

NICARAGUA

Diagnostic Review of Consumer Protection in Financial Services

Volume I Key Findings and Recommendations

[December 2011]



THE WORLD BANK

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

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Abbreviations and Acronyms

ANAPRI	Nicaraguan Association of Private Insurers
ASOBANP	Association of Private Banks
ASOMIF	Nicaraguan Association of Microfinance Institutions
BCBS	Basel Committee on Banking Supervision
BIS	Bank for International Settlements
CDL	Consumer Defense Law
CGAP	Consultative Group to Assist the Poor
CONADECO	National Council for the Defense of the Rights of Consumers
CONAMI	National Microfinance Council
CPL	Competition Promotion Law
DDC	Department of Defense of the Consumer
DIRAC	Directorate of Alternative Dispute Resolution
EMC	Electronic Money Company
FIRST	Financial Sector Reform and Strengthening
GDP	Gross Domestic Product
IAIS	International Association of Insurance Supervisors
IFIMs	Microfinance Intermediary Financial Institutions
Infocoop	Nicaraguan Cooperative Development Institute
IOSCO	International Organization of Securities Commissions
Lideconic	Alliance for the Defense of Consumers of Nicaragua
MFIs	Large Microfinance Institutions
MIFIC	Ministry of Industry, Promotion and Commerce
NGO	Non-Government Organization
NIO	Nicaraguan Cordoba Oro
OAUSF	Office of Financial Customer Care
OECD	Organisation for Economic Co-operation and Development
Procompetencia	National Institute for the Promotion of Competition
Promifin	Financial Services Development Program for Low-Income Populations
RNDC	National Network of Consumer Protection
SCD	Swiss Cooperation in Central America
SIBOIF	Superintendence of Banks and Other Financial Institutions
US	United States of America
USAID	United States Agency for International Development

Currency Equivalence

(Foreign Exchange as of December 2011)

US\$1 = 22.9767 NIO

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 José Rutman, Guillermo Caal and Juan Infante (External consultants), Rafael Mazer (Consultant, CGAP) y Roberto Munster (Consultant, World Bank). The mission team was joined by Carlos Siézar (Financial Sector Specialist) of the World Bank Nicaragua office. Special thanks go to Michael Goldberg (Senior Private Sector Specialist) and Camille Nuamah (Country Manager for Nicaragua), as well as Sue Rutledge (Head of the Global Program on Consumer Protection and Financial Literacy), Lily Chu (Sector Manager, Latin America and the Caribbean Financial and Private Sector Development Department) and Aurora Ferrari (Service Line Manager, Micro and SME Finance).

The team expresses its appreciation to the Nicaraguan authorities for their cooperation and collaboration during the preparation of the Review, in particular to the Superintendencia of Banks and Other Financial Institutions (SIBOIF) and the Ministry of Industry, Promotion and Commerce (MIFIC). Detailed comments on the draft report were provided by SIBOIF. The project team would also like to thank all those who so generously contributed to the final report, including representatives of the financial industry, private sector, civil society and international organizations.

The team would also like to thank FIRST Initiative for providing funds to undertake this Diagnostic Review as part of the Nicaragua - Consumer Protection technical assistance project, and USAID for funding the translation into Spanish of the World Bank's Good Practices for Financial Consumer Protection.

Executive Summary

1. As financial markets develop, deepen and continue innovating, effective consumer protection and financial literacy are needed to address imbalances of power, information and resources between consumers and financial institutions. Financial institutions are very familiar with the terms and conditions of their financial products and services, but retail consumers may find it difficult or costly to obtain sufficient information on their financial purchases, or to assess complex financial products and services even when relevant information is disclosed. This issue has been exacerbated over the past years, especially because financial institutions have increasingly transferred financial exposures to households, which in turn became subject to new types of risks, such as those involved in borrowing in foreign currencies and at variable interest rates. Financial consumer protection is thus needed to ensure that expanded financial inclusion contributes to equitable growth. Weak protection undermines consumers' confidence and public trust, and discourages households from purchasing financial products and services—increasing the likelihood that the products and services they purchase fail to meet their needs and objectives, or that they forego potentially productive opportunities.

2. In order to improve Nicaraguan consumers' confidence in their financial institutions, the Diagnostic Review proposes strengthening consumer protection in five key areas. These five areas are: (i) the institutional framework for financial consumer protection; (ii) disclosure of information to consumers; (iii) effective regulation of business practices of financial institutions; (iv) a transparent system for financial consumers' complaints and dispute resolution; and (v) a coordinated program of financial education. The Review has been prepared based on a set of Good Practices, which were developed using existing international benchmarks such as the principles released by the Basel Committee on Banking Supervision (BCBS), the International Organization of Securities Commissions (IOSCO) and the International Association of Insurance Supervisors (IAIS), as well as the recommendations for financial education and awareness on pensions, insurance, and credit products developed by the Organisation for Economic Co-operation and Development (OECD).¹ The Review is presented in two volumes. Volume I summarizes the key findings and recommendations of the Review and Volume II provides a detailed assessment of the Nicaraguan consumer protection institutional, legal and regulatory framework compared to the Good Practices for three financial segments, namely banking, non-bank credit institutions, and insurance. Volume II also includes an Annex that analyzes the results of a field research with financial consumers in Nicaragua².

3. Firstly, it is worth noting the initial steps taken by the Nicaraguan Government to improve the institutional framework for financial consumer protection. The current legal framework gives SIBOIF clear responsibility in the field of consumer protection for credit cards and insurance, as well as microfinance operations conducted by financial companies under its supervision. In this context, SIBOIF established the Office of Financial Customer Care (OAUSF).

¹ The Good Practices incorporate provisions of EU Directives, as well as laws, regulations and codes of business practices of New Member States of the EU, United States, Australia, Canada, France, Ireland, Malaysia, Mexico, New Zealand, Peru and South Africa. While the Good Practices are based on successful experiences primarily of middle- and high-income countries, the basic ideas are of universal application and should be part of financial consumer protection strategies for countries worldwide. The *Good Practices for Financial Consumer Protection* and the country diagnostic reviews are available at www.worldbank.org/consumerprotection.

² Field research included 6 focus groups and 14 in-depth consumer interviews conducted in Nicaragua from September 23rd to September 28th, 2011.

Also, the Microfinance Law (Ley 769)³ created a new microfinance regulator, the National Microfinance Council (CONAMI), which will regulate and supervise a group of microfinance institutions, especially on issues of transparency and consumer protection. According to this Law, only microfinance institutions with net worth or equity of around \$200,000 are required to be registered under CONAMI. Smaller microfinance institutions may voluntarily apply to CONAMI to be registered, regulated and supervised (in order to obtain some economic benefits).

4. Despite this significant progress, Nicaragua still suffers from a fragmented institutional framework, with jurisdictional uncertainties and overlaps in the area of financial consumer protection. The Consumer Defense Law (Ley 182)⁴ neither states whether it is applicable to the financial sector, nor identifies the role of financial supervisors vis-à-vis MIFIC regarding consumer protection in the financial sector. Thus, the current legal framework does not give SIBOIF a clear responsibility for consumer protection in financial services, especially regarding operations other than credit cards, insurance and microcredit. In terms of the microfinance sector, the small microfinance institutions that do not voluntarily register with CONAMI would remain out of the scope of specialized financial regulation, and fall under the supervision of MIFIC (although this assignment is not clearly identified in the Consumer Defense Law). Regarding savings and credit cooperatives, although the Nicaraguan Cooperative Development Institute (Infocoop) has a dual mandate of promotion and supervision of the sector, it is currently focusing on promotion only; in any case, its statutes do not include any specific consumer protection mandate. In addition, the National Institute for the Promotion of Competition (Procompetencia) is the government agency responsible for enforcing the Competition Promotion Law (Ley 601)⁵ and sanctioning anticompetitive practices. However, the Law does not clearly state the role of Procompetencia vis-à-vis financial regulators regarding competition issues in the financial sector.

5. Therefore, it is essential that the institutional framework continue to be strengthened, and that the jurisdictional uncertainties and overlaps in the area of financial consumer protection be resolved. The Consumer Defense Law should be amended in order to include basic financial consumer protection principles that are applicable to all types of financial institutions. The Law should also clearly identify the specialized authorities responsible to apply such principles to all financial institutions under their supervision (SIBOIF and CONAMI), and to all the financial products they offer. At the same time, additional mechanisms should be developed to guarantee an adequate level of protection for clients of non-bank credit institutions that would remain out of the regulatory purview of CONAMI. These mechanisms may include the creation of self-regulatory schemes for cooperatives, as well as the expansion of CONAMI's mandate (including through delegated supervision). Additionally, the institutional capacity of the financial consumer protection supervisory authorities should be strengthened, and the legal responsibility of Procompetencia regarding financial sector issues should be clarified. At the same time, interinstitutional coordination should be improved, for example through the creation of a Steering Committee or a Working Group for financial consumer protection and financial education⁶.

³ Ley No. 769, *Ley de Fomento y Regulacion de las Microfinanzas*, published in La Gaceta No. 128, on July 11, 2011.

⁴ Ley No. 182, *Ley de Defensa de los Consumidores*, published in La Gaceta No. 213 on November 14, 1994.

⁵ Ley No. 601, *Ley de Promoción de la Competencia*, published in La Gaceta No. 206, on October 24, 2006.

⁶ The Committee should include senior representatives from institutions that have responsibility in improving financial consumer protection and financial education (e.g. SIBOIF, Central Bank of Nicaragua, MIFIC, CONAMI, Infocoop, Ministry of Education, industry associations and consumer associations).

6. Secondly, the recent crisis in the microfinance segment and increasing credit card debt issues have revealed several weaknesses in disclosure of information to consumers by financial institutions. As a consequence, a regulation on credit cards was recently issued, paying special attention to strengthening consumer disclosure by banks and all credit card issuers. Also, the new Law on Insurance (Ley 733)⁷ included key provisions on consumer disclosure. Nonetheless, similar provisions do not exist for other financial products. Consumer disclosure information is generally not presented in standardized or comparable formats, or using standardized calculations formulae. There are no comparative tables published in easily accessible form with information on the real cost of financial products. In addition, key information is not provided to consumers throughout the life of their financial contract (for example, consumers are not notified on changes in contract terms, which shall never occur in a bilateral contract that requires explicit manifestation of the willingness of both parties; and automatic renewals clauses are included in the contract, which consumers would not know of or remember given that also the majority of microfinance institutions do not provide consumers with a copy of their contract).

