



STATE OF THE PRACTICE

CLIENT PROTECTION IN BURKINA FASO'S MICROFINANCE SECTOR

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Client Protection in Burkina Faso's Microfinance Sector



The SEEP Network

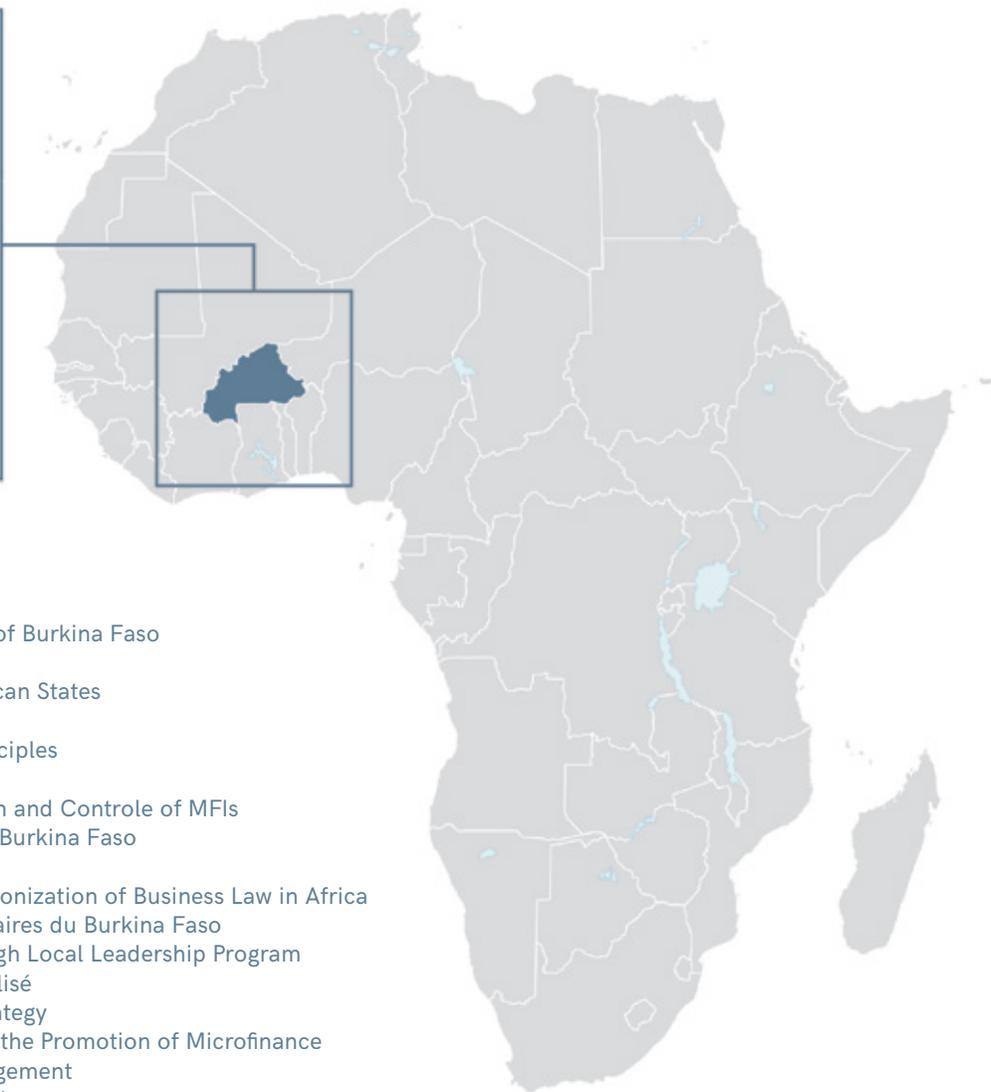
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Acronyms

AP/SFD-BF	Microfinance Association of Burkina Faso
APR	Annual percentage rate
BCEAO	Central Bank of West African States
CP	Consumer protection
CPP	Consumer protection principles
CRS	Catholic Relief Services
DSC-SFD	Directorate for Supervision and Control of MFIs
MEBF	Maison de l'Entreprise du Burkina Faso
MFI	Microfinance institution
OHADA	Organisation for the Harmonization of Business Law in Africa
RCPB	Réseau des Caisses Populaires du Burkina Faso
RFL	Responsible Finance through Local Leadership Program
SFD	Système financier décentralisé
SNMF	National Microfinance Strategy
SP-PMF	Permanent Secretariat for the Promotion of Microfinance
SPM	Social performance management
WAMU	West African Monetary Union

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Executive Summary

This report provides an overview of the legal framework, regulations, and industry practices related to client protection in the microfinance sector in Burkina Faso. It draws on external assessments of six Decentralized Financial Systems (SFDs or MFIs)¹ based on the Smart Campaign methodology, a client protection market diagnostic conducted by two consultants using a tool designed by the SEEP Network, a review of the literature on the regulatory framework, and semi-structured interviews designed to provide the necessary clarifications. This report also benefited from the consultant's field experience in Burkina Faso.

The findings are organized under the seven Client Protection Principles (CPPs) promoted by the Smart Campaign. The report's analysis and results should guide stakeholders in Burkina Faso's microfinance sector (AP/SFD-BF,² supervising bodies, investors and donors, and technical and assistance providers) in their efforts to improve regulations and practices with regard to client protection in the microfinance sector.

Principle 1

Appropriate Product Design and Delivery

SFD managers are aware of the importance of offering a diversified range of products and seek to respond to their clients' specific needs as much as possible without resorting to aggressive sales policies. However, the supply of products is often determined based on informal client feedback with no support of detailed or regular market research. Nor do SFDs have any real policy for formalizing collateral. As a general rule, the level of implementation of this first CPP is adequate.

Although there is room for improvement, the weaknesses do not pose major risks to consumers.

Principle 2

Prevention of Over-Indebtedness

The managers of the assessed SFDs are generally aware of the risk of over-indebtedness. However, **in light of portfolio at-risk values in most SFDs, this risk is insufficiently contained.** The weakness of internal management tools, the absence of an effective credit information-sharing mechanism, under-qualified staff, and insufficient guidelines for lending procedures and internal control are not conducive to the adequate management of the risk of client over-indebtedness. In addition, surveys conducted with SFD clients show that they are often members of several financial institutions. As a result, there is a real risk of over-indebtedness and of **serious harm to clients.** This risk may be partially reduced for the clients of those institutions within the scope of Article 44 of Law 23 once the credit bureaus are set up.

Principle 3

Transparency

On the whole, information supplied to clients is not sufficiently transparent despite the good intentions of sales agents. Most information is communicated orally. Loan contracts do not contain all useful information, and copies of contracts are not systematically provided to clients. In particular, pricing information lacks transparency, and clients find it difficult to work out the true cost of services. Several SFDs surveyed recognized that transparency was not one of their priorities given the high degree of illiteracy among clients. For their part, clients do not complain because their main criteria for choosing a SFD is proximity and access to credit, not transparent or affordable pricing. **Nevertheless, access to credit could be improved significantly.**

Principle 4

Responsible Pricing

The SFDs assessed endeavor to comply with the very stringent interest rate ceiling laid down by BCEAO. Yet this does not mean that SFDs' pricing is responsible. In fact, **the sustainability of a significant number of SFDs is under serious threat.** Their low profitability can be explained in particular by the fact that their financial products are priced too low relative to the high costs they face. **As a result, even though pricing is low in comparison with sector benchmarks, this CPP presents a major risk.** This risk is amplified by the fact that in the absence of measures designed to protect depositors, bankruptcies among deposit-taking SFDs could cause serious harm to an already vulnerable client base. Systemic contagion risk is real: in the event of panic, the bankruptcy of several SFDs could lead to massive withdrawals by depositors at other SFDs.

¹ In line with the recommendations of the Central Bank of West African States (BCEAO), the term "Decentralized Financial System" (SFD) is preferred over "Microfinance Institution" (MFI) in order to reflect the desire to include microfinance in the mainstream financial system.

² Professional Association of Decentralized Financial Systems in Burkina Faso.

