# MALAWI

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

## Volume I
## Key Findings and Recommendations

May 2012

**THE WORLD BANK**
Financial Inclusion Practice, Micro and SME Finance
Financial and Private Sector Development Vice-Presidency
Washington, DC

# MALAWI

# Diagnostic Review of Consumer Protection and Financial Literacy

## Volume I – Key Findings and Recommendations

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## Abbreviations and Acronyms

| | |
|---|---|
| APEC | Asia Pacific Economic Cooperation |
| APY | Annual Percentage Yield |
| ASEA | African Securities Exchange Association |
| BAM | Bankers' Association of Malawi |
| BIS | Bank for International Settlements |
| BNPP | (World) Bank-Netherlands Partnership Program |
| CAMA | Consumers Association of Malawi |
| CFEP | Consumer Financial Education and Protection Unit |
| CFTA | Competition and Fair Trading Act |
| CFTC | Competition and Fair Trading Council |
| CGAP | Consultative Group to Assist the Poor |
| CIU | Collective Investment Undertaking |
| CMD | Capital Market Development |
| CPA | Consumer Protection Act |
| CPC | Consumer Protection Council |
| CRB | Credit Reference Bureau |
| DANIDA | Danish Development Agency |
| EC | European Community |
| ESIS | European Standardized Information Sheet |
| ETI | Eco Transnational Incorporated |
| FATF | Financial Action Task Force |
| FCA | Financial Cooperatives Act |
| FIMA | Financial Inclusion in Malawi |
| FIMDA | Financial Markets Dealers Association in Malawi |
| FSA | Financial Services Act |
| FSAP | Financial Sector Assessment Program |
| FTC | Federal Trade Commission |
| G2P | Government-to-person |
| ICB | International Commercial Bank Limited, Malawi |
| IDD | Initial Disclosure Document |
| ISO | International Organization for Standardization |
| IT | Information Technology |
| KYC | Know Your Customer |
| MAMN | Malawi Microfinance Network |
| MASM | Medical Aid Society of Malawi |
| MCOB | Mortgage Conduct Business |
| MFA | Microfinance Act |
| MFI | Microfinance Institutions |
| MoF | Ministry of Finance |
| MoIT | Ministry of Industry and Trade |
| MoJ | Ministry of Justice |
| MoU | Memoranda of Understanding |
| MRFC | Malawi Rural Finance Company |
| MSB | Malawi Savings Bank |
| MSE | Malawi Stock Exchange |
| MUSCCO | Malawi Union of Savings and Credit Cooperatives |
| MKW | Malawi Kwacha |

| | |
|---|---|
| NBM | National Bank of Malawi |
| NBS | New Building Society |
| NTCFE | National Task Force on Consumer Financial Education |
| OECD | Organisation for Economic Co-operation and Development |
| OIBM | Opportunity International Bank of Malawi |
| OSISA | Open Society Initiative for Southern Africa |
| PASI | Paralegal Advisory Service Institute |
| RBM | Reserve Bank of Malawi |
| SACCO | Savings and Credit Cooperative |
| SADC | South African Development Community |
| SBM | Standard Bank of Malawi |
| SECCI | Standard European Consumer Credit Information |
| SME | Small and Medium Enterprise |
| SRO | Self Regulatory Organization |
| TILA | Truth in Lending Act |
| USAID | United States Agency for International Development |
| WOCCU | World Council of Credit Unions |

**Currency Equivalents**
(Exchange Rate effective December, 2011)

US$1 = 163.75 MKW

# Acknowledgments

This Diagnostic Review was prepared by a team led by Juan Carlos Izaguirre, of the World Bank Global Program on Consumer Protection and Financial Literacy. The project team consisted of Eric Haythorne (Consultant), Rosamund Grady (Consultant) and Denise Dias (Consultant). Research assistance was provided by Joshua Nthakomwa (Consultant) and Snigdha Verma (Consultant). Oversight of the project was provided by Sue Rutledge (Coordinator of the Global Program on Consumer Protection and Financial Literacy), from the World Bank. Special thanks go to Samuel Maimbo (Lead Financial Sector Specialist), Xiaofeng Hua (Senior Financial Sector Specialist) and Brian Mtonya (Senior Private Sector Development Specialist), all from the Africa Region Financial and Private Sector Department, Sandra Bloemenkamp (Country Manager for Malawi), and Aurora Ferrari (Service Line Manager, Micro and SME Finance).

Peer review comments were received from Nataliya Mylenko (Senior Financial Sector Specialist) and Katharine McKee (Senior Policy Advisor).

The team expresses its appreciation to the Malawian authorities for their cooperation and collaboration during the preparation of the Review. The project team would like to thank all those who so generously contributed to the final report.

The Review was prepared as part of the Bank-Netherlands Partnership Program grant on "Improving Financial Literacy and Consumer Protection in Low Income Countries", funded by the Government of the Netherlands and the World Bank.

# Executive Summary

**1. The key objectives of this Review are twofold: (i) to assess the existing financial consumer protection framework, by reviewing laws, regulations and practices in Malawi compared to international good practices; and (ii) to provide recommendations on ways to improve consumer protection and financial literacy in Malawi.** Malawi's Financial Sector Development Strategy for 2010-2015 has identified consumer protection and financial literacy as key areas to promote financial inclusion, deepening and competitiveness, which would in turn help building a financial sector that supports inclusive and sustainable growth. In this context, the Review aims to highlight the progress made in Malawi in financial consumer protection, compare Malawi's legal and institutional frameworks with international benchmarks, and provide a series of concrete recommendations that can be implemented by several stakeholders to obtain concrete and measurable improvements in the level of financial consumer protection in Malawi, which could help increase consumer's trust in the financial sector. The Review uses a set of Good Practices developed by the World Bank over the course of five years, based on international benchmarks and other accepted good practices developed by a wide range of organizations.[1]

**2. Estimates indicate that the majority of the Malawian adult population lacks access to financial services.** According to the 2008 FinScope Survey, 55 percent of the population is financially excluded and 19 percent uses informal financial services, whereas only 26 percent uses some type of formal financial service (including 19 percent that uses banks and 3 percent that have an insurance policy). The main reasons why people do not have financial products, besides not having enough resources, are lack of understanding and awareness of products.

**3. The Review provides a detailed assessment of the institutional, legal and regulatory framework in four financial segments, namely banking, non-bank credit institutions, securities and insurance.** Volume I summarizes the key findings and recommendations of the Review and Volume II presents a detailed assessment of each financial segment compared to the Good Practices. Volume II also includes annexes that analyze and provide recommendations on credit reporting, mobile banking services and private pension funds, and a description of the overall legal and institutional frameworks for financial consumer protection in Malawi.

**4. Although key initial steps have been taken in financial consumer protection, especially at the institutional level, Malawi is still at an early stage of development in this area, based on international good practices.** Regarding the institutional framework, the Financial Services Act expanded the scope of responsibilities of the Reserve Bank of Malawi (RBM) to also include consumer protection. This allowed for the creation of the RBM's Consumer Financial Education and Protection Unit, which is supposed to cover all financial segments. These types of institutional reforms have been implemented in several countries and provide a good basis for the

[1] The Good Practices incorporate principles, benchmarks and recommendations developed by several international organizations (e.g. United Nations, OECD, European Commission, Asia-Pacific Economic Cooperation, Bank for International Settlements, International Association of Insurance Supervisors, International Organization of Securities Commissions); as well as approaches from developed and emerging economies (e.g. Australia, Canada, Malaysia, Mexico, Peru, South Africa, United States). While the Good Practices are based on successful experiences primarily of middle- and high-income countries, the basic ideas are of universal application. Also, their implementation should be sequenced and tailored to the country's needs and objectives. The *Good Practices for Financial Consumer Protection* and reports on financial consumer protection are available at www.worldbank.org/consumerprotection.

development of a strong financial consumer protection framework.[2] However, there are still several challenges ahead for the RBM to effectively cover financial consumer protection issues. A key challenge relates to the existing overlapping jurisdiction over financial consumer protection among three government authorities (RBM, the Consumer Protection Council and the Competition and Fair Trading Commission). Also, the legal and regulatory framework is still at a nascent stage. Some provisions in the general consumer protection and competition laws could be applicable to the financial sector, but those laws have never been applied or enforced. On the other hand, the financial sector laws also include some general consumer protection provisions, but there is need to elaborate regulations that deal with specific issues on consumer disclosure, business practices and complaints resolution. Finally, although financial literacy is identified as a key activity in the Government's National Strategy for Financial Inclusion and the banking industry's MOU for Financial Inclusion, no concrete action has been developed in such area.

**5. To improve consumer confidence in financial institutions in Malawi, the Review proposes five key measures to strengthen consumer protection**. These are: (i) strengthen the institutional framework for consumer protection and financial literacy; (ii) improve disclosure of information for financial consumers; (iii) develop regulation of business practices of financial institutions; (iv) implement dispute resolution mechanisms for consumers; and (v) develop a multi-stakeholder financial education program for consumers.

**6. Regarding the <u>institutional framework</u>, there is need to address the potential conflicts between the RBM and the enforcers of the laws on consumer protection and on competition, and to strengthen the RBM's consumer protection unit.** It is strongly recommended that the Consumer Protection Act and the Competition and Fair Trading Act be amended so that there is no doubt that the RBM is the sole authority responsible for devising and enforcing consumer protection rules in the financial sector of Malawi. The creation of the RBM's Consumer Financial Education and Protection Unit was an important first step in the development of a financial consumer protection institutional framework. However, this Unit should be better equipped, and relocated outside the Micro-Finance and Capital Markets Supervision Department, so that it has clear authority over all financial segments and independence from prudential supervision.

**7. Although the RBM has the legal authority to delegate its supervisory powers to self-regulatory organizations, consumer protection supervision should only be delegated after careful evaluation of institutional capacities.** With the exception of the association of credit cooperatives and the Malawi Stock Exchange, financial industry associations do not have enough resources to monitor business practices of their respective members. In this context, it would be good to evaluate the institutional capacity of the microfinance industry associations to undertake consumer protection supervision. It is also important that the arrangements in the securities sector be clarified, since the new Securities Act does not provide a role for self-regulatory organizations

**8. In terms of <u>consumer disclosure</u>, the RBM should issue regulations that require financial institutions to provide clear, understandable, timely and standardized information to consumers.** The RBM should require all financial institutions to disclose the effective price or cost of financial products, using standard calculation methods, in all advertising, marketing and sales materials. This is particularly relevant for the microfinance industry, where providers have been using flat interest rates instead of reducing balance rates and some complaints have been

[2] Consumer protection is part of the statutory objectives of financial supervisory agencies in several countries like Austria, Colombia, Ireland, Singapore, Sweden and United Kingdom. According to a survey undertaken by CGAP and the World Bank, 99 countries (out of 142) reported that central banks or bank regulators are responsible for at least some aspect of financial consumer protection (see Ardic et al (2011)).

raised against their level of interest rates (although Microfinance Transparency has found that the average interest rate in the microfinance sector is generally in line with the cost of delivering financial services in Malawi). All financial institutions should also be required to provide consumers with a simple, short and standard "key facts statement" that summarizes the key terms and conditions of each financial contract. Consumers should also have access to full information on financial products or services they acquire, including terms and conditions, contract notes, insurance policies, notifications of changes in contract terms, statements of personal investment advice, periodic account statements (or alternative mechanisms to check balances and movements of accounts), etc. In Malawi it is also essential that information be disclosed in Chichewa and the main local language of the place where the financial product is offered to the consumer.

**9. The RBM should also consider publishing information to help consumers make well-informed decisions.** The RBM could publish tariff surveys or tables that include information on interest rates, fees, charges and commissions charged for the same service by different financial institutions. In several countries the promotion of clear, standardized and comparable disclosure to consumers have proven to be an effective mechanism to promote competition, bringing down the cost of financial products and services. The RBM could also prepare a glossary of key financial terms. For the implementation of consumer disclosure measures, it will be useful to have feedback not only from the financial industry but also from consumers, to make sure that they clearly understand the information presented to them.

**10. In the area of <u>regulation of business practices</u>, there is need to first resolve existing conflicts in three laws covering financial consumer protection issues.** Based upon the powers conferred by the Financial Services Act, the RBM is drafting directives dealing with consumer protection issues, which so far have not been covered by any specific financial sector regulation. However, these directives could potentially be declared invalid if they contravene provisions of general consumer protection and competition laws. This potential conflict needs to be resolved by first amending both general laws so that they do not apply to financial institutions, then ensuring that all relevant consumer protection provisions are included either in the current financial sector legislation or in the directives to be issued.