7. Consequently, there should be regulations requiring strengthened transparency of information for financial consumers. At a minimum, all financial institutions should be required to give a copy of their contract to their customer as soon as he/she signs the contract. Also, SIBOIF and CONAMI should consider the approval of model contracts or standard contract clauses for financial products and services, the prohibition of abusive contract clauses, as well as to promote that model contracts are available to the public (online or in the premises). SIBOIF should establish standards for the calculation of interest rates and require the use of indicators of total costs and returns for all types of financial products or services. These indicators should then be shared with CONAMI and MIFIC, so that they are also applied by all type of microfinance institution under their supervision. Additionally, all financial consumers should receive a simple key facts statement summarizing the main terms and conditions of a financial contract, in a single format that is defined by the financial supervisors, is used by all financial services providers, and allows easy comparison of different offers. To develop these formats, on consumer disclosure, financial regulators should collaborate among themselves and with financial industry associations and consumer organizations. It would also be useful to undertake consumer testing of those formats.

8. Thirdly, regulations should be issued to improve business practices of financial institutions vis-à-vis consumers. Particularly, there is the need for the establishment of basic rules for debt collection practices. CONAMI should issue regulations covering the protection of confidentiality and privacy of personal information in the microfinance segment. Also, CONAMI and SIBOIF should promote, and contribute to, the preparation of a Data Protection Law that would prevent or discourage the distribution of personal databases without the consent of the owners of these data (consent that could always be revoked), and would contribute to the development of an efficient credit reporting system. It is also important to promote the inclusion of credit information from all customers of microfinance institutions, including savings and credit cooperatives, and small microfinance institutions, in the credit registers –and the access to these registers by such institutions).

9. Fourthly, financial consumers need mechanisms that work for them in handling and solving their complaints and disputes, starting within the financial institutions. All financial

⁷ Ley No. 733. *Ley de Seguros, Reaseguros y Fianzas*, published in La Gaceta No. 162, on August 25, 2010.

institutions should be required to have a contact point and establish internal procedure manuals for handling all types of consumer inquiries, complaints and disputes. Financial institutions should also submit complaint statistics to their financial supervisors on a regular basis, who in turn should analyze this information and publish reports that analyze the most frequent types of complaints.

10. Financial customers should also have access to alternative dispute resolution mechanisms. Although the creation of OAUSF within SIBOIF is a good first step, SIBOIF is only authorized to deal with complaints on credit cards, insurance and operations from financial companies under its supervision. It is important that the faculties of SIBOIF be expanded to also handle inquiries and complaints regarding all types of financial products offered by financial entities under its supervision (by issuing regulations in this area, supported by an amendment to the Consumer Defense Law). Within the microfinance segment, CONAMI would also have the responsibility to receive and handle complaints from entities under its supervision. In the meantime, MIFIC is the responsible institution for such issues, but very few people are aware of this function. Consequently, it is important that public awareness campaigns be undertaken about the formal channels to deal with inquiries, complaints and disputes (including disclosure of information on these channels in the contracts), and that adequate coordination mechanisms be established among such channels. A first key measure would be the establishment of a hotline or telephone center for direct reception of inquiries, complaints and disputes from consumers, first in SIBOIF and later in CONAMI.

11. While financial education initiatives are underway, they suffer from a lack of coordination and are not based on a consensus-based national strategy. There is general agreement on the need to have a governmental institution leading the financial education agenda, with convoking powers over all relevant stakeholders. Such role could be assumed by the Central Bank of Nicaragua, with strong support from SIBOIF and MIFIC (and CONAMI when established). At the same time, a Working Group or Coordination Forum should be formed to implement a national financial education strategy, with participation of all relevant stakeholders from the public and private sectors and the civil society. From the private sector, it would be important to include Promifin-Swiss Cooperation (SCD), since they have been very active in financial education and could provide useful insights of their experiences in the field. The program should put special emphasis on women, as main customers within the microfinance segment, and on indigenous population at the Caribbean coast, which have the least access to financial services.

12. It is important to constantly evaluate the effectiveness of financial education programs in Nicaragua. It is recommendable that a national financial capability survey be undertaken, to serve as a baseline for the financial education program. The same survey should be undertaken every 3-5 years to measure and evaluate the results of the financial education initiatives. It is also important that from the outset some mechanisms be introduced to assess the results of financial education programs, such as through randomized controlled trials to identify the most effective programs to replicate them or scale them up.

I. Background of the Nicaraguan Financial Sector

13. The Nicaraguan financial system is dominated by the banking sector. As shown in Table 1, more than 90 per cent of the financial system assets correspond to the banking sector. The second most important segment is microfinance, which represents about 4 per cent of the Gross Domestic Product (GDP).

Table 1: Nicaraguan Financial System Assets

Financial Entities	2009			2010		
	million US\$	% GDP	% system	million US\$	% GDP	% system
Banks	3,826.9	61.59	90.64	4,189.7	63.95	92.09
Microfinance *	279.7	4.50	6.63	233.5	3.56	5.13
Insurance companies	100.5	1.62	2.38	108.3	1.65	2.38
Bonded warehouses	10.7	0.17	0.25	11.6	0.18	0.25
Securities trading	2.7	0.04	0.06	4.4	0.07	0.10
Stock exchange	1.1	0.02	0.03	1.7	0.03	0.04
Central depository	0.3	0.01	0.01	0.3	0.01	0.01
Total	4,222.0	67.94	100.00	4,549.5	69.44	100.00

* Information of microfinance institutions affiliated to the Nicaraguan Association of Microfinance Institutions (ASOMIF)
Source: SIBOIF and ASOMIF

14. The microfinance segment registered high annual growth rates in its credit portfolio until 2008, when the quality of the credit portfolio deteriorated significantly. Table 2 shows that the annual growth rate of the microfinance credit portfolio reached around 20 per cent in 2006 and 2007, whereas the banking sector grew at rates below half per cent. In 2008 the quality indicators of the microfinance credit portfolio started to deteriorate, increasing more than threefold its volumen (the non-performing loan ratio increased from 1.4% in 2007 to 4.6% in 2008, and the portfolio at risk went up from 2.4% to 6.2% en the same period). In 2009 the portfolio quality suffered even more, causing a reduction of the microfinance segment. Box 1 presents an explanation of the Non-Payment Movement in Nicaragua.

Table 2: Credit Portfolio Indicators of Banks and Microfinance institutions

	Dec-06	Dec-07	Dec-08	Dec-09	Dec-10
Non-performing loans / total gross credit					
Banks	2.1	2.5	3.0	3.3	3
Microfinance *	1.2	1.4	4.6	11.6	9.3
Portfolio at risk / total gross credit					
Banks	5.0	4.7	5.1	10.9	8
Microfinance *	1.5	2.4	6.2	14.9	13.8
Annual growth of total gross credit					
Banks	0.31	0.31	0.12	(0.06)	0.07
Microfinance *	19.90	21.90	12.90	(0.10)	(0.20)

* Information of microfinance institutions affiliated to ASOMIF
Source: SIBOIF and ASOMIF

Box 1: The International Financial Crisis and the Nicaraguan Non-Payment Movement

The year 2009 was the worst in terms of performance for microfinance providers in Nicaragua, due to the initial effects of the international financial crisis and the development of a debtors' movement called the Non-Payment Movement. For the first time in a decade, the number of customers and the volume of loans decreased significantly, reaching negative rates of growth of up to 22.5 and 16 per cent, respectively.

In Nicaragua, the annual average growth of the microfinance sector was above 20 per cent starting from the late 1990s until 2007, based on economic growth, relative abundance of funds and favorable conditions in the agricultural sector. This scenario encouraged a number of regulated and unregulated financial institutions to expand their services in the Central and Northern parts of the country. While the industry had relatively strong rural outreach compared to other Central American microfinance industries, increased competition and a large inflow of investor capital pushed the microfinance institutions to provide larger loans to a new group of clients by mid-2000s. This new loan activity was mainly for medium and large cattle producers (placing credits of up to US\$10,000 in larger volumes to the same segment of customers). Such expansion included target areas where several institutions had already placed a significant percentage of their loan portfolio (some up to 50%).

This situation changed dramatically with the impact of the economic crisis, which reduced aggregate demand and brought down the price of meat at the end of 2008, with a further deterioration in 2009. As a result, prices fell by 30 per cent, after a sharp rise in the first half of 2008, leading to a high threat of bankruptcy of cattle producers. In a short period of time, small producers (who serve as the breeders of calves) had their revenue reduced by up to 50 per cent. This situation was the result of a dual effect of slowing demand for cattle and less liquidity after a strong decline in credit due to increasing delinquencies in the sector (a lack of transparency on penalty fees contributed to this increase too). Financial service providers then took a policy of reducing the supply of credit in the agricultural sector, which further exacerbated the economic crisis.

The direct effects of this situation were a significant deterioration of the microfinance payment culture and changes in customers' financial strategies, since it provided clear evidence of the high level of over-indebtedness of various market segments: microentrepreneurs, producers and rural employees. Although there are no systematic data to facilitate measuring the levels of indebtedness, the context created by the aforementioned external and internal factors caused the surge of the social Non-Payment Movement in mid-2008. The movement was composed mainly of farmers who protested against the level of interest rates, which they considered as extremely high, and encouraged their followers to stop honoring their loan payment obligations. Although the main complaint of the farmers was about the high level of interest rates, it is recognized that their complaints were the result of: (i) the lack of transparency about disbursement conditions and commissions or additional charges that penalized the default of payments, and (ii) limited information about credit exposure of clients, explained by aggressive selling practices of microfinance institutions (somewhat motivated by pressure from foreign investors to find profitable ways to use funding).

In order to find a solution to the crisis, the National Assembly passed in 2010, the Moratorium Act, for those debtors who had defaulted on payments up to June 2009, giving a maximum deadline of 120 days for customers to approach their microfinance institution, express the willingness to renegotiate the debt and complete the renegotiation process. This Act provided a grace period of six months with no interest and a restructuring period of up to five years for loans with an interest rate no greater than 16 percent. According to ASOMIF data as of early 2011, from about 10,000 delinquent customers that participated in the Non-Payment Movement, only around 400 had approached their institutions to restructure their debts.