Principle 5

Fair and Respectful Treatment of Clients

Stakeholders generally consider the legal procedures in place to enforce guarantees to be complicated, costly, unreliable, and time-consuming. Given the inadequacy of regulatory provisions, guarantees generally have no legal value and are primarily used for deterrence purposes. No verbal or physical pressure or any discriminatory practices were observed in relations with clients. However, the lack of formalized and clear guidelines on the behavior expected of staff, in particular during collection procedures, the few internal guidelines on collateral enforcement, weak internal control, and, as will be shown below, the lack of grievance resolution mechanisms provide no guarantee that staff will comply with ethical standards and follow good professional practices at all times. **Implementation of this CPP therefore presents some risk. In light of this, SFD managers should strive to ensure that fair and respectful behavior is adopted in their institutions.**

Principle 6

Privacy of Client Data

Client data protection practices could be improved considerably. Indeed, although this CPP appears in some managerial documents, employees and clients are poorly informed about this policy. In addition, management systems and internal practices do not preserve the integrity and confidentiality of data. **The implementation level of this CPP is therefore weak.**

Principle 7

Mechanisms for Complaint Resolution

Even though in principle SFD clients know that they have the right to complain and they do so from time to time often through informal communication channels, SFDs have no mechanisms (whether procedures or tools) for resolving grievances or to effectively take client suggestions into account. Greater formalization of the process would make it possible to meet better the needs and concerns of clients, thereby improving client retention. Clients tend to be unaware of the few existing external recourse mechanisms. Strengthening these mechanisms would send a strong message about respecting clients' rights. **Grievance resolution is the CPP where the implementation level is weakest.**

In sum, a great deal of work remains to be done if there is to be sufficient protection for SFD clients in Burkina Faso. A fragmented regulatory framework ill-equipped for the realities SFDs face with regard to some CPPs, a lack of awareness and other concerns among the managers of many SFDs, the low level of education among clients, and a lack of human and financial resources limiting the effectiveness of supervision mechanisms explain the insufficient compliance with CPPs. Although momentum is there, it could be accelerated through better coordination and greater involvement of stakeholders. This report details the state of progress in the principles underlying client protection in Burkina Faso's microfinance sector and makes recommendations designed to ensure better implementation of these principles in the country.

Key Findings | Principles in Practice

In the following section of this report, results of client protection Smart assessments are reported for each of the seven principles. Results of these assessments are indicated as follows:

- Percentage (%) of indicators **fully** met by MFIs in sample
- ▲ Percentage (%) of indicators **partially** met by MFIs in sample
- ◆ Percentage (%) of indicators **not** met by MFIs in sample



Introduction

Client protection is about ensuring a fair exchange between providers and consumers. It is key to the sustainable growth of any sector but takes on a particular importance in microfinance, where the balance of power strongly favors the providers of financial services. The inherent disadvantage of consumers of financial services relative to the power, information, and resources available to providers³ is amplified when it comes to low-income clients, and in such cases, the stakes are particularly high as an unfair practice or uninformed decision can have dramatic consequences for vulnerable clients and jeopardize a provider's reputation and trust in the microfinance sector as a whole.

While the concept of common standards of practice for consumer protection is not new, efforts to promote its application in the microfinance sector are relatively recent. The first set of minimum standards for microfinance institutions dates back to 2008. Known as the Client Protection Principles (CPPs), these standards emerged after decade-long expansion in commercialized microfinance that undeniably increased outreach but also raised questions about growth, professional ethics, the pursuit of profit, and cost to clients. Promoted by the Smart Campaign, the CPPs seek to re-center the industry's focus on clients. Alongside regulation and financial education, institutional commitment to a set of common standards such as the CPPs forms the foundation of a responsible microfinance sector.

Through the Responsible Finance through Local Leadership (RFL) program (2012-2016), the SEEP Network is engaged with seven microfinance associations in sub-Saharan Africa (in Benin, Burkina Faso, Côte d'Ivoire, Ghana, Rwanda, Senegal, and Uganda) with a view to promoting responsible microfinance. SEEP supports initiatives designed to:

- Develop and enforce microfinance sector codes of conduct;
- Train and assess MFIs on the CPPs;
- Facilitate the establishment or improvement of credit information sharing systems;
- Identify meso-level interventions designed to promote client protection;
- Undertake client protection diagnostics; and
- Promote client grievance and recourse mechanisms.

This document is part of a series of State of Practice reports for the seven countries in the RFL program. The series aims to highlight strengths and priority areas for improving client protection in each country and to help guide sector stakeholders' technical and advocacy efforts in this area.

Overview of Burkina Faso's Microfinance Sector

Burkina Faso has been one of the pioneers in formal microfinance in West Africa. The first decentralized financial systems (SFDs, or MFIs) appeared in the country in the 1970s in the form of savings and loan cooperatives. After 20 years of development, the sector experienced rapid and diversified—albeit poorly controlled—growth.

Government Strategy and Priorities

The Government of Burkina Faso intends to promote financial inclusion as a lever for reducing poverty. To this end, a National Microfinance Strategy (SNMF) was set out for the period 2006-2010, then revised for the period 2012-2016. This strategy comes with an Action Plan. The current Action Plan contains four strategic pillars: (1) protecting clients' interests and maintaining their trust; (2) capacity building within the SFDs; (3) improving accessibility to the range of products offered by SFDs as well as their quality; and (4) improving the institutional framework.

The institutional framework for the implementation of the SNMF was reviewed, and a Permanent Secretariat for the Promotion of Microfinance (SP-PMF) was created. The SP-PMF provides coordination and strategic monitoring of support for the microfinance sector. To this end, it has signed three Delegated Management Contracts with: (i) the Directorate for Supervision and Control of Decentralized Financial Systems (DSC/SFD); (ii) the Maison de l'Entreprise in Burkina Faso (MEBF); and (iii) the Professional Association of Decentralized Financial Systems (AP/SFD-BF), which all SFDs are required to join. Each of these delegated management contracts has a specific mandate, namely the oversight and monitoring of the sector (DSC/SFD), providing support for SFDs (MEBF), and upholding the interests of the profession and capacity building of members (AP/SFD-BF).

³ Mark Flaming et al., "Consumer Protection Diagnostic Study," FSD Kenya, January 2011.

Supply-Side Characteristics

In Burkina Faso, SFDs can take on three main institutional forms: (i) cooperative savings and loan institutions, which constitute the predominant and traditional form; (ii) associative structures; and (iii) public limited companies or limited liability companies, which are an emerging form of SFDs in the country.

According to the National Microfinance Strategy document (2012-2016), the competitive environment is highly disparate, in particular in terms of size and relative weight. The Réseau des Caisses Populaires du Burkina Faso (RCPB) is without doubt the market leader in the country microfinance sector.

In recent years, the number of institutions operating in this sector has fallen sharply (from 263 in 2010 to 139 in 2015) as a result of mergers or combinations designed to consolidate the sector. Despite this trend, the number of clients increased over the same period (+25%), as did outstanding credit (+33%), while outstanding deposits soared (+185%). The sector is growing fast in a market where the proportion of portfolios at-risk in SFDs is a concern (> 5%).

Key Data

Economic indicators ⁴	Burkina Faso's microfinance sector (09/30/2015) ⁶	Indicators of financial inclusion (2014) ⁷
Total population 17.59 million (2014)	Number of licensed SFDs 139 , consisting of 2 SARLs, 4 SAs, 9 associations, and 124 savings and loans cooperatives	% of the population (age 15+) with an account at a financial institution 13.4%
GNI per capita USD 700 (2014)	Number of individuals accessing SFD services 1.476 million	% of the population (age 15+) with a loan from a financial institution 5%
GDP growth 4% (2014)	Portfolio at-risk 6.2%	% of the population (age 15+) with savings at a financial institution 8.7%
Currency USD 1 = 601.63 CFA francs (exchange rate as of January 29, 2016)		
% of the population below the national poverty line 40.1% (2014) ⁵		

Legal, Regulatory, and Institutional Framework

Several regional and national laws and regulations govern the creation, organization, and supervision of SFDs in Burkina Faso. In order to clean up the sector, the authorities of the Member States of the West African Monetary Union (WAMU), and BCEAO had to take strong measures, in particular by adopting more stringent regulations. The following box summarizes the key regulatory documents as regards SFD client protection in Burkina Faso.

⁴Source: www.donnees.banquemondiale.Org/pays/burkina-faso

⁵Ongoing Multisector Survey (*Enquête Multisectorielle Continue - EMC*), 2014.

⁶Source: Data compiled from the DSC/SFD.

⁷Source: Global Findex 2014 - Burkina Faso.

