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PROMOTING MICROFINANCE ACTIVITIES IN NAMIBIA

A REGULATORY AND SUPERVISORY PERSPECTIVE

by

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BoN Working Paper
WP-2/2004

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Published by the Research Department of the Bank of Namibia
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ISBN: 99916-61-19-0

<http://www.bon.com.na>

EXECUTIVE SUMMARY

The main objective of this paper is to examine the role of regulation and supervision in promoting microfinance and more specifically to suggest measures that are aimed at sustaining these operations. The paper asserts that microfinance institutions are needed to provide financial services to the rural people and the poor who have no access to the formal banking institutions.

There are a number of institutions providing microfinance in Namibia such as commercial banks, non-bank financial institutions, public financial corporations, savings and credit cooperatives, NGOs and the informal sector. Besides for savings and credit cooperatives these institutions provide only credit services. Based on international experience, microfinance could be developed further by allowing NGOs providing microfinance services to mobilise savings.

The paper found that institutions providing microfinance registered a profit in 2001. However, a closer look at these results reveal that the performance of NGOs was poor, as reflected in the high default rate of borrowers.

There is no specific regulatory framework for microfinance services in Namibia. To this effect, microfinance services are provided for in the charter for good practice in microfinance and other different legislations, such the Banking Institutions Act, Usury Act, Agricultural Bank Act, Namibia Development Corporation Act, Post and Telecom Act, Co-operative Act and NGOs.

NGOs providing microfinance services are prohibited by law to take deposits and thus contributing to their poor performance. The Post Office Savings Bank is also prohibited from offering credit, thus further limiting the poor people s access to credit facilities.

The paper also looked at the need for regulation of microfinance and found that this will help to protect customers from abusive lending and loan collection practices, to ensure that the MFIs have enough capital and earnings to cover intermediation costs and ensure sustainability. There are two main types of regulation, non prudential and prudential regulations. The study suggests that the type regulation to be applied to a MFI should be based on microfinance activity that the institution provides.

It is recommended that the NGOs providing microfinance services should form an apex body that will subject them to non prudential regulation. Credit bureaus for small borrowers should be established. Once, depository NGOs are established, depending on the size of their capital base could be subjected to both non prudential as well as prudential supervision together with SACCOs.

The Post Office Savings Bank should broaden its services and be allowed to provide credit and be subjected to prudential regulation. Specialized banks that take deposits from the general public but which operate on a scale lower than that of the registered commercial bank should also be established and be prudentially regulated. There is a need to improve the coordination between the technical and the inter-ministerial steering committees on microfinance with regard to operational issues of the charter.

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ABBREVIATIONS

AgriBank	Agriculture Bank of Namibia
AMFI	Association of Microfinance Institutions
ASDSE	Adult Skills Development for Self-Employment
ATM	Automatic Teller Machine
BoN	Bank of Namibia
BoM	Bank of Mozambique
CARD	Center for Agriculture and Rural Development
CD	Cooperation for Development
CGAP	Consultative Group to Assist the Poorest
CISP	International Committee for Peoples Development
COSEDA	Community Small Enterprise Development Agency
DCD	Division of Cooperate Development
DFN	Development Fund of Namibia
GTZ	Gesellschaft fur Technische Zusammenarbeit
ICC	International Capital Cooperation
K-REP	Kenya Rural Enterprise Program
MCU	Morukutu Cooperative Union
MFI	Microfinance institution
MFIs	Microfinance institutions
NAMFISA	Namibia Financial Institutions Supervisory Authority
NACP	National Agricultural Credit Programme
NHAG	Namibian Housing Action Group
NNAWIB	Namibian National Association of Women in Business
NDC	Namibian Development Corporation

ABBREVIATIONS (CONT)

NGO	Non Governmental Organisations
NGO-MFI	NGO transformed into a microfinance institution
OHA	Okatumbatumba Hawkers Association
POSB	Post Office Savings Bank
PRODEM	Funcacion y Promocion y Desarrollo de la Micremresa
PVO	People s Voluntary Organisation
RISE	Rural People Institute for Social Empowerment
SACCOs	Savings and Credit Cooperatives
SCA	Savings and Credit Association
SDFN	Shack Dwellers Federation of Namibia
SHO	Self-help Organisation
SME	Small Medium Enterprise
UNDP	United Nations Development Programme

1. INTRODUCTION

Limited access to credit has been identified in a number of studies as one of the major constraints that can hinder the process of empowering the poor to break out of the poverty circle. This has led governments worldwide to devise a number of strategies to provide finance to small and medium enterprise (SME) and the poor so as to create more employment and generate income opportunities. These strategies include, among others setting up of government agencies such as state-owned banks that provide credit at subsidised interest rates.

Experience has shown that many of these institutions were not always sustainable due to low interest rates and high transactions costs. In addition, their focus was mainly on the medium enterprises while the small and micro enterprises and the poor were neglected. These views tend to have an influence in designing and implementing microcredit policies and establishing Microfinance Institutions (MFIs). These include institutions such as the Grammeen Bank in Bangladesh, the Badam Kredit Kecamatan program in Indonesia and the Kenya Rural Enterprise Program (K-REP) in Kenya.