**11. The RBM should also regulate all types of institutions offering financial products and services in Malawi, and improve regulation of certain business practices.** There are several institutions receiving funds from the public and providing financial services that are not clearly regulated, and need to be brought into the formal financial supervisory authority (e.g. banking agents, state-owned development finance institutions, medical aide schemes). There is also need to establish a legal framework for payment services and mobile banking, including designating the RBM as the supervisor of any payment system, services and providers, and issuing relevant regulations on correspondent agents and electronic correspondent value. Given that mandatory credit life insurance is a common tying practice in Malawi, the RBM should evaluate whether this and other tying practices should be permitted at all or under specific circumstances only.

**12. Malawian consumers need to have access to an affordable and efficient mechanism that is able to handle and resolve their <u>complaints and disputes</u> against financial institutions.** As a starting point, all financial institutions should have a unit that is responsible of handling consumer inquiries and complaints only, establish internal procedures for complaints handling, and record complaints statistics that should be reported to the RBM. Furthermore, there seems to be consensus in Malawi that it would be useful to set up a financial services ombudsman, to resolve small consumer complaints that are not dealt with satisfactorily by financial institutions. The decisions of the ombudsman should be binding upon the financial institution, but not upon the consumer, who should always have the right to go to court if the ombudsman's decision is not satisfactory. However, further analysis is required to determine the most appropriate scheme for Malawi, taking into account issues of sustainability, accessibility for consumers, and capacity to make binding decisions to ensure the effectiveness of the system.

**13. Lastly, a multi-stakeholder financial education program should be developed in Malawi to improve financial consumer protection in the long run.** Government authorities, financial sector associations, consumer associations and private sector institutions should participate in the elaboration of the financial education program, continuing the work started by the taskforces on financial literacy set up by the Ministry of Finance (led by the RBM) and by the banking industry. As a first step, a nationally representative household survey of financial capability should be undertaken to have better information on levels of financial capability, consumer confidence and financial behavior, within different segments of the population. This survey will provide a baseline for the financial education program. Similar follow-up surveys should be undertaken every 3-5 years to measure the effect of the program and evaluate whether some adjustments are needed. Other useful tools to evaluate the results and impact of financial education initiatives are consumer testing, randomized controlled trials and consumer surveys.

**Table 1: List of Key Recommendations**

| Key Recommendations | Responsible | Outputs |
|---|---|---|
| ***Institutional Framework*** | | |
| Amend CPA and CFTA, and either amend FSA or issue directives to eliminate overlapping jurisdictions of RBM, CFTC and CPC. | RBM, MoJ, MoF, MoIT, Law Commission | Revised laws |
| Commission a functional review to assess the RBM-CFEP Unit's staff needs, increase the number of staff of this unit accordingly and relocate it outside the microfinance and capital markets department. | RBM | RBM statutes |
| ***Consumer Disclosure*** | | |
| Require financial institutions to disclose the effective price or cost of financial products, using standard calculation methods, in all advertising, marketing and sales materials. | RBM | RBM Directives |
| Require key facts statements of consumer loans and electronic fund transfers and remittances to be provided to consumers by all financial providers. | RBM, Industry & consumer associations | RBM Directives |
| Require insurers to provide a copy of the insurance policy to policyholders, and to follow specific disclosure requirements on premiums, fees, policy coverage and exclusions | RBM | RBM Directive |
| ***Business Practices*** | | |
| Have all financial institutions that receive funds from the public fully regulated and supervised (e.g. medical aid schemes, banking agents, state-owned development finance institutions, pension funds) | RBM, MoF, MoJ, Law Commission | New law, RBM Directive |
| Establish a legal framework for payment services and mobile banking, including designating RBM as the supervisor of all types of payment services and providers; provide a regime for electronic signatures. | RBM, MoF, MoJ, Law Commission | Amended/new Acts, RBM Directive |
| Allow for a cooling-off period during which new customers are allowed to revoke their contract without any penalty. | RBM | RBM Directive |
| ***Dispute Resolution*** | | |
| Require financial institutions to establish procedures for resolution of consumer complaints. | RBM | RBM Directive |
| ***Financial Literacy*** | | |
| Undertake a nationwide household survey of financial literacy. | RBM | Survey |
| Develop a broad-based action plan or program on financial capability | RBM, MoF | Program |

# I. Background on Malawian Household Finances

**14. The majority of Malawi's population lacks access to basic financial services**. As of December 2009, only 16 percent of the adult population had deposit accounts in the banking system, whereas only around one percent of the population had bank loans (see Table 1).

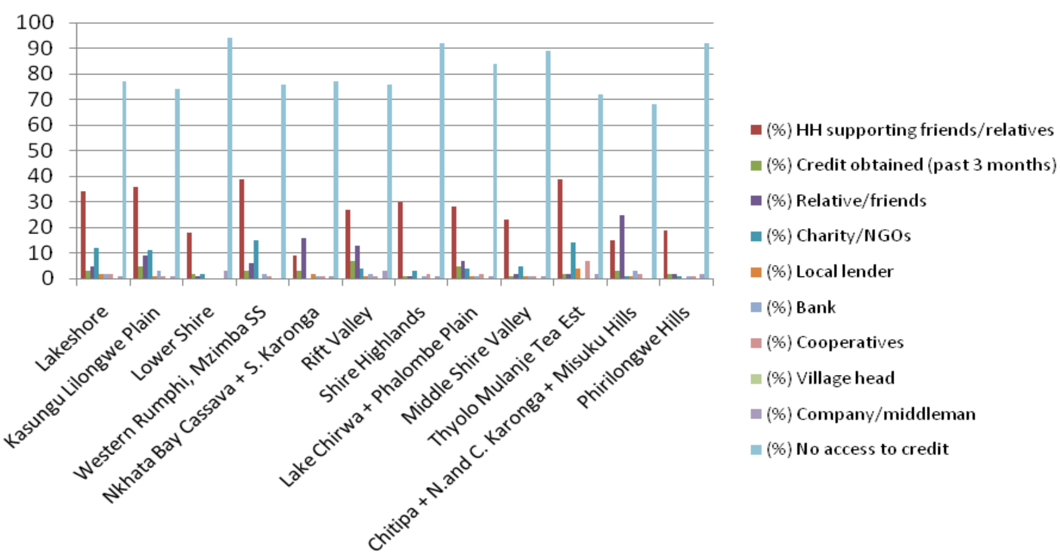
**Table 2: Number of Banking Accounts in Malawi and other African Countries**

| | Number of Accounts per 1,000 Adults | |
|---|---|---|
| **Country** | **Deposits** | **Loans** |
| South Africa | 839.1 | 96.0 |
| Namibia | 757.6 | 209.8 |
| Botswana | 479.4 | 212.1 |
| Kenya | 381.6 | 75.5 |
| Rwanda | 226.2 | n.a. |
| Uganda | 173.2 | 25.2 |
| **Malawi** | **163.4** | **16.5** |
| Zambia | 27.6 | 17.8 |

Source: CGAP (2010)

**15. Most of the Malawi population obtains credit from informal sources.** Malawians obtain finance typically from NGOs and charitable organizations, as well as from relatives, friends and village heads. Figure 1 compares the sources of financial support across regions and shows that individuals in remote areas such as Phirilongwe Hills have highest levels of financial exclusion. However, even those in major cities like Lilongwe have limited access to credit facilities.

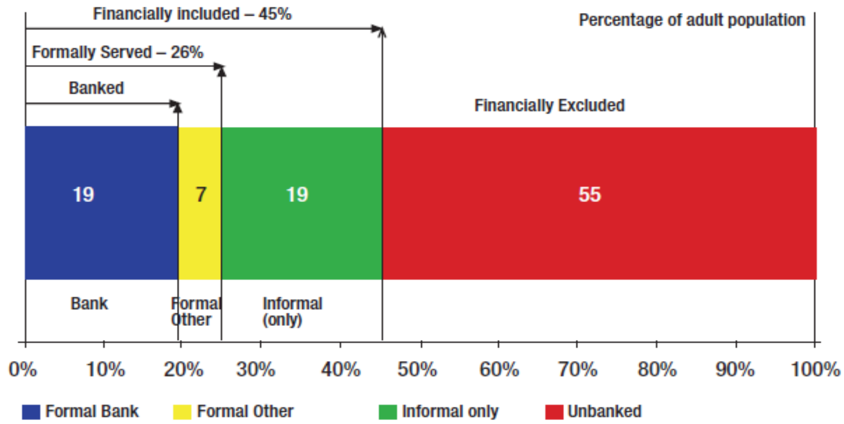
**Figure 1: Household Access to Credit Facility by Zone**




Source: CountrySTAT Malawi, National Statistical Office

**16. Estimates indicate that more than half of the adult population of Malawi does not use any formal or informal financial product.** According to the 2008 FinScope Survey, 55 percent of the population is financially excluded. Within the segment of the population that uses financial services, an equal percentage of adults (19%) use banks and informal mechanisms[3], whereas 7 percent use a financial product from a non-bank financial institution, such as microfinance institutions or insurance companies (see Figure 2). Around 22 percent of banked adults use bank accounts that are not registered in their names, including accounts of a spouse, parent, child, neighbors or friends.

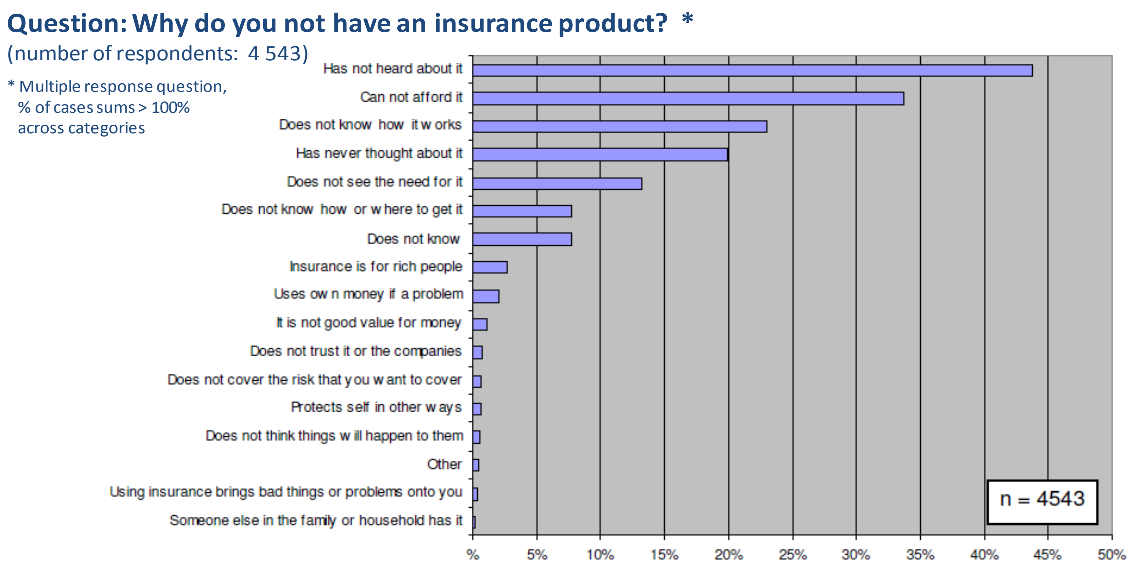
**Figure 2: Use of Financial Services in Malawi**




Source: FinScope Survey Malawi 2008

**17. Only three percent of adults have an insurance policy, mostly because they are not aware of insurance products or cannot afford them.** The most common insurance products acquired by Malawian consumers are motor insurance (1.5%) and medical insurance (1.2%). The main reasons why most Malawians do not have an insurance product are because they do not know about this type of product (44%) or they cannot afford it (34%) (Figure 3).