Uniform Law regulating SFDs in WAMU adopted on April 6, 2007 in Lomé and Law 023-2009/AN of May 14, 2009 transposing it into national law

- Taxonomy of the financial transactions SFDs are authorized to perform;
- Obligation to join the Professional Association of Decentralized Financial Systems;
- Obligation to be transparent in pricing and to display the company's official designation;
- Limits to interest rates and terms and conditions of transactions with clients;
- Full description of control mechanisms;
- Reminder of the duty to uphold professional confidentiality;
- Full description of the measures in place for providing assistance to SFDs in difficulty;
- Reminder of the rules specific to savings and loans cooperatives (notably the capitalization standard laid down by the Central Bank and the mandatory constitution of general reserves).

OHADA Uniform Act regarding the Law of Cooperatives adopted in Lomé on December 15, 2010 (Organization for Business Law Harmonization in Africa - OHADA)

- Participants' right to education, information, and communication;
- Prohibition of discrimination;
- Warning procedures implemented by the Supervisory Board;
- Possibility of setting up arbitration and mediation bodies.

Decree 2009-839/PRES/PM/MEF of December 18, 2009 for implementation of Law 023-2009/AN of May 14, 2009

- Clarification of the provisions relating to savings and loan cooperatives.

OHADA Uniform Act adopted in Lomé on April 10, 1998 establishing simplified recovery procedures and execution measures

- Definition of simplified recovery procedures and clarification of execution measures designed to enable creditors to force debtors to meet their commitments.

OHADA Uniform Act adopted in Lomé on December 15, 2010 establishing collateral

- Definition of collateral that can be constituted to guarantee the creditor's right to be paid in the event of default;
- Description of the provision of collateral from formation to realization.

Decision 397/12/2010 regarding rules, instruments, and procedures designed to implement BCEAO's payment and credit policy

- Obligation for transparency in pricing and client protection.

Law regarding the definition and suppression of usury; Decree 95-1004 on the calculation of annual percentage rate and Opinion No. 003-08-2013 setting the interest rate in WAMU Member States at 24% for SFDs

Law 010-2004/AN of April 20, 2004 regarding the protection of personal data

- Creation of a Data Protection Authority (Commission Informatique et Liberté);
- Obligation to provide information to and obtain consent from the individual;
- Client rights to know and contest their personal data.

Law 023-2009/AN of May 14, 2009 regarding the protection of client deposits

Law 015/94/ADP of May 5, 1994 organizing competition in Burkina Faso, modified by Law n°33-2001/AN of December 04, 2001

- Obligation to inform clients particularly with regard to prices and terms.

Uniform Law regulating credit bureaus in WAMU Member States adopted on June 28 2013, and Directives relating to the functioning of these bureaus

- Formulation of provisions to ensure reciprocity, confidentiality, and explicit prior consent of individuals;
- Obligation to provide clients with pricing information;
- Client rights to know and contest their personal data;
- Obligation to establish a client complaint mechanism.

Regulation n°15/2002/CM/UEMOA regarding payment systems in WAMU Member States

- Right to an account and minimum services;
- Mechanisms designed to make electronic payments secure and obligation to respect data confidentiality;
- Obligation to inform and raise awareness.

Responsibility for oversight of the provisions of the above-mentioned regulations remains with each of the WAMU Member States, represented by their Ministry of Finance. The ministries are assisted by the WAMU Banking Commission and the Central Bank of West African States (BCEAO). Upon receiving information from the ministry, they inspect SFDs whose operations have reached CFAF 2 billion in outstanding deposits or credit over two consecutive fiscal years (art. 44 of Law 023 Regulating SFDs). In Burkina Faso, Decree no. 2007-267/PRES/PM/MFB entrusts the Directorate for supervision and control of SFDs (DSC/SFD) with overseeing the microfinance sector under the supervision of the Ministry of Economy and Finance.

The many clauses listed in these regulations contribute to meeting the CPPs as defined by the Smart Campaign. If these were to be applied, they would generally offer relatively satisfactory protection for SFD customers. However, the fact that they are scattered throughout highly fragmented legislation does not help their uptake or implementation in practice. In addition, for want of human, technical, and financial resources, on- and off-site auditing is sporadic, and DSC/SFD inspection reports are sometimes sent to the authorities several months late. Few sanctions are enforced on non-compliant SFDs, and effective remedial measures are not always implemented within a desirable timeframe. This has resulted in the bankruptcy of several SFDs in the past.

To resolve the financial problems of the presence of too many SFDs, the Ministry of Economy and Finance contributed to a study of SFDs in distress or under temporary administration in 2012. Following this study, the Ministry created a National Committee in 2013 designed to stabilize and consolidate the sector. In December 2014, the Ministry drafted guidelines for managing situations of temporary administration and trained potential administrators.

Contribution of the Professional Microfinance Association to Client Protection

The Ministry can also count on assistance of the Professional Association of Decentralized Financial Systems in Burkina Faso (AP/SFD-BF). With the support of stakeholders such as MISION Africa/CRS, Terrafina Microfinance, MF Transparency, and the SEEP Network, the AP/SFD-BF has made a strong commitment to client protection in recent years.

For example, a **Code of Conduct** for SFDs in Burkina Faso was created in 2008 and revised in late 2014. The AP/SFD-BF Code aims to be a self-regulating mechanism for the SFDs. It formalizes the main professional rules and ethical standards designed to guide and oversee the sector. It details the responsibilities of the various stakeholders in implementing the Code as well as enforcement measures.

The Code of Conduct lays down a set of common values and standards designed to guide SFDs.

It encourages:

- The use of practices designed ensure good governance;
- Compliance with healthy competition rules;
- Implementation of the 7 CPPs; and
- Adoption of SPM standards.

The new AP/SFD-BF Code was disseminated and training sessions with AP/SFD-BF members were conducted in 2015. An Ethics Committee is tasked with overseeing the enforcement of the Code throughout the membership and to propose sanctions to the Board of the AP/SFD where necessary. However, at the time of writing, many SFDs still lack their own code despite the obligation to have such a code under BCEAO Directive 005-06-2010 regarding documents to be submitted for licensing and the requirements laid down by the AP/SFD-BF Code.

The AP/SFD-BF also oversaw eight consumer protection external assessments of member SFDs using external evaluators accredited by the Smart Campaign: two in 2011, two in 2013, three in 2014, and one in 2015. Six of these were taken into account in this study.

In 2015, the AP/SFD-BF also tested the SEEP Client Protection Market Diagnostic Tool. This tool aims to give a comprehensive overview of the rules, industry practices, and problems related to client protection in national markets.

Recent Developments

Growth in Islamic microfinance and increasing open-mindedness toward the adoption of mobile money are among current trends in the microfinance sector. In terms of information-sharing, BCEAO is actively working to launch credit bureaus in order to limit the risk of client over-indebtedness.

Following a call for tenders in early 2015, BCEAO selected the company CréditInfo Volo for all WAMU Member States. This credit bureau is being set up and is expected to begin operations very soon (initially scheduled for October 2015). It will combine all data on the loan and payment histories of clients of financial organizations (banks and SFDs) as well as those of water, electricity, and telephone utilities. While Burkina Faso has not yet adopted the law on credit rating agencies due to political turbulence in 2015, it is expected to do so as it has an obligation to transpose this law into its national law. It will combine all data on the loan and payment histories of clients of financial organizations (banks and SFDs) as well as those of water, electricity, and telephone utilities. While Burkina Faso has not yet adopted the law on credit rating agencies due to political turbulence in 2015, it is expected to do so as it has an obligation to transpose this law into its national law.

This report on the **state of practice in client protection in Burkina Faso** seeks to guide the efforts of the various stakeholders in Burkina Faso's microfinance sector (AP/SFD-BF, politicians, investors and donors, technical assistance providers, etc.) with a view to achieving greater professionalism in the microfinance sector in general and improved protection of client interests in particular. The report supplements the national CP market diagnostic. It recaps the legal framework for microfinance activities in the country, underlines measures designed to safeguard client protection, and presents the rules and practices observed by the sector. The findings from the six CP external assessments done in Burkina Faso using the Smart Campaign methodology are combined and discussed. The document will detail the strengths and weaknesses observed for each CPP as well as lessons learned.



Principle 1

Appropriate Product Design and Delivery

Providing suitable services that do not cause harm is at the heart of consumer protection. For financial institutions, this means having products and distribution channels adapted to the clients they serve as well as taking the specific features of MFI customers into consideration.

In particular, MFIs must take on board the views of their clients in the process of designing new products and services, seek regular client feedback about degrees of satisfaction, and understand the reasons why clients decide to leave. This CPP also disapproves of any recourse to aggressive sales practices and encourages fair collateral policies (including types of collateral, registration procedure, and valuation methods).