MFIs are institutions that provide financial¹ services to people and small and micro enterprises who do not have access to commercial bank loans. A microfinance institution can either be a credit union, savings and credit co-operatives (SACCOs), non governmental organisations (NGOs), self help organization or specialised banks. The global experience has shown that MFIs change and develop as the scale and scope of their operations grow beyond delivery of credit services to include savings, deposit and insurance services. For example in Bolivia, the microfinance NGO Funcacion y Promocion y Desarrollo de la Micrempresa (PRODEM) sought to scale up and transform into a licensed commercial bank in order to fund the operations from retail and wholesale deposits

As a result PRODEM expanded its client base from 14,300 active borrowers to more than 80,000 active loan accounts and 50,000 savings deposits between 1991 and 1998. PRODEM had through that encouraged other NGOs-MFIs around the world such as K-REP, ADEMI and ADOPEM (Dominican Republic) to design their own transformation to gain the capability to fund expansion by mobilizing deposits and accessing the capital markets. In Philippine, the Center for Agriculture and Rural Development (CARD), similarly increased its clients from 23,000 to 40,000 women in rural villages in less than four years.

In Kenya², the central bank has established a unit to monitor the operations of MFIs and assist the AFMI to develop a policy framework for the sector, with appropriate laws and regulations. Likewise the Central Bank of Mozambique in 1998, issued a decree to regulate micro credit activities, while there are considerations of whether to create a special unit within the bank to supervise microfinance activities. All these efforts are underpinned by the understanding that a well regulated and supervised the microfinance sector will enhance its performance.

In view of the important role the microfinance institutions play in the economy, the Government of Namibia and NGOs have launched a number of programmes that are aimed at addressing access to credit in the Namibian economy. These programmes include the affirmative action loan scheme (AALS) of Agricultural Bank of Namibia, the National Agricultural Credit Programme (NACP) of the Ministry of Agriculture, Water and Rural Development, operations of parastatals such as the National Development Corporation (NDC), the Development Fund of Namibia (DFN), international NGOs such as Lisikamena, Co operation for

¹ Credit, Savings, Insurance and Money transfer services.

² See the attached two case studies on Kenya and Mozambique.

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Development (CD), as well as Savings and Credit Co-operatives. These programmes have not adequately addressed the problem of access to credit. The reasons accounting for such poor performance include lack of appropriate legal framework and high default rates. Against this background the objectives of this paper are to examine the role of regulation and supervision in promoting microfinance and more specifically to suggest measures that are aimed at sustaining these operations. It is expected that once sustainable, microfinance will improve the access of the poor people to financial services.

The remainder of the paper is structured as follows: Chapter two looks at the need, structure and performance of institutions providing microfinance in Namibia. Chapter three examines the role of regulation and supervision in improving microfinance services. Chapter four reviews the regulatory and supervisory framework of microfinance in Namibia. Chapter five suggests ways on how to regulate microfinance activities. Chapter six contains conclusions and recommendations.

2. THE NEED, STRUCTURE AND PERFORMANCE OF MFI

2.1 THE NEED FOR MICROFINANCE INSTITUTIONS IN NAMIBIA

There is worldwide consensus that access to credit and savings facilities can empower the poor to break out of poverty. However in Namibia, despite the several efforts made by both the government, NGOs, commercial banks and micro lenders, the rural communities and the poor are still experiencing difficulties in accessing credit facilities.

This is due to the fact that rural people and the poor do not have collateral to access commercial bank loans. They are also restricted from accessing financial services by the distance between rural villages and urban centers where most commercial banks are situated. Namibia is sparsely populated, coupled with this is the fact that the rural infrastructure is very poor, thus making it difficult for banks to effectively cater for the finance needs of the poor.

However, rural communities and the poor like anybody else need access to savings and credit facilities. Their need for financial services include life-cycle needs such as births, marriage, homemaking, retirement and death, to take opportunities such as to start a business, buy an asset, and to provide for emergencies including floods, fires, illness, and accident. Their incomes are small and mostly spent on food. When they want to buy something else they have no extra current income to spare. In this case they must use past savings or loans from a financial institution.

In addition rural people and the poor need safe place and instruments to store their wealth. The most common means of savings in rural Namibia is livestock, cattle, goats, sheep and chicken. Further these people save by holding their money under the mattress. There are problems associated with holding these forms of savings.

For instance, the process of selling cattle to pay fines and other transactions is time consuming and therefore impair easy transactions. As households become more involved in the art of growing cash crops or informal sector activities in the rural areas, the means of paying for supplies and receiving payments for goods and services supplied assume increasing importance.

Further rural people and the poor also need to transfer money from one place to another. Access to modern savings and payment facilities will therefore enable the quick transfer of money between towns and rural areas, and facilitate the rural transactions. The above assertions are collaborated by the 2003 FINSCOPE pilot study that assessed the demand for financial services in Namibia.

Traditional microfinance institutions such as NGO-MFIs or SACCOs are designed to serve the rural and poor people without access to commercial bank loans. Their delivering method is such that a credit officer will have to visit the home, or workplace of the borrower to assess his or her creditworthiness. Repayment is enforced through peer pressure as well as follow up visits to the residential place of the borrower. Against this background it can be concluded that MFIs are needed to fill the identified credit and savings gaps of the rural and poor people in Namibia.

