁴⁴ Law No. 59/2010/QH12.

⁴⁵ Article 47(1) of the CP Law.

⁴⁶ Article 47(2) of the CP Law.

⁴⁷ Decree No. 06/2006/ND-CP on Functions, Duties, Powers and Organizational Structure of Vietnam Competition Administration Department.

⁴⁸ The Task Team Leader for the mission, Ms. Ros Grady, presented at one of these training sessions in Ho Chi Minh City on 19 May 2014.

⁴⁹ Article 3(1) of the CP Law.

32. Similarly, there is not a specific focus on supervision of advertising requirements relevant to the financial sector. While the Ministry of Culture and Information (MoCI) is responsible for supervision and enforcement of advertising rules across all sectors, it does not exercise these powers with respect to financial institutions.

33. The coordination and consultation arrangements between relevant regulators, supervisors and government agencies with responsibility for financial consumer protection could be enhanced. Relevant agencies include SBV, MoF, MoIT, VCA, MoCI, SSC and ISA. Specific issues in this context include (i) the need for a consistent approach to consumer protection issues which are common to the different parts of the financial sector (such as transparency of terms and conditions, unfair terms and dispute resolution) so as to provide consumers with similar rights and responsibilities where relevant and to minimize the risk of regulatory arbitrage; (ii) the increasing convergence of the different parts of the financial sector (for example, in relation to the distribution of insurance and securities products through banks and the sale of insurance policies through mobile phone networks); (iii) the need to deal with issues affecting corporate conglomerates which have entities dealing in different parts of the financial sector; and (iv) the potential for overlap between the functions of the specific financial sector regulators and the general powers of the MoIT (and the VCA) under the CP Law. On the other hand, there are positive signs of willingness to cooperate: for instance, VCA have collaborated with SBV on multiple occasions (e.g. intervention with regard to e-banking, bank accounts, ATM withdrawals) as noted in the IFC report.⁵⁰

34. There is only one consumer association that operates nationwide and it has inadequate resources to effectively carry out its responsibilities in relation to the financial sector. The relevant organization is Vietna Standards and Consumers Association (VINASTAS) which is a not for profit national peak body formed in 1988 with 46⁵¹ city and provincial based associations as members. Its main activities are contributing to national legislation and policies, providing consumer information, publishing ('The Consumer'), handling individual consumer complaints and campaigning for consumers. The main focus, however, is on product safety rather than financial consumer protection.⁵² Although VINASTAS does carry out some activities relevant to the financial sector and seeks to mediate with financial institutions concerning complaints, the mission team was told that its very limited resources mean that it has difficulty in being effective in this regard, including in relation to raising public awareness of issues.⁵³ VINASTAS received its mandate from the State under the CP Law, which also makes provision for State funding.⁵⁴

35. It appears that consumers do not regard the judicial system as a channel they can use to resolve disputes, even as a last resort. The reasons are likely to include the extent of the formalities and delays involved, concerns regarding knowledge about financial products and services,⁵⁵ costs associated with legal proceedings, the unpredictability of results, as well as cultural concerns and the availability of alternative informal dispute resolution avenues at the village commune level.

⁵⁰ Responsible Finance in Vietnam, 15 (IFC, 2014).

⁵¹ Responsible Finance in Vietnam, 29 (IFC, 2014).

⁵² See VINASTAS' website: <http://vinastas.org/home/default.aspx>.

⁵³ For example, the mission team was told that of the 1036 complaints received by VINASTAS in 2013, only around 5% related to the financial sector. These very limited figures suggest that there is little public awareness of VINASTAS' role.

⁵⁴ Chapter III of the CP Law

⁵⁵ As in many other countries, very few judges in first instance courts are trained in respect of matters concerning financial products and services and the prevailing rights and obligations of consumers and banks in respect of them.

Table 3: Institutional Arrangements

REGULATOR / MINISTRY	REGULATED INDUSTRY / RESPONSIBILITY	KEY LAWS <i>(not including Decrees, Decisions and Circulars)</i>
State Bank of Vietnam	1. Banks and non-bank credit institutions (MFIs, finance companies, finance leasing companies, People's Credit Funds) 2. Monitoring, supervision, enforcement	Law on State Bank of Vietnam Law on Credit Institutions Law on Cooperatives Law on Transfer Instruments
Ministry of Finance (Insurance Supervision Authority)	1. Insurers/assurance companies, brokers/agents 2. Supervision, monitoring, enforcement	Law on Insurance Business
Ministry of Finance (State Securities Commission)	1. Stock exchanges; brokers; analysts; professional fund management companies; fund management professionals 2. Day-to-day monitoring and supervision of the securities market and securities businesses including licensing of securities businesses (e.g., funds management and securities companies) and their representative offices and branches	Securities Law
Ministry of Trade and Industry (Vietnam Competition Authority)	1. All sectors 2. State administration on the protection of consumers' rights	CP Law
Ministry of Culture and Information	1. All sectors 2. Monitoring and supervision of advertising activities	Law on Advertising
People's Committees	1. All sectors 2. State-management of the protection of consumers' rights at their localities	CP Law

Key Recommendation(s)

36. The Government should reconsider the institutional arrangements regarding financial consumer protection, and especially the role of MoIT (and VCA).⁵⁶ One option would be to have each financial sector regulator clearly delineated by law as the sole agency in charge of business conduct supervision in the relevant part of the financial sector. This option would presumably easily fit the specialized, multi-agency model of supervision currently existing in Vietnam. Also, such arrangements have been implemented in many jurisdictions with the specialized (multi-agency) model. This option offers multiple advantages: (i) responsibility for business conduct supervision would reside with an agency responsible for the segment of the financial sector concerned, (ii) such an agency would have knowledge of the segment concerned, emerging issues and inherent risks and would have already established a working relationship with relevant stakeholders, (iii) financing of business conduct activities would be secured through the budget of each individual supervisory agency, (iv) there would be no need to create and finance a new agency; and, importantly, (vi) implementation of this option should not require too much resources in terms of time and funding. On the other hand, such a scattered institutional framework with multiple agencies may lead to regulatory arbitrage, an uneven playing field, and a lack of a holistic view of the financial market and the industry as a whole. Multiple agencies may also engage in ‘turf wars’ and competition over scarce resources - particularly in terms of supervision staff with the required expertise and skills.

37. A second option would be to establish a specialized supervisory agency with jurisdiction to deal with all aspects of financial consumer protection. Such an agency would be responsible for consumer protection and market conduct issues throughout Vietnam’s financial services sector, while having a separate branch or department focused exclusively on each separate segment of the financial sector. This option is only likely to be feasible in the longer-term perspective, as it would require a substantial review of the existing institutional arrangements. However, it offers some important advantages: (i) economy of scale and scope; (ii) a holistic view of the whole market; (iii) highly specialized and focused expertise; and (iv) clearly defined responsibility for the area of financial consumer protection and financial literacy. On the other hand, establishing such an agency would require substantial resources. Moreover, it is not a common solution in the specialized (multi-agency) model of institutional arrangements (the Consumer Financial Protection Bureau in the U.S. is a rare example of such an arrangement). Alternatively, SBV could take on such a role (i.e. of the specialized supervisory agency) given the depth of its experience in relation to the financial sector and with a view to minimizing the costs associated with establishing a new agency.⁵⁷

38. A third option would be for VCA to build its capacity significantly so as, in fact, to become the lead agency regarding financial consumer protection. The biggest disadvantage of this option is the fact that VCA currently has only limited expertise and experience with financial markets and even if enough resources were spent building the needed expertise, the agency would likely remain detached from the financial sector and relevant supervisory agencies, creating cooperation and coordination issues. Thus, in the short term the first option appears to be more practicable, while the second option is the preferred one in the long term. Each of these options would require sufficient resources and capacity to be provided to the authority responsible for financial consumer protection.

39. The capacity of the financial regulators to supervise and enforce consumer protection regulations should be strengthened. Prospectively, a separately funded unit specialized in consumer protection should be established within financial supervisory bodies. Ideally such a unit would have funding, and a reporting line, which is separate from the teams responsible for prudential supervision. At the same time, an institutional needs assessment should be conducted to clearly identify the resources needed to implement all functions assigned to the financial supervisors in the

⁵⁶ As required by Article 47 of the CP Law.

⁵⁷ See also Responsible Finance in Vietnam, 2, 14 and 16 (IFC, 2014).

area of supervision of laws and subordinate legislation relevant to consumer protection. This assessment should provide the needed inputs to prepare a long-term capacity building program within the supervisory agencies. Specific issues to focus on in this context include: (i) the desirability of separating prudential and consumer protection; and (ii) ensuring regulators have adequate consumer protection-specific resources, tools and capacity and training so that they can focus on the areas of highest risk (which could be particular types of products, services, providers or market segments) and on developing a proportionate, scalable approach to supervision. Training should cover, for example, the details of consumer protection laws and regulations, analysis of consumer disclosure documents, review of advertisements and distribution arrangements, analysis of consumer complaints and any systemic issues, verification of calculations of fees and rates, and the design and implementation of market testing arrangements. Given the breadth of its functions and related responsibilities, it is suggested that SBV be the first supervisor to implement this approach.

40. Formal coordination and consultation arrangements should be established between the various financial sector supervisors in respect of consumer protection matters. Such arrangements could involve, for example, consultations on policy development on common issues, exchanges of information about issues arising from consumer complaints and discussions on issues relevant to financial sector conglomerates. The arrangements might also usefully be formalized through a Memorandum of Understanding and other mechanisms such as establishment of a Coordination Committee.

41. Consideration should be given to increasing the level of State funding to VINASTAS and to supporting the financial sector capability of consumer protection organizations. The aim should be to enable VINASTAS to perform its Government-decreed consumer protection roles effectively in respect of the financial services industry. The Government should also consider supporting the strengthening of the capacity of consumer organizations in respect of financial services (including VINASTAS and its key member organizations). This should include establishing training programs for these organizations, so that they better understand financial services and promoting mutual cooperation between consumer organizations and financial supervisors.

42. The following paragraphs address issues specific to the different parts of the financial sector. Unless otherwise stated, the above mentioned recommendations apply to each regulator and supervisor in the financial sector.

a. Banks and Non-Bank Credit Institutions Sector

43. SBV's primary supervisory focus appears to be on prudential supervision. SBV is responsible for regulation and supervision of (formal) credit institutions pursuant to the CI Law.⁵⁸ Both banks and NBCIs are required to report to SBV regularly and SBV conducts both onsite and offsite supervisory inspections. However, it is understood that the primary focus of SBV's supervisory activities is on supervision of prudential requirements (especially given its significance for financial stability) and that the same staff within BISA of the SBV are responsible for both prudential and market conduct supervision⁵⁹.

⁵⁸ Article 158(2) of the CI Law.

⁵⁹ SBV's Departments 1 and 2.

b. Securities Sector

44. The State Securities Commission (SSC) operating under the MoF is responsible for consumer/investor protection. SSC utilizes its prudential examiners and existing compliance and enforcement resources to address consumer protection issues. The integration of examination, compliance and enforcement resources for prudential and consumer protection matters may result in economies of scale, but its effectiveness in identifying and addressing consumer protection issues adequately must be cautioned. As market conduct supervision poses different challenges and requires different tools as compared to prudential supervision, a new, independent and adequately funded unit or team of consumer protection examiners should be considered.

45. Despite articulating the vision in the Capital Markets Roadmap⁶⁰ to enhance protection of individual investors, SSC does not appear to have developed an action plan to implement this vision. Such an action plan should set out specifically the strategies, resources, activities and timeline to be applied and carried out to implement the objectives of the Capital Markets Roadmap.