Key Regulatory Documents

Several regulations specify the services and products SFDs can offer, albeit without specifying how they are to be offered:

- Possibility to open deposit accounts (**Law 023 Regulating SFDs, Art. 6 and 33**) under the provisions provided for in **Opinion no. 002-08-2013** regarding the definition of regulated savings products in WAMU Member States and their minimum characteristics (including term, ceilings, and interest rate);
- Possibility to grant loans (**Law 023 Regulating DFSs, Art. 6**);
- Possibility to reach agreements with third-party institutions, notably insurance companies (**Law 023 Regulating SFDs, Art. 36**);
- Possibility to promote payment and withdrawal cards, electronic wallets, and online payment as well as any other forthcoming procedure or modern instrument (**Regulation no. 15/2002/CM/ UEMOA, Art. 131**) according to the terms provided for by **Directive 008-005-2015**.

The range of services and products SFDs can offer is subject to prior authorization by the Ministry and to compliance with the applicable regulations on the operations envisaged (**Law 023 Regulating SFDs, Art. 6; WAEMU Directive no. 008-005-2015, Art. 8**). In particular, issuance of electronic money is subject to sufficient equity capital being available and to a minimum deposit threshold.

Additional provisions require SFDs to provide consumers with access to a minimum range of services and to implement measures designed to protect deposits. These include:

- Right to an account and minimum banking services for any person with a regular income⁸ (**Regulation no. 15/2002/CM UEMOA, Art. 8 and 10; Directive 01/2003 SP regarding the promotion of payment methods, Art. 3**);
- Obligation to join a deposit guarantee fund for SFDs (**Law Regulating SFDs, Art. 69**). However, it should be noted that this fund is not in place yet despite **Decision no. 088/03/2014** regarding the establishment of a deposit guarantee fund in the WAMU zone;
- Obligation to create a security or solidarity fund for savings and loan cooperatives (**Law Regulating SFDs, Art. 85 and 114; BCEAO Directive no. 019-12-2010**);
- Obligation to comply with the prudential rules contributing to depositor protection (such as solvency and liquidity standards) for SFDs in WAMU Member States (**Directive no. 010-08-2010**);
- Procedure designed to warn the Supervisory Board (**OHADA Uniform Act regarding cooperatives law, Art. 119 and 340**);
- Existence of guidelines designed to implement measures in support of distressed SFDs such as temporary administration (**Law Regulating SFDs, Art. 62**) or contribution of shareholders or members with a view to rescuing the distressed SFD (**Law Regulating SFDs, Art. 68**).

Lastly, the OHADA Uniform Act adopted in Lomé (Togo) on December 15, 2010 contains a large number of provisions legislating the securing and fulfillment of collateral and their implementation. With regard to this first CPP, Articles 4, 12, 50, and 90 of this act specify the collateral that can be pledged to guarantee that the creditor will be paid in the event of default. Other provisions relate to the registration and valuation of collateral. They are summarized in the box below. We note in particular the obligation to register transactions with the Trade and Personal Property Credit Register, failing which the transaction which the collateral seeks to secure is not valid.

⁸ Article 3 of Directive no. 1 regarding the promotion of cashless payment methods defines regular income as a monthly amount equal to or above CFAF 50,000.

"Unless otherwise provided, collateral intended to secure a debt may be extended beyond the principal and within the limit of the maximum amount guaranteed to debt accessories and debt collection costs, including costs incurred after notification is made to the guarantor, within the limit of the maximum amount guaranteed" – **OHADA Uniform Act adopted in Lomé on December 15, 2010, Article 18;**

"Unless otherwise provided, collateral subject to notification must be registered with the Trade and Personal Property Credit Register" – **OHADA Uniform Act adopted in Lomé on December 15, 2010, Article 50;**

"Unless otherwise provided, only existing and registered property may be used as collateral." – **OHADA Uniform Act adopted in Lomé on December 15 2010, Article 192;**

"Any contractual or legal document designed to mortgage property shall be registered in accordance with the rules relating to the notification of landed property transactions in the Member State." – **OHADA Uniform Act adopted in Lomé on December 15, 2010, Article 195**

Note - Financial service providers (traditional financial institutions and SFDs) object to the OHADA Uniform Act for being too protective or too favorable to debtors (defaulting clients) at the expense of the providers of financial services. This assessment stems from the barriers providers need to overcome in order to recover their funds when a borrower defaults.

AP/SFD-BF Code of Conduct

The AP/SFD-BF Code of Conduct recommends that products and services be tailored to clients' needs and preferences and developed on the basis of market research to safeguard against excessive supply of products and services. The Code makes no reference to terms for seizure of collateral by SFDs.

Practice

A detailed examination of the practices of the six SFDs assessed according to the Smart Campaign methodology paints an encouraging picture with regard to this first CPP. Only 10% of indicators are not at all compliant with the Smart Campaign protection standards, and nearly half are fully compliant.

Appropriate Product Design and Delivery



- + Most institutions offer a relatively broad range of financial products and services. According to these institutions, they offer diversified savings products, loans for various purposes with varying terms and conditions, and money transfer services. A few are starting to experiment with mobile banking;
 - + SFDs accept a wide range of collateral. However, the guarantees required are most often outside legal and regulatory requirements given the high cost of registering collateral, the low value of pledged assets, and the absence of valid property titles;
 - + Field visits gave no indication of the use of aggressive sales techniques. Sales targets are seldom set, and when they do exist, they are easy to reach and no pressure is placed on branch or field employees;⁹
 - + Client feedback is collected informally, generally by loan agents or in branches.
- The institutions assessed have no clear collateral policies (lack of detail on collateral valuation methods, ineligible collateral, etc.);
 - With the exception of one institution, most of the SFDs assessed conduct no systematic surveys of why clients leave their institution, although some make informal inquiries to clients, in particular when these clients close their account. The institutions therefore forgo an opportunity to obtain readily available and low-cost feedback from clients;
 - While several institutions inquire into client satisfaction in informal discussions and occasionally conduct satisfaction surveys, SFDs undertake no such surveys systematically and have set up no product development processes in line with best practice.

⁹ RCPB, the market leader, has adopted a customer charter and trained its staff in sales methods. However, this institution did not feature in the sample of SFDs assessed by the external consultants accredited by the Smart Campaign.

Take Away

SFD managers are aware of the need to offer a diversified range of products and seek to respond to their customers' specific needs as far as possible without adopting aggressive sales policies. However, the offer of products is often determined based on informal client feedback with no basis in detailed or regular market research, nor do SFDs have any real policy for formalizing guarantees. **As a general rule, the level of implementation of this first CPP is adequate. Although there is room for improvement, the weaknesses do not pose major risks to consumers.**

Priorities for the Sector

- Support SFDs in the process of developing products and services (including market research). This may involve providing training (such as MicroSave's course on market research for microfinance or the product development course offered by the World Bank's Consultative Group to Assist the Poor, CGAP);
- Assist SFDs in integrating technological innovations (such as mobile banking) in their service offerings to better meet the needs of their customers. This assistance can be in the form of financial support, updating procedure manuals, adapting information and management systems, etc.;
- Assist SFDs in designing procedures for collecting, analyzing, and using client feedback. This support may take the form of disseminating tools for surveying reasons for client drop-out, adding questions about customer satisfaction to the internal audit questionnaire, and generating satisfaction survey forms;
- Advocate reform of the regulatory provisions organizing the formalization of collateral for SFDs in the WAMU zone (e.g., exceptional procedure for SFDs under the OHADA Uniform Act).

Principle 2

Prevention of Over-Indebtedness

Over-indebtedness is the CPP most likely to harm clients and service providers alike. Financial institutions have a duty to ensure that clients have the capacity to repay without becoming over-indebted. To this end, management tools and clear guidelines should be made available to staff to guide and facilitate a robust analysis of repayment capacity. Internal monitoring systems are also needed to make sure that this analysis is conducted appropriately. In markets that are highly competitive or expanding rapidly, it is also important for institutions to participate in market-level initiatives designed to prevent over-indebtedness among clients (participation in credit bureaus in countries where these exist; information-sharing with competitors, etc.). In the absence of information-sharing mechanisms, it is important for SFDs to adopt conservative lending policies and more stringent indebtedness thresholds.