Currently, commodity prices have regained momentum and the Non-Payment Movement in Nicaragua does not have the strength or the number of people at its peak. However, the effect that it brought to the microfinance sector in Nicaragua has been profound. Financially, the common consequence in the microfinance sector was a decline in the number of customers, loan portfolio and profitability, an increase in past-due loans, and liquidity constraints. At a social level, the projected image of the microfinance sector was damaged, with microfinance institutions becoming relatively unpopular.

Despite this, the various actors agree that the approval of the Law on the Development and Regulation of Microfinance, the improvement of mechanisms for analysis and evaluation of the customer's ability to pay, the establishment of practices to strengthen transparency and protection of rights of microfinance consumers, and a Financial Education strategy with a responsible role of the government in these areas, will be key elements that will improve the environment and strengthen the microfinance sector in Nicaragua over the next few years.

15. Although there are no precise data on the degree of access to financial services in Nicaragua, it is estimated that a significant share of the population does not have any financial service. For example, the number of customers served by the microfinance institutions affiliated by ASOMIF as of December of 2010 was around 265 thousand, which would represent an estimate of 8 per cent of the adult population and 10 per cent of the employed labor force.⁸

16. Regarding the distribution of the credit portfolio per economic activity, the banking segment registered a reduction of the share of consumer credits between 2009 and 2010. This reduction was led by credit cards and extrafinancing. The housing and mortgage portfolio also slightly decreased in the same period. At the same time, the microfinance segment registered a slight growth in terms of both consumer and housing loans, as indicated in Table 3.

Table 3: Distribution of the Credit Portfolios by Economic Activity

Economic Activity	Banks		Microfinance *	
	2009	2010	2009	2010
Commerce	35.7	36.7	23.5	26.8
Housing	15.6	15.1	10.9	11.8
Agriculture	9.5	11.5	22.0	18.5
Industry	9.5	10.9	1.2	1.6
Consumption			6.0	7.9
Personal loans	10.1	10.3		
Credit cards	10.7	8.8		
Extrafinancing	5.0	3.7		
Pecuary	3.5	2.5	32.4	28.8
Services			2.9	3.9
Otros	0.5	0.6	1.1	0.8

* Information of Microfinance institutions affiliated to ASOMIF
Source: SIBOIF and ASOMIF

17. It is worth to note that in the microfinance segment, the number of women represents around 60 per cent of the total number of customers. At the same time, the total amount of credit owed by women represented around 50 per cent of the total credit portfolio between 2008 and mid-2010, but since late 2010 the share fell to around 43 per cent. In general, it can be inferred that the amount owed by female customers is lower than the amount owed by male customers. In terms of economic activity, there is a strong female presence in the commercial credit portfolio, whereas in terms of maturity, they are more active in short term loans (see Table 4).

Table 4: Women's Participation in the Microfinance Credit Portfolio

Loans by Economic Activity	% volume	% clients	Loans by Maturity	% volume	% clients
Commerce	64%	80%	Up to 6 months	72%	81%
Housing	57%	60%	7-12 months	44%	56%
Agriculture	27%	38%	13-18 months	43%	52%
Industry	24%	37%	19-24 months	39%	51%
Consumption	51%	58%	> 24 months	37%	46%
Pecuary	24%	37%	Total	43%	61%
Services	46%	66%			
Fishing	18%	25%			
Others	64%	80%			
Total	43%	61%			

Source: ASOMIF

⁸ Estimated based on information from ASOMIF and the National Institute of Statistics and Census.

18. While there is no much information about problems faced by financial and particularly microfinance consumers, market research conducted under this diagnosis illustrates some of these problems. Box 2 summarizes the results of market research, and more information is available in the Annex of Volume II.

Box 2: Summary of Results of Market Research on Financial Consumer Protection

This market research consisted of conducting 6 focus groups and 14 in-depth interviews with consumers in Managua, the Teustepe region, and San Rafael del Norte.

With regard to **financial capability and decision-making** in general the market research participants were able to evaluate financial products, and to explain the terms of the products that helped them in their decision process. At the same time, members of cooperatives showed greater capacity to analyze financial products than other financial customers, while rural and lower income customers showed lower capacity (for example, in rural areas, several respondents followed the behavior of members recognized as more capable, instead of doing their own assessment). Consumers acknowledged receiving some type of financial training from their non-bank lender. However, the main training tool for many consumers was its own financial experience. For example, credit card users admitted having been "*entangled*" in trouble with credit card debt and, therefore, had chosen to use cards "*only for payment of energy bills, to keep it active in case of an emergency.*"

Regarding the issue of **transparency of information**, an important finding was that the document more relevant for respondents to make a financial decision is the payment schedule. However, since different institutions use different formats, respondents found it difficult to compare different proposals. Moreover, in several cases, respondents did not find clear information about moratorium charges in the payment schedules. Other problem reported by consumers was the charge of unexpected fees or charges found in the "*fine print*" of the contract and that people were not aware of (for example, charges for legal services related to delayed payments, and other costs related to collection of arrears). Additionally, respondents indicated that financial institutions do not usually give a copy of the credit agreement. Indeed, only 3 people from over 50 respondents reported having received a copy of the contract. One person highlighted the importance of having such a copy in case of problems with financial institutions, because "*when you make a complaint, the first thing you are asked for is that paper.*"

Respondents also mentioned problems with **business practices** of financial institutions. One of the main complaints referred to the long waiting time for customers until the lawyer is able to attend them and to deliver and explain the contract of a financial product, and then the short time granted by the financial institutions for the client to read and sign the contract. Another type of complaint referred to penalty charges for early repayment of debts. As for specific complaints about banks, several respondents indicated not feeling "*welcome*" or "*treated with respect*" when they enter the bank offices. Also, a group of respondents complained about the requirements requested by banks, such as collateral and minimum capital. These complaints may explain the lack of **confidence** in banks by most respondents. On the contrary, most respondents expressed a high level of confidence in the officers of non-bank lenders.

In terms of resolution of **complaints and disputes**, most respondents had no idea where to go for assistance in case of problems with financial institutions. Customers mentioned that in most institutions there is no box for complaints and suggestions, and that they generally find it difficult to talk to any officer who can help solve a problem. Moreover, few respondents were aware of resources available outside of financial institutions. Some knew of the NGO National Network for Consumer Protection, but few had gone there. Some also mentioned the Consumer Protection Division (at MIFIC), but emphasized the difficulty of accessing it, especially in the rural areas ("*I know of the consumer affairs office, but it only exists in the cities*"), or lack of awareness of its role in financial matters ("*I heard of the famous Consumer Center, but they are more for basic services, not finance*").

II. Importance of Consumer protection and Financial Literacy

19. 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 schemes aim to address this market failure. Financial institutions know their products and services well—and know how to market their benefits to consumers—, but individual retail consumers may find it difficult or costly to obtain sufficient information on the financial products or services they would like to purchase. In addition, even when all relevant information is available, this could be difficult to process, understand and assess, especially in countries like Nicaragua where consumers have limited knowledge and experience using financial services.

20. Financial consumer protection promotes efficiency, transparency and deepening of retail financial markets. Consumers empowered with information and basic rights –and aware of their responsibilities– constitute an important source of market discipline for the financial system, since they encourage financial institutions to compete offering useful products and services, and to disclose information more transparently. At the same time, this makes consumers become more confident and go to formal financial markets. Increased consumer confidence and greater deepening and competition in the financial system are key elements for financial sector development in Nicaragua.

21. 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, or will even harm them economically (e.g. in cases of overindebtedness).

22. 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.

23. 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. Such business conduct regulation has the objective of ensuring that consumers: (1) receive information that allows them to make well-informed

financial decision; (2) are not subject to unfair or misleading practices, and (3) have access to dispute resolution mechanisms. This business conduct regulation includes: *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. Also, financial regulation needs to be supported by adequate mechanisms of supervision which would ensure that all financial users benefit from the regulatory framework, and that regulatory enforcement is equally applied to all financial providers (so that there is a level playing field). *Financial education* consists of programs of financial literacy to help consumers understand the risks and rewards, as well as their rights and obligations, in using financial products and services, and to empower consumers to acquire those financial products and services that better suit their needs. Financial education and regulation are complementary and should be combined in a program of reform of financial consumer protection. 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.⁹ Financial education should, therefore, be encouraged, but it should be rigorously tested and evaluated and be viewed as a long-term investment.

24. 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. 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.

25. 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.

⁹ Techniques of delivering financial education have been tested in several countries over the last 30 years, but their impact on levels of financial literacy is still unclear. For a summary of several country programs see Shaun 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 analysts go further and argue that financial education fails to improve consumer decision-making and may even be harmful by developing consumer over-confidence (see Willis (November 2008)). However, most analysts agree that both consumer protection and financial education are needed.

III. Consumer Protection and Financial Education in Nicaragua: General Legal and Institutional Framework

26. The legal consumer protection framework does not specifically and unobjectionably address financial consumer protection. The Consumer Defense Law (CDL) includes, in general, the protection of retail products and services, and gives jurisdiction over this matter to the Ministry of Industry, Development and Trade (MIFIC). The CDL indicates that it covers all juridic acts undertaken between two parties in a transaction in their capacity of supplier and consumer, *whatever the class of public or private goods or services provided* (which would cover financial products and services), except those provided under an employment relationship and the professional services regulated by another law (which could leave regulated financial activities out of its scope). In addition, the CDL does not include a specific chapter that refers to the punctual relationship between a consumer and a financial services provider (Article 25 covers only credit sale transactions). Thus, the CDL does not indicate in a clear and indisputable manner whether it covers financial products and services.

27. Under the framework of the CDL, MIFIC created an internal unit to monitor its compliance. MIFIC's Department of Defense of the Consumer (DDC) is responsible of enforcing compliance of consumer protection norms in Nicaragua. Its activities focus mainly on regulation of medical industry and handling complaints and disputes from consumers of basic services. The DDC also receives complaints and disputes about financial products and services. Generally, the DDC forwards complaints and disputes received from users of the financial institutions supervised by the SIBOIF to this agency. The DDC handles by itself those complaints and disputes from users of financial institutions not supervised by the SIBOIF (microfinance institutions, savings and credit cooperatives, commercial stores).