Key Recommendation(s)

46. It would be useful if SSC develops a 3 to 5 year action plan on its strategy of enhancing consumer protection. SSC should further identify the resources it would need to meet the goals as set out in such a business plan as well as provide a clear written delegation of powers to the relevant department to handle consumer protection matters within SSC.

c. Insurance Sector

47. The MoF has policy responsibility for insurance legislation, and ISA (which is part of the MoF) is responsible for supervision of the industry. While ISA inspection resources appear limited, there are regular, substantial on-site inspections of major insurers as well as occasional random inspections on targeted issues. However, market conduct supervision is not separated from prudential supervision. ISA also examines insurance product materials, training materials and insurer procedure manuals. Insurer practices in dealing with customers (e.g. sales of life insurance, claims settlement) are covered during inspections. It appears that moral suasion is applied to alter undesirable practices although ISA does have power to impose administrative sanctions.

Key Recommendation(s)

48. The capacity and resources of ISA to supervise consumer protection laws could be reviewed. Also, consideration should be given to the separation of prudential and consumer protection supervision, whilst taking into account the availability of resources to establish separate supervisory teams. Although the issue does not appear to be as urgent as with the credit institutions sector, the rapid growth of the insurance market suggests it should be treated as a priority. It is further considered that it should be made clear that VCA does not have any responsibility for this sector.

⁶⁰ Vietnam Capital Market Roadmap: Challenges and Policy Options (ADB, 2004).

d. Credit Reporting

49. The credit-reporting sector is dominated by NCIC (the public credit registry) although there is provision for private credit bureaus to play a role. NCIC is operating in some ways more like a private credit bureau. NCIC is self-sustaining financially, with fees collected from financial institutions for credit data more than covering expenses.⁶¹ In 2013, revenues were approximately double expenses, creating a surplus, which NCIC plans to use for investments in physical facilities, software, machinery and equipment for ITC modernization purposes. NCIC has a limited supervisory role in relation to private credit bureaus. For example, during inspection of operations BISA may request NCIC to appoint their officers to join inspection teams.⁶² This is despite the fact that there is a clear potential for competition between the public and private sectors that would limit NCIC's ability to be an independent supervisor. Limited competition in the credit reporting industry is a consumer protection issue because it increases the power of the dominant firm, which can result in higher prices for consumer services, reduced incentives for data quality (as there is no alternative) and reduced incentives to innovate.

50. The supervisory arrangements for credit reporting in both the public and private sectors (for NCIC and PCBs) could be enhanced. While there are some reporting requirements for both PCRs and PCBs, on-site supervision is not taking place. Consumer protection issues which require more vigorous supervision include verifying that measures are in place to safeguard against inappropriate access to the data, monitoring data accuracy and checking compliance with rules on responding to complaints and taking actions – such as fixing errors in the data – when necessary.

51. The planned NCIC expansion (as advised to the mission team) to include collection of data from non-licensed credit providers, including utilities, retailers, microfinance organizations, etc. puts the public credit registry in a market segment serviced by private credit bureaus in most developed countries.⁶³ This may not have the same economic impact as helping to develop a robust private credit bureau industry, as indicated by recent research at the World Bank. A recent WB Working Paper (see Martinez Peria and Singh, 2014) underlines the importance of the private sector role, showing that while reforms and expansion of private credit bureaus improve firm access to finance, the same is not true for reforms of public credit registries.⁶⁴

Key Recommendation(s)

52. A review of supervisory arrangements should be undertaken for both NCIC and PCBs to ensure that oversight of these sensitive databases is adequate and not affected by NCIC's role as a credit bureau. This will require a review of the strategic role of NCIC and its relationship to the PCBs, especially in the context of supervision and enforcement. Obtaining information on international good practices for supervision of both public and private credit reporting is highly recommended; the General Principles for Credit Reporting, developed at the World Bank with collaboration of the private sector, provide the main international benchmark.⁶⁵

⁶¹ In 2013, revenues were approximately double expenses, creating a surplus, which NCIC plans to use for various expansion projects including investments in physical facilities, software, machinery and equipment for ITC modernization purposes.

⁶² Article 16(2) of Circular No. 16/2010/TT-NHNN as amended.

⁶³ Doing Business Data available at www.doingbusiness.org/data/exploretopics/getting-credit (last visited on October 21, 2014).

⁶⁴ ⁶⁴ In the vast majority of countries, the public credit registry only collects data from regulated financial institutions, in keeping with the remit of the financial regulator (who usually has responsibility for the PCR) to oversee the financial system. According to the World Bank's Doing Business global data on credit reporting (2013), only 3 of the 88 countries which operate a public credit registry collect alternative data from other sources such as utilities and retailers: Belgium, The Republic of Korea and Mauritius. It is also worth noting that two of these countries – Belgium and Mauritius – do not have a private credit bureau.

⁶⁵ General Principles for Credit Reporting (World Bank, 2011), available at http://siteresources.worldbank.org/FINANCIALSECTOR/Resources/Credit_Reporting_text.pdf (last visited on September 9, 2014).

B. LEGAL AND REGULATORY FRAMEWORK

53. A strong legal and regulatory framework for financial consumer protection is crucial to protect financial consumers and proactively prevent market abuses. Market conduct regulation should at a minimum ensure that consumers: (i) receive information to allow them to make informed decisions; (ii) are not subject to unfair or deceptive practices; and (iii) have access to recourse mechanisms to resolve disputes. All laws and subordinate legislation relating to consumer protection in the financial sector should be considered in this context with a view to assessing their scope and sphere of application, any related gaps and overlaps and with a particular focus on issues such as licensing, transparency and disclosure, business conduct, recourse mechanisms, data protection and credit reporting.

General Overview

54. The overall legal and regulatory framework is highly complex as it spread amongst multiple laws, ordinances, orders, decrees, decisions, circulars and resolutions. These instruments may be issued by a variety of authorities including the National Assembly, Ministers, heads of Government agencies, the Supreme People's Court, the People's Councils and Committees. There may also be joint Decisions issued by the Government or the Standing Committee of the National Assembly together with central socio-political organizations. See Annex II for a chart showing the structure of legal documents in Vietnam. Although there is legislative guidance on the legal system⁶⁶, the mission team was not able to find guidance from regulators for consumers as to how these multiple instruments should be interpreted or as to the hierarchy of precedence and choice. On the other hand, it is important to note that VCA has published a brochure that explains to consumers in plain language the importance of the CP Law and related consumer rights.

55. A related concern is that laws and subsidiary legislation are not consolidated or centralized and hence it may be difficult for consumer to find them. Based on the mission's findings, an updated version of all relevant and related norms is not readily available to either consumers who may wish to understand their rights and obligations. Similarly, particularly smaller financial institutions may find it challenging to navigate through the scattered regulatory framework and understand their responsibilities. It has to be noted, however, that the mission team's capacity to verify availability of all laws was limited due to the fact that only some laws and subsidiary legislation are available in English. On the other hand, the mission team appreciates initiatives to issue brochures that would help inform consumers about their rights from the CP Law (see above).

56. The CP Law⁶⁷ contains consumer protection provisions for consumers of all goods and services, including financial services and there are other laws of general application that are applicable to the financial sector. The CP Law establishes a general framework for consumer protection that applies to all "*organizations or individuals trading goods, services*".⁶⁸ More specifically, the CP Law provides for consumer protection rules applicable to the products and services of all business organizations as well as numerous statutory obligations on all business entities in their dealings with consumers.⁶⁹ Beside the CP Law there are general laws providing limited market conduct

⁶⁶ Law on Promulgation of Legal Documents (No. 17/2008/QH12), and the Law on Promulgation of Legal Documents of People's Council and People's Committee (No. 31/2004/QH11). See also Decree No. 24/2009/ND-CP.

⁶⁷ Law No. 59/2010/QH12.

⁶⁸ Article 2 of the CP Law.

⁶⁹ These include rules regarding: (a) the protection of consumers' information; (b) prohibition on business entities providing misleading or inaccurate information to consumers; (c) the public display of prices; (d) information to be provided to consumers before a transaction takes place; (e) the obligations of third parties in providing a consumer with information; (f) the form of contracts with consumers; (g) contractual terms which are null and void; (h) the abolition or revision of standard contractual language which violates the rights of consumers; and (i) the methods of dispute resolution between consumers and businesses.

rules, for instance: the Civil Code⁷⁰, the Commercial Law⁷¹ and the Law on Enterprises⁷². Indirectly, Law on Competition promotes consumer protection.⁷³ The Law on Advertising⁷⁴ also contains rules for consumer protection regarding advertising activities. There is also implementing subsidiary legislation including decrees, decisions, ordinances and circulars as pointed out earlier.

57. The application of the CP Law to financial institutions is, however, ambiguous. As pointed out earlier, there are different perspectives regarding the applicability of the CP Law to financial institutions when some experts argue that the CP Law takes precedence over sector laws since it covers all services by all business organizations, while others believe that sector laws govern due to the fact that in civil law jurisdictions a law, which deals exclusively with a specific subject matter, prevails over any law that covers the same subject matter in a general way. In any event, the CP Law is monitored and enforced by sector supervisors and VCA only to a limited extent so far as the financial sector is concerned.

58. There are also limited consumer protection laws and other instruments in place which are specifically applicable to the financial sector. Examples include: (i) client protection for customers of credit institutions (CIs); (ii) interest rate caps; (iii) market conduct provisions for the insurance industry in the IB Law; (iv) investor protection provisions made for the purposes of the SC Law; and (v) consumer protection provisions whose data is held by private credit bureaus. There is not, however, universal financial sector coverage of rules in relation to transparency of product prices, commissions, terms and conditions; credit cards; staff training; and product suitability advice requirements. A further concern is that many of these laws are expressed in terms of high level principles without the implementation detail of these principles being specified in subordinate legislation, thus creating uncertainty among implementing institutions. This is the case, for example, with the consumer protection principles in the CI Law.

59. The consumer protection regulatory regime for innovative digital financial products and related distribution channels (such as mobile banking) needs to be strengthened. The existing legal regime makes provision for electronic payments,⁷⁵ as well as for the conduct of banking e-transactions.⁷⁶ However, at the time of the mission, there were only limited provisions dealing with the consumer protection issues specifically associated with electronic funds transfer channels and products and the use of agents for distributing financial products and services. Consumer protection in the digital environment is of particular significance given: (i) the likely uptake of electronically provided financial services as a means of reaching financial inclusion targets; (ii) the high speed and volume of transactions; (iii) the lack of a written contract and, depending on the nature of the service, written transaction records; (iv) the involvement of service providers who are not the traditional, prudentially regulated financial institutions (such as telecommunication companies); (v) the role of third party agents who are likely to have limited training, liquidity or supervision; and (vi) the rapidity of innovation. Establishing a comprehensive regulatory framework for digital finance and agent banking is of particular importance given that in 2011 the Prime Minister set several objectives regarding non-cash payments such as decreasing cash transactions to 11% and increasing the number of Points of Sales to 250,000 by 2015.⁷⁷

⁷⁰ See, e.g. Article 630 of the Law No. 33/2005/QH11 Civil Code.

⁷¹ See, e.g. Article 14 of the Commercial Law as promulgated by the Presidential Order No. 10/2005/L-CTN.

⁷² See, e.g. Article 28 of the Law No. 60/2005/QH11 on Enterprises.

⁷³ Law No. 27/2004/QH11 on Competition.

⁷⁴ Law No. 16/2012/QH13 on Advertising.

⁷⁵ See, Decision 226/2002/QĐ-NHNN of SBV's Governor on the Issuance of the Regulation on Payment Activities through Payment Service Suppliers.

⁷⁶ See, SBV Law, Chapter III; CI Law, Chapter III; the Law on Electronic Transactions; Government Decree 101/2012/ND-CP dated Nov. 22, 2012 on Non-cash Payments; Government Decree 35/2007/ND-CP on Electronic Transactions in Banking; Circular 35/2012/TT-NHNN dated December 28, 2012, of SBV regulating fees of domestic debit cards; Circular 36/2012/TT-NHNN dated December 28, 2012, of SBV regulating the installment, management, operation and safety in the operation of ATMs; and Decision 20/2007/QĐ-NHNN dated May 15, 2007, issued by SBV's Governor stipulating regulations on issuance, payment, use and provision of supporting services for bank cards.