2.2 STRUCTURE OF INSTITUTIONS PROVIDING MICROFINANCE

The aim of this section is to review the structure of institutions providing microfinance services in Namibia. It also attempts to assess the performance of this sector, as well as identifying the need for MFIs. It must be noted that the concept of microfinance is relatively new in the context of Namibia and there is very little data available on microfinance activities.

Further, this problem is aggravated by the fact that there is little consensus amongst stakeholders on the definition of microfinance.

A study conducted by the UNDP in 2002 identified six categories of institutions that are engaged in the provision of microfinance. These are (a) banking institutions regulated by the central bank, (b) non-bank financial institutions regulated by NAMFISA, (c) public financial corporations, registered under special acts, (d) savings and credit cooperatives regulated by the Ministry of Agriculture Water and Rural Development, (e) non-governmental organisations (NGOs) and (f) informal institutions that are not regulated. Each of these categories is discussed in more detail in the subsequent paragraphs.

2.2.1 COMMERCIAL BANKS

A number of commercial banks operate a microloan portfolio, which provides small loans to people who have salaries and to SMEs through the small business credit guarantee scheme (SBCGS).

2.2.2 Non-Bank Financial Institutions

This category includes a number of institutions such as microlenders, hire purchase and leasing institutions. Regarding microfinance services, of importance are the microlenders. According to NAMFISA there are over 100 micro lenders in existence of which approximately 80 are registered. They are based in most urban centres of Namibia and offer lending primarily to people who earn salaries.

2.2.3 Public Financial Corporations

The category of public financial corporations include the Agricultural Bank of Namibia, Namibia Development Corporation, Post Office Savings Bank.

In the case of the Agricultural bank, the microfinance activity is mainly the Affirmative Action Loan Scheme to small farmers to purchase livestock. The Namibia Development Corporation offers small amounts of loans to prospective business enterprises, while the Post Office Savings Bank offers savings and money transfer facilities both to small account holders.

2.2.4 Savings and Credit Co-operatives

Savings and credit cooperatives are legally entitled to take deposits from members and act as financial intermediaries. The other types of cooperatives are the consumer, housing, agricultural and multi-purpose cooperatives. Out of the 103 provisionally³ registered cooperatives only 2 are fully registered with the Division of Cooperatives, and only 15 percent have savings and credit schemes. SACCOs are the only institutions in Namibia, which offer both savings and credit services.

2.2.5 Non-Governmental Organisations

There are a number of both local and international agencies registered as non-governmental organisations (NGOs) some of which provide financial services to the poor. These include the Namibia National Women in Business (NNAWIB), the Rural Peoples Institute for Social Empowerment in Namibia (RISE), the International Committee for Peoples Development (CISP), Cooperation for Development (CD), Lisikamena

³ Provisional registration is given to those without a business plan and whose economic activities are not yet sustainable.

and Community Small Enterprise Development Agency (COSEDA). Currently these NGOs offer only credit services. However, these institutions have a great potential to play a key role in providing other services such as savings and insurance services to the poor.

2.2.6 Informal Sector

These are institutions that operate without official recognition or regulation. They include informal moneylenders and rotating savings and credit schemes. These informal rotating savings schemes provide either a form of insurance (i.e. in case of death or other emergencies) or savings facility. It must be noted that these schemes are characteristically rare in Namibia.

2.3 REVIEW OF THE PERFORMANCE OF MICROFINANCE IN NAMIBIA

Several studies that attempted to assess the performance of microfinance concluded that their performance have been poor. For example, the study commissioned by the UNDP concludes, that the general performance of microfinance services have been poor, due to limited outreach, high default rates, low efficiency and profitability. A study by the GTZ in 2002 confirmed this assertion by concluding that, Microfinance in Namibia face major problems of outreach and sustainability⁴. Extremely high rates of loans in arrears or in default, high operational cost, and a minimal outreach were common to ten institutions surveyed by the GTZ.

A survey conducted by the Bank of Namibia (BoN) in 2002, indicated that there were about 125 institutions, i.e. banks, NGOs, microlenders, cooperatives, among others which provide financial services to the poor in Namibia. Out of these 125 institutions identified only 92 were selected for survey purposes. The rest have either closed down or could not be tracked down due to lack of contact details. Most of the institutions identified were relatively new⁵.

The BoN survey showed that these institutions had about 95 branches country wide in 2001, employing about 374 people of which 123 were loan officers.

The main clients of microfinance were defined as individuals with full time jobs, government officials, and those that do not have access to commercial bank loans. The majority of these clients (61 percent) were located in urban areas, while 39 percent were in rural areas. From the gender perspective, women clients constituted 44 percent, but accounted for only 36 percent of the total loan portfolio, while male clients constituted 56 percent and accounted to 64 percent of the total loan portfolio.

The distribution of loan portfolio by sector was as follows: trade/commerce accounted for 12.1 percent, services 12.7 percent, manufacturing 7.4 percent and others accounted for 67.8 percent⁶. Out of the total loans offered, 60 percent of them were offered for a period less than 3 months, 30 percent for a period between 3 and 12 months and 10 percent for a period between 1 and 3 years. Most of the providers indicated that they provide personal loans, while two indicated that they provide educational and stock breeding loans. This shows that microfinance loans are mainly of short-term nature. The minimum loan provided was N\$100, while the maximum loan provided was N\$20 000.