28. On the other hand, SIBOIF created an internal unit responsible for handling complaints and disputes of users of credit card and some users of microcredi, following the Credit Card Act. This Act includes important consumer protection provisions related to contracts, transparency of information, handling of complaints, among others, and gives the SIBOIF responsibility to ensure its compliance. In this context, the SIBOIF created in July 2010 the Office of Financial Customer Care (OAUSF), attached to the Legal Department. OAUSF's function is to receive, handle and monitor complaints or disputes submitted to the SIBOIF by users of credit cards and microcredit operations offered by institutions under SIBOIF's supervision (including banks and finance companies). The OAUSF was formed as a second instance to which financial users can submit their complaints after having filed them with the financial institution and not having recieved a satisfactory answer¹⁰. In practice, OAUSF handles all complaints presented by consumers of the entities under SIBOIF's supervision. Also, there is adequate coordination with MIFIC so that complaints and grievances on credit cards are referred to the OAUSF, while cases related to other bank products are treated in coordination by both entities. However, OAUSF's capacity is already being stretched to meet the current level of complaints and complaints of financial users.

29. The Insurance Law also grants SIBOIF with powers to supervise consumer protection issues and handle complaints and disputes from insured. The Insurance Law of 2010 covers various aspects of protection to the insured, such as regulation of advertising, marketing of

¹⁰ When OAUSF started to operate, it also handled complaints in first instance (without verifying that the complaint had been previously submitted to the supervised financial institution).

policies, contents of contracts, complaints handling, conflict resolution, supervision of market conduct, among others. With regard to handling complaints and disputes, the Law states that the insured can file complaints with the SIBOIF, which can not only issue administrative sanctions but also order corrective actions to restore rights of the insured.

30. On the other hand, the Microfinance Act established the creation of CONAMI as an agency responsible for regulating and supervising microfinance institutions, especially on issues of transparency and consumer protection. This Act specifies the powers of CONAMI to register, regulate and supervise large microfinance institutions (MFIs), which have a minimum net worth or equity of C\$ 4,500,000 (around \$ 200,000). For the rest of microfinance intermediary financial institutions (IFIMs), they may apply for registration in CONAMI's Register of IFIMs to obtain certain basic benefits, in exchange for which the IFIM shall be subject to consumer protection supervision. Thus, for the first time microfinance institutions have been incorporated to the financial regulatory and supervisory framework. Also, the Law established a registration and registration system that will contribute to have clearer information on the microfinance segment and the financial system in general. So far, all types of microfinance institutions only had to register with the Ministry of the Interior, which keeps track of all the associations, foundations, federations and confederations. While this Ministry will continue carrying the records of IFIMs that will not register with CONAMI, at least it is expected that there will be more information on the sector through CONAMI. Since the new Microfinance Law was enacted in June 2011, the CONAMI has not yet been set up, so in theory the MIFIC is still in charge of ensuring consumer protection in the microfinance sector.

31. With respect to the segment of cooperatives, the Cooperative Development Institute (Infocoop) has a dual mandate to promote and supervise the cooperative segment. Infocoop began operations in mid 2005, with the responsibility to record, promote and supervise a broad and diverse spectrum of cooperatives of any kind. However, the main role that has developed so far is the promotion of the cooperative segment, which has prevented it from fully meeting its mandate to monitor the safety and soundness of the segment. Furthermore, its capacity is significantly limited given the size of the segment, which in August 2011 included more than 3,700 cooperatives.

32. On the other hand, the Competition Promotion Law (CPL) established the National Institute for the Promotion of Competition (Procompetencia) as the agency responsible for monitoring compliance of the Law by all economic agents. Procompetencia was created in 2009 as a public and autonomous administrative tribunal in charge of enforcing the CPL and sanction anticompetitive practices incurred by economic agents. Specifically, Chapter I of the CPL indicates that it applies to all economic sectors, and does not mention the financial sector among its exceptions. At the same time, Article 15 indicates that in the case of investigations of practices carried out in "economic sectors and markets subject to regulation," Procompetencia shall deliver an opinion that is limited to only determining the practice under investigation, and shall not rule on issues proper of the regulation of the sector under investigation. The article also indicates that the regulatory authority of such sector should take into consideration the opinion of Procompetencia in resolutions adopted on the matter under investigation. It should be noted that the Insurance Law explicitly mentions the role of Procompetencia in the insurance market, stating that SIBOIF may request a non-binding opinion, which shall be issued within a period not exceeding 30 days (Article 84).

33. Thus, the current framework includes various authorities with responsibilities for financial consumer protection. As shown in Table 5 presented below, although the constitution

of CONAMI has improved the institutional framework of consumer protection Financial, there are still gray areas with lack of clarity about jurisdictional responsibilities.

Table 5: Institutions in charge of enforcing Financial Consumer Protection Legislation

Type of financial entity	Current Supervisor	Supervisor when CONAMI starts <i>Another supervisor?</i>
Banks			
Other operations and services	MIFIC	MIFIC	
Credit cards	SIBOIF	SIBOIF	
Microcredit operations	SIBOIF	SIBOIF	
Financial societies	SIBOIF	SIBOIF	
Insurance companies and intermediaries	SIBOIF	SIBOIF	
Securities trading	SIBOIF	SIBOIF	
Bonded warehouses	SIBOIF	SIBOIF	
Large microfinance institutions (IMFs)	MIFIC	CONAMI	
Other microfinance financial intermediary institutions (IFIMs) not supervised by SIBOIF and not registered by CONAMI	MIFIC	CONAMI	
Non-registered savings and credit cooperatives	Infocoop	Infocoop	
Non-bank credit card issuers	MIFIC	MIFIC	
IFIMs not registered with CONAMI	MIFIC	MIFIC	

MIFIC? (acdg. CDL)

Pro-competencia? (acdg. CPL)

Source: World Bank

34. It should be noted that the Legislative Assembly’s Committee on Production, Economics and Budget has included consumer protection as an important issue on its legislative agenda. Since 2006 the Assembly has been considering incorporating a chapter dealing exclusively with financial services to the CDL. During this period the Assembly has assessed at least three different proposals for amendment of the law, and in this process has maintained a constant dialogue with various organizations, including MIFIC and SIBOIF.

35. Regarding alternative dispute resolution mechanisms, Nicaragua has been promoting the use of mediation and arbitration in different areas, although not as much in the financial sector. The Directorate of Alternative Dispute Resolution (DIRAC) is an agency of the Judiciary that was created to administer mediation and arbitration processes on issues related to property. It has expanded its scope to promote the use of pre-court mediation in other judiciary areas. The DIRAC both directly supports civil courts in Managua, and accredits private mediation and arbitration centers. However, the use of private centers for financial cases is limited, both because the cost can be relatively high considering the average amounts in dispute, and because financial consumers do not know about them.

36. The final judiciary instance for consumers is the civil courts. While there is a widespread misconception that these courts have limited capacity and knowledge to address financial issues, it is worth noting that in recent years there have been various training programs for judges on financial matters.

37. Despite the various initiatives on consumer protection and financial literacy, there is no national strategy or program that officially addresses these issues. While there are cases of good coordination between institutions to carry out major reforms in Nicaragua (for example, the Law on Microfinance, the Norm on Credit Cards, or the amendment of the CDL), these are isolated initiatives. There is no clear medium or long-term strategy to improve Nicaragua's financial consumer protection system.

IV. Key Findings and Recommendations

38. 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) Reform the fragmented institutional framework for financial consumer protection;
- ii) Increase disclosure of information for financial consumers;
- iii) Improve regulation of business practices of financial institutions;
- iv) Develop complaints and disputes resolution systems for financial consumers;
- v) Implement coordinated financial education programs.

Institutional Framework

39. Following on the description above in Section III, significant steps have been taken to improve the institutional framework of financial consumer protection in Nicaragua. Important measures have been implemented, such as the expansion of SIBOIF's functions to incorporate specific powers on consumer protection issues in micro-credit operations, insurance and credit cards, and the constitution of the OAUSF as a separate area from SIBOIF's Prudential Supervision division, and attached to the Legal Department. Another important step was the establishment of CONAMI, through the passage of the Microfinance Law, as a new specialized regulator with certain consumer protection responsibilities in the microfinance segment (although in practical terms CONAMI would come into operation only by the second half of 2012 or 2013).

40. Despite this significant progress, Nicaragua still suffers from a fragmented institutional framework, with overlapping jurisdiction, lack of clarity about the responsibility of certain authorities and with multiple authorities covering similar financial institutions. The current legal framework does not give SIBOIF a clear responsibility regarding protection of customers engaged in operations other than those of credit cards, insurance and microcredit. An interpretation of the Consumer Defense Law is that SIBOIF is responsible for credit cards, insurance and microcredit institutions under its supervision (as the laws and regulations on these operations include specific chapters of consumer protection), and MIFIC is responsible for all other operations (e.g. savings accounts or mortgages). While in practice MIFIC forwards to SIBOIF all complaints and grievances related to banks and other entities under SIBOIF's supervision, the Law does not explicitly state whether it is applicable to the financial sector and, if applicable, does not identify the role of financial supervisors vis-à-vis MIFIC. It is therefore imperative that the Law be amended and clearly state how it would apply to the financial sector.

41. While SIBOIF and Infocoop monitor certain types of microfinance institutions, MIFIC is currently the main authority in this segment in terms of consumer protection, despite its limited institutional capacity. SIBOIF supervises financial companies or societies that take

deposits (currently only operate two in Nicaragua). Infocoop is the regulator of savings and credit cooperatives, but its main purpose is to promote growth in the sector rather than to monitor the cooperatives' solvency and market conduct. For the rest of microfinance institutions, MIFIC is the only authority dealing with consumer protection.

42. While the Microfinance Act has established CONAMI as a specialized microfinance regulator, its jurisdiction will be limited and will not cover the full range of microfinance institutions. Once in operation, CONAMI will be responsible for overseeing large microfinance institutions (MFIs) and all other small microfinance institutions (IFIMs) not supervised by SIBOIF and which voluntarily register with CONAMI, in different areas including consumer protection. In theory, the setup of CONAMI would make MIFIC no longer responsible for ensuring consumer protection issues in the institutions supervised by CONAMI. However, this assignment is not clearly identified in the current Consumer Defense Law. The microfinance institutions not registered with CONAMI would be totally beyond the scope of specialized financial regulation, and therefore would be under the supervision of MIFIC regarding consumer protection. However, MIFIC's DDC does not have the human and technical capacity to carry out this function of specialized financial supervision, on top of non-financial products and services. Additionally, the current fragmented institutional arrangement would create unequal treatment in terms of financial protection to the user, since different supervisors would have responsibility for similar microfinance institutions.