**Figure 3: Barriers to Insurance Access**



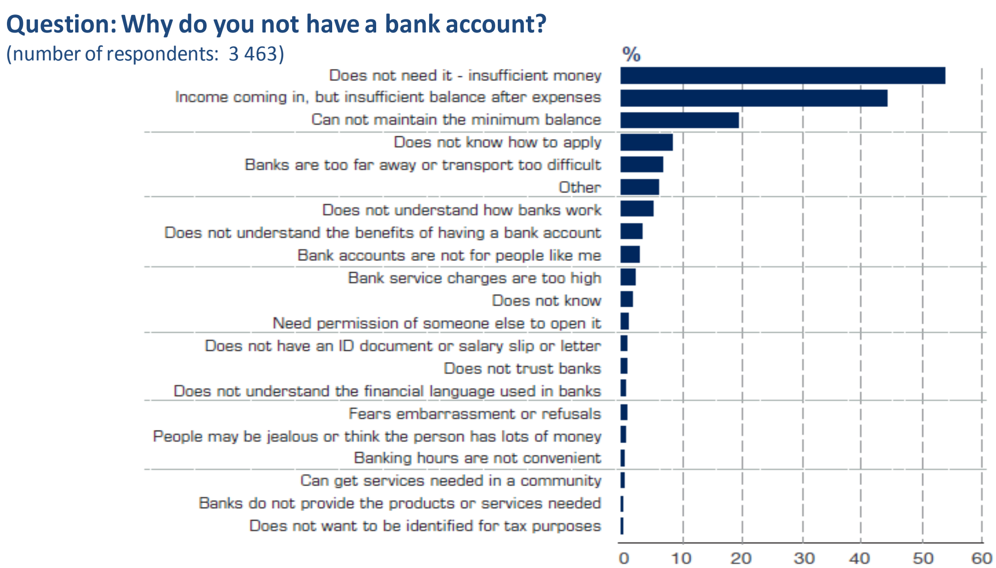

Source: FinScope Survey Malawi 2008

[3] Informal financial providers include *katapila* operators (informal lenders) and community-based rotating savings and credit associations.

**18. About three times as many Malawian consumers save money in their homes as those who save in banks.** Three quarters of adult respondents of the 2008 FinScope Survey save in cash or in kind (62% of adults save only in cash). About 80% of adults think that it is not safe to keep cash at home or to carry cash in their pockets. However, the majority of those who save money rather hide cash in a secret place at their homes (56%) than keep savings in a bank (17%).

**19. Although Malawians consider banks as safe places to keep their money, a relevant percentage of the population neither understands nor accepts the benefits of banking.** According to the 2008 FinScope Survey, of the people who had a bank account, 62% keep their money in bank accounts for protection from theft and 33% as a means of lessening the likelihood that their savings will get spent. The main reason people do not have bank accounts is their lack of funds generally (54%), being consistently unable to save anything after daily, weekly or monthly expenses. Interestingly enough, close to 10% of the population surveyed in 2008 did not have a bank account because they did not know how to apply for one and around 6% did not do so because they did not understand how banks work. At the same time, 5% did not understand the benefits of having a bank account and a similar percentage considered that banks were "not for people like me" (Figure 4).

**Figure 4: Barriers to Banking Access**




Source: FinScope Survey Malawi 2008

**20. Despite the low levels of financial inclusion, the population of Malawi are highly interested in learning about key financial concepts.** Around 75% of adults are interested in learning about how credit works, how to save money, how to start a business, and how to keep money safe. More than 50 percent of Malawians are also interested in learning how interest rates work and how to work out how much credit someone can afford to pay back.

**21. Available information on Malawi's household finances shows the need to improve financial literacy and consumer protection.** The lack of awareness of formal financial products and services, the limited understanding of the benefits of accessing and using the formal financial sector, as well as the Malawians' desire to learn how to keep their savings safe and well protected, show the relevance of a financial literacy and consumer protection program.

## II. Importance of Consumer Protection and Financial Literacy

**22. At its heart, the need for consumer protection arises from *an imbalance of power, information and resources* between consumers and their financial service providers, placing consumers at a disadvantage.** Consumer protection aims to address this market failure. Financial institutions know their products and services well, but individual retail consumers may find it difficult or costly to obtain sufficient information on their financial purchases. In addition, even when all relevant information is obtained, this might be difficult to process, understand and assess, especially in countries like Malawi where consumers have limited knowledge and experience using financial services.

**23. Financial consumer protection promotes the efficiency, transparency and deepening of retail financial markets.** Consumers who are empowered with information and basic rights—and who are aware of their responsibilities—provide an important source of market discipline to the financial system, encouraging financial institutions to compete by offering useful products and services, and to disclose information more transparently. In turn, this promotes consumer trust and engagement with the formal financial services market. Increased consumer trust as well as financial sector deepening and competitiveness are key elements for financial sector development in Malawi.

**24. Financial consumer protection is needed to ensure that expanded financial inclusion results in equitable growth.** Strong consumer protection helps to ensure that increased use of financial services benefits all consumers and does not create undue risk for households. Furthermore, weak financial consumer protection can cause the growth-promoting benefits of access to consumer financial products and services to be lost or greatly diminished. Weak protection combined with no appreciable financial literacy undermines consumers' confidence and public trust, thus either discouraging households from purchasing any financial products and services or increasing the likelihood that any financial product or service they purchase will fail to meet their needs and objectives.

**25. An efficient and well-regulated financial system should provide consumers with five key elements:**

(1) ***Transparency,*** by providing full, plain, adequate and comparable information about the prices, terms and conditions (and inherent risks) of financial products and services:
(2) ***Choice,*** by ensuring fair, non-coercive and reasonable practices in the selling and advertising of financial products and services, and collection of payments;
(3) ***Redress,*** by providing inexpensive and speedy mechanisms to address complaints and resolve disputes;
(4) ***Privacy,*** by ensuring protection over third-party access to personal financial information; and
(5) ***Trust,*** by ensuring that financial firms act professionally and deliver what they promise.

**26. Financial consumer protection is delivered in two ways: financial regulation and financial education.** Such financial regulation consists of market conduct regulation, i.e. laws and regulations regarding the business conduct of financial institutions in delivering financial products and services to consumers. These rules of conduct aim to ensure that consumers: (1) receive information to allow them to make informed decisions, (2) are not subject to unfair or deceptive practices and (3) have access to recourse mechanisms to resolve disputes. Such business conduct regulation includes *government regulation*, i.e. laws and regulations issued by government agencies such as financial supervisors and consumer protection agencies; and *self-regulation*, that is, the voluntary codes of conduct and other responsible finance practices adopted by industry associations as a means of encouraging improved business practices by financial institutions. *Financial education* consists of programs of financial literacy that help consumers understand the risks and rewards, as well as their rights and obligations, in using financial products and services, and that empower consumers to purchase financial products and services that best meet their needs and those of their families. Financial education and regulation are complementary and should be combined in a program of reform of financial consumer protection (as identified in Malawi's Financial Sector Development Strategy for 2010-2015). However, addressing the main weaknesses in consumer protection can be done quickly with immediate impact, whereas improving financial literacy and capability is inevitably a long-term effort, for which little, as yet, is clearly understood in terms of what works (and what does not) in improving financial behavior.[4] Financial education should, therefore, be encouraged, but it should be rigorously tested and evaluated and be viewed as a long-term investment.

**27. Financial regulation is needed, but the challenge is to strike the right balance between government regulation and the forces of market competition.** Government intervention should be considered when it is both feasible and cost-effective. Rules need to be proactive to prevent abuses and not simply react to problems of the past. In particular, this requires that violations of regulations are sufficiently punished with the aim at least of deterring future infringements. At the same time, undue regulation can stifle financial innovation. Regulators should strive for the highest standards of consumer protection without eliminating the beneficial effects of responsible innovation on consumer choice and access to credit.[5] Regulators should also be careful not to intervene in matters that are best dealt with through competitive market forces so as to avoid placing an undue regulatory burden on the industry. Whenever possible, the costs and benefits of proposed financial consumer protection reforms should be analyzed.

**28. Although self-regulation can be useful in improving the business practices of financial institutions, it should not be a substitute for government regulation to protect consumers.** Codes of conduct primarily act to complement financial regulation, particularly if the regulator (or supervisor) oversees the codes and reports on their effectiveness. However, particularly in developing countries, self-regulation is frequently ineffective since institutional capacities of industry associations are typically limited and financial markets are highly concentrated and dominated by a small number of institutions.

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[4] For a summary of several country programs see Mundy (May 2008) and for a summary of academic research on the limited effectiveness of financial education in the US, see Cole and Shastry (October 2007). Other studies that analyze the effects of financial education on consumer decision-making include Mandell (2009), Willis (November 2008), Klapper, Lusardi and Panos (March 2011). The World Bank's *Good Practices for Financial Consumer Protection* (March 2011) includes a brief summary of measures that have pointed to some success in financial education programs.

[5] Chairman Ben S. Bernanke's Speech *Financial Innovation and Consumer Protection* at the Federal Reserve System's Sixth Biennial Community Affairs Research Conference, Washington, D.C. April 17, 2009

# III. Consumer Protection and Financial Literacy in Malawi: Existing Policy and Institutional Framework

**29. Financial literacy and consumer protection have been identified as key elements of the Financial Sector Development Strategy for Malawi.** The overall policy objective of the Government of Malawi's Financial Sector Development Strategy for 2010 – 2015 is to build a financial sector which supports inclusive and sustainable growth. For this purpose, the Strategy has been divided in two stages, with the first one focused on financial inclusion and alignment of the financial sector with economic-growth sectors, and the second stage focused on financial deepening and competitiveness. Financial literacy has been identified as a type of policy intervention that cuts across both stages, whereas financial consumer protection is considered a key tool to make markets more transparent and to ensure that healthy competition takes place (second stage), as well as to maintain consumer confidence. Furthermore, the Financial Sector Development Strategy explicitly mentions the importance of: (1) adequate institutional arrangements to oversee consumer protection rules and to handle consumer complaints and disputes, (2) a legal and regulatory framework covering disclosure requirements and unfair and deceptive business practices, as well as (3) providing consumers with information on personal finance and consumer education concepts that empower them and help them exercise their consumer rights as well as spot and avoid fraud and deception.

**30. The Government of Malawi has also highlighted the importance of financial literacy and client protection in its financial inclusion strategy.** The Malawi National Strategy for Financial Inclusion 2010-2014 developed by the Ministry of Finance's FIMA Project identifies improved financial literacy and consumer protection as two key objectives at the consumer level. Recommended activities to achieve the financial literacy objective include conducting a baseline study on financial literacy, developing a strategy for financial literacy, establishing a national financial literacy network, developing tools and training manuals, providing training and delivering financial education. The activities to achieve the consumer protection objective include conducting a baseline study on consumer protection, enacting a consumer bill of rights, establishing a national consumer protection network, developing tools and training manuals, providing training and conducting a public awareness campaign.

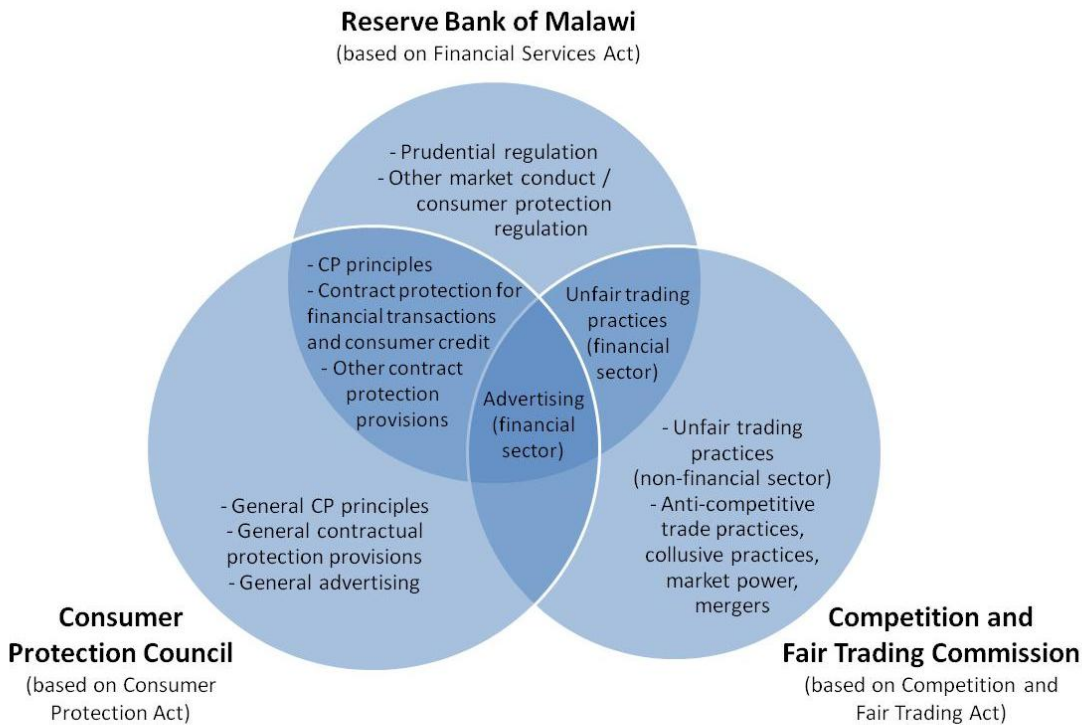
**31. To implement the National Strategy for Financial Inclusion, the Government of Malawi has set up a multi-stakeholder National Taskforce on Consumer Financial Education (NTCFE), under the leadership of the central bank.** The RBM is chair and champion of the NTCFE, which was established in June 2010. The taskforce also includes representatives of the financial industry (banks, insurance, microfinance associations and representatives of stockbrokers), government (Ministry of Education, Ministry of Industry and Trade, and Ministry of Gender), civil society (associations of consumers, small farmers, small business people, disabled persons), academia (University of Malawi, Mzuzu University, Bunda College, College of Accountancy) and the media. The NTCFE has developed a draft outline of a financial literacy action plan. The first-priority measure of the action plan is the carrying out of a financial literacy study.