As far as collateral is concerned, 26 percent of the institutions indicated that they did not need any security, 15 percent required ATM cards, while 14 percent needed savings and property. Interest charged was on

⁴ Both the GTZ and UNDP studies considered the performance of only NGOs in their studies.

⁵ Those that have been in business for less than two years.

⁶ This item includes primarily loans for consumption and educational purposes.

average 19 percent monthly, with the lowest at 2 percent and the highest at 35 percent monthly. The report revealed that the total number of outstanding loans amounted to N\$68 thousands. Other statistical information on outstanding loans is shown in the table 2.1 below.

Table 2.1 Total outstanding loans in N\$ Million, 2001

Description	N\$ Million
Currently outstanding	266.1
Due in less than the past 90 days	100.0
Due in the past 90 to 180 days	25.1
Due in the past 180 to 360 days	58.3
Total amount outstanding	449.5

Source: Bank of Namibia

From table 2.1 above outstanding loans amounted to N\$449.5 million. Out of the total outstanding loans an amount of N\$266.1 million was currently outstanding, N\$100.0 million was due in less than the past 90 days, N\$25.1 million was due in the past 90-180 days, while N\$58.3 million was due in the past 180-360 days. Refinanced loans stood at N\$2.3 million, while provisions made for bad debt during the year totaled N\$30.9 million. A total amount of N\$10.2 million was set aside for write off.

The analysis from the survey reveals that only one institution had a savings product⁷, at an interest rate of 4 percent per month. This institution had 59 accounts with the balance of N\$20 thousand as at the end of 2001. From the data, it was evident that some MFIs broadened the scope of the types of services they offer to clients to include other services such as training, budget and debt planning. Most of the non-financial services are managed separately from the financial services.

The total assets of institutions surveyed declined significantly to N\$185.6 million in 2001 from a level of N\$230.1 million recorded in the previous year. This represents a decline of 19.3 percent. The decline observed over the year was mainly reflected in other short-term assets that declined by 47 percent in 2001 from N\$16.6 million in 2000 to N\$8.8 million in 2001. This decline was recorded even in the midst of slow down of loan loss provision (the reserves set aside for loan losses) by 30 percent in 2001. On the other hand, total liabilities of MFIs surveyed increased slightly from N\$23.2 million in 2000 to N\$23.5 million at the end of 2001.

The slowdown in total liabilities could be attributed to the decline of 56.7 percent in loans obtained by these institutions from their head-offices. However, loans from commercial banks declined significantly from N\$1 052 million in 2000 to N\$181 million in 2001⁸. The total capital declined by 6.4 percent to N\$42.2 million in 2001 following a recorded level of N\$45.1 million in 2000. The decline was mostly due to negative retained earnings that were recorded since 2000. The income statement recorded a net profit of N\$3.4 million in 2001

⁷ There are approximately 15 SACCOs with a savings product, but it seems only one indicated this in the survey.

⁸ In 2000 loans to institutions providing microfinance would represent 8.7 percent of the total assets of commercial banks and 12.1 percent of total credit extended to the private sector by these institutions. These ratios declined sharply to 1.4 percent and 1.8 percent in 2001, respectively. In relation to total capital of commercial banks loans to these institutions declined substantially to 11.8 percent in 2001 from 81.5 percent in 2000. This compares to an exposure limit of 30 percent in relation to total capital of a single bank as determined by the bank of Namibia.

as compared with a net loss of N\$4.6 million in the previous year. Responsible for the net profit in 2001 was the increase of 29.3 percent in interest income from N\$19.1 million in 2000 to N\$24.7 million in 2001. It is worth mentioning that the profit recorded in 2001 is mainly attributed to the micro lenders and banks, as the NGOs recorded substantial losses during the same period. Table 2.2 shows that most MFI- NGOs portfolios are at risk of default. For example the default is more than 50 percent in the case of the CD, while for COSEDA and Lisikamena this figure is at 100 percent. NHAG-SDFN and OHA on the other hand had lowest default rates of 30 percent and 10 percent respectively.

Table 2.2 Portfolio at Risk for NGOs⁹ in percentage terms

	2001 (portfolio at risk/default ratio)
CD	>50 %
COSEDA	100 %
Lisikamena	100 %
NHAG-SDFN	30 %
NNAWIB	77 %
MCU	57 %
SCAs founded by RISE	>70 % (North), 56 % (South)
OHA	10 %
ASDSE	56 %

Source: GTZ, 2002

⁹ There is a possibility that these default risks might have changed over time for better in other instances.

3. THE ROLE OF REGULATION AND SUPERVISION IN PROMOTING MICROFINANCE

This chapter survey the literature with aim of identifying the role that the legal and regulatory framework has on the performance of microfinance activities offered by various institutions. The chapter also sheds light on who should regulate these activities. The regulatory framework should address the following issues: the need to regulate the MFI activities; different types of regulations; what to regulate institutions or activities; the regulators of the microfinance operations and finally promoting microfinance by allowing deposit taking.