43. The Legislative Assembly is discussing a proposal to amend the Consumer Defense Law that seeks to resolve uncertainties on its applicability to financial products and services and the role of MIFIC vis-à-vis the specialized financial regulators. This amendment seeks to incorporate a chapter devoted exclusively to financial services and explicitly define which entities are responsible for the implementation of this Law relating to financial services. Thus, the amendment would give a clear legal framework for SIBOIF to expand its functions to all products and services offered by the financial entities under its supervision.

44. On the other hand, the framework for implementation of the Promotion of Competition Act with respect to the financial system is not totally clear. As indicated in Section III, the joint reading of Chapter I and Article 15 of the Act has generated confusion about the responsibilities of Procompetencia and SIBOIF in the treatment of issues related to competition in the regulated financial system. This lack of clarity was evident in recent disputes regarding collusion in setting interest rates, raised by the National Network of Defense of Consumers (RNDC) against the Association of Banks and against a private bank. Procompetencia handled these complaints and issued fines against both institutions. However, the Supreme Court issued a ruling stating that Procompetencia had no power to sanction banks under the Promotion of Competition Act, since the only banking regulator is SIBOIF.

45. There is also no close coordination between Procompetencia and SIBOIF, so the analysis and monitoring of competition in the financial system are limited. Procompetencia drafted a report called "The Nicaraguan market competition. General conditions. Analysis of 14 markets", which includes a brief description and analysis of banking sector, but in very general terms. So far SIBOIF and Procompetencia have not developed joint analysis on the level of competition in the banking sector. For example, there have been no studies on the degree of concentration in the financial system or the impact of the publication of interest rates and fees on competition in the banking system.

46. Additionally, there is no clear legal and supervisory framework in the field of advertising in the financial system, which in theory would be under the supervision of

different authorities. There are several legal provisions related to the subject of advertising both in the financial sector laws (banks, insurance, microfinance) and in the laws on consumer protection and on promotion of competition. Thus, in theory MIFIC, Procompetencia and SIBOIF (and CONAMI in the future) have jurisdiction in this matter, although their jurisdictions come from different legal frameworks.

47. The financial industry associations have played disparate roles in the field of consumer protection and financial education, but their early initiatives in the microfinance sector are worth to highlight. In the banking sector, the Association of Private Banks (Asobanp) has not been very active and is just collecting information from its member banks to evaluate the development of a code of conduct applicable to all members, among other measures. By contrast, ASOMIF has included consumer protection issues in its code of ethics; however in practice there is no adequate enforcement of this code since it is voluntary for members. ASOMIF has also distributed financial education materials developed by the Financial Services Development Program for Low-Income Populations (Promifin) and funded by the Swiss Cooperation, in order to educate the customers of their affiliated microfinance institutions.

48. The private sector has shown leadership in terms of financial education, especially through activities developed in cooperation with Promifin. Promifin is a program sponsored by the Swiss Cooperation in Central America (SDC) which has as one of its main objectives the dissemination of good practices for financial education in microfinance customers. The program operates in Nicaragua and Honduras and manages programs at the regional level in Central America. Its activities include training programs on financial education for officers of microfinance institutions, impact and satisfaction studies for the financial education initiatives, as well as preparation of written and audiovisual materials for financial education, including the organization of radio programs, especially oriented to the rural population.

49. Under the framework of the Consumer Defense Law, some consumer associations have undertaken major initiatives focused on financial sector issues. The law opens the possibility for consumers to associate and constitute consumer organizations. As of September 2011, there are 15 consumer protection associations registered and licensed by the DDC in Nicaragua, some of which include financial services as one of their main lines of work. Most associations are funded by projects, grants or non-reimbursable funding from international institutions such as Consumers International, given that MIFIC does not provide any funding or subsidy. Despite their limited resources, associations such as Lideconic and RNDC have devoted significant human and material resources to financial consumer protection issues.

Key Recommendations

50. First, the uncertainty about institutional responsibilities for consumer protection in financial services should be resolved, by amending the Consumer Defense Law to include basic principles that apply to all types of financial institution. The law amendment process already initiated by the Economic Commission of the Legislative Assembly should continue. The amendment of the Law will allow SIBOIF to expand the current OAUSF's responsibility to cover all the operations of all entities under SIBOIF's supervision. However, the latest version of the amendment would still require some adjustments to take into account the following as a minimum: (i) clarify that the financial chapter is the only one that applies to the financial system and evaluate whether it is worthwhile to incorporate into this chapter some other article(s) of the amendment that is not in the financial chapter (for example, part of the article on calculation of interest rates); (ii) clearly state which entity is responsible for regulating and enforcing the provisions of the financial chapter, especially in the case of microfinance institutions not covered

by CONAMI; (iii) to analyze whether there are any other items of the current Law that should apply to the financial system, so that similar provisions are included in the financial chapter (for example, provisions on advertising); (iv) verify that all articles of the amendment applicable to the financial sector are consistent with existing legal and regulatory provisions on financial consumer protection (for example, the article on personal data protection). Additionally, the law should identify the authority responsible for enforcing consumer protection norms by non-bank credit cards issuers.

51. Once the amendment to the Consumer Defense Law is approved, the various institutions who will be responsible for its regulation and enforcement must act coordinately. This is in order to guarantee a minimum standard of protection for financial users (regardless of what financial services providers they operate with), to minimize the potential for regulatory arbitrage and to "level" competition between different financial institutions.

52. While the creation of CONAMI has been an important first step to regulate the microfinance segment, additional measures are required in the medium term to reduce fragmentation of the institutional framework. The current legal framework only incorporates deposit-taking financial societies under the scope of supervision of SIBOIF, and larger microfinance institutions under the supervisory scope of CONAMI. Thus, small microfinance institutions and all savings and credit cooperatives were left out of the mandatory regulatory environment, unless they voluntarily register to CONAMI. In order to improve this situation, as a first step, the *authorities should encourage the development of self-regulatory or delegated supervisory schemes for the cooperative sector* (and for small microfinance institutions) that focuses on market conduct, so that second-tier organizations (networks, federations or associations) may carry out these supervisory functions. This type of selfregulation exists in different countries such as Ecuador, Guatemala and Honduras. The self-regulatory schemes should be in constant communication with CONAMI so that they can adapt CONAMI's regulations to the cooperative segment. As a second step, *CONAMI should also register and regulate small microfinance institutions, and all savings and credit cooperatives*, even when it does not directly but indirectly supervise them. In the longer term, consideration should be given to have the *regulatory and supervisory functions of the CONAMI absorbed by SIBOIF*, both in terms of development and enforcement of prudential standards (eg through a Microfinance Intendence) and consumer protection (expanding the functions of the unit in charge of attending financial consumers).

53. The capacity of SIBOIF to assume its responsibility on financial consumer protection should be strengthened. SIBOIF should increase the OAUSF's number of personnel and resources, and transform it into a Direction, to provide it with the capacity and authority to effectively assume the functions of off-site and on-site supervision of consumer protection issues, and complaints handling and, at the same time, to minimize conflict of interest with the financial supervisory units. Although the responsibilities assigned to the OAUSF are currently limited to certain financial transactions, it still has limited resources to assume them, which leads to the use of resources from other units within SIBOIF, for example the Banks Intendence to solve complaints of banking products. At the same time, SIBOIF should increase its capacity to monitor the personal insurance market, since apparently there are several brokers that are illegally selling insurance policies issued by foreign insurers that have not been registered by SIBOIF. Consideration should be given to assign SIBOIF the responsibility of supervising remittance service providers, since they are now out of the financial supervisory and regulatory scope.

54. Also, in the context of implementation of the Microfinance Law, the Government should ensure that the relevant agencies have adequate institutional capacity to meet its consumer

protection responsibilities. In the process of establishment and regulation of CONAMI, the Government should provide it with enough resources so that it can have adequate staff in terms of number and professional capacity to implement its consumer protection mandates. MIFIC should also have an adequate number of qualified staff to receive complaints related to financial institutions not supervised by SIBOIF or CONAMI (such as cooperatives and small microfinance institutions not registered with CONAMI) and to monitor enforcement of consumer protection norms. MIFIC staff should, at minimum, have a group of specialized staff, trained in financial matters (for example, by programs organized by SIBOIF and the associations of banks or microfinance). Other initiatives to improve institutional capacity should be considered in the future (e.g. study tours, joint working arrangements, technology support).

55. The Law on Promotion of Competition should also be amended to clarify the jurisdiction of Procompetencia in financial services and to promote coordination between regulators. Article 15 of this Act is not entirely clear in terms of the role of Procompetencia in markets that have a specialized regulator (as demonstrated by the recent sanction issued by Procompetencia but annulled by the Supreme Court). Article 15 should be reformulated so that it clearly states that Procompetencia has primary responsibility for competition issues in the financial sector, but must coordinate with specialized financial regulators both at the beginning of their investigative process and prior to issuing its final resolution. Procompetencia and specialized regulators should implement mechanisms to keep constant coordination, not only to deal with a particular investigation but also to undertake continuous analysis of the degree of competition in the financial system. There should also be joint communication efforts so that consumers are aware of the responsibilities of each regulator in the financial sector and of the mechanisms to contact them, as well as the importance of competition and how consumers may promote it and benefit from it (for example, through the comparison of costs and conditions of financial products).

56. The financial industry associations should play a more active role in the area of consumer protection, starting with the promotion of codes of conduct and the development of effective mechanisms to enforce such codes. While ASOMIF has a voluntary code of ethics that includes some general aspects of protection of customers of its affiliates (e.g. responding to complaints, confidential handling of information), it should be improved in both content and enforcement. In general, financial associations should lead the development of a code of conduct that addresses issues such as commitment to client, standard definition of concepts (commissions, fees, etc.), customer service, transparency in information, complaints and grievances processes, treatment of customer information, among others. At first, the code may be general in nature and, as institutions start to fully implement its procedures regarding financial consumer protection, the code could be updated and made more specific to each institution. In the microfinance sector, the codes should include primarily the Smart Campaign's client protection principles¹¹. In order to build credibility with customers, the associations should provide a mechanism for assessing compliance with the code and a sanctions scheme for the entities that adhere to it. There should be a requirement that the code is available on the website and premises of each financial institution and the association that represents them, for the purpose of spreading the code among users, who could complain to the association against an institution not complying with the code.

57. There should be better interinstitutional coordination in financial consumer protection and financial education issues, for example by creating a Steering Committee or Working Group. This committee should include senior representatives from institutions that have responsibility for consumer protection and financial education (e.g. SIBOIF, Central Bank of

¹¹ www.smartcampaign.org

Nicaragua, MIFIC, CONAMI). It is recommendable that the Committee meet at least quarterly to strengthen communication and promote coordination and exchange of relevant information, so that its members have greater knowledge of issues and challenges in the area of consumer protection in financial services.