⁷⁷ Responsible Finance in Vietnam, 55 (IFC, 2014).

60. Rules relating to privacy and data protection would also benefit from consolidation of approaches to supervision and enforcement. There are various provisions dealing explicitly with - or having relevance to - privacy and data protection in the CP Law, the Civil Code, the E-Transactions Law, the Law on Information Technology and the Criminal Code⁷⁸, as well as in relevant subsidiary legislation.⁷⁹ The regulatory framework accordingly appears to require consolidation and consideration might be given to designating a specific agency to supervise and enforce any consolidated law. Consideration might also be given to reviewing the existing provisions to ensure that they meet international best practice standards (for example, in relation to the consents required for the sharing of customer information).

Key Recommendation(s)

61. Consideration should be given to rationalization of the legal and regulatory framework for financial consumer protection in order to consolidate relevant requirements, ensure consistency in respect of similar consumer protection principles across the financial sector and to facilitate supervision, compliance and consumer understanding. One way to achieve this would be to carve out consumer protection provisions in respect of financial services from the general laws (especially the CP Law) and place them in a new, financial consumer protection specific law. Consistency in the approach to supervision would also likely require a specialized agency to effectively monitor financial service provider practices, apply sanctions and possibly handle and mediate on customer disputes. Such a body could be SBV which is likely to be the most practical given their extensive knowledge and experience in relation to credit institutions as well as their declared willingness to get more involved in consumer protection issues. Another option would be to carve out consumer protection provisions in respect of financial services from the general laws and place those relevant to a specific sector in the sector-specific law while making the sector supervisor responsible for effectively monitoring compliance, applying sanctions and arbitrating on customer disputes. For credit and deposit taking institutions the relevant law would be the CI Law with SBV being responsible for supervision; for insurance the relevant law would be the IB Law and ISA would be the supervisor; and for the securities the relevant law would be the SC Law and SSC would be the supervisory agency. This may be the most practicable option in the short term.⁸⁰

62. Consumer protection rules for mobile banking and electronic payments should be enhanced and further developed in the mid- to long-term. Specific issues in the digital finance context include: (i) the need for all providers to have a comprehensive security program; (ii) disclosures of all applicable terms and conditions, fees and charges; (iii) safeguarding client funds held in e-wallets; (iv) allocation of liability for unauthorized and mistaken payments, fraud, system malfunctions, and lost or stolen devices; (v) how electronic contracts and disclosures can be made with legal effect; (vi) supervision and training of agents and the liability of product issuers for their agents; (vii) application of the Deposit Insurance of Vietnam's (DIV) deposit insurance program to e-money; (viii) electronic storage and retrieval of customer records; and (ix) data privacy.⁸¹

⁷⁸ See Article 226 of the Criminal Code regarding the crime of illegally using information in computer networks and computers.

⁷⁹ See, e.g. SBV Decision 1087 of 2007 on State Secrets in Banking, SBV Circular no. 1 of 2011 on Ensuring Safety and Keeping Secrets within Information Technology Systems in Banking Operations; SBV Circular no. 29 of 2011 on the Safety and Confidentiality in the Provision of Banking Services over the Internet; the SBV's Circular No 03/2013/TT-NHNN providing on credit information activity of the State Bank of Vietnam, and the Government Decree No. 10 of 2010 on Credit Information-Related Activities.

⁸⁰ For more information about current models of regulatory frameworks and institutional arrangements see Global Survey on Consumer Protection and Financial Literacy conducted by the World Bank, available at <http://responsiblefinance.worldbank.org/~media/GIAWB/FL/Documents/Publications/Global-Consumer-Protection-and-Financial-Literacy-results-brief.pdf> (last visited on August 7, 2014).

⁸¹ Examples of countries that have established a regulatory framework in digital finance include Australia (E-Payments Code), Kenya (National Payment System Act), Peru (Law on the Basic Characteristics of E-money as an Instruments for Financial Inclusion), or the Philippines (Manual of Regulations for Banks and Manual of Regulations for Non-bank Financial Institutions).

63. SBV should continue a project that has been set up in order to adopt improvements in consumer protection rules applicable to agent banking.⁸² The project should benefit from both the experience with existing digital financial services (e-wallets) and multiple pilot projects recently set up to explore the area and further potential of mobile financial services (e.g. Viettel Mobile Plus Pilot, or LienViet Post Bank's mobile e-wallet).

64. There are a number of other high priority issues that could be addressed in the short term. These include enhancing consumer protection laws for strengthening the disclosure regime for credit and deposit taking institutions, requiring standardised complaint resolution processes, enforcing requirements for the calculation of interest on a declining balance basis, prohibiting unreasonable pre-payment fees and requiring staff and intermediaries of CIs to be properly trained and requiring written notice to customers of adverse credit decisions. Further details of these recommendations are given elsewhere in this report.

a. Banking and Non-Bank Credit Institutions Sector

65. The CI Law contains limited consumer protection rules. The CI Law applies to all credit institutions defined by the Law and provides for a limited number of market conduct rules, particularly in a single article headed "*Protection of client interests*"⁸³. This article requires CIs and branches of foreign banks to fulfill five obligations:

- to participate in deposit insurance and publish information regarding deposit insurance at their head offices and branches;
- to "*create favorable conditions for customers to deposit and withdraw money*" and ensure the full and timely payment of principal and interest of any sum of deposit;
- to refuse any investigation or transfer of a customer's deposits, except when requested by a competent state authority or with the consent of the customer;
- to publish interest rates applicable to deposits and service fees, and the rights and responsibilities of customers regarding each type of product and service supplied; and
- to announce their official hours for transactions and maintain operations during such times.

66. The consumer protection provisions in the CI Law could be enhanced. There is a need for comprehensive provisions regarding transparency of terms, conditions and prices, cooling-off periods, internal complaints handling requirements, regulation of unfair terms, or regulation of debt collection practices. Also, clear guidance regarding the licensing process and transitioning from a semi-formal institution to a full-fledged credit institution is missing. Some of these areas, however, have been regulated by other normative acts as described in Volume II of this assessment report.

67. CIs are subject to interest rate caps – both for loans and deposit products. Circular No. 07/2014/TT-NHNN and Decision No. 2173/QĐ-NHNN prescribe caps for deposits. The maximum rate for demand deposits and term deposits shorter than one month is 1% p.a., the maximum rate for time deposits from 1 month to below 6 months is 5.5%, and the maximum rate for the People's Credit Funds and microfinance institutions is 6% p.a. Deposits for a term of 6 months and longer are not subject to any cap. Circular No. 08/2014/TT-NHNN and Decision No. 2174/QĐ-NHNN set interest rate caps for short-term VND lending: CIs and foreign bank branches (excluding the People's Credit Funds and microfinance institutions) may charge the maximum rate of 7% p.a., the People's Credit Funds and microfinance institutions 8% p.a. Limits regarding interest rates charged on loans concern only short-term loans if provided for one of the listed purposes: (i) agricultural and rural development; (ii) executing the plans and projects of production and trading of exports; (iii) serving the production and trading of medium- and small-sized enterprises; (iv) developing ancillary industries; and (v) servicing the production and business of the high-tech application enterprises.

⁸² Responsible Finance in Vietnam, 32 (IFC, 2014).

⁸³ Article 10 of the CP Law.

Key Recommendation(s)

68. The consumer protection regulatory framework needs to be completed in order to eliminate the gaps identified above. See the General Overview above for detailed recommendations.

69. The regulatory framework for MFIs should be completed in order to provide transparency as to the process for transforming from being an informal or semi-formal CI to being a formal CI which is properly regulated and supervised. It is especially important that consumers are not prejudiced by dealings with unlicensed entities, whilst acknowledging that any new regulatory system should be proportionate and scalable in the sense that the costs of supervision and compliance are consistent with the level of risk involved.

70. Prospectively, the imposition of interest rates caps should be reconsidered. The mission team acknowledges that the current caps reflect macroeconomic and money market considerations in Vietnam and apply only to five priority areas. However, in the longer perspective, SBV should give consideration to removing the interest rate caps. The concerns in this regard are the potential anti-competitive effects usually associated with interest rate caps (for example, they may dissuade market entrants) as well as the risk of regulatory arbitrage. Also, in some countries that have adopted caps CIs seek to avoid caps through, for example, charging higher fees which leads to a lack of transparency about the cost of credit.⁸⁴

b. Securities Sector

71. The Securities Law of 2006 governs the securities markets and intermediaries/institutions as well as securities practitioners who are individuals working in securities intermediaries. The consumer/investor protection mandate of MoF and SSC is provided in the specific provisions in the SC Law and its subsidiary legislation relating to investor protection. For example, Article 4 of the SC Law stipulates the principles of securities markets and activities to be underpinned by “*fairness, publicity and transparency*” and “*the protection of the lawful rights and interests of investors*”.

72. In this regard, MoF and SSC, using their broad powers to protect the public interest and the interest of investors, have issued numerous decrees, circulars and decisions covering many aspects of consumer protection. These provisions include disclosure, business conduct and prudential rules which are generally expressed as principles and to some extent they overlap. There are also many subordinate legislative instruments (decrees, decisions, and circulars) under the SC Law.

73. There remain ambiguities in the insolvency regime regarding the treatment of customers of an insolvent market intermediary as opposed to general creditors once bankruptcy is declared. Vietnam insolvency law protects transfers to customers and transfers for clearing and settlement purposes made within the 90 days prior to opening of a bankruptcy proceeding. The law also permits the auction or sale of a securities company to another company and for the transfer of customer accounts. However, it would appear that SSC does not have power to appoint an administrator or liquidator as all insolvencies in Vietnam are court supervised. However, the treatment of customers as opposed to general creditors once a bankruptcy is declared if a sale or recapitalization is not possible remains a concern.

⁸⁴ For more information regarding interest rates caps see e.g.: (i) Policy Framing Note 4: Interest Rate Policy (Financial Access Initiative, 2014), available at <http://www.financialaccess.org/sites/default/files/publications/policy-framing-note-4-interest-rate-policy.pdf> (last visited on October 3, 2014), or (ii) The Impact of Interest Rate Ceilings on Microfinance (CGAP, 2004), available at <http://www.cgap.org/sites/default/files/CGAP-Donor-Brief-The-Impact-of-Interest-Rate-Ceilings-on-Microfinance-May-2004.pdf> (last visited on October 3, 2014).

74. The regulatory framework today does not provide for an investor compensation scheme for the insolvency of securities companies and fund managers although individuals are required to have professional liability insurance. However, there is a current project within SSC to consider developing such a regime. Any consideration of an investor protection scheme should be carefully considered to ensure it is appropriate to the stage of development of the securities market in Vietnam. Typically, the existence of an investor protection fund will secure the assets of investors in the event of a broker's insolvency and fraudulent conduct. In the event of an unauthorized trade which a broker cannot cover in the open market due to insolvency, the protection fund would be available to restore the investor's assets.

Key Recommendation(s)

75. Consideration should be given to providing SSC with express power to appoint an administrator to take control of clients' assets in the event of insolvency. In particular, full and effective powers should be provided to the entity overseeing the insolvency of a company in order to allow it to fully protect investor assets, promptly return the assets to investors and resolve creditor claims.

c. Insurance Sector

76. The IB Law sets general (principle-based) market conduct rules, some of which are inconsistent with the CP Law. Chapter II of the IB Law covers the content and operation of insurance contracts, and the associated rights and obligations of insurance enterprises and insurance buyers. However, the rights and obligations are at the level of principles and many are similar to, but not the same as, provisions in the CP Law and the Advertising Law. There is substantial regulation of insurance products and materials and agent training and management which is aimed at protecting consumers. Also, there are numerous regulations under the IB Law, which specify that insurers must have procedures for other specific practices, including practices on dealing with consumers (e.g. sales practices).