Key Regulatory Documents

- Obligation for SFDs to transmit regular indicators to the supervisory authority, in particular the portfolio at-risk and write-off ratios (**BCEAO Directive 020-12-2010**);
- Limitation of the maximum amount transferable and liable to seizure from pay and retirement pensions (**Decree no. 2008 741/PRES/PM/MTSS/MEF/MFPRE/MJ/DEF of November 17, Art. 2 and 3**);
- Obligation to check the solvency of guarantors, taking into account all their assets (**OHADA Uniform Law adopted in Lomé on December 15, 2010, Art. 15**);
- Creation of credit bureaus in WAMU Member States (**Decision CM/UMOA/006/06/2013 of June 28, 2013 regulating credit rating agencies in WAMU Member States**). The institutions concerned are required to communicate data on their clients to BCEAO; the credit bureaus then collect this information from the BCEAO (**Directive No. 00505-2015 specifying the terms by which credit information is to be transmitted to the credit rating agencies, Art. 2**).

A draft uniform law regarding the regulation of credit bureaus in the WAMU zone was adopted by the Council of Ministers in a session held on June 28, 2013 in Dakar. This law governs the creation and operation of the loan information-sharing mechanism in Member States.¹⁰ However, such credit bureaus are yet to be set up in Burkina Faso. In addition, this obligation to share information on loans currently concerns only banking institutions and large SFDs.¹¹

¹⁰ Credit bureaus seek to consolidate all data available on debtors' credit history in order to assess the default risk of a loan on the basis of a scoring system (estimation of the default risk of an applicant based on factors such as age, profession, income, debt level, etc.). Clients with a good score should enjoy more favorable lending conditions (lower collateral, preferential interest rates, etc.).

¹¹ Under Art. 44 of Law 023, this concerns only SFDs with CFAF 2 billion in outstanding credit or deposits over two consecutive fiscal years. This represents a very small number of SFDs (fewer than five according to 2013 data provided by AP/SFD-BF).

In microfinance, portfolio at-risk and write-off ratios are generally seen as indicators of the level of client over-indebtedness. BCEAO Directive 020-12-2010 requires regular transmission of portfolio at-risk and write-off ratios (among other indicators) to the Ministry of Finance, the Central Bank, and the WAMU Banking Commission. Monitoring these indicators helps reduce the risk of over-indebtedness. The norm recommended by these authorities is a ratio lower than 5% for portfolio at-risk ratio at 30 days and 2% for the write-off ratio.

In the event of loans to public and private sector employees and pension recipients, the risk of over-indebtedness is limited by Decree no. 2008 laying down the maximum quota transferable and liable to seizure according to the level of pay or pension received.

AP/SFD-BF Code of Conduct

The Code reminds SFDs of the need to adopt measures designed to prevent the risk of over-indebtedness. For financial institutions not required to contribute to credit bureaus, it encourages that a framework for dialogue between SFDs be put in place with a view to sharing information on debtors.

"The SFD and its peers established or operating in the same area [...] are encouraged to set up a framework for dialogue and mostly to establish "local or sectorial centers" designed to manage risk and arrears. These centers should be functional and enable the SFDs to:

- Exchange information on bad debtors or high-risk areas;
- Prevent over-indebtedness among clients and members (that is due to a combination of loans or cross-loans);
- Reduce clients ability to pay off one SFD's loan with a loan from another SFD" – **AP/SFD-BF Code of Conduct, Art. 21.**

Practice

The six external assessments carried out showed significant weaknesses in the prevention of over-indebtedness. Nearly half of the indicators under this CPP were not met, and 35% were met only partially. This situation constitutes a real threat for both financial service providers and clients. However, the aggregate rating of these indicators masks disparities between the various institutions assessed.

Prevention of Over-indebtedness



- + Managers of the SFDs assessed are generally aware of the risk of over-indebtedness thanks to poster campaigns on microfinance basics, financial literacy workshops, tools to collect information on other loans owed by a client. While these measures alone are insufficient for all customers to be fully aware of this risk, they are a first step toward reducing the risk of over-indebtedness;
- + SFDs that grant salary-based loans adhere strictly to Decree no. 2008-741.
- Lending manuals often contain numerous gaps and the management tools in place to support the scrutiny of applications are lacking in details;
- None of the six institutions assessed undertakes a truly satisfactory analysis of clients' repayment capacity, although three of them endeavor to do so;
- The use of the sheet for information on other loans held by the clients at different financial institutions, designed to prevent over-indebtedness, has proved ineffective, as reflected in client grievances about the formalities involved, client capture by some SFDs, lack of cooperation from competing institutions, etc.;
- Incentive-based systems designed to ensure portfolio quality are lacking or ineffective;
- The monitoring of credit portfolio quality is often insufficient and its analysis is weak as a result of insufficiently trained staff, manual calculations giving rise to errors, ratios not tracked daily, etc.;
- The level of portfolio at-risk is at worrying levels in many SFDs;¹³
- In the absence of clear policies, dangerous business practices are resorted to, such as rescheduling of loans without authorization from a superior or without specific monitoring, or the absence of prudential limits in credit policy in the event of a loan being renewed following early repayment;
- Internal auditing is often very weak; only one institution reported that a higher level staff undertook follow-up visits with clients to check that credit procedures were being complied with and to minimize the risk of fraud.

¹² This should take place monthly for those SFDs concerned by article 44 of Law 023, quarterly for the others.

¹³ At the time of assessment, two of the institutions had a portfolio at-risk ratio (PAR90) lower than 5% but higher than 3% (the BCEAO standard); two were close to 10%, one to 15%, and one in excess of 20%.

Take away

The managers of the SFDs assessed are mostly aware of the risk of over-indebtedness. However, **in the light of portfolio at-risk values, the risk of over-indebtedness is insufficiently contained in most SFDs.**¹⁴ The weakness of internal management tools, the absence of an effective loan information-sharing mechanism, under-qualified staff, insufficient guidelines on credit procedures, and weak internal control are not conducive to adequate management of the risk of client over-indebtedness. Furthermore, surveys conducted with SFD clients reveal that they are often members of several financial institutions, resulting in a real risk of over-indebtedness and of **serious harm to clients**. This risk may be partially reduced for clients of those institutions that fall under art. 44 of Law 23 once the credit bureaus are launched.

Priorities for the Sector

- Improving portfolio quality should be a key priority for the managers of most SFDs. This will require:
 - Thoroughly reviewing credit record analysis and monitoring processes;
 - Training loan agents;
 - Computerizing SFD accounting and financial management to enable the rigorous monitoring of portfolio quality;
 - Designing incentive-based systems that encourage loan quality over quantity; incentives should also be consistent with credit policies and procedures and be verified through an internal oversight mechanism;
 - Introducing an effective internal control system equipped with appropriate management tools and an internal auditing manual.
- Speed up the establishment of credit bureaus at the regional level and raise awareness among SFDs of the need to use them in transmitting their data and consulting the system before approving loans. A request could also be sent to BCEAO with a view to making credit bureaus accessible to smaller SFDs above a certain credit threshold.

Principle 3 Transparency

Transparent communication about products and prices is necessary if clients are to be enabled to make informed decisions. Microfinance clients are generally less informed than the clients of traditional financial institutions. As a result, it falls to service providers to proactively communicate with clients in a language accessible to them. The principle of transparency requires that information to be passed on be clear, complete, and timely. In particular, communication regarding pricing and terms and conditions for products and services is required before any commitment is made by the client, as is a clear account of the consequences of failure to comply with contractual provisions.

Key Regulatory Documents

- Obligation for transparency in the pricing of SFD services (**Law regulating SFDs, Art. 60; Decision no. 397/12/2010, Art. 23; Directive no. 008-005-2015, Art. 29**), and more specifically:
 - Obligation to display the terms and conditions of their operations (**Decision no. 397/12/2010, Art. 31**);
 - Obligation to inform the public through the press every six months and following any change to minimum or maximum lending rates indexed to the benchmark rate in the money markets (**Decision no. 397, Art. 32**);
 - Obligation to explain in the client loan application file, the method used to calculate the annual percentage rate (APR) applied to the client (**BCEAO Directive no. 005-06 2010**);
 - Obligation to calculate and display the APR (**Decree 95-1004 of November 7, 1995**);¹⁵ BCEAO has created a template designed for calculating the APR and made it available to SFDs (**Methodological Document no. DSF 001/2015**);
 - Obligation to provide written notification of the APR to potential borrowers, the rate for the loan period, the duration of the period, the nominal interest rate, and all related fees (**Decision no. 397, Art. 33**);
- Applicants who do not know how or are unable to write are exempt from signing for the guarantee, in which case two witnesses must be present (**OHADA Uniform Act adopted in Lomé on December 15, 2010, Art. 14**);

¹⁴ The latest study conducted by AP/SFD-BF on the financial performance of its members in 2013 showed that barely 20% of institutions had a portfolio at-risk ratio that fell within the BCEAO standard (< 3%).