58. The Government of Nicaragua should promote the strengthening of consumer associations so that they could play a greater role in consumer protection and financial education. The DDC and the National Council for the Defense of the Rights of Consumers (CONADECO) should identify technical and financial resources, at public and private, and national and international levels to strengthen consumer advocacy associations, especially in financial sector issues. At the same time, they should establish specific criteria for evaluating the performance of NGOs, which could facilitate the provision of financial resources to them. These criteria could include: (i) number of specialist advisers, and permanent staff specializing in financial services; (ii) statistics of inquiries, complaints and disputes, and results of interventions of the associations on a monthly and yearly basis; (iii) independence of interests; (iv) technical capacity for project management and implementation; (vi) support, affiliation or agreement with an international consumer advocacy organization.

Transparency of Information

59. The recent crisis of the Nicaraguan microfinance sector and the pressures to enact stricter legislation in the area of credit cards evidenced information asymmetry between the financial institutions and their customers. During this period cases of significant non-transparent practices of financial institutions were revealed. These practices harmed customers, generally characterized by their lack of education and experience with financial products and services. In general, limited information was provided to customers regarding their contracts and the terms and conditions of the products they purchased. Some common problems related to lack of transparency include: financial Institutions often do not provide the customer with a copy of the contract, customers discover that they have been charged fees for services not received, there are no clear and uniform methods for calculating interest rates, customers are not properly informed about fees and other charges, and concepts related to debt collection.

60. The credit cards regulation has promoted relevant improvements in transparency of information, including approval of model contracts, and basic guidelines for advertising, and definition of methodology for calculating interest rates. One early result of this regulation, according to SIBOIF, is that consumers are more informed when they contact SIBOIF and their inquiries and complaints are more specific. This rule applies not only to banks but also all issuers of credit cards, including commercial stores. However, SIBOIF only has authority to monitor financial institutions that are under its supervision according to the Law on Banks. Although the credit card norms also apply to other credit card issuers, such norms do not identify any agency as responsible to supervise those issuers.

61. In particular, notification of changes in interest rates and commissions is explicitly provided for in the credit card contracts, but not in other financial products. The credit card contracts, in line with the regulations governing such product, indicate the conditions under which they rates norm says that the financial institution may not change the interest rate during the term of the contract, but it may change it for the new term of the contract to the extent that this change is reported 30 days in advance. If the interest rate is variable, the contract must clearly establish what the reference rate is for the variability in the rate. The fees table is part of the

contract and they should remain fixed for at least two consecutive quarters. However, there is no legislation that requires similar treatment for other banking products.

62. SIBOIF has begun to publish on its website information on interest rates and costs of credit cards of different banks. The latest information available corresponds to the second quarter of 2011, after publishing the information of the first quarter in printed media. This information contains current and moratorium interest rates on domestic and foreign currency for credit card financing, and also includes a simple average of the interest rate of the different credit card products offered by each bank. The same report contains all the average fees for credit card products offered by different issuers, which facilitates comparison by the credit card user.

63. While credit cards regulation has improved transparency practices of banks, this improvement has not translated to other financial products and services. Banks understand the logic and the motivation of the regulatory framework established for credit cards, and even agree on many aspects. However, banks seem to only limit their actions to complying with regulatory requirements (for example, not disclosing the adhesion contract, interest rates and fee structure of products other than credit cards). Even when banks agree on the aggregate benefits of greater transparency and consumer protection, banks do not have major incentives to adopt such practices individually (e.g. because they might lose clients in the short term).

64. In general, no mechanism has been developed in Nicaragua to facilitate the comparison of offerings of financial products and services, such as the delivery of a summary sheet or the use of an indicator of total financial cost. The financial institutions do not provide users with a page summarizing the key information of the products they are purchasing, which would allow the user not only to have accessible and easy-to-understand information on the financial product, but also to compare the terms offered by different financial service providers by using a standard format for type of product. Moreover, the concept of total financial cost or cost-effective rate, which integrates into a single percentage the total costs of a credit product (including payment of interest and various fees and expenses) hasn't been developed either. Several countries are requiring the use of such indicator to allow comparison of costs between different products and financial institutions.

65. Generally, banks provide monthly statements of credit and savings accounts to their customers through physical or electronic means. The legislation provides this requirement only for current account deposits and credit card accounts. As regards the latter, the legislation is very descriptive regarding the information that must be included, such as the identification of the issuer and the cardholder; descriptions of concepts to be paid; financial details; description of the financial consequences of making (or not) the minimum payment only; and other information (maturity and procedure for disputing charges, reporting lost / stolen cards, places of payment, etc.). There is no other rule that covers these requirements for operations other than credit cards.

66. In the microfinance segment, customers have information on the movement of their accounts through payment plans and savings passbooks. The payment plan includes the most important features of credit, such as personal data, amount, maturity, interest rate, payment dates, projected payments of principal, interest and balance. In the case of the savings products offered by savings and credit cooperatives, the customers keep track of their money through savings passbooks, where an update is made with every move, withdrawal or deposit. However, there is no rule that requires the issuance and delivery of periodic statements to the customer. While the customer can order such statement at anytime, in most cases it bears an additional cost.

67. A common practice among microfinance institutions is the non-delivery of a copy of the financial product contract. This information was corroborated in direct talks with consumers, representatives of microfinance institutions and consumer organizations. A financial customer may request a copy of the contract, but usually the entity requires him or her to pay for it. The legislation does not require financial institutions to give a copy of the contract to the customer once he or she signs it.

68. On the other hand, there is no complete and standardized information on the segment of savings and credit cooperatives. There is a relevant lack of information of this segment, which does not allow customers to have full and standardized data to evaluate the performance, strength and financial viability of this important group of financial institutions. Of the 147 credit unions registered with Infocoop as of August 2011, only 73 have submitted their annual financial statements, of which only 15 have the same format. In September 2011, Infocoop's Board issued a regulation for the preparation and presentation of financial statements, which is a first step to have comparable information in this segment.

69. The Insurance Law regulates the issue of transparency of information and requires SIBOIF to review and approve all types of insurance contracts, as well as their amendments. The Law requires that SIBOIF approve the general and particular conditions of the insurance contracts, as well as the applications, questionnaires, addenda and other documents that constitute the policies, in addition to the respective technical notes. SIBOIF has the power to demand more information or remove text that does not conform to the law or misleads the insured. The Law also requires that consumer communications are clear and precise and written in easily readable typefaces. In cases where the information is presented ambiguously, it should be interpreted in the most favorable way for the user.

Key Recommendations

70. All financial institutions should be legally required to give a free copy of the contract to their customer, as soon as the contract is signed. The customer should receive a copy of the contract even when he or she does not ask for it. Although this requirement is clearly specified in the Insurance Law and the Credit Card Norm, there should be a similar requirement for all types of financial products and services offered by banks and microfinance institutions.

71. Consideration should also be given to the approval of standard contracts or standard contract clauses for financial products and services. Currently SIBOIF has to approve each model credit card contract and each model insurance contract presented by a bank, credit card issuer or insurance company, respectively. It is advisable that SIBOIF assess the viability of approving standard contract models for each financial segment, or at least the approval of standard contract clauses (or the prohibition of abusive clauses). This should also be contemplated by microfinance institutions and savings and credit cooperatives. The model contracts should be freely available to the consumers through different channels.

72. Financial institutions should be required to use standard calculation methods for interest rates and disclose the indicator of total effective cost and return for all types of financial products and services. Such standards should be used by all financial services providers (not only institutions under supervision of SIBOIF or CONAMI) in their selling, marketing and advertising materials. These standards will allow consumers to easily compare prices of different products and financial service providers. The total costs are generally calculated as the internal rate of return of a loan, taking into account the instalments that shall be paid to cancel the credit in full, assuming that the payments thereof correspond to the

contractually agreed terms. The concept of payable instalments include payment of interests, return of principal, insurance, commissions, bonuses for punctual payment, etc. Some examples of countries that have implemented this concept in their legislation are: Mexico (*Costo Anual Total*), Peru (*Costo Efectivo Anual*), Argentina (*Costo Financiero Total*), Honduras (*Costo Anual Total*).

73. Financial consumers should be provided with a “key facts statement” or summary sheet that shows in a clear, comparable and easily understandable manner the key characteristics of the financial product or service they would like to purchase. All financial institutions should be required to provide their consumers with 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 an annex required to be given to the financial 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 product or service, highlight warning signs that the customer should keep in mind (e.g. consequences of not paying debt on time, foreign currency or variable interest rate risks), as well as the mechanisms for recourse available to the consumer inside and outside the financial institution.

74. In order 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 in Nicaragua provide some type of summary document to their customers, there is no clear standard format uniformly used by similar financial institutions. The use of such a standard format will allow consumers to compare offers by different financial institutions and familiarize with basic financial concepts. The key facts statements could be progressively developed for all basic retail financial products and services. For example, first formats may be developed for credit cards and consumer loans, and later formats may be developed for mortgage loans, savings accounts and motor vehicle insurance policies. The key facts statements should be developed by SIBOIF, in close collaboration with the financial industry associations.

75. Regarding consumer credits, for instance, the same key facts statement should be used by banks and microfinance institutions. The statement should summarize the essential terms and conditions of the contract and be presented as a separate document. The content 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; (10) indicator of total effective cost; and (10) if the credit is used to finance a product, the cash price of the product without financing charges.

76. It is recommendable that the financial industry associations elaborate the first draft of the key facts statement, which would later be revised by the relevant financial regulator. Also, the format should be distributed among all relevant institutions (SIBOIF, CONAMI y MIFIC) so that they ensure that the same format is used for the same product across all financial segments. It is also recommendable that the formats be distributed to the consumer associations that are active in financial sector matters, asking for their comments on content and design, from the consumer.

77. It would also be useful to undertake consumer testing surveys to make sure that the content of the format is clearly understood by the consumers, and that the format covers all information that the consumer needs to know. 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 surveys of financial consumers to see whether consumers understood the terminology and formats used by financial services providers, especially in the credit cards market. The results of these testings allowed them to revise their disclosure requirements.