3.1 THE NEED TO REGULATE MICROFINANCE ACTIVITIES

The theoretical argument on the need to regulate the microfinance services is firstly based on the need to protect depositors. This is to ensure that savers have confidence in the financial institutions to entrust them with their savings. Secondly, regulation ensures that financial institutions are sound with enough capital and earnings to cover risks of intermediation and make them sustainable in order to alleviate poverty. Thirdly, regulation will protect consumers from abusive¹⁰ lending and collection practices. There is a need to establish appropriate legal framework microfinance, since their activities are lesser than the formal banking institution.

3.2 DIFFERENT TYPES OF REGULATIONS

There are two approaches to regulation of microfinance operations. These are non prudential and prudential regulation. Non prudential regulation include issues such as enabling the formation and operation of a microfinance institution, protecting consumers, preventing fraud and financial crimes, setting up credit information services, policies with respect to interest rate, limitations on foreign ownership, management, sources of capital, tax and accounting issues and transformations from one institution to another. Prudential regulation refers to measures aimed at protecting the country s financial system by preventing failure of one institution from leading to failure of others, such as capital-adequacy requirements, rules for loan-loss provisioning etc, and to protect depositors who are not well positioned to monitor the financial soundness of the institutions.

3.3 THE FOCUS OF REGULATION

Regulation which is based on a particular institution that provides microfinance may hamper innovation and competition, as well as impede the integration of microfinance into the broader financial sector. These considerations lead some in the field to argue that policy makers should focus on regulating microfinance as an activity, regardless of the type of financial institution carrying it out. However, others argue that there is a need for regulatory adjustments, which will have to do with the type of institution rather than the activity itself. For instance, microfinance presents a much lower risk profile when it is a small part of the portfolio of a commercial bank compared to microfinance that constitutes the majority of a specialised MFIs assets.

Therefore, it can be argued that the two institutions ought to be subjected to different types of regulations. Institutions that offer only lending activities do not pose any threat to the general public s money being lost and should be subjected to only non prudential regulation. Prudential regulation could be applied to institutions that offer both lending and savings to protect the customers. MFIs are classified as per the table below.

¹⁰ Higher interest rates than permissible in Usury Laws and shocking loan collection methods.

Table 3.1 Regulatory thresholds of microfinance activities.

MFI type	Activity that determines regulation	Proposed regulation	Agency
Basic non-profit	NGOMaking loans not in excess of grants received	None voluntary registration with the regulatory organisation	None, or Self regulation organisation
Non-profit NGO with limited deposit-taking	Taking minor deposits, e.g. forced savings	None. Exemption or exclusion from the provisions of the banking law. Compulsory registration with a self regulatory organisation	Self-regulatory organisation
NGO transformed into an MFI	Issuing instruments to generate funds through wholesale deposit substitutes	Registration as a corporate legal entity	Companies registry agency
Credit union, savings & credit co-operative	Taking deposit from member clients.	Registration with co operative authority	Cooperative authority
Specialised Bank or Finance company	Taking deposits from general public beyond minor deposits exemption in banking law. Operation not on scale of licensed banks	Registration & licensing by Bank supervisory authority	Bank supervisory authority
Licensed mutual ownership or equity Bank	Non restricted deposit taking activities	Registration & full licensing by Bank Supervisory Authority	Bank Supervisory Authority

Source : World Bank, 1998

3.4 PROMOTING THE DEVELOPMENT OF MICROFINANCE THROUGH DEPOSIT TAKING

It has been established that the NGOs that provide microfinance services in Namibia are not allowed to mobilise deposits¹¹. These institutions could be transformed into MFIs and allowed to mobilise deposits. Deposit taking might be important for the institutions to grow and be sustainable in the state of declining donor funding. Further deposit taking would broaden the scope of services offered by the NGOs. For deposit taking to be allowed, necessary safeguards must be put in place. These could include acquiring adequate capital to protect the client funds, which may necessitate external regulation and supervision.

¹¹ Deposit taking in this regard refers to forced savings or limited compulsory savings from members.

4. REVIEW OF THE REGULATORY AND SUPERVISORY FRAMEWORK FOR MICROFINANCE IN NAMIBIA

This chapter identifies the weaknesses contained in the legal instruments that regulate microfinance services. There are a number of institutions that provide microfinance services in Namibia. For this reason the study have resorted to examine the different acts that govern these institutions in order to evaluate whether there are any impediments in these laws to the development of the microfinance sector. The charter for good practice in microfinance forms the bases of a legal framework for microfinance in Namibia. In the absence of a specific law that regulates microfinance, these services are regulated by the following legislations, the Banking Institutions Act, the Usury Act, the Agricultural Bank Act, the Cooperative Act, the NDC Act, Post and Telecommunications Act. Those institutions that fall outside the ambit of these laws are registered as non-governmental organisations (NGOs). The charter and these acts are briefly examined below.