¹⁵ It should be noted that article 7 of the decree adopted by BCEAO regarding the calculation of the APR does not include mandatory savings in the calculation when a loan is conditional upon the accumulation of prior savings, contrary to the calculation method practiced by Microfinance Transparency.

- Obligation to issue quarterly financial statements (**Regulation 15/2002/CM/UEMOA, Art. 10**);
- Right of cooperative members to information and communication (**OHADA Uniform Law Regarding the Law of Cooperatives, Art. 6 and 237**);
- Obligation to provide information on the terms of use of ATM cards, available electronic payment instruments and processes, and penalties in the event of abuse (**Regulation 15/2002/CM/UEMOA, Art. 16 and 137**);
- Obligation to train and raise awareness (**Law Regulating SFDs, Art. 85; Uniform Act regarding Cooperative Law, Art. 6; Regulation 15/2002/CM/UEMOA, Art. 16 and 243**).

AP/SFD-BF Code of Conduct

The Code stresses the importance of transparency, underlining the need to transmit all information that may aid decision making prior to a contract being signed.

Practice

The six external assessments found encouraging results for this CPP. Overall, 30% of the indicators were fully met, and 48% were partially met.

Transparency



- | | |
|--|--|
| <ul style="list-style-type: none"> + Staff endeavor to pass on information verbally on terms and conditions for products and services offered and are available to answer clients' questions at all times; + Most agents who sell SFD products and services speak several local languages and talk to their clients in accessible terms; + Contracts are drafted in straightforward terms and contain no small print or footnotes; + Account statements can generally be sent out to clients on request. Issuing these statements (generally billed to clients) as well as receipts is made easier when SFDs have suitable software at their disposal. In the absence of these documents, clients have their bankbooks with which to track transactions; and + Two SFDs have experimented with theatrical performances to raise awareness, and two have conducted financial literacy workshops with some of their clients to address their customers' low level of education. | <ul style="list-style-type: none"> ○ Despite the willingness shown by sales agents, the information communicated is often incomplete due to lack of training or errors; ○ Oral communication is not sufficiently passed on through other communication channels (pricing terms either not displayed or partially displayed; leaflets seldom available and often incomplete; non-compliance with the obligation to inform via the press; etc.); ○ Loan contracts do not contain all the useful information, and not all SFDs give copies of such contracts to clients, nor are repayment schedules systematically given to clients; ○ The APR is displayed in none of the SFDs assessed, nor is it communicated to clients although it is sometimes calculated and monitored internally; ○ SFDs regularly resort to practices that create confusion over the true cost of loans; some SFDs deduct loan fees or pledged deposits from the amount granted, while five of the six SFDs assessed use the fixed method to calculate interest on all or part of their loan products; ○ Although savings and loan cooperatives are obligated to provide training for their members, this obligation is not always met. |
|--|--|

Take Away

On the whole, the information sent to clients is not sufficiently transparent despite the good intentions of loan officers. Most information is communicated orally only. Loan contracts do not contain all useful information, and copies of these contracts are not systematically provided to clients. In particular, information on pricing is not fully transparent, resulting in clients finding it difficult to assess the true cost of services. Several SFDs surveyed admitted that transparency was not their first priority given the high degree of illiteracy among their clients, while clients do not express dissatisfaction because proximity and access to credit are their main criteria for choosing an SFD, more so than transparent or affordable pricing. Nevertheless, **the level of implementation of this third CPP could be improved significantly.**

Priorities for the Sector

- Provide further training for staff on terms and conditions for the various products and services provided;
- Avoid all practices that may obscure the true cost of credit for clients;
- Ensure that the supervisory authority verifies compliance with legal requirements to display and publish applicable pricing;
- Provide SFDs with a model loan contract containing all loan terms and conditions;
- Require SFDs to systematically provide a copy of loan contracts and the amortization table to clients and to the guarantor (where applicable); and
- Strengthen financial literacy efforts.

Principle 4 Responsible Pricing

The Smart Campaign defines responsible pricing as pricing that is affordable to clients while allowing financial institutions to be sustainable. Pricing should be in line with that practiced by peers in the market and should not reflect serious inefficiencies or excessive profiteering. Providers should also strive to provide positive real returns on deposits.

Key Regulatory Documents

- Obligation to abide by WAMU rules on operations with customers (**Law Regulating SFDs, Art. 60**);
- With regard to credit, obligation to comply with the interest rate determined by the WAMU Council of Ministers; this has been set at 24% since January 1, 2014 (**Opinion no. 003 08-2013**);¹⁶
- Obligation to provide free access to certain banking services (**BCEAO Directive no. 004-06-2014**);
- Obligation to respect terms and conditions regarding the remuneration of savings products (**Decision CM/UMOA/016/09/2014**).

In addition, cooperatives are able to limit the pricing of their members' transactions through their statutes (**Uniform Act regarding Cooperative Law adopted on December 15, 2010 in Lomé, Art. 18**).

AP/SFD-BF Code of Conduct

The Code recapitulates the principle of responsible pricing in the following terms:

"Pricing, terms, and conditions shall be set in a way that is affordable to clients while allowing for financial institutions to be sustainable. Providers shall strive to provide positive real returns on deposits." (**Art. 30, p. 15**).

Although the six external assessments conducted revealed intermediate results for this fourth CPP, with 33% of indicators being fully met, 28% not met at all, and 39% partially met, this situation is of serious concern for the sector as many institutions are not sustainable.

¹⁶ It had previously been set at 27% for SFDs.

¹⁷ It should be noted that this could also reflect low-quality portfolios.

Responsible Pricing



- + SFDs endeavor to comply with the interest rate set and offer competitive pricing that is favorable for clients. Although the fact that APRs are not posted makes it difficult to arrive at precise figures, low returns on the loan portfolios of many SFDs point strongly in that direction;¹⁷
- + Pricing practices are not discriminatory;
- + Transaction fees and penalties are not excessive (with the exception of two SFDs, which should review their early repayment policy).

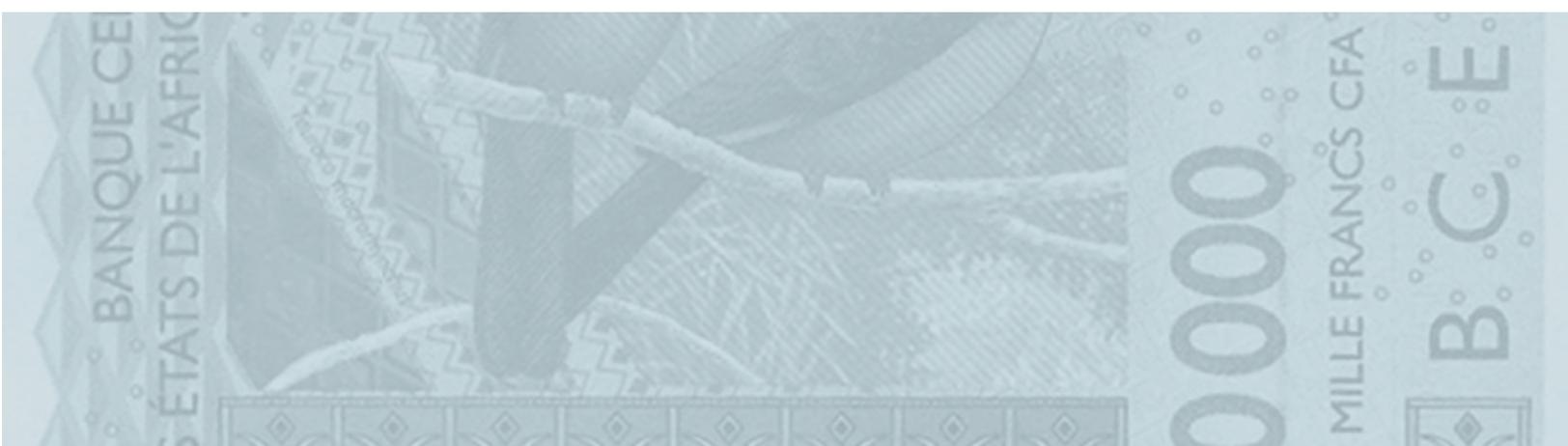
- The institutions assessed seldom base their pricing on the true cost of a product or service but take into account regulatory constraints and the prices practiced by peers;
- At the time of assessment, none of the SFDs had reached operational self-sufficiency;
- All were found to have operating costs in excess of returns on their loan portfolios, in addition to high portfolio at-risk ratios, which in some cases are at extremely worrying levels;
- The SFDs are not efficient enough. The lack of professionalism and non-computerized management systems often result in low staff productivity;
- Free access to some banking services is not sufficiently complied with (issuance of savings books, account statements, etc.).