**32. The banking industry has also identified financial literacy and consumer protection as key issues in promoting financial inclusion.** In February 2010 the Chief Executive Officers of commercial banks agreed to set up a Financial Inclusion Taskforce in charge of developing a strategic framework that will govern their approach to develop banking solutions for the unbanked but bankable population of Malawi. In September 2010 a draft MOU for Financial Inclusion was agreed by commercial banks. One of the 6 key objectives for the following five years is to *"develop a mutual relationship between banks and customers below the pyramid through financial literacy and customer research to increase confidence levels in banks from 54% to 75%".* The MoU has identified the following measures in the area of financial literacy: (1) each financial institution should contribute funds towards the financial literacy programme between the effective date of the charter and 2015; (2) the financial industry should lobby for the inclusion of financial literacy programs in the primary and secondary school curriculum (e.g. inclusion of the subject in the life skills subject matter, develop financial literacy clubs) to ensure the dissemination of financial education from the grassroots (e.g. teachers training colleges); (3) financial institutions should implement financial literacy initiatives that include consumer protection aspects to support the Financial Services Act regarding transparency and disclosure issues.

**33. The RBM has been given broad powers to issue directives on financial consumer protection and undertake enforcement measures against non-compliant financial institutions.** The RBM is the regulatory and supervisory authority for the entire financial sector, not only in terms of prudential supervision, but also market conduct and consumer protection. The Financial Services Act of 2010 gave the RBM the authority to deal with consumer protection issues, including improvement of consumer disclosure, regulation on unfair business practices, guidelines on complaint resolution mechanisms. The Act also provided the RBM with authority to undertake enforcement measures with non-compliant institutions, including administrative sanctions and monetary penalties. The RBM is currently drafting directives to implement the Financial Services Act in several areas, including financial consumer protection (e.g. requiring banks to disclose all costs clearly and to explain consequences of specific consumer behaviors such as penalty fees, loss of collateral). The Financial Services Act has been complemented by several new financial market laws that also include some consumer protection provisions (e.g. Banking Act, Financial Cooperatives Act, Insurance Act, Microfinance Act and Securities Act).

**34. At the same time, the Competition and Fair Trading Commission and the Consumer Protection Council have the authority to enforce consumer protection provisions and to undertake measures against financial institutions that violate them.** Although the RBM is the only financial sector supervisory authority, two other institutions have the legal authority to enforce consumer protection provisions included in two general laws and to issue sanctions against non-compliant financial institutions. The Competition and Fair Trading Act includes consumer protection provisions related to unfair trading practices and advertising, which are applicable to the financial sector. The enforcer of this Act is the Competition and Fair Trading Commission, but it has not been provided with resources to become fully operative yet. Also, the Consumer Protection Act includes two paragraphs specifically dealing with financial sector and many others applicable to all types of goods and services, including financial products and services. This Act provided for the creation of the Consumer Protection Council to enforce the Act. The Council has not been created yet, but work is in progress to amend the Consumer Protection Act and set up an enforcement arrangement. Figure 5 illustrates the sources of clash of the three authorities dealing with consumer protection issues.

**Figure 5: Overlapping Jurisdictions over Financial Consumer Protection**




**35. There are no mechanisms in place to provide consumers with access to non-expensive, effective and speedy redress.** Currently financial institutions are not required to establish internal procedures and mechanisms to handle consumer complaints. If a financial institution does not resolve a consumer complaint satisfactorily, the only option for a consumer is to seek redress in court. The Commercial Division of the High Court is regarded as the most expedient, but its costs are high. Moreover, the Court cannot deal with a case in which the sum in dispute is below MKW 2 million (around US$13,200). The General Division of the High Court handles cases below that threshold and its costs are lower, but the process usually takes 2-3 years. The Subordinate Courts handle disputes of up to MWK 2 million, but the typical consumer does not go to these courts, because they are slow and perceived as either lacking professional expertise or biased against consumers.

# IV. Key Findings and Recommendations

**36. The Diagnostic Review proposes that consumer protection in respect of financial products and services be strengthened in ways that improve consumer confidence in financial institutions.** Five key measures are recommended:

i) Improve disclosure of information for financial consumers;
ii) Strengthen the institutional framework for consumer protection and financial literacy;
iii) Develop regulation of business practices of all financial institutions;
iv) Implement dispute resolution mechanisms that are inexpensive, efficient and easy for consumers to use;
v) Develop a multi-stakeholder financial education program for consumers.

## *Consumer Disclosure*

**37. There are very few laws or regulations in Malawi that include specific requirements or guidelines for financial institutions to disclose information on financial products or services to consumers.** As a result, Malawian consumers do not have access to simple, comparable and easy-to-understand information on financial products and services they may acquire.

**38. Information about the cost of financial products is not clearly disclosed to Malawian consumers.** It is not uncommon practice in Malawi to see advertisements highlighting an apparently low credit interest rate, without specifying that the rate is expressed on a monthly rather than annual basis. In many other cases, the fees and charges (and the cost of compulsory insurance products) can significantly increase the cost of a financial product or service, to the point that the interest rate is no longer a useful indicator to compare different offers meaningfully. Furthermore, microfinance providers typically charge flat interest rates on their loans, rather than using the reducing balance method.

**39. The Consumer Protection Act includes general provisions on consumer disclosure, but no specific guidance has ever been provided in this regard.** Section 6 of this Act requires any supplier or trader of goods or services (i.e. financial institution) to provide consumers with true, sufficient, clear and timely information on goods and services that they offer. Section 35 also requires provision of true, sufficient, clear and timely information services offered, "to enable consumers to make proper, informed and reasonable choices." However, this Act has never been applied or enforced, and no guidance or regulation has been developed for the application of the specific disclosure requirement.

**40. The RBM has issued a Directive that requires banks to disclose information on rates, fees and charges, but the provisions dealing with frequency and standards of disclosure need improvement.** The recent Directive on Disclosure of Information by Banking Institutions requires banks to disclose such information as the base or prime lending rate including the bank's maximum spread above this rate, the deposit rate, and itemized fees and charges on all personal banking products and services (e.g. up to 21 items for personal current accounts and 6 for personal foreign exchange transactions). Non-compliance with this directive is subject to a penalty of up to MKW 500,000 (around US$ 3,000). However, this information is required to be published only twice a year, in at least two newspapers of wide circulation. Also, there is no guidance on how interest rates should be calculated and disclosed. Thus, the frequency and accuracy of the required information is not useful to consumers trying to compare different offers of financial products before making a decision.

**41. The RBM also requires banks to provide account statements to customers, but only twice a year and regarding loan accounts.** The Directive on Disclosure of Information by Banking Institutions requires banks to provide half yearly loan statements to all its borrowers indicating repayments to date, any other charges and balance outstanding. However, there is no requirement for banks to provide monthly statements of every account they operate for any individual; and typically, when customers ask for an account statement to be issued, the financial institutions charge a fee to the customer. In addition, there is no standard requirement regarding the content of a statement, whether in respect of a current, savings, loan or credit card account.

**42. In the securities sector, there are some legal and regulatory requirements on consumer disclosure.** For example, the Securities Act requires that a contract note be provided to the investor no later than the end of the next trading day after the contract was entered into, and that the note contains the information specified by the RBM. Although the RBM has not yet issued a new directive specifying such information, Regulation 19 issued under the old Capital Market Development (CMD) Act requires disclosure of details of the broker, the customer, the date of settlement, the securities and their price or the securities given in exchange and the rate or amount of commission. Also, CMD Regulation 23 requires a securities intermediary to send statements at least once every calendar quarter, describing securities positions, money balances and account activity; however, there is no requirement that statements indicate means to dispute the accuracy of transactions or be in an easy-to-read and understandable format. In addition, CMD Regulation 29 requires key information to be included in the terms and conditions of a client agreement with a securities intermediary (although there is no font-size or spacing requirement to facilitate easy reading), and CMD Regulation 31 requires an investment adviser to provide detailed information to a client (including a full description of investment advisory services and fees). According to the Securities Act, the CMD Regulations are relevant until they are revoked (to the extent that they are not inconsistent with the Securities Act).

**43. There are also very few limited provisions on disclosure included in laws and regulations for the insurance and the microfinance sectors.** For example, the Insurance Act requires polices to be in clear and uniform type and in font-size no smaller than 10 points. In the microfinance sector, the Financial Cooperatives Act and the Microfinance Act require credit cooperatives and microfinance providers, respectively, to disclose in their premises in writing information on the consumers' rights and responsibilities, the types and terms of financial products and services being offered, and the cost of borrowing.

**44. The RBM has drafted a directive that would require microfinance institutions to use the reducing balance method to calculate interest rates on their loans, in order to stop the current industry practice of using flat rates.** Microfinance practitioners argued that flat (or "straight line") interest rates are easier for consumers to understand, and easier for their information systems to process. However, provided there is standardized disclosure for the reducing balance method, along with simple and effective information given in person by providers, this information could be simple and understandable by customers with low levels of literacy. This issue is being partially addressed by the RBM in a draft directive. However, the directive seems to only focus on the calculation requirement, without providing specific guidance on how to calculate the interest rate and disclose it to consumers.

*Key recommendations*

**45. As a starting point, the RBM should require all financial institutions to disclose the effective price or cost of financial products and services, using standard calculation methods, in all advertising, marketing and sales materials.** This is particularly relevant for the offering of credit products, both by banks and non-bank microfinance institutions. In the microfinance industry, for example, the RBM is drafting a directive that would require microfinance providers to use the reducing balance method to calculate interest rates; this would be an important first step, but in addition to this requirement, the RBM should provide guidance on a standardized formula and formats for the disclosure of interest rates and total cost of loans.

**46. The RBM should also issue a Directive requiring financial institutions to provide consumers with a "key facts statement" that summarizes in plain language the key terms and conditions of the contract for any financial product or service.** The RBM could require financial institutions to provide a 1- or 2-page key facts statement written in easy-to-read print and plain language. The key facts statement would neither replace nor be a part of the terms and conditions for a financial product or service, but would be required to be given to the consumer to help him or her understand every essential term and condition. Such statement should clearly indicate all fees and charges related to a financial contract or product, as well as the mechanisms for recourse available to the consumer in the event of a complaint. It is also important that key facts statements be available in the language most spoken in the location where the financial product or service is offered. Examples of key facts statements include the EU's Standard European Consumer Credit Information, the US' Schumer Box for credit cards, Peru's *Hoja Resumen* (Summary Sheet), South Africa's Pre-Agreement Statement & Quotation for Small Credit Agreements, Ghana's Pre-Agreement Truth in Lending Disclosure Statement.

**47. To ensure comparability, key facts statements should be consistent for all types of institutions that provide a retail financial product or service.** While some financial institutions provide summary documents to their customers, there is no clear standard format used by all similar financial institutions. Such a standard format allows consumers to compare offers by different financial institutions (for example, all microfinance providers and banks that offer consumer loans). The key facts statements could be progressively developed for all basic retail financial products and services. First, formats should be developed for consumer loans and basic savings accounts, and later other formats developed for mortgage loans, retail insurance policies, collective investment funds and other retail products. The key facts statements should be developed by the RBM, in close collaboration with the financial industry associations. It would also be helpful to undertake consumer testing of every key facts statement in order to make sure that its content is easily understood by consumers and that the format covers all key information needed by them.