78. In other countries, the key facts statements have been an effective mechanism to promote the comparison of financial products and improve consumers' understanding of financial terms and products. Some examples of key facts statements include Peru's Summary Sheet (*Hoja Resumen*), Mexico's Adhesion Contract Cover (*Carátula del Contrato de Adhesión*), EU's Standard European Consumer Credit Information, US Schumer Box, UK's Initial Disclosure Documents, South Africa's Pre-Agreement Statement & Quotation for Small Credit Agreements.

79. Also, SIBOIF –and CONAMI and MIFIC later—should publish on their websites comparable information on the costs of different financial products and services. The information currently published by SIBOIF on credit cards is a good first step, but in the future this information should also include an indicator of total effective cost. In addition, SIBOIF should publish information on the costs of other financial products in a section of its website that is clearly identifiable by consumers. Similar tables should also be published by CONAMI (when it operates) and MIFIC, with links to SIBOIF's webpage, so that a consumer may have easy access to comparable information from all type of financial institution. Examples from other countries include the websites developed by the Superintendence of Banking, Insurance and Private Pension Funds of Peru, and the UK's Financial Services Authority.¹²

80. 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. A similar effect was seen in Cambodia regarding lending interest rates of microfinance institutions.

81. A glossary of key terms prepared and disseminated by SIBOIF would also be helpful. Financial services are characterized by complex terms elaborated by financial institutions. The preparation of a glossary of key terms would help consumers, especially those with low income, better understand the nature and characteristics of the financial services purchased or to be purchased. 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 may understand it. The glossary could be initially published on SIBOIF's website, and later on MIFIC's and CONAMI's websites. This information could later be retransmitted in newspapers or radio programs, or even sent through text messages to financial customers' cell phones. At the same time, these glossaries could help the financial associations to elaborate guidelines for the use of similar terms in the writing of terms and conditions of financial products. This would help

¹² More information available at www.sbs.gob.pe and www.moneyadvice.service.org.uk

financial users to improve their understanding of financial information and to compare offers from different providers.

82. Additionally, financial institutions should provide periodic information to the consumer about the acquired financial product or service. Banks should be required to send monthly statements for all type of credit and savings account to their customers. Also, all financial institutions should be required to notify their customers in advance about changes in interest rates and charges on all financial products (and not only credit cards as currently happens), and in the case of insurance companies, about the renewal of the insurance contract. In all these cases, the customer should have the right to cancel the contract, without incurring in penalty charges, if the changes are not acceptable for the customer.

83. Regarding the insurance market, SIBOIF should require that consumers are clearly informed about the commission that is paid to the intermediary. In addition, insurance policies should include clear information of all its types of coverage and separate the primes paid for every type of coverage.

Business Practices Regulation

84. Regarding debt collection, there are certain basic legal requirements for credit cards and for other types of banking credit products, but not for credit products of microfinance institutions. The Credit Card Norm and SIBOIF's Circular 816 have set specific times for debt collection activities; however, each regulation set different times. Also, the credit card norm states that debt collection activities should be undertaken respecting the honor and moral integrity of the cardholder. Additionally, the Credit Card Law establishes that all contract clauses that demand the cardholder to renounce his or her domicile should be declared null. In general, the banking credit contracts do not especificify the actions that the bank would adopt to recover the credit in case the client defaults. There is no rule on debt collection activities for microfinance institutions.

85. There is a general regulatory framework for internet banking, mobile banking and electronic transfer of funds. SIBOIF has issued a regulation on technological risks, a topic that is also contemplated in the regulation on operational risk and integral risk management. Banks include in their deposit contracts specific rules on internet operations, emphasizing on costs and security measures that the user should adopt. In some banking websites, the banks warn users about the risk of having passwords stolen, and the need to keep the confidentiality of passwords. Most of the complaints received by SIBOIF on electronic transfers related to operations made by an account owner's relative or friend that stole the owner's password.

86. SIBOIF issued a regulation on the authorization and functioning of entities that operate with electronic money. The regulation includes a series of requirements for the authorization of Electronic Money Companies (EMCs), including technological and operational requirements to reduce the risks associated with these types of operations. EMCs are required to have an internal ruling, approved by the Board, on how to deal with customers. This ruling should cover, among other issues, the procedures and deadlines that the EMC should follow when handling customer inquiries and complaints. At the same time, the ruling requires that the agencies and authorized transaction centers offer their customers clear and timely information about the products and services they offer.

87. The confidentiality and privacy of personal information are reasonably protected in banking and insurance, but not in the microfinance segment. The general banking and insurance laws, as well as the private credit bureaus regulation, include provisions on the confidentiality and privacy of personal data obtained by regulated financial institutions and by SIBOIF employees. However, there is no regulation on this matter for microfinance institutions, including savings and credit cooperatives.

88. The lack of a clear legal framework for personal data protection has favored the commercialization and use of personal databases without the consent of the owners. Some legal provisions are contained mainly in the financial sector laws and regulations governing credit bureaus, but there is no Data Protection Law to establish rights of access, safety, security and confidentiality of information of current and potential customers of the financial system. Several financial users and representatives of consumer associations said that banks would be using, for comerciales purposes (such as offering financial products, especially credit cards), databases whose owners did not authorize sharing their information for commercial purposes. These contacts (usually by telephone) would occur based on information about events that demonstrate repayment capacity and credit potential as a subject (for example, expansion of a house, obtention of a permit to operate a small business, or purchase of a motor vehicle). These issues reflect the disadvantages of not having a Data Protection Law, which would legally limit such actions.

89. SIBOIF operates a Credit Registry and, at the same time, regulates the private credit bureaus. SIBOIF's Credit Registry contains positive and negative information of all banks. They are obliged to inform and have free access to the Registry. The Registry does not share its information with the private credit bureaus. The regulation on private credit bureaus establishes requirements for their authorization, as well as requirements on confidentiality in the handling of credit information. This regulation also includes procedures on how to deal with disputes of personal information and requests to access personal credit history by the credit subject. The Microfinance Law also contemplates the creation of a credit register with information of microfinance customers, which would be administered by CONAMI.

Key Recommendations

90. The law should prohibit abusive and unfair clauses and practices. The amendment of the Consumer Defense Law could indicate a list of abusive practices. It should specify that this list is not exhaustive, and that the regulatory and supervisory agencies may include other practices in their respective regulations. In this context, SIBOIF could prepare a specific regulation on consumer protection issues, which would establish abusive and unfair clauses and practices, in accordance with the law.

91. There should be minimum standards on collection practices for all types of credit. Regarding institutions supervised by SIBOIF, the existing rules should be consistent in terms of allowed time for collection practices. Debt collection time limits should also be established in cases of loans granted by microfinance institutions. In addition to curfews, there should be specific minimum standards for debt collection management, including communication to the debtor, prohibition of false statements, unfair or abusive practices, among others. The US Fair Debt Collection Practices Act, the UK Office of Fair Trading's Debt Collection Guidelines, and the South Africa's Debt Collectors Act provide useful examples in this area.

92. SIBOIF and the financial industry associations should encourage financial institutions to improve their methods for assessing customer needs, so that they can recommend appropriate financial products and services. SIBOIF should put special emphasis in their on-

site inspections on the customer information gathered by retail financial officers, as well as the evaluation of the customer needs (beyond repayment capacity). In the microfinance segment, the financial industry associations should promote the revision, update and strengthening of their members' methods for determining their customers' payment capacity and assessing their customers' needs, in order to offer the most suitable financial product or service, and consequently minimize the risk of overindebtedness.

93. Easy access to all credit history of all financial customers should be promoted. In terms of the credit register that could be set up by CONAMI, instead of creating a new credit register, it might be more convenient to establish collaboration mechanisms with SIBOIF's credit registry, so that the credit history of microfinance customers could be incorporated directly to such registry. Also, it is essential that the savings and credit cooperatives provide credit information of their members to the credit registers, so that financial institutions and regulators can have all the necessary information to identify the real level of indebtedness of all financial consumers. Also, SIBOIF should consider sharing information of its credit registry with the credit bureaus.

94. SIBOIF should regulate the inclusion of cooling-off periods when customers can withdraw from their financial contracts without having to pay any penalty. Cooling-off periods are particularly helpful in cases where customers obtain loans rapidly and impulsively, such as personal loans and extrafinancing. The Insurance Law indicates the right of the insured to cancel the contract within 30 days, if he or she discovers that the contract is not in accord with the terms of the initial application. However, the insured should also have a number of days to freely change his or her opinion, with the right of having paid premiums returned, which is known as right to withdraw.

With regard to the protection of personal data, it is recommendable to develop a Data Protection Law. The most recent proposal to amend the Consumer Defense Law includes an article on security and protection of personal data in the financial chapter. This article could be expanded to also cover privacy or confidentiality of the information on financial transactions, similar to Article 58 of the Law on Microfinance, so that the microfinance institutions not supervised by CONAMI also have a similar basic requirement of confidentiality. At the same time, the development of a Data Protection Law would establish rights of access, safety, security and confidentiality of the information from current and potential users of financial statements, which would create the necessary legal framework to combat the problem of commercialization of personal databases without the consent of their owners. Additionally, it is recommended that the microfinance associations negotiate with private credit bureaus a specific provision governing the accuracy, confidentiality and appropriate use of the information that these bureaus handle, similar to the clause regarding data provided by banks and financial societies supervised by the SIBOIF. Regarding insurance, data protection provisions should allow for the sharing of personal data with reinsurers when necessary, and within the insurance industry in order to facilitate the setup of databases of **accidents**, for example in the case of motor insurance, as in other countries.

95. SIBOIF should establish minimum qualification requirements for retail officers of financial institutions. These requirements should be differentiated depending on the financial services or products that are offered. The same minimum requirements should be used as guidelines for microfinance institutions.

Complaints and Disputes Resolution Systems

96. The legal and regulatory framework for credit cards requires financial institutions to have procedures and staff to handle consumer complaints. Financial institutions must have a cardholder support system, which includes staff trained in credit card operations, consumer protection and transparency of information. The financial institution should make available to the cardholder the forms for processing complaints, and establish maximum deadlines to resolve complaints. The procedure for handling complaints contemplates the non-payment of disputed charges until the claim is resolved. Some bank websites had available for download the forms to dispute improper credit card charges. In some financial institutions, the same officials responsible for dealing with complaints on credit cards also handle complaints on other financial products or operations, even if this is not required by law.