Take Away

The SFDs assessed endeavor to comply with the stringent BCEAO interest rate. Yet this does not mean that SFDs' pricing is responsible. In fact, the **sustainability of a significant number of SFDs is under serious threat**. Their low profitability can be explained in particular by the fact that their financial products are priced too low to cover their costs, which are too high. **As a result, although pricing is low in comparison with sector benchmarks, this CPP presents a major risk**. This risk is made even more serious by the fact that in the absence of measures designed to protect depositors, bankruptcies in deposit-taking SFDs can cause serious harm to already vulnerable customers. Systemic contagion risk is real: the bankruptcy of several SFDs could lead to panic and massive withdrawals by depositors at other SFDs.

Priorities for the Sector

- Increase the monitoring and oversight of SFDs by the supervisory authorities and pay greater attention to SFD governance;
- Advocate that BCEAO raise the interest rate so that SFDs are able to pursue their social mission while breaking even;
- Assist SFDs in containing better their operating costs and improving the quality of their loan portfolios;
- Seek financing to assist SFDs in computerizing their systems with a view to increasing staff productivity and improving the quality of internal controls;
- Assist SFDs whose financial sustainability is seriously jeopardized but that show true potential to find donors willing to recapitalize or subsidize them or grant them new lines of credit at preferential rates while providing technical support;
- In collaboration with the other AP/SFDs of the region, speed up the establishment of a deposit protection facility at the regional level;
- Require all cooperative-type institutions to comply with the regulatory provisions relating to the setting up of a security fund.



Principle 5

Fair and Respectful Treatment of Clients

Financial service providers should treat their clients fairly and respectfully. This CPP hinges on a commitment to a code of conduct, a non-discrimination policy, and safeguards designed to detect corruption as well as aggressive or abusive treatment of clients by staff, particularly during the loan sales and debt collection processes. The CPP also involves informing clients of their rights.

Key Regulatory Texts

- Uniform Act regarding Cooperative Law adopted on December 15, 2010 in Lomé;
- Uniform Act adopted in Libreville on April 10, 1998 organizing simplified recovery procedures and execution measures;
- Uniform Act adopted in Lomé on December 15, 2010 organizing collateral from its constitution to its realization.

The Uniform Act regarding Cooperative Law adopted on December 15, 2010 in Lomé prohibits all discrimination based on sex or ethnic, religious, or political affiliation (Art. 6). However, no provision of that law addresses the matter of the respectful treatment of clients.

A large number of provisions in the OHADA Treaty legislate the realization of collateral in the event of non-repayment of loans. The Uniform Act of April 10, 1998 provides for two legal procedures that are simple for a creditor to apply in forcing debtors to meet their commitments, namely injunction to pay, and injunction to deliver or return an asset. With this Uniform Act, legislators sought to ease conditions for seizure to ensure debt recovery for creditors. Further provisions were then adopted in the Uniform Act of December 15, 2010. Among these, some protect the interests of debtors in particular. The main clauses are summarized in the following box .

"The guarantor shall be required to settle the debt only where the principal debtor has defaulted. The creditor may not undertake any action against the guarantor unless formal notice to pay has been served to the debtor and has remained unheeded."

- **Uniform Act of December 15, 2010, Art. 23**

"Within one month of serving the principal debtor with the formal notice to pay that has remained unheeded, the creditor must inform the guarantor of the default of the principal debtor, indicating the remaining amount still owed in terms of principal, interest, and other accessories on the date of this payment incident. Failing that, the guarantor shall not be required to pay the penalties or overdue interest between the date of this incident and the date of notification." - **Uniform Act of December 15, 2010, Art. 24**

"The creditor shall, in the month following the end of each semester from the signing of the surety contract, be bound to inform the guarantor of the status of the principal debtor's debts, stating the origin thereof, their due dates, and amounts in terms of principal, interest, commissions, and other accessories still owed at the end of the just-ended half-year, and reminding said debtor of his option to revoke by repeating the provisions of article 19 of this Uniform Act. Where the creditor fails to comply with the formalities provided for in this article, he shall forfeit any interest owed by the guarantor from the date of the last statement to the date on which the new statement is notified." - **Uniform Act of December 15, 2010, Art. 25**

"Any creditor legitimately holding a debtor's asset may hold same pending full payment of the due amount."

- **Uniform Act of December 15, 2010, Art. 67**

"The creditor shall keep the asset held in sound condition. By way of derogation from the previous subparagraph, the creditor may proceed, upon authorization from the competent court, ruling in emergency session, to sell this asset if its perishable state or nature justifies same or if costs incurred by its keeping are disproportionate to its value." - **Uniform Act of December 15, 2010, Art. 70**

"Where the value of the asset held exceeds the amount of this sale, the creditor shall owe the debtor a sum equal to the difference between the two." - **Uniform Act of December 15, 2010, Art. 77**

"Where payment is not made by the due date, the secured creditor furnished with the writ of execution may proceed with the liquidation sale of the pledged asset eight days after serving notice to the debtor and, where necessary, to the third-party guarantor of the pledge." - **Uniform Act of December 15, 2010, Art. 104**

In practice, these provisions are not very effective. In addition to the difficulties related to formalizing collateral mentioned in CPP1, compliance with the regulatory provisions relating to the realization of collateral is also complex or inadequate for most SFDs. Observed difficulties include slow and costly legal proceedings, problems for bailiffs in locating debtors, a lack of resources available to the courts, persistent corruption among some stakeholders, etc.

AP/SFD-BF Code of Conduct

The Code emphasizes the prohibition of all discrimination or corruption and recommends that mechanisms be set up to prevent such practices along with measures designed to protect clients from all aggressive or abusive treatment. Nevertheless, no taxonomy of good or bad practices has been proposed.

Practice

Once again, the six SFDs assessed received very mixed ratings for this CPP as 25% of indicators were fully met, 41% were partially met, and 33% were not met at all.

Fair and Respectful Treatment of Clients



- + The staff members met displayed respectful and friendly behavior toward customers;
 - + Most institutions specify the steps for loan recovery and some behavioral or ethical standards to follow (for example, in by-laws, staff rules, or a fraud detection or loan procedures manual);
 - + In the event of late payment, most staff members displayed flexibility with regard to due dates;
 - + Given the complexity of the legal provisions in force and the cost relating to the formalization and realization of collateral, guarantees mostly have no legal value and, with a few exceptions, are not realized. Since their value is more symbolic than repressive, out-of-court recovery remains the route preferred by SFDs in the event of unpaid debts. Only one institution seems to resort to more rigorous methods in the event that out-of-court settlement fails;
 - + The evaluators are unaware of any staff members resorting to any form of discrimination. No preferential treatment was observed nor complaints made to this effect.
- Only one institution had a code of ethics;
 - Employees sign no document whereby they commit to respecting standards of professional conduct;
 - There is a lack of formal policy in terms of collateral valuation as well as rules on acceptable and unacceptable behavior during the recovery process;
 - SFD managers undertake no regular staff evaluation, nor are incentive-based systems in place to ensure that the expected behavioral standards are observed;
 - There is no provision for internal control measures intended to detect behavior that may stray from the expected behavioral standards or from compliance with procedures;
 - In some institutions, loan agents have excessive discretionary powers and can alone renegotiate loan terms and conditions (due dates, interest rates, etc.) in the event of a client expressing payment difficulties.