**48. Regarding consumer loans, the key facts statement should cover the most important terms and conditions, and the same format should be used by banks, microfinance institutions and financial cooperatives.** The key facts statement should follow a simple clear format that summarizes all the essential terms and conditions, which are provided in a separate document. The key facts statement should include: (1) the total amount of the credit; (2) the amounts of monthly payments; (3) the final maturity of the credit or investment; (4) the total amount of payments to be made; (5) all fees, including prepayment and overdue penalty fees, possible taxes for remittances, and any other charges that could be incurred; (6) any required deposits or advance payments; (7) if the interest rate is variable, the basis on which the calculation is made; (8) any additional insurance (such as personal mortgage insurance) that is required to maintain the credit; (9) any prepayment penalty; and (10) if the credit is used to finance a product, the cash price of the product without financing charges.

**49. It would also be useful to undertake consumer testing surveys to see how consumers understand the disclosure formats.** Recent experiences in countries like South Africa, and even markets as mature as the United States, have shown that consumers often do not clearly understand or know how to use the information on interest rates disclosed to them. The US Federal Reserve has conducted extensive testing of disclosure requirements to see how consumers understand the terminology and formats used by financial providers, especially for credit cards. The results of consumer testing were used to revise disclosure requirements.[6]

**50. The RBM could also publish tariff surveys or tables that include information on interest rates, fees, charges and commissions charged for the same service by different financial institutions.** Publication of such information is done by financial supervisory authorities in countries like Ireland and Peru. For example, the Irish Financial Regulator periodically compiles offers by different financial institutions and then issues its comparative tariff survey with a press

[6] See for example http://www.federalreserve.gov/newsevents/press/bcreg/20070523a.htm

release. The Superintendence of Banking, Insurance and Private Pension Funds of Peru publishes all the components of an indicator of effective cost of credit per financial institution on its website and national newspapers. Currently the RBM already requires banks to report the interest rates and charges of financial products and services twice a year, so the RBM could use this requirement as basis to elaborate and publish tariff surveys in a manner that is easily comparable, understandable and accessible for consumers.

**51. Alternatively consumer organizations could compile comparable pricing information and publish the survey.** The Consumers Association of Malawi (CAMA) has planned to develop campaigns to gather information on the disclosure offered to consumers in the premises of banks and microfinance institutions. As part of the campaign, CAMA would publish information of the cost of retail financial products and services in newspapers and online.

**52. It would also be helpful to use mystery shoppers to learn how retail customers are treated by financial institutions.** In some countries mystery shoppers are hired by the central bank or a consumer organization, with the objective of visiting financial institutions and reporting on the information that is provided to them when they walk into the offices of the financial institution as well as on the way the consumer is treated. Reports by mystery shoppers could help financial regulators see what additional changes may be needed in regulations as well as inform the management of financial institutions on the quality of their consumer services. In Malawi, CAMA has expressed interest in preparing reports on the experience of consumers going to financial institutions and asking for information on financial products and services. These reports are expected to be available online, published in newspapers and discussed in radio programs.

**53. Publication of comparable offers on standard consumer financial services has proven to be effective in reducing interest rates on consumer loans and improving quality of service.** Provision of comparable information from different financial institutions allow consumers to do accurate cost comparisons, and promotes increasing competition among financial service providers. The Superintendence of Banking, Insurance and Pension Funds of Peru, for example, found that online publication of consumer loan rates reduced the average consumer lending rate by 1000 basis points (or ten percentage points) at a time of stable interest rates.[7] A similar effect was seen in Cambodia regarding lending interest rates from microfinance institutions.

**54. Improved disclosure of comparable information would be particularly helpful in the microfinance sector, where complaints have been frequently raised against the high level of interest rates.** There is frequent discussion by the media, consumer associations and in the political sphere about the interest rates charged by microfinance institutions (MFIs) and savings and credit cooperatives (SACCOs). According to information collected by Microfinance Transparency, the average interest rate in the microfinance sector is within an acceptable price range of the rates charged by banks, considering the higher operational costs assumed by microfinance providers due to their labor-intensive underwriting methodology. However, it is widely known that many microfinance providers do charge more than the average credit institution, especially due to operational inefficiencies. Given that there are few instances where a community is served by only one microfinance provider, pushing for greater and more meaningful price transparency, as well as some greater level of product standardization, could show positive results.

**55. The RBM should prepare a glossary of key terms.** Financial services are characterized by complex and proprietary terms, developed by financial institutions, to differentiate their services

[7] See http://www.sbs.gob.pe

from those of their competitors. Preparation of a glossary of key terms and conditions would help consumers understand the nature of the financial service being purchased. Standardized terminology would also help organizations preparing comparative surveys of services offered by financial institutions. Consumer organizations should be consulted in the process of elaboration of the glossary, to ensure that it is written in plain language so that the average consumer can understand it. Glossaries of key terms have been developed by financial regulators in several countries. In Malawi, the RBM could publish the glossaries on its website, and financial institutions could publish the same glossary on their websites or at least have a link to the RBM's website. This information could then be retransmitted by newspapers or radio programs. Key terms could also be sent as text messages to financial consumers' mobile phones.

**56. Consumers should not only receive information at the moment of sale of a financial product, but also during the life of the contract of a financial product or service.** Consumers should have free access to monthly statements of transactions of their accounts. Even though the delivery of written paper statements might be challenging for consumers living in rural villages of Malawi, consideration should be given to alternative mechanisms so that consumers are able to check the balances and movements of their accounts (e.g. mini-statements that can be printed freely in ATMs or agents, text messages with basic statement information sent to the consumer's cell phone). Also, changes in interest rate or non-interest charges should be communicated to the consumers reasonably in advance of the date of the proposed change, and the customer should have the right to exit his contract without penalty if the change is not acceptable to the customer.[8]

**57. Consideration should be given to mechanisms that would facilitate disclosure of information to lower-income Malawians, especially those who are illiterate.** Current estimates indicate that 37 percent of the Malawian population is illiterate. Many of them are already using financial services or will do so in the near term, taking into account the recent efforts of financial institutions to expand their outreach, as well as a recent government directive requiring all public sector employees to be paid through the financial sector. Greater efforts should be made by the financial sector to ensure that this segment of the population is also provided with clear, simple and easy-to-understand information. Such efforts might include requiring that an officer of the financial institution clearly explains all key terms and conditions in the local language of the consumer; or promoting efforts of consumer associations to help illiterate consumers understand their contract terms or key facts statements. It is important to keep in mind that, as a principle, an illiterate financial consumer should still have the same rights to information as a literate consumer. Even if the consumer cannot read a written statement, he or she can ask a relative, friend or tribe leader to read the document. In addition, written or electronic information should be disclosed not only in English, but also in Chichewa or the main local language spoken in the location where a consumer enters into a contract with a financial institution.

**58. The RBM should issue rules on disclosure for investors related to contract notes, account statements and statements of personal advice.** The RBM should issue new disclosure rules that are based on, but expand, the disclosure requirements included in the Regulations of the repealed CMD Act. Key issues that need to be explicitly covered in such rules relate to the content of contract notes and statements of personal advice. In particular, there should be an obligation to provide an investor with a statement of personal advice and with warnings as to any limitations of the advice given and the risks involved. Disclosure rules should also require that investor account statements be prepared in an easy-to-read and understandable format, and that statements indicate means to dispute the accuracy of transactions.

[8] These provisions could be incorporated into the draft RBM Directive on Interest Rate Pricing and Unfair Practices by Banks.

**59. The RBM should also issue specific additional disclosure requirements for insurers.** At minimum, insurers should be required to provide not only a key facts statement, but also a copy of the insurance policy document to the policyholders, and to follow specific disclosure requirements on premiums, fees, policy coverage and exclusions. The insurance legislation should also specify that traditional life insurance savings policyholders shall receive statements of value at least annually and shall have mechanisms to dispute the accuracy of the statement.

## *Institutional Framework*

**60. The RBM has already set up a unit in charge of consumer protection and financial literacy issues.** The RBM is the regulatory and supervisory authority for the entire financial sector. The recent reform in the financial sector legislation allowed for an expansion of its scope of responsibilities, including not only prudential matters but also market conduct and consumer protection. As a result, the Consumer Financial Education and Protection Unit has been set up within the Micro-Finance and Capital Markets Supervision Department. Despite its location within the organizational structure of the RBM, the Unit is supposed to cover all financial segments.

**61. As explained in more detailed in Section III, there are overlapping jurisdictions of three authorities over financial consumer protection issues, namely the RBM, the Competition and Fair Trading Commission (CFTC) and the Consumer Protection Council (CPC).** Although the CPC has never been established and the CFTC has not yet been made fully operational, it is expected that an authority will soon be in charge of overseeing the Consumer Protection Act and the Competition and Fair Trading Act, after both Acts are amended. Both have consumer protection provisions that are applicable to the financial sector.

**62. There is lack of coordination between government policy authorities and the RBM regarding amendment of laws that apply to the financial sector.** Draft amendments to the Consumer Protection Act and the Competition and Fair Trading Act are underway, led by the Ministry of Industry and Trade, in coordination with the Ministry of Justice and the Law Commission, as well as the Malawi Communications Regulatory Authority. However, despite the fact that these two draft Acts inevitably cover financial services, the RBM had not been approached to participate in any discussions regarding the drafting of these legal amendments.

**63. Although there are general laws dealing with advertisements, no institution has been properly set up to monitor the enforcement of such laws.** The Consumer Protection Act has extensive provisions of general application dealing with advertising. The Competition and Fair Trading Act also includes provisions dealing with misleading or deceptive advertisement. However, as indicated above, the CPC has never been established and the CFTC has been hobbled by a lack of resources since its inception. As a result, there has been no application or enforcement of either the CPA or the CFTA.

**64. In terms of self-regulation, currently only the association of credit cooperatives (MUSCCO) and the Malawi Stock Exchange monitor business practices of their respective members.** The other financial industry associations do not have enough financial and human resources to play any monitoring role in this area. It is worth to note that the Securities Act does not provide a role for self-regulatory organizations (SROs) as opposed to the previous Capital Market Development Act, under which SRO arrangements for the capital market were developed.

**65. In terms of consumer organizations, CAMA plays a relevant role in raising awareness of financial consumer protection issues.** In several countries, some consumer associations deal with consumer education, consumer advice, dispute resolution and consumer representation in respect of financial services.[9] However, CAMA and other consumer associations in Malawi have very limited resources and capacity to carry out their missions.

*Key Recommendations*

**66. There is urgent need for enhanced coordination between government policy authorities and the RBM.** The RBM should be an active participant in discussions regarding the amendments of the Consumer Protection Act and the Competition and Fair Trading Act, as well as other similar discussions. The RBM should be invited to all relevant meetings, along with representatives of the Ministry of Justice, Ministry of Finance, Ministry of Industry and Trade, the Law Commission, etc.

**67. The potential conflicts between the RBM and the enforcers of the general laws on consumer protection and on competition should be addressed as a matter of urgency.** It is strongly recommended that whatever changes are to be made to the CPA and CFTA, they include the repeal of all consumer protection provisions applicable to the financial sector, in order for there to be no doubt that the authority for devising and enforcing consumer protection rules for all institutions in Malawi's financial sector solely relies on the RBM.

**68. The creation of the RBM's Consumer Financial Education and Protection (CFEP) Unit is an important first step, but the Unit should be staffed better and relocated outside a specialized prudential supervision department, in order to cover all financial segments.** The creation of the CFEP Unit has been identified as a first temporary measure, but the current scheme needs to improve in order to have an adequate institutional framework for financial consumer protection regime. First, the CFEP Unit needs minimum staff to make it operative (only two staff have been appointed as of July 2011). Secondly, the CFEP Unit should not be part of a department that only deals with microfinance and capital markets supervision. The CFEP Unit should cover all financial segments and be located outside the specialized supervision departments focused on prudential supervision. Then the CFEP Unit should develop manuals or guidelines on consumer protection supervision, which should consider the progressive use of market monitoring (e.g. advertising, news, website contents) and consumer research tools (e.g. mystery shopping, focus groups) to raise warning signs on financial institutions or products that need more attention from the RBM.

**69. The RBM should commission a functional review to assess the CFEP Unit's staff needs to adequately assume responsibilities for consumer protection supervision and regulation across the financial sector.** The review should help identify the most appropriate model for financial consumer protection supervision in Malawi, especially for non-bank credit institutions. The model could require strong collaboration between sector-specialized staff from the prudential supervision departments and staff with overall financial consumer protection expertise from the new CFEP Unit. The model could also require collaboration from industry associations and consumer organizations to help monitor retail business practices, report on non-compliance with

[9] For an overview of actions promoted by consumer associations worldwide regarding financial services, see http://www.consumersinternational.org/media/786610/our-money-our-rights-english-wcrd2011.pdf. For information of consumer associations in Europe, see http://ec.europa.eu/consumers/cons_org/associations/index_en.htm

codes of conduct, or publish comparative information on number of complaints, costs or conditions of products offered by financial institutions.