Key Recommendation(s)

77. The regulatory framework for market conduct and consumer protection in insurance should be reviewed so that it can be simplified and inconsistencies with rules prescribed by other legislation (such as the CP Law) can be eliminated.

d. Credit Reporting

78. The legal and regulatory framework for private sector credit reporting is based on the Credit Information Decree and subsequent circulars including Circular 03/2013. The regulatory and legal framework on (private) credit information operations includes many elements of international good practices including a complaint mechanism which includes steps to be taken for correcting erroneous data, a sunset clause of 5 years for maintaining data to enable borrowers to have a "fresh start" and specification of managerial and technical minimum standards. There are areas, however, where the framework could be strengthened.

79. Consent provisions for data sharing lack uniform treatment in loan contracts and there is ambiguity as to the permitted uses and treatment of consumer credit data. The law for private credit reporting states that consumers must provide consent for the data to be shared. There is no such requirement for sharing consumer credit data with NCIC. However, credit institutions signing contracts for use of information from NCIC must commit not to disclose such information to any third party. There is no mandatory language or approach to this clause however, so financial institutions have wide latitude in how they incorporate this consent into loan contracts and how they ultimately treat the data.

80. There is also a need to clarify the types of data which may and may not be included in the credit reporting database and which can be used for credit scoring and decision tools. The development of a comprehensive credit reporting system should include data not only from financial institutions but also from service providers (phone, utilities, education, retailers, etc.) who receive payments and from public government and court databases which may be relevant for risk appraisals. At the current time the law is ambiguous on this point which creates a potential obstacle to the credit reporting industry's development – rules for private credit bureaus indicate the general types of information which lenders may collect (identifying information, loan information, repayment behavior) but it does not discuss data from other sources such as retailers, schools, service providers such as phone companies and alike who may be interested in providing data to the credit bureau. The rules also do not specify data that cannot be collected such as marital status and ethnicity. There are also decisions to be made on types of personal or socio-demographic data which should perhaps be off-limits for credit information providers and for businesses and lenders to collect as they would be prejudicial even if they include predictive information. These data may include marital status, ethnicity or religion for example.

81. The most important medium-term issue concerns anti-competitive provisions in the law such as the requirement that lenders participate in only one private credit bureau and that a credit bureau must have at least 20 participating banks in order to be licensed. These rules limit competition in private credit reporting and may in fact produce a monopoly. Another issue relating to competition is the ownership structure of credit information providers. In Vietnam the private bureau is owned by a group of banks. This can dampen competition in the market for credit information services as the owners of a credit bureau are unlikely to want to participate in any competing bureaus. Non-owners may also be reluctant to share the data with a bureau where competitors have an ownership position.

Key Recommendation(s)

82. More guidance should be provided regarding the consent provisions for data sharing. Such a guidance should help promote uniform approach towards the consent in loan contracts and the use and treatment of consumer credit data.

83. A review of the types of data which may be shared through the credit information system should be undertaken. Such a review should help distinguish between different types of data and to clearly permit collection of data from non-financial firms and institutions and to specify the types of data which may be considered inappropriate for credit risk analysis (e.g. ethnicity).

84. Laws and regulations should also be revised in the future to remove anti-competitive clauses such as ones requiring a minimum number of banks to participate in order to be licensed or limiting lenders to working with only one credit information provider.

C. TRANSPARENCY AND DISCLOSURE

85. Specific disclosure requirements can help create an informed consumer marketplace, enable product comparisons and encourage competition. It is, however, important that any new requirements in this regard are proportionate in the sense of reflecting the risks of the relevant activity, the literacy level of the relevant consumers and do not impose costs which outweigh the benefits. For example, the requirements imposed on small financial institutions could be a simplified version of those applicable to commercial banks given the lower levels of literacy in the section of the population served by these institutions. A further consideration in drafting disclosure requirements for an economy with low levels of financial inclusion is the likely low levels of understanding of the nature of some financial products (such as mobile banking and insurance products).

a. Banking and Non –Bank Credit Institutions Sectors

86. There are both general and sector-specific disclosure requirements but they are incomplete and they do not always provide for customer-specific disclosure requirements or for disclosures which are specific to the type of the financial product or to the customer. There are requirements for: (i) the disclosure of certain types of information (such as about the relevant CI, transactions and their conditions and prices in relation to products and services); (ii) the publication of model contracts; (iii) giving the customer time to consider a contract.⁸⁵ However these requirements do not in most cases provide for specific disclosures to the customer (as opposed to posting notices in business premises) and, with a few exceptions (such as in relation to notice of prices concerning debit cards and ATM usage), there are no details on the specific items of information which should be included for the different types of financial products. There are also no requirements for: (i) CIs to disclose information which might facilitate comparison shopping and encourage competition (although CIs typically publish product brochures and marketing leaflets); or (ii) information about requirements to ensure that information is disclosed in clear, concise language, which is a concern as the mission team saw various examples (especially in the banking industry) of lengthy terms and conditions written in less than plain language and in a very small font size and with narrow spacing that made reading the text difficult (these examples are in the market notwithstanding the requirement for a minimum font size of 12 points for standard contracts/general transaction conditions⁸⁶). The result is that, although CIs do appear to disclose basic information about offered products to their clients, the scope, completeness and form in which the information about an offered product or service is disclosed very much depends on an individual CI.

87. Information on transactions and balances relevant to credit institution accounts must be provided in accordance with the relevant customer agreement.⁸⁷ Otherwise there are no mandated account statement requirements. However, on the basis of a narrow sampling, it appears that bank statements are provided for at least credit card and mortgage loans. The practice varies from credit institution to credit institution – some provide monthly statements while others do not; some charge fees for the statement, while others do not and the information in a statement varies as well.

⁸⁵ See, e.g. articles 8(2), 12(2), 17(1), 18 (1) of the CP Law, article 6(20) of the Law on Prices (No. 11/2012/QH13), article 14(2) of the Decree on Consumer Protection, article 6(20) of the Circular on ATMs (No. 36/2012/TT-NHNN) and article 5(2) of the Circular on Debit Card Charges (No. 35/2012/TT-NHNN). The CI Law includes disclosure requirements relating to public announcement of deposit interest rates, service fees, and customers' rights and obligations [Article 10(4)]; public advice of office hours [Article 10(5)]; and publication of changed deposit rates and fees [Article 91(1)].

⁸⁶ Government Decree no. 19 of 2012, Article 10 (1) (a). Otherwise, a fine of merely from 10,000,000 VND to 20,000,000 VND (i.e. about \$475 to \$950) may be imposed on any bank or other organization (such a fine is unlikely to be a deterrent).

⁸⁷ Article 13(1) of the CI Law.

88. Banks and NBCIs are not under any obligation to provide information to consumers regarding electronic fund transfers and remittances. While a bank that sends or receives an electronic fund transfer or remittance is required to document all essential information regarding the transfer,⁸⁸ no bank is under any statutory obligation to make this information available to the customer who sends or receives the transfer or remittance, whether with or without charge and with or without prior notice.

Key Recommendation(s)

89. The disclosure regime for credit and deposit taking institutions should be strengthened. As a minimum requirement all consumer credit contracts should be in writing. In the short term, it is recommended that relevant regulators focus on the following activities:

- **There should be specialized disclosure requirements for different types of financial products (e.g. specialized disclosure requirements for credit and deposit products):** For example, in the case of credit cards (and other types of revolving credit facilities) the credit limit and the method of calculating minimum monthly payments should be disclosed. Disclosure requirements should also further cover regulatory status disclosure, complaints handling and dispute resolution and such other areas as recommended in Volume II of this report - see especially banking Good Practice B.7. Financial institutions should be required to disclose information in a timely manner so that the end objective of disclosure requirements is met (either it be promoting comparison shopping or allowing a consumer to make an informed decision);
- **Key Facts Statements:** It would be helpful for consumers' understanding of the financial sector if financial institutions were required to publish, and give to consumers, a short form (one page), clearly expressed Key Facts Statements for commonly used debit, credit and insurance products. By way of example, such a statement should include for a loan contract: the interest rate, fees and charges, the total amount to be repaid, the term of the loan and repayment details. Examples of countries which have requirements for such statements of this type include Australia, Ghana, Mexico, Peru, the United States and various European countries;
- **Clarity of documents:** The rules concerning minimum font size should be actively enforced and expanded to apply to special conditions and new rules should be introduced requiring contractual documents to be expressed in simple, clear language;
- **Total cost of credit interest rate:** Consideration should be given to including a requirement to disclose a total cost of credit interest rate which shows as a single rate the applicable interest rate and mandatory fees (such as a loan application fee) and charges (such as for a credit- life insurance premium).⁸⁹ The rate should be calculated in accordance with a statutory formula;⁹⁰

⁸⁸ *Id.*, Articles 18 through 22 and 24.

⁸⁹ *See, e.g.* Article R. 311-3.-I.(11) of the French Decree on pre-contractual information and on contractual terms of consumer credit (Décret n° 2011-136 du 1er février 2011 relatif à l'information précontractuelle et aux conditions contractuelles en matière de crédit à la consommation); Article 6(1) of the Irish Consumer Credit Agreements Regulations 2010 (S.I. No. 281 of 2010); Article 6 of the Peruvian Regulation of Information Transparency and Engagement with Users of the Financial System (Resolución S.B.S. No. 8181-2012, Reglamento de transparencia de información y contratación con usuarios del sistema financiero), or Article 5(12) and 25(1) of the Polish Consumer Credit Act (USTAWA z dnia 12 maja 2011 r. o kredycie konsumenckim).

⁹⁰ *See, e.g.* Article 22 and Schedule 1 of the Irish Consumer Credit Agreements Regulations 2010, Article 6, Annex 1 and Annex 1-A of the Peruvian Regulation of Information Transparency and Engagement with Users of the Financial System Article 25(3) and Annex 4 of the Polish Consumer Credit Act.

- **Statements of account:** Specifying the content requirements for periodic written statements of account and the intervals at which they should be provided (at least monthly);
- **Electronic funds transfers and remittances:** at a minimum there should be disclosure of information regarding prices and features of services (and notification of their changes); and of the steps to be taken in the case of suspected delays, errors and fraud;
- **Disclosure in advertisements:** Credit institutions should be required to disclose in credit advertisements which refer to the cost of credit, information about the available credit, the interest rate, the effective interest rate and the applicable term for the facility; and
- **Consumer testing of proposed new disclosure requirements:** The aim is to ensure the disclosed information is easily understood and useful.

90. In order to ensure transparency and stimulate competition within the industry, it is also recommended that consideration should be given in the longer term to establishing a price comparison website. That is establishing, and up-dating as required, a page on SBV's website for all fees, commissions, charges, and interest rates on standard financial products of all commercial banks and other credit institutions, with complementary dissemination mechanisms for consumers without internet access. Such websites, with varying levels of detail, have been introduced in Australia, Hungary, Ireland, Malaysia, Mexico, Norway, and the United Kingdom.⁹¹

b. Securities Sector

91. The securities industry has not adopted the practice of giving a KFS to their customers. This is not unusual given that the securities industry (including the mutual fund industry) is still nascent in Vietnam. This comment is therefore made to assist in future enhancement of the investor protection framework.

92. The quality of financial reports of public listed companies, and compliance with the obligation to report the interests of insiders and related parties, is a concern in the investing community. SSC has a department that reviews accounting disclosures in financial statements and lists approved auditors annually. This department has assessed sanctions against auditors for incomplete or false reporting based on the review of financial statements but it does not have a comprehensive program for providing an independent audit of auditors as it is within the purview of MoF. Also, anecdotal evidence suggests that SSC does not have regulatory processes to monitor advertisements by financial intermediaries of their financial products.

Key Recommendation(s)

93. Simple and easy-to-read KFSs for all retail investment products and services should be required. The aim should be to provide a document which allows investors to easily identify and understand the features, prices and potential returns of the relevant investments, and the related risks.

94. The accounting and audit oversight framework should be reviewed to incorporate international best standards.⁹² SSC should also focus its attention on monitoring of advertising activities.