4.1 THE CHARTER FOR GOOD PRACTICE IN MICROFINANCE

The charter for good practice in microfinance in Namibia was signed by the Ministers of Trade and Industry, Agriculture, Water and Rural Development, the Director General of the National Planning Commission and the Governor of the Bank of Namibia. These institutions have committed themselves to develop microfinance activities in Namibia. Some of the issues outlined in the charter are as follows:

- To address the plight of people who do not have conventional collateral.
- To use a bottom up approach so that the beneficiaries become the owners and managers of the MFIs.
- To use a community based approach for the provision of microfinance.
- To provide loans according to borrower reliability and not according to loan use for consumption or as investment in production.
- To use social pressure (peer pressure as a means to enforce repayment since legal action is not viable). This should be done by ensuring the maximum participation of members through ownership and savings, which should be attractive, safe and compulsory.
- Self-help organizations shall be addressed. These self—help organizations should be formed voluntarily and take responsibility for their development.
- To separate responsibility for financial and non-financial services in order to secure and sustain activities. The costs of financial services shall be full covered by the interest income.

The weakness inherent in the charter is that it only seems to encourage the formation of self-help organisation (SHO), but does not prescribe who should regulate and supervise these SHOs. In addition, the charter is not an Act, thus, there is no specific institution which is responsible for its implementation.

4.2 BANKING INSTITUTIONS ACT, No. 2 OF 1998

The foundation of modern commercial banking regulation in Namibia is found in the Banking Institutions Act. The preamble of this Act provides the legal framework for the conduct of banking business in Namibia, based on international best practices, and comprises the principal types of regulatory measures for the establishment of a sound financial system. Part III of the Act provides a minimum capital requirement of N\$10

million for one to register as a bank. This minimum capital requirement of N\$10 million is considered to be big for the establishment of institutions such as depository MFIs and community rural banks. The main weakness of this Act with regard to microfinance is the minimum capital requirement of N\$10 million which is very high for the establishment of a microfinance institution.

4.3 USURY ACT, No. 73 OF 1968

Section 2 (1)(a) of this Act empowers the Minister of Finance to direct the Registrar of Financial Institutions to limit interest rates that may be charged on micro loans. This Act provides for the advancement of micro loans. The Act defines the micro loan as a loan of less than N\$20,000. In addition, the Act set a limit of 30 percent interest per annum to be charged on loans less than N\$10,000 and for loans above N\$10,000 this cap is set at 27 percent per annum. It should be noted that this Act is being revised. The act does not allow micro lenders to mobilise deposits. These microlenders fall within the ambit of the Namibia Financial Institutions Supervisory Authority (NAMFISA) that monitors compliance to the Usury Act.

4.4 AGRICULTURAL BANK ACT, No.13 OF 1944

This Act is limited to consolidating legislation relating to the Agricultural Bank of Namibia. The Agricultural Bank is parastatal established to lend money to commercial and communal farmers in Namibia. The Act also provides for lending and guarantees to agencies and societies that support the agricultural industry. The narrow focus of the Act on one sector makes it difficult for potential borrowers in other sectors to make use of these facilities.

4.5 NAMIBIA DEVELOPMENT ACT, No. 18 OF 1993

This legislation is limited to the establishment of the Namibia Development Corporation (NDC). NDC is government owned institution created to develop and support the Namibian economy through the provision of appropriate financial resources. Sections 18 and 19 of the Act place no restrictions on NDC s lending policy and it can offer financial assistance to micro borrowers. The Act provides for NDC s exemption from paying taxation, duties and fees.

4.6 POST AND TELECOM ACT, No. 19 OF 1992

The Act provides for the establishment of the Post Office Savings Bank. It also provides for the control of the Post Office Savings Bank, which is wholly owned by government. The Act allows the Post Office Savings Bank to mobilise deposits, but prohibit it from lending money to borrowers including micro borrowers.

4.7 CO-OPERATIVE ACT OF 1996

The Co-operative Act of 1996, gives the regulatory powers over savings and credit co-operatives (SACCOs) to the Division of Co-operative Development (DCD) in the Ministry of Agriculture, Water and Rural Development. SACCOs are allowed to take deposits from and give credit to members only. The DCD is a regulatory authority for SACCOs.

4.8 NON-GOVERNMENTAL ORGANISATIONS

There are no specific laws that regulate the operations of NGOs in Namibia. NGOs are licensed and are able to provide various services such as credit. However, these NGOs are prohibited from mobilising savings. As a result of lack of an appropriate legal framework, their internal controls tend to be weak.

Table 4.1 Weaknesses of the legislations in terms of microfinance service

ACT	WEAKNESS
Banking Institutions Act, No.2 of 1998	The minimum capital requirement of N\$10 million is high for micro finance institutions.
Usury Act, No.73 of 1968	None
AgriBank Act, No.13 of 1944	Its provisions are specific to the agricultural sector.
NDC Act, no.18 of 1993	None
Post and Telecomm Act, No.19 of 1992	Prohibits the Saving Bank from lending to borrowers.
Co-operative Act, of 1996	The scope of the Act is limited to cooperatives

Source: own analysis

5. SUGGESTIONS ON TO HOW TO REGULATE MICROFINANCE IN NAMIBIA

There is a consensus that in regulating microfinance the prime focus should be on the activity. Therefore, this section would attempt to suggest ways on how to regulate microfinance services in Namibia.