**70. Although the RBM has the legal authority to delegate its supervisory powers to SROs, market conduct/consumer protection supervision should only be delegated after careful evaluation of institutional capacities.** In particular, it would be good to evaluate the institutional capacity of the microfinance industry associations. It is also important that the arrangements in the securities sector be clarified, since the new Securities Act does not provide a role for SROs as opposed to the previous Capital Market Development Act, under which SRO arrangements were developed. It would also be important to encourage the creation of an association of brokers, and that the recently formed Life Insurance and Pensions Association formalizes its constitution.

**71. The Government of Malawi should support the strengthening of consumer organizations so that they play a bigger role in financial consumer protection.** Consumer organizations could play an important role by raising awareness of financial consumers' rights, monitoring business practices by mystery shopping, and giving advice to consumers, among other tasks. However, these organizations need to have access to more stable sources of funding that allow them to increase their staff, gain expertise and plan their activities. The Government should channel or provide seed funding to consumer associations that fulfill specific performance and governance criteria, for the implementation of concrete projects. The Government should also include consumer organizations in their consultative processes in order to ensure that the voice of consumers is heard during the formulation of financial services policies.

**72. Proper media coverage of consumer mistreatment by financial institutions may also be an effective tool in promoting consumer protection through "naming and shaming".** However, it is important that journalists be educated to understand and transmit information on financial issues accurately and adequately. An important role could be played here by the Association of Business Journalists of Malawi.

## *Regulation of Business Practices*

**73. Consumer protection in financial services is the domain of three laws.** Two statutes deal with consumer protection issues for all types of goods and services, including financial products and services: the Competition and Fair Trading Act of 1998 (CFTA) and the Consumer Protection Act of 2003 (CPA). Also the general financial sector law, namely the Financial Services Act of 2010 (FSA), includes some consumer protection provisions applicable to all types of financial products and services. The CFTA includes provisions prohibiting unfair trading practices generally, thus also within the financial sector. One of the explicit objectives of the CFTA is "to protect consumer welfare". In this context, the CFTA includes some consumer protection provisions, such as those in Article 43, which prohibit unfair trading practices by persons (including financial institutions) in relation to consumers. Although the CPA has never been applied and enforced, it includes specific provisions covering financial services besides general provisions that also apply to the financial sector. For example, Article 28 deals with banking and financial services and financial transactions, and the definition of "service" in Article 2 explicitly includes the provision of facilities in connection with insurance and banking.

**74. Currently in Malawi there are several institutions receiving funds from the public and providing financial services to consumers that are not in the remit of financial regulation or supervision.** They include state-owned development finance institutions, as well as providers of mobile banking services. Although in March 2011 the RBM issued "Guidelines for Mobile Payment Systems" covering non-bank-based payments originated through mobile phones, guidelines do not have the same enforcing power as laws, regulations or directives, and would not provide the RBM with authority to supervise nonbank entities that are not currently under its regulatory and supervisory scope. Although a Payment Systems Bill has been drafted, it has not yet been enacted. Regarding private pensions, the Pensions Act was finally enacted in March 2011, providing an overall legal framework for the operation of private pension companies. However, there is still need to develop subsequent regulations. Also, there is no clarity on whether medical aid schemes are regulated.

**75. Although the RBM could use the securities legislation to stop the activities of a pyramid operating in the securities market, there are gray areas where it would have more difficulty to stop fraudulent schemes.** In the case of a pyramid that sells a security without a license, the RBM could apply the securities legislation, which prohibits fraudulent activities. However, many pyramids do not fit clearly into the narrow definition of a security. For example, in the microfinance sector there have been reports of illegal deposit-taking and pyramid schemes that misled consumers by offering microfinance products that seemed legal, and ended up mixing *bona fide* providers with scammers. In addition, there seem to be several unlicensed brokers operating in Malawi.

**76. There are relevant codes of conduct applicable to the securities, insurance and microfinance industry of Malawi.** There is a statutory code of conduct for securities intermediaries and a voluntary code of conduct for the general insurance industry. Both of these cover several important consumer protection issues. The microfinance industry also has developed some codes of conduct, but they focus on financial performance and internal controls rather than market conduct.

**77. Currently there is no cooling-off period for any financial product or service in Malawi (except for contracts that have been entered into at a place other than the ordinary premises of the financial institution).** Cooling-off periods provide an effective method of protecting consumers from high-pressure sales tactics, such as doorstep selling of consumer loans. Cooling-off periods are also particularly important in a context where the terms and conditions of products and services are generally not available or cannot be compared.

**78. A frequent tying practice in Malawi is the requirement for borrowers to sign an insurance policy before receiving a credit without allowing the borrower to choose the insurance provider.** Such insurance usually covers whole life policies or disability policies. This practice is used by many credit institutions that: (1) set their own requirements as to insurance company qualifications and insurance coverage needed for consumer credits, (2) ensure that the insurance company is affiliated with the credit institution, and (3) do not inform the borrowers of these facts. Tying practices may weaken competition by: (1) raising costs and reducing customer mobility; (2) discouraging the entry of new players and growth of smaller players because customers are bound into buying several services from the same financial institution; (3) reducing price transparency and comparability among providers given that additional and perhaps unnecessary services are introduced in a transaction, thus concealing the true cost of the financial product.

*Key Recommendations*

**79. There is clear need to resolve the potential conflicts between the general laws on consumer protection and competition and the financial sector legislation, including**

**directives to be issued by the RBM.** Based upon the powers conferred by the FSA, the RBM is already drafting directives dealing with consumer protection issues, which so far have not been covered by any specific financial sector regulation. However, as things now stand, the wording of any Directive issued by the RBM that deals in any way with consumer protection runs the risk of being declared invalid if it contravenes any provision of the CFTA or the CPA. In this context, early consideration should be given to amending both Acts so that all references to financial institutions are removed and explicit provisions introduced to the effect that the unfair trading practice provisions of the CFTA and all of the provisions of the CPA do not apply to financial institutions. Alternatively, the CPA could be prescribed as a financial services law and, in accordance with the FSA, the market practice provisions in the FSA would prevail over those in the CPA. At the same time, the RBM should ensure that the rights of financial consumers remain protected by promulgating directives that cover the issues dealt with by the CPA and the CFTA, as long as such issues are deemed relevant for the conduct of financial institutions in their dealings with consumers. Otherwise, the RBM could opt for preparing a separate financial consumer protection law to be issued by Parliament.

**80. Having all financial institutions that receive funds of the public properly regulated and supervised is the first line of defense against unfair and aggressive business practices in the financial sector.** In this area, it is essential that adequate resources for the implementation of the new Pensions Act be provided to the RBM so as to enable there to be an effective regulatory framework for private pension companies. The RBM should also continue its efforts to develop an adequate legal framework that allows for the expansion of financial services through mobile banking and agent banking. Finally, the Insurance Act should be amended to make clear that it applies to medical aid services.

**81. The RBM should take a leading role in dealing with all types of financial pyramids, and have the authority to freeze assets of the operators of fraudulent schemes.** The penalties for operating, or being affiliated with, any type of pyramid scheme should be severe. Also, the RBM should be given increased powers to deal with pyramids, such as the legal authority to freeze assets of the operator of the scheme as needed to protect investors' assets.

**82. Disclosure of RBM's supervisory authority over a financial provider can also help in cracking down on financial frauds.** In their advertising, all financial providers should be obliged to state publicly that they are regulated—and to indicate that the RBM oversees them. In so doing, financial firms separate themselves in their advertising from financial pyramids and other frauds and help consumers decide which institutions are safe and reliable for purposes of entrusting their finances.

**83. It would also be helpful for the RBM to publish consumer alerts of possible frauds on several media channels**. Where all financial institutions are required to be licensed, the supervisory agencies can be effective in issuing consumer alerts. In this context, the RBM's recent proposal that "the public shall be sensitized of reports of illegal operators of microcredit agencies"[10] should be implemented. Making this information available by means that reach the poor and unsophisticated public is particularly important. The RBM can create a special section on its website for consumer alerts, and updates can be shared with the press or radio, so they get retransmitted to the general public. Mobile phones could also be used as a delivery channel.

[10] This provision is being proposed as part of the draft Directives on Microcredit Agencies and on Non-deposit Taking Microfinance Institutions.

**84. The RBM should evaluate whether tying and bundling practices should be permitted at all or in certain cases[11].** Given that a common practice in Malawi is to require borrowers to sign a life or disability insurance policy before receiving a credit (without being able to choose the provider), the RBM should analyze specific circumstances in which insurance can be required to be mandatory, especially life insurance (for example, mandatory property insurance for secured property might be permitted for a maximum period of 12 months). At a minimum tying practices should be discouraged where life cover is already held (such as through a pension scheme) and where the relevant loan is provided to a group of borrowers, which has its own peer dynamic to ensure repayment of loans.[12] Also, in the remittances market, money transfer operators should be prohibited from requiring their agents to sign exclusivity agreements with them. The consumer should always be free to choose the provider of a financial product or service. In terms of bundling practices, they should only be permissible by law if: (1) the consumer receives prior notice of the bundling in writing along with clear statements regarding the cost and nature of bundling, as well as what specifically is and is not covered; and (2) then the consumer agrees in writing to waive his or her right to proceed with the unbundled services.

**85. The RBM should set cooling-off periods for all consumer financial contracts, except securities and investment funds.** Cooling-off periods are particularly important for contracts with a long-term component, such as housing and mortgage loans. In such cases, the cooling-off period provides consumers the opportunity to study their loan agreements and make a final decision. During this period, the service provider is not permitted to change the terms of the agreement, without the approval of the customer. Cooling-off periods are also important for any service that has a large savings component. However, in the cases of securities and investment funds, rapid changes in market prices make unworkable any form of cooling-off period.

**86. All financial industry associations in Malawi should develop codes of conduct covering consumer protection issues.** First steps have been taken in the securities and general insurance industries, but more is needed. Once any code has been approved by a financial industry association, its members should be required to endorse the code, make it part of their internal regulations and then publicize it through appropriate means. At the time of on-site supervision of any institution, the RBM could review the extent to which the institution has been following its own internal regulations as required by the code of conduct. When an institution fails in any such respect, the RBM would then be in a position to make recommendations on the ways the institution could improve its compliance. While such recommendations would not be binding for the financial institution, those looking for ways to improve their business practices would likely welcome such recommendations and implement them voluntarily. The codes should also provide for mechanisms for consumers to employ in order to complain about non-compliance, including to their specific financial institution as well as to the relevant association. The association could then apply whatever sanctions exist in the code for misconduct or code violations.

**87. Codes of conduct should focus on minimum procedures needed to ensure fair and transparent relations with retail customers.** Codes of conduct address many internal issues for financial institutions but they should also highlight their rules on customer relations. They should

[11] Tying occurs when two or more products are sold together in a package and at least one of these products is not sold separately. Bundling occurs when two or more products are sold together in a package, although each of the products can also be purchased separately on the market.

[12] The draft RBM Directive on Interest Rate Pricing and Unfair Practices by Banks provides that consumers are not required to accept insurance products as a condition for obtaining a loan, except those for real estate mortgages and the financing of moveable property. The same Directive would also require banks to permit complete freedom to their consumers to name an insurer of their choice.

particularly address complaints handling issues, such as the number of days which the institution could take to respond to a routine customer complaint, the process for following up on complaints submitted to the institution, and mechanisms to oversee compliance with these procedures. The codes should also address business practices, such as requirements that representatives of financial institutions ask enough questions to ensure that the service being sold is suitable for the purchaser, and the length of time for maintaining customer records. Codes of conduct set an ethical tone for each financial institution and help to promote common responsible business practices in the financial sector, especially on client protection. In many jurisdictions, the compliance, monitoring and sanctioning provisions embedded in the codes of conduct have allowed for the creation of industry-based ombudsman schemes as enforcing mechanisms.