⁹¹ Public Sector-Operated Price-Comparison Websites: Case Studies and Good Practices, Annex 1 (World Bank, 2013), available at <http://responsiblefinance.worldbank.org/~media/GIAWB/FL/Documents/Publications/Public-SectorOperated-Price-Comparison-Websites.pdf> (last visited on September 4, 2014).

⁹² See, e.g. IOSCO Principles of Securities Regulation.

c. Insurance Sector

95. Insurers are not required to provide KFSs to consumers. However, the IB Law and relevant decrees require insurers to explain insurance terms and conditions in a clear, understandable and not misleading way and supply introductory documents which satisfy these requirements. The heavy regulation of insurance products has led to retail insurance products being relatively simple. It is possible to conclude, considering the current state of development of the insurance industry, disclosure about insurance products, especially at the time of sales is satisfactory, particularly for life insurance products.

96. There are no specific regulations requiring insurance intermediaries to disclose to consumers their status in respect of who they are acting for, or if they have any conflicts of interest. As the market develops insurance advisers/intermediaries are likely to diversify and increase in number. Then consumers will need to know more about the status and competence of intermediaries. Further, brokers are not required to disclose if they will receive payment from the underwriting insurer and, for long term savings products, consumers do not have the right to request from the broker details of any commission, or other payment, from the insurer to the broker. There are only 12 brokers in the market and they operate essentially for commercial clients seeking advice on non-life products.

Key Recommendation(s)

97. At this early stage of development of the market, and given basic insurance needs, most consumers are more likely to rely on what the agent tells them rather than examine the product material themselves when making their purchase decision. As the market matures and consumer's needs and financial understanding develops, the ability to make product comparisons will become more important. Then, insurers should be required to provide KFSs about their products to assist consumers better understand and compare insurance products.

98. The need for intermediaries to disclose to consumers their status, and for brokers to disclose any commissions to be received, should be monitored as the market develops.

d. Credit Reporting

99. The most urgent omission which needs to be corrected involves the lack of consistent and mandatory adverse action notification. Currently, most financial institutions do not specifically mention the data in credit reports when it is part of the rationale for rejection of an application (adverse action notification). However, there are mechanisms in place for dispute resolution and correction of consumer data— for instance Decision No. 265/QD-TTDD, dated 24/11/2014 promulgates regulations on appeals and resolution of appeals regarding credit information provided by NCIC. In 2014, NIC processed 24 cases of appeals and complaints from credit institutions and borrowing clients requesting a review of credit information and over 1000 queries and requests for information review in various formats such as telephone calls or emails.

Key Recommendation(s)

100. A written adverse action notification should be required to be sent to the consumer in writing (may include electronic communication). Such a notification should be sent when data in a public or private credit information database resulted, in part or in full, in the denial of credit.

D. BUSINESS PRACTICES

101. A key consumer protection concern is that financial service providers, and their staff and other intermediaries, engage in fair business practices. Specific issues in this context include training of retail sales officers and other intermediaries, product suitability advice, responsible lending standards, misleading and deceptive advertising and sales practices, tying and bundling of different types of financial services and products, unfair contract terms, cooling – off periods and debt collection practices.

General Overview

102. There are various business practices of concern in the financial sector, some of which exist notwithstanding relevant regulations and some of which apply in the absence of an applicable law. The examples of most concern are described below.

- **Staff training.** Although (mostly larger) financial institutions commonly train their staff in how to communicate and deal with clients, there are no minimum competency and training requirements mandated by law so far as CIs and the securities sector are concerned.
- **There are only limited obligations to assess the suitability of products for consumers.** This is a particular concern in the securities and insurance industries, where products are likely to be complex, with little understood levels of risk and potential for large-scale losses. While there are a number of relevant provisions in the SC Law and the IB Law and related regulations the current provisions are scattered and it appears that the needs analysis is basic and records are kept for only a limited number of years. A further concern is the lack of product suitability standards for non-credit products sold or distributed by a CI.
- **Unilateral changes to contracts.** Any unilateral change of terms and conditions without consent is prohibited by the CP Law, yet the scope of this provision is unclear.⁹³ For example, it seems to be common practice to charge variable interest rates and fees and charges. Ideally there would be clarity as to when a unilateral change is permitted and the notice which should be given of any such change.
- **There are only limited requirements relating to “cooling-off” periods.** Mandated cooling off periods allow consumers a limited time to withdraw from contracts for financial products and services. They can help consumers deal with the consequences of high pressure selling and mis-selling, as well as give them time to consider contracts for financial services which are becoming increasingly complex and may have long term implications. There is a specific requirement for a cooling-off period of 21 days for unit-linked insurance products.⁹⁴ In the case of distance contracts, when a trader fails to disclose information as required, a consumer may unilaterally terminate the contract within ten days.⁹⁵ Similarly, in the case of door-to-door contracts any contract may be terminated by a consumer within 3 working days after its conclusion.⁹⁶

⁹³ Article 16(1)(c) of the CP Law.

⁹⁴ See Article 14.1 (b) of Circular 135 of 2012 – Guiding the Provision of Unit-Linked Insurance Products.

⁹⁵ Article 17(3) of the Decree No. 99/2011/ND-CP, detailing and guiding a number of articles of the CP Law.

⁹⁶ Article 19(3) of the Decree No. 99/2011/ND-CP, detailing and guiding a number of articles of the CP Law.

Key Recommendation(s)

103. Financial institutions should be required to periodically train all the staff that deal with consumers (including marketing, compliance, complaints or sales). This is especially important in the credit institutions and securities sector. The training should, in particular, ensure that staff and other intermediaries dealing with consumers: (i) understand the legal obligations of the relevant product or service provider; (ii) have updated information about products and can clearly explain their features, risks and prices to consumers; (iii) appropriately assess customer's financial needs, objectives and understanding; and (iv) have adequate knowledge of internal procedures (especially concerning complaint resolution).

104. Product suitability requirements should be reviewed and updated. This is especially important for non-credit products sold or distributed in the credit institutions, securities and insurance sectors (such as a term deposit). It is important to ensure that new standards result in appropriately detailed analyses being undertaken, and that records are retained for lengthy periods to enable the facts of the analysis to be available to identify mis-selling and for dispute handling.

105. Provisions regarding unilateral changes of consumer contracts and their application to financial consumer contracts should be clarified. Although there may be circumstances where unilateral changes should be allowed (such as in contracts which are clearly expressed as variable rate contracts), it is recommended that, consideration should be given to requiring advance notice of any unilateral change in a contract's terms and conditions. At a minimum, notice of changes in interest charges, repayments and fees and charges be given as follows: (i) notice of a change in interest rates should be given before the change takes effect, either personally or by newspaper notice (in the latter case, the notice should be also given in the next statement of account); (ii) there should be at least 20 days advance, personalized notice of a change in the amount of a repayment (but if it is a reduction, it could be notified in the next statement of account); and (iii) 20 days advance, personalised notice of a change in the amount of a fee, or a new fee should also be given.

106. Consideration should be given to mandating a cooling-off period (e.g. for 14 days) for more complex financial products (such as those with a long term savings or investment component). If the regulatory framework is amended in order to clearly provide for cooling-off periods (e.g. 14 days), an explicit provision banning financial institutions from charging unreasonable termination fees, penalties or unreasonable additional costs in the case of early termination during the cooling-off period should be included. It is recommended that consideration be given to the introduction of a provision of the type proposed. It is, however, recognized that 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 and a bank should be able to recover any loss arising from an early withdrawal of a fixed rate term deposit which loss arises because of a difference in interest rates. This would be in addition to any reasonable administrative fees associated with closure of the term deposit.

a. Banking and Non-Bank Credit Institutions Sector

107. Terms and conditions in the banking sector reviewed by the mission team often diverge from standards of good practices, specifically due to unfair terms or complex language.⁹⁷

Examples of unfair terms reviewed by the mission team include clauses to the effect that: (i) a bank's maximum liability to a customer is limited to the principal amount wrongfully or erroneously withdrawn from the customer's account due to the bank's gross negligence or willful misconduct; (ii) the customer must indemnify the bank against any and all liabilities, costs and losses in connection with the provision of an account or the granting to the customer of any banking service or facility; (iii) the bank may debit any account of the customer with any such liabilities, costs and losses; (iv) the bank may unilaterally amend any clause of a contract and any fees and charges; (v) a bank has the right, at any time, to close any account of a customer, without notice to or cause given to the customer and without incurring any liability in so doing; (vi) a bank has the right of imposing a service charge as it deems appropriate in the event of a returned or overdrawn check; (vii) a consumer must declare that no part of the consumer's data constitutes a private secret of the consumer;⁹⁸ and (v) the customer is bound by product-specific terms and conditions which are only available on request. Although there is no definition or a definitive legislative list of what constitutes "*unfair contractual terms*", a fine of 20 to 30 million VND can be imposed on any bank or other business organization that fails to implement the instructions of SBV, VCA or any other relevant State body to amend standard contractual terms and conditions if they contravene consumer rights protection legislation or violate general contractual principles by being "unfair".⁹⁹ For commercial banks, however, a fine of such a modest amount is unlikely to be a serious deterrent. Further, terms and conditions reviewed were frequently written in less than plain language and in a very small font size and with narrow spacing that makes reading the text difficult.

108. Some banks and non-banking credit institutions calculate interest on a flat rate basis.

The mission's findings show that there is not a common practice established across NBCIs on how to calculate interest rates. Both the flat rate and declining balance methods are used. SBV has issued requirements relating to the calculation of interest rates.¹⁰⁰ However, these requirements distinguish between calculation in accumulated amount (for short-term loans) and calculation in sum (for short-term, mid-term and long-term loans).

109. There is no law or subsidiary legislation that entitles a consumer to prepay a loan contract. Indeed, if a customer wants to exit a loan contract before its term expires, he or she is typically subject to a penalty in the range of 3 percent to 4 percent of the outstanding balance of the credit in question (even though this may, in practice, be waived in whole or in part for customer relations reasons). In the case of some NBCIs, a penalty fee may be charged up to 150 percent of the principal interest rate calculated from the outstanding amount.

⁹⁷ Any clause of a contract between a business organization and a consumer is null and void if it purports to allow the business organization to change the commercial contractual obligations unilaterally as agreed with the consumer at the outset of a transaction. (See the CP Law, Article 16 (1) (c)).

Any bank or other business organization that uses any general transaction conditions in a contract with a consumer must make these conditions public: (a) before any such contract is entered into; and (b) at so-called "*viewable places*" for the transaction in question. (See the CP Law, Article 18, Sections 1 and 2.)

The terms and conditions in standard contracts must be written in a font size not less than 12. Otherwise, a fine of merely from 10,000,000 VND to 20,000,000 VND (i.e. about \$475 to \$950) may be imposed on any bank or other organization. (See Government Decree no. 19 of 2012, Article 10(1)(a)).

⁹⁸ This is to prevent the application of Article 3 of Government Decree no. 19 of 2012 on Consumer Protection which allows a consumer to declare that certain of his or her personal information is "secret" and cannot be disclosed.

⁹⁹ See Article 13(2) of Decree no. 19 of 2012 on Sanctions Against Administrative Violations of Consumers' Rights Protection.

¹⁰⁰ Decision No: 652/2001/QĐ-NHNN on issuing the Regulation on the Method of Calculating and Accounting the Collected and Paid Interests of the State Bank and Credit Institutions.

110. The rules relating to bundling and tying of insurance and banking products are incomplete. There is a prohibition on influencing a customer to purchase insurance but there are no other provisions dealing explicitly with this issue.¹⁰¹ This is a concern as the mission team was told that the practice of bundling and tying credit and insurance products is becoming prevalent. Consumers, especially where there are low levels of financial literacy, may not fully understand that the bundled product requires additional monthly payments, the commissions that may be payable or the nature of the related insurance product. The mission team found that some CIs have insurance requirements for customers taking out a loan and may provide borrowers with a list of approved insurance companies. This list may include an insurance company that is affiliated with the CI (i.e. there is a direct or indirect common ownership), without necessarily disclosing that affiliation to the customer.