1. There are three main types of NGOs which provide microfinance services; NGO-MFIs that take savings of members, NGO-MFIs that mobilise wholesale deposits, and finally the NGOs that offer only credit services. These are briefly discussed below.

a) *NGOs that offer microfinance such as the CD, CISP, COSEDA, NNAWIB, SDFN* offers only credit services. The source of their funding is grants or own capital. The failures of these institutions do not pose a risk as there are no public deposits involved. It is recommended to form a self regulatory body which will administer non prudential regulation to these institutions. In addition there is a need to create credit bureaus which would record the information of their clients. This database will allow lenders to lower their risks, and allow borrowers to use their good repayment record with one institution as a means to get credit from other institutions.

b) *NGO-MFIs that take members savings* are not yet established in Namibia because the law does not permit NGOs to take deposits. NGOs that offer microfinance in Namibia are in default, their funding is declining. International experience shows that these institutions could sustain their operations if they were allowed to mobilize deposits. Deposit in the case of NGOs can either be forced deposit or wholesale deposit. There are two arguments on the regulation of NGO-MFIs that uses the savings of members. The first is against prudential regulation of such institutions as members will ensure that their money is well kept. The second is in favour of prudential regulation because of problems associated with NGO-MFIs becoming too big, to the extent where members may not be in a better position to supervise the management. In addition there is a tendency for NGO-MFIs to continue collecting deposits even when their operations are no longer solvent. In both cases there is risk that member's funds may be lost. It is from the above background that it is suggested that NGOs that takes the savings of members once established should also be subjected prudential regulation. However it should be cautioned that only those with big asset base should qualify for prudential regulation. These could be regulated by DCD, because their operations are similar to that of financial co-operatives. The important aspect about these institutions is that members are the owners of the MFI and has the incentive to pay back the loans and enforce repayments.

c) *NGO-MFIs that mobilise wholesale deposit.* These are not found in Namibia. In some countries, NGOs-MFIs finance their operations by issuing commercial paper in the local securities market. Unlike, deposits from the general public these instruments tend to be bought by large, sophisticated investors. It is argued that buyers of these instruments ought to be able to make their own analysis of the financial soundness of the issuing business. Where the lender is a commercial bank, it should itself already be subject to regulation and therefore does not need further regulation. Therefore, NGO-MFIs that raise funds through these wholesale deposits, once established should not be subjected to prudential regulation. These institutions would need to register as corporate legal entity with the Ministry of Trade and Industry. It should be cautioned that in a developing country such as Namibia it may be difficult for an MFI to raise commercial papers.

2. Savings & Credit Co-operatives

SACCOs are currently registered by the division of cooperative development (DCD). However the DCD does not have capacity to prudentially regulate these cooperatives. SACCOs fund most of their operations mainly

from the savings of members. Thus the problems highlighted in case NGO-MFIs that mobilise the savings of members may apply to SACCOs. Therefore SACCOs with big asset base could be subjected to prudential regulation by the DCD.

3. Specialized Banks

There are no specialised banks that give credit and mobilise deposits from the general public but operate on a scale which is lower than a commercial bank in Namibia. The international approach is to create a second tier regulation within the Banking Institutions Act to accommodate these institutions. These institutions could then be prudentially regulated by the central bank.

4. The Post Office Savings Bank

The POSB mobilizes deposits from the public but does not lend. The POSB could consider giving credit, however this will imply a risk that public funds could be lost and thus merits prudential regulation of the Central Bank. Issuance of credit will require alterations to the Post and Telecom Act, No.19 of 1992, to reflect the same.

5. Commercial Banks

Commercial banks that currently offer microfinance services are already prudentially regulated by the Bank of Namibia and therefore do not need further prudential regulation.

6. CONCLUSIONS AND RECOMMENDATIONS

The main objective of this paper is to examine the role of regulation and supervision in promoting microfinance and more specifically to suggest measures that are aimed at sustaining these operations. The understanding is that once sustainable microfinance will improve the access of the poor to financial services. The study firstly looked at the need for microfinance in Namibia and asserts that these institutions are needed to provide financial services to the rural people and the poor who have no access to the formal banking institutions. There are a number of institutions that provide microfinance service in Namibia such as commercial banks, non-bank financial institutions, public financial corporations, savings and credit co operatives, NGOs and the informal sector.

The survey conducted by the Bank of Namibia in 2002, found that in 2001 institutions involved in microfinance registered a profit. However, a closer scrutiny of the same results shows that NGOs in particular were in default. The study also found that there is no specific act on microfinance in Namibia. Microfinance services are provided for in the charter for good practice in microfinance and other different legislations such as the Banking Institutions Act, Usury Act, Agricultural Bank Act, Namibia Development Act, Post and Telecommunication Act and the Cooperatives Act.

It is noted that the charter for good practice in microfinance is not an Act and therefore cannot be enforced. It does not provide for the supervision of depository MFIs. Furthermore, there tend to be a weak coordination between the technical committee and the inter-ministerial steering committee on implementation of the charter. It is noted from the Banking Institutions Act that the minimum capital requirement of N\$10 million is high for establishing a depository microfinance institution. In addition, it is found that the Post Office Savings Bank is prohibited from advancing micro credit.