**88. Financial service providers should be required to gather sufficient information from a consumer to enable the provider to offer an appropriate financial product or service to the consumer.** The information collected from the consumer should be commensurate with the nature and complexity of the product or service either being proposed to, or sought by, the consumer. This is particularly important for the microfinance sector, where clients are usually less equipped to assess the risks and characteristics of different product offerings, and providers are not mandated to require any specific information from consumers. In the insurance sector, it is recommended that sales intermediaries and officers obtain consumer information through formal "fact finds" so as to assess the suitability of an insurance product for a consumer.

**89. Legislation should be enacted to protect the privacy, confidentiality and security of personal information of customers and to regulate the sharing of personal information with third parties.** Regarding credit reference bureaus, while the Registrar should have access to aggregated data on consumers, there should be clear rules and procedures concerning the release of any individual records, as opposed to the current unrestricted authority of the Registrar established under the Credit Reference Bureau Act. Also, securities legislation should specifically require market participants to inform investors of the sharing of their personal information and allow investors to opt out of information sharing.

**90. Improvements should be made in the legislation on credit reporting.** The Credit Reference Bureau Act of 2010 is not clear as to whether the credit report that can be provided to a consumer by a credit bureau would include only negative information or would also include positive information. A negative report would only cover information on delinquencies and defaults on credit payments. In contrast, a positive report would cover the entire credit history of the person concerned, including when they have repaid loans on time, which would allow a more complete picture of the repayment capacity of the person concerned and encourage its use by consumers. In addition, it will be useful to conduct consumer awareness campaigns to help consumers understand the implication of failure to pay on time and the impact of a bad credit record. Industry associations and the RBM could join efforts to provide additional information to consumers about the basics of a credit report, the importance of having an accurate credit report and the procedures to request corrections in credit reports**.**

**91. The Payment Systems Bill should be approved and regulations should be issued to deal with mobile banking services.** The Payments Systems Law should provide the RBM with regulatory and supervisory authority over any payment system, service and provider, independently from the commercial profile they have (including not only banks but also MFIs, mobile network operators and others). Regulations would then ensure that basic business conduct standards are established from the outset for banks and non-bank institutions operating through agents and offering correspondent electronic values, with the intent to protect current and potential consumers and maintain the levels of public confidence in financial services.

Regulations should at the minimum: (1) clarify that the provider is legally liable for regulatory compliance by its agents; (2) establish minimum clauses to be included in the agreements between agent and provider; (3) ensure effective disclosure in agent operations; (4) ensure liquidity and client ownership over funds collected against e-money issued by banks (when they are not considered bank deposits) and nonbanks; (5) set minimum standards for speedy and easy fund redemption schemes offering correspondent electronic values; (6) require providers to ensure reliability, availability, and safety of services; and (7) require providers to establish agent selection and training policies.

## *Dispute Resolution Mechanisms*

**92. Only a few Malawian consumers have ever formally raised disputes against financial institutions.** One of the main problems is that consumers usually do not have any idea of whom to contact within or outside a financial institution to solve a complaint or dispute. According to the consumer association, consumers usually do not feel empowered to raise any complaint against a financial institution, and do not receive any information about the procedures to raise a complaint. Within a financial institution, a consumer might be advised by the retail officer to talk with the office manager or even the CEO of the company. Even if the consumer is able to overcome the fear of talking with a senior official of the financial institution, the consumer might still have to wait for many, many hours to be attended. Eventually, the consumer would not know how many days it would take to receive an answer to his complain.

**93. Malawian consumers rarely go to courts when financial institutions do not resolve their complaints satisfactorily.** Some consumers might know that they can go to a General Division of the High Court —but there are only 4 in Malawi and they take on average 2-3 years to resolve a case. Other consumers might know of the Commercial Division of the High Court, but consumers usually do not have enough money to cover the high court fees and lawyer costs needed to have a case, or the amount in dispute might not be high enough to be dealt with by the court (above MKW 2 million or around US$13,200). There are Magistrate or Subordinate Courts with jurisdiction over complaints seeking relief in monetary terms of up to MWK 2 million, but the typical consumer does not go to these courts, because they are perceived as either lacking financial sector expertise or biased against consumers.

**94. Although several financial institutions have developed internal procedures to handle consumer complaints, there is no uniform practice in this area.** Information on complaints procedures and contact persons within the financial institutions is not necessarily disclosed to consumers when entering into a financial contract. There is no regulation requiring financial institutions to develop and publicize their internal complaints resolution procedures, to establish a contact person in the institution, or to provide complaints statistics to the RBM.[13] For general insurers, the Code of Business Practice provides that an insurer must disclose to insureds, and others on request, the procedures for complaint resolution (including complaints about intermediaries or representatives). However the Code does not set out details of how the dispute resolution procedures should be.

[13] The draft directives on Microcredit Agencies and Non-Deposit Taking Microfinance Institutions require all covered institutions to have in place complaints handling procedures, to record complaints information in a Complaints Register, and to share complaints statistics with the RBM.

**95. The FSA allows for the establishment of a third-party dispute resolution scheme for the financial sector.** The FSA gives the Registrar the power to require financial institutions to develop and implement a scheme to deal with complaints that were not satisfactorily resolved within the financial institution. This scheme would allow for a person independent of the institution that is the subject of the complaint, to issue a decision that would be binding on the institution but not on the customer.

*Key Recommendations*

**96. The RBM should require all financial institutions to establish detailed internal procedures to handle consumer complaints and to have a specific contact person or unit that is responsible of handling consumer inquiries and complaints only.** A regulation covering this issue has been drafted for microfinance institutions. Similar regulations should be issued to regulate other financial segments. In general, the RBM should require all financial institutions to: (1) have a written procedure for handling consumer complaints and include a summary of this procedure in the financial institution's general terms and conditions that are part of any agreement with customers; (2) provide the customer with detailed information of the department or person appointed by the financial institution to deal with any complaints; (3) provide the complainant with a regular written update on the progress of the investigation of his or her complaint; (4) inform the customer in writing of the outcome of the investigation within a maximum number of days; (5) explain in simple terms the nature of any offer of settlement made to the customer; (6) offer to treat any verbal complaint as a written complaint; (7) maintain up-to-date records of all complaints received, including information of the nature of the complaint, copies of the financial institution's responses and other relevant documents, including in respect of the action taken to resolve the complaint, whether resolution was achieved and, if so, on what basis; and (8) make these records available for review by the competent authorities. The industry associations should also develop recommendations on complaint handling procedures for their member institutions, and, especially in the microfinance sector, provide necessary technical assistance for the implementation of complaints mechanisms. The industry codes of conduct should include provisions on complaints handling procedures and then the associations could develop mechanisms to oversee compliance of members with such provisions. In several countries these mechanisms have allowed the creation of industry ombudsman schemes.

**97. Financial institutions should be required to provide the RBM with data on consumer complaints, and the RBM should analyze such statistics.** This information provides very valuable information for the RBM to conduct their consumer protection functions, and provides them with important warning signs, especially regarding reputational and operational risks. Based on the analysis of complaint statistics, the RBM could also set up programs that address the common problems identified in retail finance—by providing additional consumer education, working with local government administrations to provide advice to consumers in local centers, or improving disclosure requirements.

**98. Consideration should be given to establishing an independent ombudsman for retail financial services.** There is widespread support from the government, private sector and consumer movement to the idea of setting up an independent financial services ombudsman to resolve consumer complaints, up to a certain amount, that were not dealt with satisfactorily by financial institutions. The decisions of the ombudsman should be binding upon the financial institution, but not upon the consumer, who should always have the right to go to court if the ombudsman's decision does not satisfy him or her. Consumers whose complaints involve amounts above the ceiling established for the ombudsman would have to go to court.

**99. An assessment on the best institutional set-up of the ombudsman should be carried out**. The analysis should take into account issues of independence, sustainability, accessibility for consumers, and capacity to make binding decisions to ensure the effectiveness of the system. Several institutional options can be evaluated, following on successful international experiences (e.g. a scheme established by law to function as an independent institution, a requirement for financial institutions to join an RBM-approved ombudsman scheme with binding rules for all member institutions). Regardless of the way in which the scheme is established, it should be developed in close consultation with all relevant stakeholders including relevant Ministries, the financial industry, RBM and consumer representatives including those of CAMA.[14]

**100. To ensure the effectiveness of an ombudsman scheme, it is important to develop an outreach strategy from the outset.** The setup of a new institution always requires an important investment of funds and resources, and the setup of an ombudsman scheme is no exception. This is why there is need to ensure that the ombudsman operates effectively and plays an important role in the development of the financial sector in Malawi. A key element to ensure its effectiveness is that consumers actually use the scheme. For this matter, consumers need to know about the existence of the scheme and how they can use it, they should be able to access the scheme without much cost, and they finally need to trust the scheme. It is important that an adequate consumer awareness campaign is developed from the outset, explaining main aspects of the scheme. Consideration should be given on how to make the scheme more accessible to all consumers, including those living outside the main cities of Malawi. An idea to consider would be the organization of roadshows or workshops where representatives of the ombudsmen would go to rural communities or villages to explain their work, to listen to consumers and to assist them on raising formal complaints.

## *Financial Education*

**101. There is a general perception that consumers in Malawi are not aware of their rights and responsibilities as financial consumers, and that they are not able to understand basic financial products and services.** Some useful information has been obtained through the FinScope surveys regarding consumer attitudes and perceptions toward the financial sector, as shown in the Background section of this Volume. However there is need for a broad-based survey that provides further information in this area.

**102. Some initiatives have been undertaken in this area, especially by microfinance providers.** For example, MUSCCO requires member SACCOs to educate customers on money management and budgeting. Also, before microfinance loans are provided to solidarity groups (usually groups of women), many microfinance institutions, particularly those working in rural areas with small farmers and micro-entrepreneurs, conduct financial education with potential clients. These institutions usually require customers to attend a 4-hour training program over a 4-week period. However, it is not clear how much of this training focuses on financial management rather than the workings of a microfinance group loan, including when and how to make loan payments to the financial institution.

[14] Further guidance on this topic, based on experiences in Western Europe, is provided by Thomas and Frizon (2011) in the consultation draft *"Resolving disputes between consumers and financial businesses: Fundamentals for a financial ombudsman"*, available at www.worldbank.org/consumerprotection.

**103. Also one commercial bank specialized in microfinance has developed a financial education training program for its clients.** In 2004 Opportunity International Bank of Malawi (OIBM) launched its financial education training focused on debt management and loan repayment, and offered it as part of regular monthly group meetings between clients and credit officers. Based on direct feedback received from its clients and analysis of clients' post- training behavior, OIBM revised its training, expanding its scope of clients (borrowers and savers), as well as its content (adding modules on savings and budgeting) and delivery channels. Currently, a typical client is exposed to 6-8 hours of financial education training annually, starting with a brief 15-20 minute voluntary orientation training, followed by mandatory monthly meetings with credit officers (20–30 minutes each month), and voluntary quarterly financial education trainings conducted by financial education trainers (1-1.5 hours each). In addition, OIBM created financial education DVDs that are played in all its branches, and are targeted primarily to savings clients who usually visit banks less often.[15] OIBM also recently participated in a study conducted by Microfinance Opportunities, which used a Financial Diaries methodology to gather data on the financial lives of about 200 low-income households for 18 months over 2008-09. This study will help get useful insights on financial behavior and attitudes of microfinance consumers[16].

**104. At the banking industry level, all CEOs have agreed that financial literacy is key to promote financial inclusion.** In the 2010 MOU for Financial Inclusion agreed by all commercial banks, one of the key objectives for the following 5 years is to develop a mutual relationship between banks and low-income customers, through financial literacy and customer research, to increase consumer confidence in banks. Key measures that commercial banks agreed to undertake under the MOU were contributing funds towards a financial literacy program, lobbying for the inclusion of financial literacy in school curricula, and implementation of financial literacy initiatives to promote transparency and disclosure.

**105. At the government level, the National Taskforce on Consumer Financial Education was created in June 2010, under the leadership of the RBM.** As described in Section I of this Volume, the taskforce includes representatives of several stakeholders from the financial sector, government, civil society, academia and media. The taskforce has developed a draft outline financial literacy action plan, and its first priority is to undertake a financial literacy survey. In addition, the CPA requires that consumer protection be included in the school curriculum; however, no initiatives have been undertaken in this area yet.