111. Responsible lending standards are in place for CIs but there are no provisions for relief to be provided to consumers where those standards are breached. The relevant requirements relate to: (i) assessing the feasibility and effectiveness of a loan and its purposes; (ii) the customer's financial capability; and (iii) the setting of loan lending limits based on the borrowing requirements of clients and their capacity to repay.¹⁰² However, there is no provision for providing relief to over indebted consumers where these standards are breached.

Key Recommendation(s)

112. Every commercial bank should be required to provide the business conduct supervision department of SBV all of its standard form contracts and related disclosures (including all terms and conditions) required to be signed by a consumer before acquiring any product or service. The objective would be to provide SBV with information, which, after being reviewed, might serve to identify appropriate supervisory follow-up and potential intervention in order to address unfair terms and conditions.

113. SBV should enhance existing interest calculation rules so as to require all providers of consumer credit to calculate interest on any credit product on a declining balance basis. The requirement should apply equally to banks, non-banking credit institutions, semi-formal and informal lenders.

114. SBV should prohibit a fee payable on early repayment of all or part of a consumer loan (pre-payment fee) to the extent the fee exceeds reasonable costs. Such a prohibition would cover fees on early repayment of installments and early repayment of the entire outstanding balance. However there should be an exception for reasonable administrative costs relating to the prepayment and, for fixed rate facilities, a charge to take account of differences in the interest rate payable under the facility and that prevailing at the time of the prepayment. In 2015, SVB issued Directive No. 01/CT-NHNN, on the arrangements for monetary policy operations and effective and prudent banking operations which requires CIs to apply appropriate fees for early repayment and publicly list fee schedules and fee rates in accordance with applicable rules.

115. A clear prohibition on insurance forcing practices should be introduced, coupled with disclosure and rebate provisions. However there could be an exception to such a prohibition in certain cases – for example, where the requirement is for insurance over mortgaged property or where insurance is required by law. Where there is a tied insurance contract, credit providers should be required to give a proportionate refund of the applicable premium if the consumer pays out a loan early. It is further recommended to introduce a requirement for disclosure of insurance commissions

¹⁰¹ Article 5 of the draft circular between the Ministry of Finance and SBV concerning the distribution of insurance through credit institutions.

¹⁰² Articles 94(1) and 96 of the CI Law. These requirements are further detailed in the Regulations on Lending by Credit Institutions to Clients issued with Decision 1627-2001-QD-NHNN1 of the Governor of the State Bank dated 31 December 2001.

and premiums. It is also recommended that there be a requirement for at least three insurers to be on a list presented to the consumer when there is a tying and bundling situation and that notice of any affiliation between the bank and the listed insurance company is provided.

116. Responsible lending standards should be actively enforced and consumer relief should be provided for a breach of those standards. SBV should actively monitor compliance with the abovementioned responsible lending rules and consider the introduction of new provisions to deal with the consequences for a financial institution if it makes a loan in breach of these rules (for example, allowing a court to unilaterally change the credit contract terms to reduce the re-payment obligations of the customer under the contract or to change the loan term or the applicable interest rate).

b. Securities Sector

117. There is no industry code of practice for the securities industry and internal Codes of Ethics for securities companies are inconsistent with each other and are not generally available, resulting in a lack of investor awareness of the existence and requirements of these Codes. A draft industry code of conduct was prepared in 2007;¹⁰³ however, it was not adopted by the Association of Stockbroking Companies and Asset Managers. The Association is a voluntary organization representing 56 securities companies and 11 fund managers and 3 commercial banks, but does not assume any self-regulatory responsibilities at this stage. The interviewed securities companies and fund management companies have all adopted their own internal codes of conduct, which are not necessarily consistent with each other. Fund managers are required to comply with their codes of conduct and ensure fairness, honesty and the best interests of their customers.¹⁰⁴ Securities companies are also required to “*promulgate rules of practice in accordance with their operations*” and it seems that at least one securities company has published its code on the company’s website.

118. There is anecdotal evidence of commission sharing arrangements between banks and securities intermediaries for any referrals of the banks’ customers made to securities intermediaries. Such a practice, particularly when accompanied by exclusionary dealing clauses in distribution agreements, may distort the market and suppress transparency, particularly when consumers are not aware of such agreements and the information is not being disclosed.

Key Recommendation(s)

119. Securities industry participants should be encouraged to be actively involved in developing and promoting high conduct standards, which should be clearly enforceable. At a minimum, it is recommended that the internal codes of conduct adopted by securities companies and fund managers be disseminated broadly and be part of the application form that is provided to customers. In the longer term, industry codes of conduct could be developed for each segment of the securities sector or one could be prepared for use across the securities sector. Any such code should be widely distributed (including at the application stage) so that consumers know that, in principle, securities intermediaries have agreed to provide minimum levels of service and to respond to complaints and disputes. Codes should be as similar as possible across segments, ideally based on basic common rules, with specifics kept to a minimum (for example to reflect features of companies that are legally different such as mutual funds and structured and leveraged products). Enforceability of codes should be ensured through oversight exercised by industry associations and/or SSC.

¹⁰³ It appears the draft Code was prepared with assistance from the ADB.

¹⁰⁴ Article 24 of Circular 212/2012.

c. Credit Reporting

120. Business practices are still being developed by the sole private sector credit information provider, but largely they appear to be following international good practices, many of which are specified in the law. The use of ratings or categories for credit quality that include both quantifiable information (days late for payments or delinquent loans) and qualitative assessments (borrower quality, collateral quality, etc.) reduces the comparability of data in the credit information system and therefore its usefulness in credit risk analysis.

Key Recommendation(s)

121. The data collected by credit information providers should include objective payment data. Objective payment data such as on-time payment, 30-60 days late, 61-90 days late, 91-180 days late, more than 180 days late should help to improve comparability across reporting institutions and to strengthen the ability of consumers to understand the data.

E. COMPLAINTS HANDLING AND DISPUTE RESOLUTION

122. One of the key pillars of a robust system of financial consumer protection is to provide easily accessible, well-known and free internal recourse mechanisms for consumers who have a complaint about a financial product or service. Similarly, there is a need for an independent, transparent, accessible and, ideally free, external dispute resolution body.

a. Internal complaints resolution systems

123. Although in practice most credit institutions appear to have complaints handling processes, there are no mandated requirements for internal complaints resolution procedures. This is notwithstanding that the CP Law provides that consumers have the right to complain¹⁰⁵ and that this right cannot be restricted.¹⁰⁶ There are, however, no requirements for financial institutions of any type to follow particular processes and procedures for handling complaints internally, although most of the institutions interviewed said that they did have some procedures in place, ranging from making customer service officers and related escalation procedures available to deal with complaints to having suggestion boxes in branches and communes.

124. Financial institutions do not disclose information about their complaints handling procedures.¹⁰⁷ In general, it is not easy to find information about how, when and where to complain. This fact, as well as cultural considerations, could explain the apparently limited number of complaints received and handled every year (as advised to the mission team).

Key Recommendation(s)

125. All financial services providers should be required to have an appropriate internal mechanism to handle customer complaints. Standard requirements for complaints handling by all types of financial services providers should be developed, implemented and consistently supervised by the relevant supervisor (SBV, SSC and ISA). They should include requirements for: (i) an easily accessible avenue for making a complaint (such as a hot line, via email or in writing or to an officer at any branch of a bank or NBCI); (ii) written acknowledgement of receipt of the complaint; (iii) time limits for resolution; (iv) record keeping; (v) management reporting; and (vi) regular assessment of root

¹⁰⁵ Article 8(7) of the CP Law.

¹⁰⁶ Article 16(1)(b) of the CP Law.

¹⁰⁷ However, insurers are required when issuing the insurance contract to inform customers of the address to use if they want to make an enquiry or complaint. But there is no requirement for insurers to inform customers of the internal procedures that insurers utilize to deal with complaints.

causes and systemic issues. There should also be a requirement that the availability of the relevant service be widely publicized through various fora (e.g. by being highlighted in account applications, agreements and statements, in posters and at community locations where NBCIs conduct their business in communes, and on the websites of the relevant providers). This would enable consumers to be informed about the complaint resolution mechanisms and know how to utilize them. Such requirements might be scaled to take into account the scope and size of the relevant institution's operations. For example, the requirements might be less onerous for smaller NBCIs.

126. Financial services providers should further be required to maintain statistics on the volume and type of complaints, and on the outcomes and timing of the resolution of the complaints and to report this information to the relevant regulator. The regulator should then analyse this information and report relevant data and trends on its website (in general terms, without naming particular institutions). This information could then be used to assist to better understand systemic issues with complaints and to advise the public about particular issues of concern.

b. External dispute resolution systems

127. Every citizen has the right to file complaints and denunciations with the competent State authorities against the illegal doings of any so-called “economic body” (including any financial institution).¹⁰⁸ All acts that damage the rights and lawful interests of individual citizens are required to be dealt with severely and equitably by the law.¹⁰⁹ Furthermore, consumers have the right to complain about, denounce or file a lawsuit against any business organization in accordance with the CP Law and all other relevant laws.¹¹⁰ They are also empowered to seek enforcement of all laws dealing with the protection of consumers¹¹¹ as well as propose a social organization to take a lawsuit in order to protect their rights.¹¹² Individuals have also the right to protect their rights by the means set in Article 25 of the Civil Code (e.g. “[r]equest the infringer or competent agencies or organizations to order the infringer to pay compensation for damage”¹¹³). Chapter 4 of the CP Law further establishes a framework for settlement of disputes between consumers and organizations or individuals trading goods and/or services. The main options available to consumers to have their dispute resolved are: (i) negotiation; (ii) reconciliation; (iii) arbitration; and (iv) a lawsuit.

128. SBV also has the power to inspect and examine complaints and denunciations and handle violations of law in the monetary and banking sector.¹¹⁴ Handling of denunciations and complaints is regulated by the Law on Complaints and the Law on Denunciations and related Decrees and Circulars, which together establish a regulatory framework for a formal procedure to handle and solve complaints and denunciations regarding acts of state agencies and their staff but do not apply directly to complaints of consumers against providers of financial services. Relevant CIs are required to report complaints to SBV on a quarterly basis and the mission team was told they receive notice of around 1,000 complaints per quarter. SBV also receives denunciations and suggestions from consumers, which it refers to the relevant financial institution for resolution. However SBV does not have power to make binding decisions on consumer complaints.

¹⁰⁸ See The Constitution, Article 74.

¹⁰⁹ *Id.*, Article 28, paragraph 1.

¹¹⁰ CP Law, Article 8, Section 6.

¹¹¹ *Id.*, Section 5.

¹¹² Article 8(7) of the CP Law.

¹¹³ Civil Code, Article 25, Section 3.

¹¹⁴ Article 22 of the Decree No. 96/2008/ND-CP Defining the Functions, Tasks, Powers and Organizational Structure of the State Bank of Vietnam.

129. There is not an easily accessible, low cost and independent body empowered to make binding decisions in respect of disputes between financial institutions and their customers. Customers can however complain to relevant regulators such as SBV, ISA and SSC as well as VCA.¹¹⁵ Nevertheless, the mission team was told that consumers rarely use these redress mechanisms. For example VCA has received only 18 complaints about financial services since 2011.¹¹⁶ Even though consumers may also complain to a consumer association (VINASTAS), the low number of complaints regarding financial services actually handled by VINASTAS (around 50 a year) indicate that consumers are not aware of this option or do not wish to use it. Moreover, the association does not have any formal power to bring the parties to the negotiating table, or make a binding decision. The result is that retail consumers do not have access to an alternative dispute resolution mechanism such as an ombudsman or equivalent that provides timely, affordable and predictable redress from an independent third party.