97. The Insurance Law requires that insurers have internal complaints procedures. In addition, the Law requires insurers to give the insured a brochure indicating the procedure or basic requirements for filing complaints. However, the Act makes no reference to the maximum deadline for insurers to address complaints, so **the process may end when the actions prescribe.**

98. In practice, there are no clear procedures for handling consumer complaints related to other financial products. In particular, in the microfinance segment there are no clear procedures to resolve complaints and disputes, although for example ASOMIF's code of ethics promotes the establishment of such procedures. The Microfinance Law requires that the microfinance institutions to be supervised by CONAMI have clear procedures for resolving complaints. This requirement will help in the future, but unfortunately it will not be applicable to various microfinance Institutions.

99. The current legal framework has given SIBOIF the power to address and resolve grievances and complaints on issues of insurance and credit cards. SIBOIF has already used that power to sanction financial institutions under its supervision and to demand actions to compensate consumers. The number of complaints received between January and September 2011 amounted to 333, which represents more than double the complaints received in 2010. SIBOIF is also handling inquiries and complaints about other products and financial services (e.g. debit cards, consumer loans) on their own initiative. However, this power should be formalized in the Law. This matter has been included in the proposal to amend the Consumer Defense Law.

100. SIBOIF discreetly disseminated, in one opportunity, information on complaints from financial consumers. In March 2011 SIBOIF published on its website statistics on complaints that it had received directly and complaints that were addressed by the financial institutions. The report also contains a description of the tasks carried out by the OAUSF since its inception. However, this report is not easily accessible on the website, has been neither updated nor commented upon by the various stakeholders with whom meetings were held (consumer organizations, banks association, among others).

101. On the other hand, the Microfinance Law has given CONAMI a similar power to handle complaints and disputes from customers of entities under its supervision. During the implementation phase of the Law, CONAMI should be given the necessary powers, budget and human and material resources to fulfill this function.

102. The Consumer Protection Directorate of the MIFIC also plays the role of handling complaints and disputes regarding financial entities unsupervised by any other authority.

Currently MIFIC fulfills this role for the entire microfinance sector. Once CONAMI is operative, MIFIC would be responsible for receiving complaints on microfinance entities not supervised by CONAMI, including savings and credit cooperatives. Thus, MIFIC also needs to be provided with necessary resources to develop such function properly.

103. Consumers, especially microfinance customers, are not aware of the available mechanisms to resolve disputes. Some people interviewed by the mission had some knowledge of the role of the consumer association RNDC in looking for solutions to complaints and disputes. Other people knew of the existence of the Consumer Protection Directorate, but only associated it with goods and nonfinancial services.

104. Nicaragua is developing a system of mediation of conflicts that could also be used in financial matters. The Mediation and Arbitration Law has regulated the functioning of the Directorate of Alternative Dispute Resolution (DIRAC), attached to the Supreme Court, as well as of private mediation and arbitration centers for the resolution of consumer complaints, including regarding financial services. However, very few financial consumers have used such mechanisms, due to total ignorance of their existence, high costs of some private centers, or lack of confidence in the independence or effectiveness of the system.

Key Recommendations

105. All financial institutions should be required to have a point of contact and internal procedure manuals to handle all types of inquiries, complaints and disputes from consumers. In addition, this information should be communicated in writing to consumers when they receive a financial product or service, and remembered in the premises of financial institutions (e.g. in brochures or posters).

106. All financial institutions should also be required to submit statistics on all complaints they receive, and this information should be analyzed and published by the relevant authorities. Statistics should include detailed information by type of financial product or service, nature of complaint, location, time the complaint was addressed or resolved, and other relevant information. This information should be submitted monthly to the competent authority, and the authority should complement the statistics submitted by the supervised entities with information on complaints handled by the authority, and then it should analyze the consolidated information, prepare a report on complaints to be shared with other relevant departments within the authority, and publish monthly statistical tables on the website of the authority. Each financial institution may also publish these statistics every month on its own website. In addition, SIBOIF could periodically on its website statistics on the number and type of complaints received by financial institution, and the average time they take to resolve complaints (adjusting the data by size or number of clients of each financial institution).

107. The powers of SIBOIF should also be expanded so that it can handle complaints and disputes regarding all types of products offered by all entities under its supervision. SIBOIF has already drafted these norms, but their issuance is contingent on the approval of the amendment to the Consumer Defense Law. It is also recommendable that the supervised entities provide consumers with information on how to proceed to make a claim to the SIBOIF (the norm should define what the entities must communicate and by which means).

108. It is important that a consumer awareness communication campaign be established, regarding formal channels of attention to complaints and disputes, and that adequate

coordination mechanisms be established among those channels. As a first recommendation on this issue, SIBOIF should establish a hotline or telephone center for direct reception of inquiries, complaints and disputes from consumers who have already gone to their respective financial institution. This center would allow OAUSF's specialized staff to release time, and would help developing a centralized database that would record detailed information of communications with users in real time. In addition, SIBOIF's website should be modified to make it easier for consumers to submit complaints online. A similar mechanism could be thought for CONAMI in the future. At a minimum, there should be advertisements in the premises of the supervised entities and links on their webpages that make reference to the OAUSF, its phone number and webpage. Additionally, it is advisable to use different media such as newspapers, radio, television, or display ads in the interior of the financial institutions. These types of communication campaigns have been beneficial in countries as diverse as Peru, South Africa and Croatia. It is also recommended that there be a mechanism for coordination and exchange of information between SIBOIF, MIFIC and CONAMI for grievances and complaints in financial services.

109. Also, the use of alternative mechanisms for conflict resolution should be promoted. On the one hand, there should be greater efforts to make financial consumers aware of the option of resolving conflicts through mediation centers authorized by DIRAC. For example, for non-bank credit institutions consideration could be given to include a mediation clause between the client and the institution, which at a minimum would describe the instances they could approach to start the mediation process, the procedure to choose a mediator, and the maximum number of meetings that could be held; and that would clearly establish that the client, by engaging in mediation, would not lose the right to approach other legal channels. In the medium term, consideration should be given to the creation of Financial Consumer Advocates, whose decisions are binding on financial institutions but give consumers the option to go to the courts if they are not satisfied with the Advocates' resolutions. The Advocates may be established by the financial associations but with mechanisms of election that ensure their independence (Peru and Chile provide examples of this arrangement). In the long term, these Advocates may lead to a single independent body (Ombudsman) in charge of resolving in second instance. This type of entity operates successfully in countries like the UK, Ireland (where the funding comes from industry through fees or charges per case) or Mexico (where the statutory ombudsman is funded by the Government).

Financial Education

110. Field studies conducted by the World Bank confirmed the need to increase the level of financial awareness and education of the Nicaraguan population. Field research identified that most consumers are unaware of their rights (e.g. rights to request a copy of the contract, to have enough time to read the terms and conditions, to file a complaint) and have had problems in the evaluation risks and benefits of their financial decisions (e.g. several consumers had become over-indebted or knew of people who had become over-indebted, mainly because they had not paid credit card debt on time and had to pay fees and other charges). The need to increase the level of financial awareness and education is widely recognized by all relevant stakeholders.

111. There are numerous initiatives, mainly developed by the private sector, dealing with the issue of financial education. Promifin-SCD has been one of the most active institutions in the area of financial education, developing easy-to-understand materials that include topics like basic financial planning, reduction of unnecessary consumption, promoting savings culture and

responsible borrowing. For this purpose, graphic and audiovisual materials were developed, using characters that are familiar to the target population, mainly in the rural areas. These materials have been distributed and communicated directly, and through mass media (television / radio). Their efforts were initially directed to rural microfinance clients, but their scope has been expanding over the years.

112. The initiatives of individual financial institutions regarding financial education have, in several cases, marketing purpose. An example is the suggestion of some banks to make "at least" the minimum payment credit card, when a sound financial management would suggest paying the full balance in cash and using credit cards as payment cards, and in isolated cases as extraordinary financing (the recurrent funding is addressed with other loans less expensive and more planned, such as a personal loan). Another example was the promotion of savings by marketing specific types of accounts offered by the financial institution offering the advice (although savings are encouraged, consumer behavior is being directly influenced to benefit a particular institution).

113. In general, there have been scattered initiatives by different types of institutions. For example, credit bureaus and the deposit insurance fund have made some efforts to raise consumer awareness on their use. In addition, ASOMIF, SIBOIF, MIFIC and even consumer associations have organized various financial education activities, especially on issues affecting risk of overindebtedness, timely payment of credit installments, and managing budgets. However, there is no dialogue or coordination between all these initiatives, there is duplication of effort and little action to monitoring or measure impact.

Key Recommendations

114. There is general agreement on the need for a leading government institution that promotes financial education agenda, and has power to convene all stakeholders. This role could be assumed by the Central Bank of Nicaragua, which has convening power to call in regulated and unregulated institutions, and currently has included the issue of "economic education" as part of their activities. SIBOIF and MIFIC should also play an important role in this area.

115. At the same time, a coordinating forum should be set up to implement a national financial education program or strategy. A Working Group should be set up with representatives of key institutions in the area of financial education (including SIBOIF, CONAMI, MIFIC, Ministry of Education, Promifin, ASOBANP, ASOMIF, ANAPRI, Infocoop, RNDC, Lideconic), with the objective of developing a national financial education strategy. The Group should start by exchanging information on existing financial education initiatives in Nicaragua, and initial lessons learned from these initiatives. The strategy should take into account the use of mass media (radio, television, press), and incorporate from the outset mechanisms to measure the impact of the strategy at the national level, as well as at the urban and rural levels.

116. There should be a nationally representative survey of the population's financial capability. The results would serve as a baseline for a financial education program, and would later allow making an overall assessment of the effects of financial education and consumer protection initiatives. The results should be widely disseminated to raise awareness on different institutions about the current challenges in the areas of financial literacy and consumer protection. The survey should be repeated about every 3 years to monitor the progress of the initiatives of the financial education program, and make adjustments as necessary.

117. As for specific financial education initiatives, special attention should be paid to women. Women constitute the main clientele of the microfinance institutions, including cooperatives. During field interviews, women showed their high predisposition to grasp information about financial products and financial consumer rights in order to apply them in their household finances and, in many cases, in their own micro-entrepreneurs activities.

118. Special effort should also be undertaken to reach the indigenous peoples of the Caribbean coast. They have less access to financial services and to institutions that can advise them on financial decisions. It is important to think about different mechanisms to convey financial education messages, including the use of local media, customized workshops in coordination with indigenous leaders, and even the use of Creole and Miskito language.

119. There should be an ongoing assessment of the effectiveness of financial education programs. 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 mechanisms to evaluate the results of financial education programs from the outset, 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.

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