*Key Recommendations*

**106. A nationwide household survey of financial capability should be undertaken in the near term, to have better information on levels of financial capability, consumer confidence and financial behavior.** A financial literacy survey has been identified as a high-priority short-term measure within the Malawi National Strategy for Financial Inclusion 2010-2014. The survey needs to be nationally representative and collect information that can identify characteristics from different segments of the population. This survey would provide with baseline information that

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[15] For further information, see: The Mastercard Foundation, "Taking Stock: Financial Education Initiatives for the Poor" (2011), available at http://www.themastercardfoundation.org/pdfs/TakingStockFinancial.pdf

[16] The objective of the study was to explore the extent to which OIBM was able to add value to the households it served through the introduction of a mobile "bank-on wheels" serving rural locations in Central Malawi. The study "Cash In, Cash Out: Financial Transactions and Access to Finance in Malawi" is available at http://microfinanceopportunities.org/docs/Malawi_Financial_Diaries_Report_2011.pdf

can be used for a general evaluation of the impact of a future consumer protection and financial literacy program.[17]

**107. A detailed national action plan on financial literacy should be developed in Malawi, with input from all relevant stakeholders currently members of the National Taskforce on Consumer Financial Education.** In developing financial capability programs, consultations will be helpful in order to take into account the perspectives of consumers and financial institutions. It is important that initial consultations developed within the NTCFE continue beyond the preparation of the action plan, promoting participation of all financial industry associations as well as CAMA, as representative of consumers.

**108. The action plan on financial literacy should use all available data on financial capability and consumer behavior to identify needs of different segments of the population.** The NTCFE should analyze the results of recent consumer research studies already undertaken in Malawi (e.g. FinScope survey, Microfinance Opportunities' financial diaries) as well as the planned financial literacy survey, to identify priorities for financial education and consumer awareness campaigns. The results of the survey and other studies should be segmented by urban and rural area, region, level of financial inclusion, gender, age, etc. This analysis would help identify the messages that might be better dealt with massive awareness campaigns that would also reach population segments that are financially excluded.

**109. It is important to consider traditional and non-traditional mechanisms to deliver financial education in Malawi.** Special attention should be paid to providing financial education to adults during "teachable moments", such as the time when a group of borrowers will obtain a group loan, the time a consumer signs a mortgage loan, or when an employee gets married or is going to have a child. The new government-to-person (G2P) payment program that requires government employees to be paid electronically could also be used as a mechanism to deliver financial education, especially to new financial sector users. Financial education programs could also be extended to migrants residing in Malawi and those who intend to leave the country, so that they learn about issues related to remittance transfers. Similar programs have been successfully undertaken in countries like Philippines, Bangladesh, India and Armenia.

**110. Financial education and consumer awareness campaigns should take advantage of non-traditional mechanisms; especially to reach out to financially excluded people.** Such mechanisms should include radio, cell phones, coordination with chiefs of villages, rural roadshows, among others. Among these mechanisms, radio is the most used across Malawi. Even the newspapers are generally read in several radio programs and heard by population in the local villages. Consumer awareness campaigns should focus on messages that would increase not only knowledge but also confidence in the financial sector. These would include, for example, simple messages on the benefits of saving, benefits of using a formal financial institution, specific rights of financial consumers (e.g. to complain or to receive clear information).

**111. Financial education programs in schools should be evaluated so that only the most effective are supported in the medium term.** General schools should equip boys and girls with basic financial knowledge and skills so as to prepare them for future activities in the financial marketplace. Basic principles of course-of-life planning and financial literacy (such as personal

[17] The World Bank, with funds from the Russia Financial Literacy and Financial Education Trust Fund, has developed a financial capability survey that is being tested in several developing countries across the globe. The World Bank is planning to fund the implementation of a nationally representative survey in Malawi based on the aforementioned survey methodology and questionnaire.

budgeting, consumer credit as a form of debt, risk-return tradeoffs, etc.) along with understanding of basic financial services (such as current and savings accounts, credit cards and personal loans) should be taught in schools. Opportunities to provide basic financial education need to be explored, at least as a pilot program, for students in primary and secondary schools. However, capacity of the education sector in the area of financial literacy development should also be evaluated. Initiatives that identify efficient ways to provide financial education in schools should be supported.

**112. Evaluation of the effectiveness of all financial education programs is needed.** International experience in financial education demonstrates that increasing the number of financial education programs and initiatives does not automatically lead to increases in the level of financial literacy or positive change in the behavior of consumers who have participated in these programs. It is important to introduce the practice of evaluating the results of educational programs so as to identify the ones that are most beneficial. Randomized controlled trials provide an effective means of determining the effectiveness of financial education programs, using controlled groups as a basis for comparison against the results of education programs provided to experimental groups. The programs which prove to be most beneficial should receive wide support and be widely publicized.

**113. Testing and surveys are critical tools in the evaluation of financial education programs and consumer protection initiatives.** It is important that a well designed broad-based nationwide household survey on financial literacy be undertaken every 3-5 years to measure the impact of financial literacy initiatives and evaluate whether financial education programs and consumer protection initiatives are working—or need to be revised further.

# V. List of Additional Recommendations

A list of recommendations (additional to those presented in the Executive Summary), classified as short, medium and long term is presented below:

| List of Recommendations | Responsible | Term | Outputs |
|---|---|---|---|
| ***Consumer Disclosure*** | | | |
| Share draft directives on interest rate pricing by banks and on disclosure of information to bank customers, with relevant stakeholders to make sure all key issues are included (e.g. notification of changes in interest rates or charges, bundling), and later promulgate them. | RBM | Short | RBM Directives |
| Provide minimum requirements on advertising and marketing materials. | RBM | Short | RBM Directives |
| Require financial institutions to disclose their regulatory status | RBM | Short | RBM Directive |
| Require key facts statements of other retail financial products to be provided to consumers by all financial providers. | RBM, Industry & consumer associations | Medium | RBM Directives, disclosure formats |
| Require that every new customer is given full disclosure of all relevant terms and conditions (in written or alternate form). | RBM | Medium | RBM Directive |
| Require provision of statements on all client accounts, including renewal notices mechanisms to dispute accuracy of statements. | RBM | Medium | RBM Directives |
| *Securities Sector*<br>● Require that investors be provided with a statement of advice.<br>● Regulate information to be included in a contract note.<br>● Revise the regulations on investor account statements.<br>● Review the prospectus requirements on licensing. | <br>RBM<br>RBM<br>RBM<br>RBM | <br>Medium<br>Medium<br>Medium<br>Long | RBM Directives |
| *Insurance Sector*<br>● Require insurers to disclose financial information, including claims payments statistics. | RBM | Medium | RBM Directive |
| *Banking Sector*<br>● Establish rules on the issuance and clearing of checks<br>● Establish issuance and disclosure rules for credit cards | <br>RBM<br>RBM | <br>Medium<br>Medium | RBM Directive |
| Draft directive on maintenance of customer records. | RBM | Long | RBM Directive |
| Publish comparison tables or tariff surveys on costs of financial products charged by different financial providers | RBM | Long | Surveys or tables |
| ***Institutional Framework*** | | | |
| Develop guidelines on consumer protection supervision, which should consider the progressive use of market monitoring and consumer research tools. | RBM | Short | Guidelines |
| Evaluate institutional capacity of self-regulatory organizations (e.g. microfinance industry associations) and develop mechanisms for the RBM to closely monitor SROs' activities. | RBM | Medium | Study, draft Directive / Guideline |
| Provide support to strengthen consumer organizations, for example by channeling or providing seed funding for specific projects to organizations that fulfill minimum criteria, and by including consumer organizations in consultative process. | Government, RBM | Medium | Guidelines |
| *Securities Sector*<br>● Clarify the regulatory status of FIMDA as self-regulatory | RBM | Medium | RBM |

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| organization.<br>● Encourage the development of an industry association for brokers. | RBM<br><br>RBM | | Directives |
| Encourage the Life Insurance and Pensions Association to formalize its Constitution and to develop a code of good business practice. | RBM, Life insurance association | Long | Constitution, Code |
| ***Business Practices*** | | | |
| Draft regulations on collection of adequate and reliable information from customers; including requirement of a "fact find" format, to be used to assess the suitability of an insurance product for a consumer. | RBM | Short | RBM Directives |
| *Securities Sector*<br>● Issue new regulations based on, and expanding, the investor protection provisions currently in the CMD Regulations.<br>● Clarify the legal status of the stock exchange listing rules. | RBM<br><br>RBM | Short<br><br>Short | RBM Directives |
| *Insurance Sector*<br>● Require all life insurance policies to be provided by a regulated life insurer.<br>● Require that all intermediaries inform consumers of the identity of the insurer for whom they are acting and the nature of relationship between insurer and intermediary, and regulate disclosure of commissions paid to intermediaries. | RBM<br><br>RBM | Short<br><br>Short | Revised Act or RBM Directive |
| Share draft directive on unfair practices by banks with relevant stakeholders for their comments, and later promulgate it. | RBM | Short | RBM Directive |
| Evaluate specific circumstances in which tying and bundling practices can be permitted (especially in life insurance, but also remittances). | RBM | Medium | Study, RBM Directive |
| Establish minimum competency requirements for staff of financial institutions dealing with consumers. | RBM | Medium | RBM Directive |
| *Insurance Sector*<br>● Provide that clients must be given an express right to select their insurers.<br>● Mandate minimum standards of coverage for general insurance policies.<br>● Require life insurance reserves to be held in trust and invested separately.<br>● Allow a linked insurance policy to be terminated when the relevant loan is repaid early, with a refund of premiums for the unexpired period of the loan term.<br>● Clarify priority order for policyholders in the winding-up of an insurer | RBM<br><br>RBM<br><br>RBM<br><br>RBM<br><br>RBM | Medium<br><br>Medium<br><br>Medium<br><br>Medium<br><br>Medium | Revised Act or RBM Directive |
| *Credit Reporting*<br>● Regulate the purposes for which credit reports can be used and disclosed.<br>● Prohibit collection of sensitive information and do not allow the Registrar to access any personalized information without consent.<br>● Amend CRB Act so that there is no charge to review information on credit files (unless there has been a request in the previous 12 months). | Government<br><br>Government<br><br>Government | Short<br><br>Medium<br><br>Long | Revised CRB Act, revised CRB Regulations |
| Give RBM increased powers to deal with financial pyramids, including authority to freeze assets of fraudulent schemes. | Government | Medium | Revised Act |
| Publish consumer alerts of possible financial frauds | RBM | Medium | Reports, webpage |

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| Improve the legal framework regarding foreclosure | RBM, MoF, MoJ, Law Commission | Medium | Revised Acts, RBM Directive |
| Develop and widely circulate codes of conduct covering consumer protection issues for each financial industry, and establish clear enforcement mechanisms. | Industry associations | Long | Code |
| Develop a new data protection law, or at least regulations on protection and confidentiality of financial consumers' personal data. | Government or RBM | Long | New Act or RBM Directive |
| Develop an affordable deposit insurance funding scheme that provides for timely refunds to depositors in case of bank liquidation. | RBM, MoF, MoJ, Law Commission | Long | New Act |
| Carry out a study on debt collection practices in Malawi and draft regulation covering registration and working methods of debt collection agencies. | RBM | Long | Study, RBM Directive |
| *Insurance Sector*<br>● Issue a directive on insured's rights and duties (e.g. good faith, insured's disclosure duty, insurable interests, notification of expiry of contracts of general insurance)<br>● Mandate standards of coverage for health insurance. | RBM | Long | RBM Directive |
| Update legal framework on bankruptcy of individuals | RBM, MoJ, Law Commission | Long | Revised Acts |
| ***Dispute Resolution*** | | | |
| Require financial institutions to collect data on consumer complaints, disputes and inquiries, and maintain a complaints register which should be available for inspection by RBM. | RBM | Medium | RBM Directive |
| Assess the need of the judiciary for capacity support to improve understanding of financial sector issues. | RBM, MoJ | Medium | Study |
| Establish an independent financial ombudsman scheme to handle complaints not solved internally by financial institutions; include campaign to strengthen its outreach. | RBM, MoF, MoJ, Law Commission | Long | New law, RBM Directive |
| ***Financial Literacy*** | | | |
| Identify priorities for financial education and consumer awareness activities, based on the results of available data (e.g. FinScope, financial diaries, financial literacy survey) | NTCFE | Short | Implemen-tation plan |
| Provide financial education and awareness information to consumers through the media | RBM, Industry associations, Association of business journalists | Medium | Informational materials |
| Provide reliable and objective information on financial sector issues to consumers (e.g. glossary of terms, brochures). | RBM | Medium | Informational materials |
| Implement surveys and regular evaluations to assess the impact of financial capability initiatives. | RBM, MoF | Long | Surveys and studies |

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