Key Recommendation(s)

130. The framework for dispute resolution should be strengthened so that consumers are provided with an effective external redress mechanism and, in the long term, consideration should be given to the establishment of an independent ombudsman – type dispute resolution which is suitable to the Vietnam context. The aim would be to have a scheme that provides an independent, transparent, free dispute resolution service for consumers and which can make binding decisions. All licensed and registered financial institutions should be required to be a member of such a scheme. Ideally, if resources and capacity allow, an independent financial sector ombudsman could be established in the longer term that covers all sectors, including banking, non-bank credit institutions, securities, insurance, and other relevant financial sectors. However different models should be explored to find an institutional arrangement which suits the Vietnam context. Examples include: (i) an independent ombudsman scheme established by law; (ii) a scheme established by industry associations with oversight from the relevant regulator; and (iii) an external dispute resolution scheme administered by the relevant regulator(s) or a lead regulator (such as SBV). These options should be explored in close consultation with all relevant stakeholders, including the lead regulators (SBV, ISA, SSC, and VCA), all relevant Ministries, the financial services industry, industry associations and consumers' associations. The World Bank's 2013 *Global Survey on Financial Consumer Protection*, shows that, of the 114 countries surveyed, 69 countries had an ombudsman or similar entity. For most economies (41 out of 69) that had a financial ombudsman or a similar entity, it was hosted by a regulatory agency. Further guidance may be obtained from the World Bank's 2012 publication on *Resolving Disputes between Consumers and Financial Businesses: Fundamentals for a Financial Ombudsman*.¹¹⁷

131. Pending the establishment of a financial sector ombudsman or equivalent scheme, all financial sector regulators should establish a dedicated unit to address consumer complaints, publicize complaints data and be provided with power to make binding decisions. Each regulator should publicize the processes and procedures for making complaints and the timelines for dealing with them. The SBV has established a dedicated unit to address complaints (within the BISA) which might be used for this purpose and it is noted that the MOF Inspectorate has been assigned complaints resolution responsibilities. They should also provide on their websites consolidated data

¹¹⁵ There is an anecdotal evidence of cooperation between VCA and SBV regarding financial consumer protection-related complaints. See *Responsible Finance in Vietnam*, 24 (IFC, 2014).

¹¹⁶ This represents some 1% of all consumer complaints received to date by CPD. Source: interview with VCA/CPD officials May 2014.

¹¹⁷ *Resolving disputes between consumers and financial businesses: Fundamentals for a financial ombudsman* (World Bank, 2012), available at http://siteresources.worldbank.org/EXTFINANCIALSECTOR/Resources/Financial_Ombudsmen_Vol1_Fundamentals.pdf (last visited on September 4, 2014).

regarding complaints on a regular basis (including details of the most common complaints); set up a complaints hotline and have power to make binding decisions. If this option is pursued, it will also be important that the financial sector regulators have a clear mandate to investigate, assess and finally decide disputes between consumers and financial institutions.

132. Complaints data received as a result of carrying out dispute resolution functions should be analyzed for issues of systemic concern, together with data received directly from financial institutions. It is also important that complaints data gathered by all financial sector regulators be consolidated and assessed for issues of systemic concern, with the outcomes discussed on a regular basis (ideally in the coordination forum proposed above). Publication of the statistics and data regarding all consumer complaints should be required in order to inform the public of common problems affecting consumers and to increase consumer awareness regarding these issues.

F. CONSUMER EMPOWERMENT AND FINANCIAL LITERACY

133. As a complement to a strong financial consumer protection framework, it is important to have a sufficient level of financial literacy so consumers have the necessary knowledge and understanding to make informed decisions and to help meet financial inclusion targets by building trust in the financial sector. Financial literacy is especially important in an environment where there are high levels of innovation in the design and delivery of financial products. A coordination mechanism for financial literacy and education involving all stakeholders can help introduce a more strategic perspective through assisting in the development of a national financial education strategy, facilitating implementation and monitoring of initiatives, and helping to avoid duplication of efforts. Financial capability surveys can also gather information required to design financial literacy programs and serve as a baseline to measure the impact of financial literacy and consumer awareness initiatives going forward.

General Overview

134. A national strategy for financial literacy in Vietnam based on a national survey of financial capability would assist in furthering the efficiency and effectiveness of financial literacy programs to priority groups and should increase financial inclusion levels. Information on consumers' financial knowledge, skills, attitudes and behaviors is currently lacking, but these capacities are widely believed to be weak among the mass of the population. This is a particular concern in a country such as Vietnam where there are high levels of financial exclusion (see Table 2) and new products and services are being introduced into the retail financial sector (such as consumer loans, credit cards, insurance, investments and pensions). Consumers in Vietnam do not have past experience with these products upon which to draw, they did not observe their parents using them and elders cannot provide guidance. In this environment it is especially important to come up with approaches to developing financial capability in: (i) the more vulnerable population segments (less educated, lower income, elderly, etc.); (ii) for consumers at teachable moments including when considering purchase of a financial product or service; and (iii) among the youth.

135. The programs which do exist are small and lack impact evaluation, but are promising and often involve partnerships between financial providers and civil society. Examples include the Practical Money Skills Program, the Global Financial Education Program, Save the Children and the MoneyMinded Program, each of which are reaching thousands of people each year using a variety of online, social media and in-person training activities.

Key Recommendation(s)

136. Vietnam should increase the priority placed on financial education and develop related strategies and programs, with a critical first step being a national financial capability survey.

The aim of such a survey should be to inform the design of a national financial education strategy (NFES) and create a baseline against which the impact of financial capability enhancing initiatives can be measured. Such a survey could be used to identify areas of (i) financial capability relating to knowledge, attitudes, skills and behavior; (ii) financial inclusion; and (iii) consumer protection that need improvement and can target potential demographic groups of importance. The World Bank's *Household Financial Capability Survey* methodology might be used for this purpose.¹¹⁸

137. In the medium-term a national financial capability strategy (NFCS) should be developed.

A key agency should take on the main leadership role. Potentially this could be the MoF with the active support of SBV and other regulators. The strategy should outline a set of essential priorities. Priorities could be set based on a number of criteria, including the need, goals (e.g. fostering access to finance through formal financial institutions), costs and availability of resources. Other essential elements of such a document include the roles and responsibilities of all involved stakeholders, the main groups which shall be targeted, a framework for monitoring and evaluation of planned financial capability enhancing strategies and most importantly the resources. For more information about the process of developing a national strategy see the OECD/INFE High Level Principles on National Financial Education Strategies.¹¹⁹

138. The development of an NFCS should be supported by a wide consultation process and the establishment of a coordination body whose members include a wide range of public, private sector and non-profit stakeholders. This is important for consensus building and so that issues of national concern, resources and appropriate national priorities are properly identified. All potentially relevant public stakeholders should be involved, including ministries and regulators (such as the MoF, MoIT, MoET, SBV, ISA, SSC, DIV and VCA) as well as other public, region, and local authorities. The private sector is also very important since it can supplement available public resources and given the potential for broad outreach. Further, participation in designing and implementing a NFCS can be attractive to the private sector as a means of demonstrating a commitment to corporate social responsibility goals. However, it is important that the private sector understands the distinction between financial literacy programs and marketing initiatives.

139. Consideration should also be given in the short term to developing pilot programs for raising awareness and strengthening financial capability using mass media and innovative delivery channels. Innovative delivery channels for financial capability, including online tools and mass entertainment media such as television or radio soap operas, may be especially effective ways to communicate and strengthen financial skills and behaviors. In other countries including Colombia, Kenya, Mexico, South Africa and the United States, soap operas have been used to strengthen financial capability. Research on several of these interventions indicates that entertainment programs can be an effective way to communicate financial messages. In Vietnam, television broadcasters may be interested in programming that strengthens financial capability while also entertaining audiences. Other new approaches to financial capability include online games¹²⁰ and the use of text messages.¹²¹

¹¹⁸ See World Bank's website: <http://responsiblefinance.worldbank.org/surveys/current-projects>.

¹¹⁹ OECD/INFE High-level principles on national strategies for financial education (OECD, 2012), available at www.oecd.org/daf/fin/financial-education/OECD_INFE_High_Level_Principles_National_Strategies_Financial_Education_APEC.pdf (last visited on September 4, 2014).

¹²⁰ See, e.g. D2D Fund (www.d2dfund.org).

¹²¹ See, e.g. Innovations for Poverty Actions (www.poverty-action.org/messaging).

140. Other financial capability programs should be considered in the medium to longer term.

In particular, the planned curriculum reform for grades K-12 provides a unique opportunity to include financial education in a comprehensive and coherent way throughout the primary and secondary school years.¹²² International good practice for school-based financial education suggests that financial topics be included in existing core subjects such as mathematics, social studies, geography, etc., that they use interactive and engaging materials, that teachers receive training so they can confidently teach the topic and that parents also be engaged on the topic, even if only briefly, so that they can support the concepts being taught in schools at home. Other possible topics that were raised during mission meetings include financial education for remittance providers / foreign workers; for young entrepreneurs and microenterprises; and for consumers in rural areas where knowledge of finance may be weaker.

¹²² See, e.g. The Impact of High School Financial Education: Large-Scale Experimental Evidence From Brazil (World Bank, 2014), available at http://www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2014/06/02/000333037_20140602132056/Rendered/PDF/883880BRI0Box300OUO0900IN260Jan2014.pdf (last visited on October 21, 2014).

Annex I: List of Recommendations

(See Volume II of this Report for details of these recommendations)

Table 4 – List of Recommendations

SECTOR	RECOMMENDATION	RESPONSIBILITY	TERM
INSTITUTIONAL ARRANGEMENTS			
Cross-cutting	Agencies with consumer protection functions should be granted resources to ensure appropriate staffing, tools and capacity for consumer protection functions	SBV, SSC, ISA, VCA	ST
	Establish a coordination and consultation mechanism for all financial consumer protection regulators, agree on joint priorities, roles and responsibilities	SBV, SSC, ISA, VCA, MoIC	ST
	Consider SBV's leading position as the financial market conduct supervisory authority while reviewing VCA's supervisory role in relation to the financial consumer protection agenda	MoF, SBV, SSC, ISA, VCA	MT
	Support consumer organizations (especially VINASTAS) through funding and training	Govt, SBV, SSC, ISA	MT
	Identify an agency responsible for data protection (e.g. SBV)	Govt, SBV, SSC, ISA	LT
Banking/NBCI	Separate prudential and consumer protection supervision for CIs	SBV	MT
	Establish overall, consistent regulatory and supervisory arrangement for public and private sector credit reporting	Govt	MT
	Review strategic role of NCIC having regard to potential conflict of interest between private sector and NCIC (due to its involvement in certification and supervision of private credit bureaus)	Govt, SBV	MT
	Provide further financial sector health, development etc. information in annual reports and issue reports as soon as possible after year end	SBV	MT
	Evaluate the impact of credit institution competition policies on consumers	SBV, VCA	LT
LEGAL AND REGULATORY FRAMEWORK			
Cross-cutting	Review / update product suitability standards/ needs analysis regarding securities, insurance and non-credit products sold or distributed by financial institutions	Govt, SBV, SSC, ISA	MT
	Mandate clear cooling-off periods for credit products and longer term savings and investment products	Govt, SBV, SSC, ISA	MT
	Monitor and enforce industry Codes of Conduct	SBV, SSC, ISA, VCA, industry associations	MT