The paper also found that regulation is needed to protect customers from abusive lending and collection practices. This ensures that these institutions are sound with enough capital and earnings to cover risks of intermediation and sustainability, as well as to protect the deposits of the public. There are two main types of regulations, namely, the non prudential and prudential regulation. It is further suggested that the type regulation to be applied should be based on the microfinance activity that the institution offer. The study also asserts that the performance of NGOs involved in microfinance could be improved if they were allowed to take deposits

The paper recommends the following regulatory and supervisory changes in order to promote microfinance services in Namibia. NGOs that provide microfinance currently should form an apex body that will subject them to non prudential regulation. Those that give credit and mobilise deposits such as SACCOs and other depository MFIs could be subjected to prudential regulation depending on the size of their asset base and source of funding, so as to avoid unnecessary administrative costs to those with small asset base, who cannot afford the cost of prudential regulation.

MFIs that takes member based deposits once established could be regulated by DCD. The DCD should be encouraged to develop the regulatory capacity for SACCOs and other member based MFIs. The POSB should be encouraged to consider offering credit services. This however, will necessitate prudential regulation of the Central Bank.

Commercial banks that are involved in microfinance are already subjected to prudential regulation by the Bank of Namibia and therefore do not need any further prudential regulation. Specialised banks should be established, and be prudentially regulated by the Bank of Namibia. A study to allow NGOs involved in microfinance to mobilise savings, as well as to evaluate the potential of creating specialised banks in Namibia

should be undertaken.

While there might be a need for separate regulatory framework on microfinance, it should be cautioned that there is need for further research in this area before this can be done. There is a need to improve the coordination between the technical and the inter-ministerial steering committees on microfinance on operational issues of the charter.

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CASE STUDY 1: EXPERIENCE IN KENYA REGARDING MICROFINANCE LEGISLATION AND REGULATIONS

In order to realize the full economic potential of microfinance in Kenya, there was a need to tackle the various problems regarding the regulatory framework that hinder the development of microfinance in Kenya.

Lack of Appropriate form of Registration. Most MFIs are registered under the NGOs Coordination Act. The Act lumps MFIs together with all the other NGOs and does not recognize their special role as financial intermediaries or a need for regulatory framework to coordinate their activities and safeguard against malpractices.

Declining funding. Most MFIs depend on donor funding, which has been declining in the 1990s. This limits the MFIs outreach in terms of number of clients served and loan amounts disbursed especially as the law prohibits MFIs from mobilizing deposits without appropriate licensing.

Weak management. The capacity to provide quality management is lacking with most MFIs, which has led to serious operational problems and failures of various MFIs.

Lack of appropriate legal and regulatory framework. Currently, the microfinance sectors unregulated and fragmented, operating with no official or agreed performance standards.

Lack of performance information. Lack of information makes it difficult to monitor the performance of individual MFIs and to assess the development of the whole sector

These problems led to steps being taken to address the problems and to promote MFIs in Kenya

MFIs have formed and registered an apex body, the Association of Microfinance Institutions (AMFI) to facilitate the development of the sector, promote best practices and provide a forum for consultations among the MFIs and with the Central Bank. AMFI is currently in the process of setting up a Secretariat.

The Central Bank has established a unit to monitor the operations of MFIs and assist the newly formed AMFI to develop a policy framework for the sector, with appropriate laws and regulations.

The first microfinance bank has also been licensed in Kenya under the Banking Act.

The Central Bank is currently considering various options that are open in the regulation and supervision of the micro finance sector. The main alternative approaches include:

Creation of a second tier within the Banking Act to accommodate special provisions for microfinance. With this option, the responsibility of supervision would shift to the Central Bank.

Enacting of a special law for MFIs to govern their operations.

Encouraging a two-tier system of regulation, under which a self-regulatory agency is to be formed under AMFI to regulate its member institutions and the Central Bank to assume regulatory responsibility for large MFIs, which qualify as banks under the Banking act. These options are currently being discussed between the Central Bank and AMFI.

CASE STUDY 2: EXPERIENCE IN MOZAMBIQUE REGARDING MICRO FINANCE LEGISLATION AND REGULATIONS

In the case of Mozambique measures were taken to regulate the micro finance sector according to the best practices and standards. To this effect some changes took place in the sector.

LEGAL AND REGULATORY FRAMEWORK FOR MICROFINANCE

In 1998, the Bank of Mozambique issued a decree (47/(8)) to regulate micro credit activities, which requires all institutions and individuals providing credit not registered to register with BoM. These were set to legalize the provision of microcredit by associations and projects of local or international NGOs. Another aim is to make the MFIs commercially and financially viable.

Under this decree individuals and institutions registered were allowed to provide credit but not to take deposits. In February 2000, formal reporting system of MFIs to BoM was put in place. However, this decree was weak due to lack of knowledge and information about the decrees. It was advised that monitoring, publication of consolidated information or elaboration of guidelines by BoM are needed to enforce compliance by requiring that all MFIs recipient of their financial and technical support register with BoM and comply with the minimum reporting requirements.

It was recommended that, the regulatory authorities should have more open and ongoing dialogue with MFIs and share international experience. Also there is a need to reinforce the supervisory capacity to back up the regulatory framework. Further a creation of a unit to supervise microfinance unit could be set up within the supervision department of BoM.