SECTOR	RECOMMENDATION	RESPONSIBILITY	TERM
	Enhance regulatory framework for foreclosures	Govt, SBV	MT
	Consider developing law on personal bankruptcy	Govt	LT
	Consider enhancing and consolidating existing data protection laws into a single law	Govt	LT
	Make it a licensing condition that all financial services providers have the capacity to comply with all consumer protection laws	Govt, SBV, SSC, ISA	LT
	Consider development of a single consumer protection regime for the financial services sector and consolidating existing laws (covering e.g. transparency and disclosure, responsible lending standards, sales practices, staff and intermediary training requirements, advertising, privacy and data protection, and dispute resolution mechanisms)	Govt, SBV, SSC, ISA, VCA	LT
Banking/NBCI	Clarify whether a CI can unilaterally change interest rates (especially variable rates) and fees and charges	SBV, VCA	ST
	Develop a Decree defining unfair competition in the credit sector as provided for in the Law on Credit Institutions	Govt, SBV	ST
	Prohibit unreasonable prepayment penalties / account closure fees	Govt, SBV	ST
	Enhance and further develop a specific consumer protection regulatory regime for digital payments and other digitally delivered financial products and services covering, e.g., safeguarding client funds, unauthorized transactions, mistaken payments, data protection and electronic disclosures and contracts	Govt, SBV	MT
	Enhance the consumer protection regulatory framework for NCIC	Govt, SBV	MT
	Develop regulatory regime for issuance / use of payment cards	Govt, SBV	MT
	Enhance existing consumer protection regulatory framework for private credit bureaus, e.g. regarding adverse action notices, data protection, consents and complaints	Govt	MT
	Remove competition barriers for private credit bureaus	Govt	LT
	Enhance conduct and disclosure rules regarding debt collection	Govt, SBV	LT
	Consider developing a regulatory framework for credit card checks	Govt, SBV	LT
	Banking Encourage VBA to enhance proposed Banking Code	SBV, VBA	ST
	NBCI Implement MFWG's Code of Conduct, provide training to member MFIs and develop appropriate public awareness campaign	MFWG	ST
NBCI	Encourage Association of People's Credit Funds to develop a Code of Conduct, building on existing law	Association of People's Credit Funds	ST
	Establish a level playing field for different types of NBCIs, especially deposit-taking	Govt, SBV	MT
	Securities Ensure a level playing field for sales practices regarding retail investment products, regardless of a distribution channel used	Govt, SSC, SBV	ST
Securities	Adopt penalties policy to achieve consistent, dissuasive, proportionate enforcement program in securities industry	Govt, SSC	ST

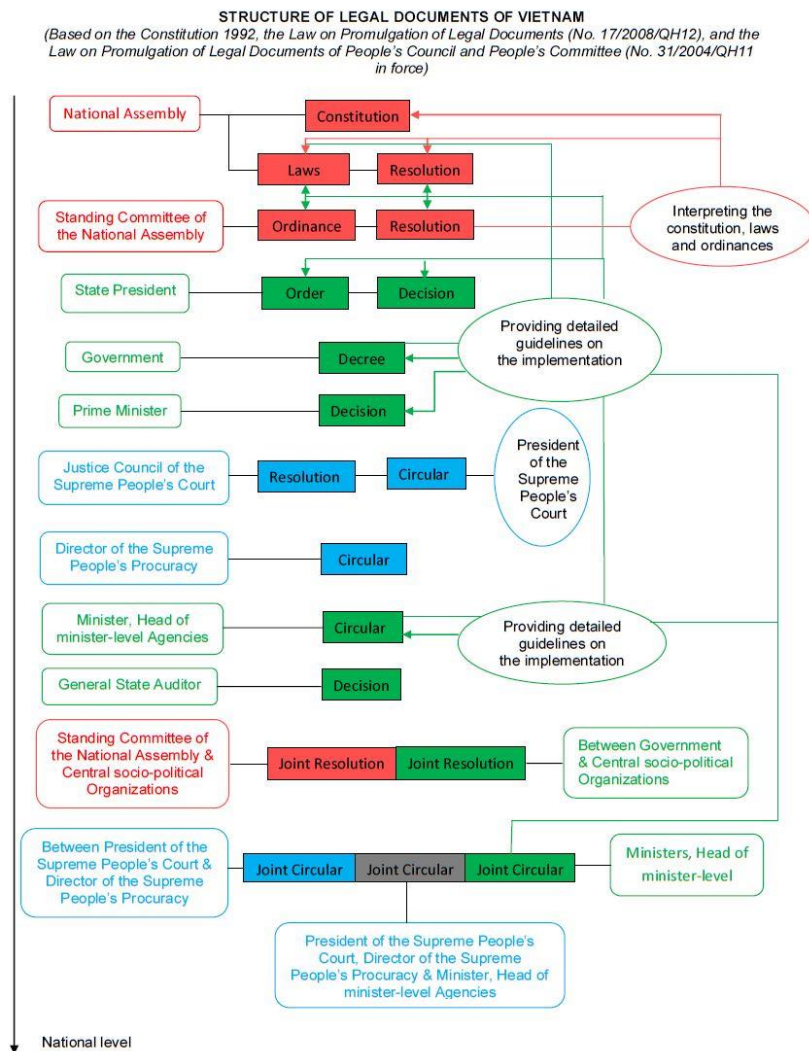
SECTOR	RECOMMENDATION	RESPONSIBILITY	TERM
	Require dissemination and implementation of Codes of Conduct prepared by securities intermediaries	SSC, industry associations	MT
	Encourage development of securities industry Code of Conduct, building on existing law	SSC, industry associations	MT
	Enhance SSC enforcement powers (e.g. regarding investigating securities offences, tracing proceeds and immobilizing sale of securities)	Govt, SSC	LT
	Review securities industry insolvency regime to align with international standards (i.e. IOSCO Principles of Securities Regulation)	Govt, SSC	LT
Insurance	Consider specific legislative requirements detailing renewal processes, timings and notice contents	ISA	ST
	Develop and publish annually high level balance sheet and solvency data for insurers	ISA	MT
	Provide life policyholders with preferential access to policyholder funds on bankruptcy of insurer	Govt, ISA	LT
	Encourage AVI to develop insurance Code of Conduct	ISA, AVI	LT
TRANSPARENCY AND CONSUMER DISCLOSURE			
Cross-cutting	Develop Key Facts Statements for standard banking, NBCI, insurance and securities products and require their use	SSC,ISA	ST
	Enforce existing requirements for a minimum font size of 12 points	Govt, SBV, SSC, ISA	ST
	Require all mandatory disclosures to be in clear, transparent language and format, whether provided in paper or electronically	Govt, SBV, SSC, ISA	MT
	Expand font size requirements to apply to all terms and conditions in a consumer contract (as well as general conditions)	Govt, SBV, SSC, ISA	MT
	Require advance notice of changes in terms and conditions (especially for interest charges, repayments, fees and charges)	Govt, SBV, SSC, ISA	MT
	Require disclosure of regulatory status	Govt, SBV, SSC, ISA	LT
Banking/NBCI	Require banks and NBCIs to provide SBV standard form contracts for review and supervisory follow-up	SBV	ST
	Require regular account statements from credit institutions	SBV	ST
	Require that consumers be notified of an adverse credit decision based on credit report	SBV	ST
	Develop total cost of credit disclosure requirements	Govt, SBV	MT
	Strengthen the disclosure regime for credit and deposit taking institutions in relation to e.g. disclosure of terms, conditions and prices with explanations of the disclosed information when needed	Govt, SBV	MT

SECTOR	RECOMMENDATION	RESPONSIBILITY	TERM
	Develop a price comparison website	Govt, SBV	LT
Securities	Clarify disclosure rules applicable at each of pre-sale, point of sale and post-sale stages relevant to buying / selling securities	SSC	MT
Insurance	Consider requiring disclosure of commissions by brokers	ISA	LT
BUSINESS CONDUCT			
Cross-cutting	Require financial institutions to periodically train all staff and intermediaries that deal with consumers as to legal requirements, product features and risks, complaints processes etc.	Govt, SBV, SSC, ISA	ST
	Strengthen monitoring of advertising of consumer financial products and services and enforce laws	SBV, SSC, ISA, industry associations	MT
	Clarify and enforce rules regarding marketing of consumer financial products	Govt, SBV, SSC, ISA	MT
Banking/NBCI	Require calculation of interest on a declining balance basis	SBV	ST
	Enforce responsible lending standards and provide consumer relief for breaches	Govt, SBV	MT
	Clarify prohibition on insurance forcing practices and introduce disclosure and rebate provisions	SBV	MT
	Collect data on days paid late	SBV	MT
	Prohibit misleading statements about third party guarantees	SBV	MT
	Clarify responsibility for agents' actions	SBV	LT
	Require up-to-date customer records for all consumer products and retention for a reasonable period after facility is closed	SBV	LT
	Allow customer access to records for a reasonable fee	SBV	LT
NBCI	Publicize details of registered / licensed NBCIs on SBV's website and branches	SBV	ST
	Review NBCI practice of publicly displaying borrower data	SBV	ST
	Consider requiring NBCIs to provide information to, and obtain credit reports from, Vietnam's private credit reporting agencies	SBV	LT
Securities	Prohibit discounting or disparaging warnings or cautionary statements in written sales literature	SSC	ST
	Provide guidance on advertising standards for securities intermediaries	MoF, SSC	ST
	Encourage STI to develop Continuous Professional Education program standards	SSC, STI	ST
	Require periodic performance reviews of securities products	SSC	ST
	Clarify procedure for contesting the accuracy of statements	SSC	MT
	Develop standardized securities contracts / provisions	SSC, HSX, HOSE	LT

SECTOR	RECOMMENDATION	RESPONSIBILITY	TERM
Insurance	Require banks to disclose that insurance products they sell are not their products and not guaranteed by them	Govt, SBV, ISA	MT
	Consider making public agent's basic details from AVI database	ISA	MT
DISPUTE RESOLUTION MECHANISMS			
Cross-cutting	Require all financial institutions to adopt and publicize a common, consistent process for complaints handling, to maintain and analyze complaints data and to report data to regulators	Govt, SBV, SSC, ISA	ST
	Require all financial sector regulators to establish a dedicated unit to address consumer complaints with power to make binding decisions and publicize complaints data and	Govt, SBV, SSC, ISA	ST
	Analyze and publish key systemic risks arising from complaints data (at least annually)	SBV, SSC, ISA	ST
	Consider options for independent ombudsman / ADR service	Govt, SBV, SSC, ISA	LT
	Provide details of recourse mechanisms for consumers on websites	SBV, SSC, ISA	LT
Securities	Assess the quality of the internal complaints handling procedures and processes for securities intermediaries	SSC	ST
FINANCIAL LITERACY			
Cross-cutting	Appoint a government agency (e.g. MoF) with leadership role in financial capability and financial literacy, with active support from key financial sector regulators and other stakeholders	MoF in cooperation with SBV, SSC, ISA	ST
	Undertake a national survey of financial capability	Govt	ST
	Develop pilot programs for raising awareness and strengthening financial capability using mass media and innovative delivery channels	MoF, SBV, SSC, ISA, industry associations	ST
	Conduct stocktaking of existing financial capability activities and analyze the strengths and weaknesses of various approaches	MOET, SBV, SSC, ISA	ST
	Incorporate financial capability into K-12 curriculum reform program	MoET, SBV	MT
	Develop a national strategy for financial capability	MoT in cooperation with other stakeholders	MT
	Establish financial capability website	Govt, SBV, SSC, ISA, VINASTAS	MT
	Develop a public outreach campaign (based on data from the national survey) including through innovative delivery mechanisms and to enhance understanding of mandated disclosures	Govt, SBV, SSC, ISA	MT
	Develop judicial training programs on financial services disputes	SBV, SSC, ISA	MT

SECTOR	RECOMMENDATION	RESPONSIBILITY	TERM
	Develop a public outreach campaign for credit reporting	SBV	MT
	Develop system to evaluate impact of financial capability initiatives	Govt	LT
<i>Banking/NBCI</i>	Enhance public awareness of deposit insurance scheme and require banks/NBCIs to advise consumers about the scheme	SBV, DIV	ST
	Strengthen cooperation with the media in the area of consumer protection and financial literacy	SBV	ST
<i>Insurance</i>	Monitor financial capability outreach provided by insurers	ISA	MT

Annex II: Structure of Regulatory Framework



Source: Nguyen Loc, Ph.D.