Take Away

Stakeholders generally consider the legal procedures designed to execute collateral complicated, costly, unreliable, and time-consuming. Given the inadequacy of regulatory provisions, guarantees mostly have no legal value and are primarily used for deterrence purposes. In relations with customers, no verbal or physical pressure or discriminatory practice were observed. However, the absence of clear formal guidelines on the expected behavior to adopt, especially during recovery procedures as well as all-too-rare internal guidelines on realizing securities, weak internal controls, and, as we will see below, the lack of mechanisms for handling grievances, provide no reassurance that all staff will comply with ethical and professional standards of conduct at all times. **Implementation of this CPP therefore presents some risk. In light of this, SFD managers should strive to ensure respectful and fair behavior within their institutions.**

Priorities for the Sector

- Encourage SFDs to adopt their own code of ethics in line with that of the association, train staff regarding this code, and have it signed by all staff members;
- Create a list of controls that could be widely disseminated based on the Smart Campaign indicators and the Code of Conduct, thus enabling SFD managers to ensure ethical and professional conduct among their employees;
- Set up staff evaluation and reward policies;
- Advocate a review of the regulatory provisions on procedures for recovery and realization of collateral for SFDs in WAMU Member States (exceptional procedure for SFDs under the OHADA Uniform Act).

Principle 6

Privacy of Client Data

The confidentiality of personal information is a right that protects privacy and individual liberties. Compliance with this CPP requires that the confidentiality of client data be respected in accordance with the laws and regulations in force as well as the contractual provisions. Financial institutions should safeguard their information and management systems in order to prevent any data leaks. They should also advise clients with a view to helping them preserve the security of their financial and personal information (by keeping their bankbooks in a safe place, for example).

Key Regulatory Documents

A large number of regulations and directives contribute to protecting the personal data of SFD clients, some of which are very recent:

- Law no. 10-2004 regarding the protection of personal data in Burkina Faso;
- Law no. 023-2009 regulating SFDs,
- Uniform Law regulating credit bureaus in the WAMU zone of June 3, 2013;
- Directive no. 009-06-2015 regarding security measures for credit bureau information systems;
- Directive no. 002-01-2015 on ways of obtaining client consent and its annex, which provides the standard form for obtaining client consent for credit bureaus;
- Directive no. 008-005-2015 governing the exercise of operations of electronic money issuers in WAMU Member States;
- Regulation no. 15/2002/CM/UEMOA regarding payment systems in WAMU Member States.

These laws and regulations deal with:

- The duty to comply with professional secrecy (**Law no. 023-2009, Art. 28; Regulation no. 15/2002/CM/UEMOA, Art. 135**);
- The duty to collect and handle personal data in a manner that is fair, lawful, and strictly non-fraudulent (**Law no. 10-2004, Art. 12**);
- The duty to obtain consent from individuals to process personal data (**Law no. 10-2004, Art. 5; Directive no. 002 01-2015**);
- The right of clients to object to the transmission of personal data (**Law n°10-2004, Art. 16**);
- Restrictions on the nature of the data gathered by banning the collection of sensitive data such as information related to religious, philosophical, political, or ethnic affiliation (**Law no. 10-2004, Art. 20; Uniform Law regulating credit bureaus in the WAMU zone, Art. 62**);
- The duty to inform the person concerned of the nature of the information collected, its use, its recipients, the storage period, the existence of the right to access and rectify data, etc. (**Articles 44 to 47 of the Uniform Law regulating credit bureaus in the WAMU zone; Articles 13 and 14 of Law no. 10-2004 regarding the protection of personal data in Burkina Faso**);
- The duty to ensure security and integrity of the data collected (**Article 15 of Law no. 10-2004; Uniform Law regulating credit bureaus in the WAMU zone, Art. 37, 41, and 43; Directive no. 009-06-2015; Directive no. 008-005-2015, Art. 7, 8, and 28; Regulation no. 15/2002/CM/UEMOA, Art. 134 and 135**);
- The requirement for the explicit and prior consent of individuals and legal entities about which credit information is compiled and sent to credit bureaus. Written consent must be an integral part of the credit record (**Uniform Law regulating credit bureaus in the WAMU zone, Art. 53 and 54**);
- The information gathered can only be used for the purposes for which it is collected (**Law no. 10-2004, Art. 14; Uniform Law regulating credit bureaus in the WAMU zone, Art. 55**);
- Obligation to set up a system enabling clients to enter PINs safely during electronic transactions (**Regulation no. 15/2002 CM/UEMOA, Art. 141**);
- Creation of a Data Protection Authority **to oversee compliance with the provisions of Law no. 10-2004, Art. 26 and 40**).

AP/SFD-BF Code of Conduct

The Code emphasizes the need to comply with legal provisions in terms of client data confidentiality.

Practice

The six SFDs assessed in Burkina Faso were found to have a low score for this sixth CPP. Only 17% of indicators were fully met, 27% were partially met, and 55% were not met at all.

Privacy of Client Data



+ In five of the six SFDs assessed, internal documents remind employees that they are professionally bound by a duty of discretion and confidentiality. These documents vary from one SFD to the next (job contracts, code of conduct, the institution's statutes, etc.).

- SFDs have no comprehensive privacy policies;
- Clients are not informed of their rights in terms of data privacy (right to object, access, contest, etc.) nor of how their information will be used or shared. Nor are they trained to protect their personal data;
- SFD agents are not sufficiently trained to protect the integrity and confidentiality of data;
- Clients' explicit and prior consent to share their personal information with third parties or for promotional purposes is seldom obtained;
- Management systems are not sufficiently secure (easily accessible client files, passwords seldom changed, unsatisfactory filing or saving systems, etc.);
- Internal audit departments, where they exist, do not make sure that data confidentiality is respected or check the accuracy of information collected.

Take Away

Client data protection practices could be improved considerably. Although this CPP is mentioned in some managerial documents, employees and clients are poorly informed about these practices. In addition, management systems and internal practices do not preserve the integrity and privacy of data. **The implementation level of this CPP is therefore weak.**

Priorities for the Sector

- Support SFDs in bringing their management documents up to par so that these documents clearly spell out obligations in terms of protecting personal data and measures to take in order to preserve data privacy and security (for example, confidentiality policy, information technology security handbook, internal control handbook, loan contracts, job contracts, code of ethics, form to be signed by the client to authorize the use of images or personal data for advertising purposes, etc.);
- Raise awareness among clients about personal data protection;
- Ensure that all SFD staff members are covered by a confidentiality policy (document to be signed);
- Raise client awareness over the existence and role of the Data Protection Authority and the credit bureaus (once in place).

Principle 7

Mechanisms for Complaint Resolution

An effective complaint resolution mechanism is fundamental to consumer protection. Clients have the right to voice and find solutions to their grievances through readily available tools. However, implementation of this principle presupposes that clients are aware of their right to complain and that SFDs have policies and procedures in place to guide complaint handling and resolution, including an effective monitoring system. Ideally, there should also be external recourse measures in the event that no amicable solution is found between clients and the SFD in question.

Key Regulatory Documents

Only a few specific legal provisions refer to the right of clients to file grievances:

- Possibility for cooperatives to create internal arbitration, conciliation, and mediation bodies (**OHADA Uniform Act regarding Cooperative Law, Art. 118**);
- Clients' right of recourse: Right to access personal data stored and to correct incomplete or inaccurate data (**Law n°10-2004, Art. 6, 16, and 17; Uniform Law regulating credit bureaus in the WAMU zone, Art. 41**);
- Obligation for SFDs to set up a mechanism for processing client complaints (**Uniform Law regulating credit bureaus in the WAMU zone, Art. 41, 48-52; Directive no. 007-05-2015 regarding the terms of receipt and handling of customer grievances by the credit bureaus**).

BCEAO drafted model statutes for cooperatives institutions, which in article 72 suggest that any member in dispute with the cooperative should first seek an amicable solution through the surveillance committee before it is examined by the Board of Directors and finally by the General Assembly. If necessary, members can also appeal to the relevant Ministry via the Directorate of Supervision and Control, which serves as an external body intended to receive grievances from SFD clients and members.

Burkina Faso also has a Consumers' Association, which sits on the National Microfinance Strategy Steering Committee. However, none of the clients surveyed by the consultants mentioned its existence. Clients are unaware of the option being available to them to use this vehicle.

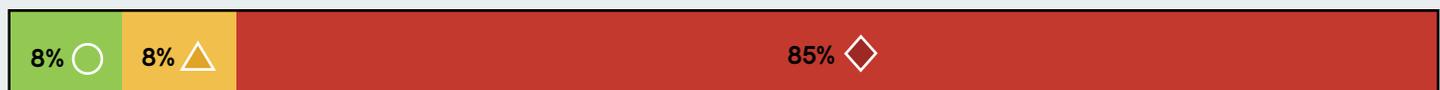
AP/SFD-BF Code of Conduct

The Code encourages SFDs to set up grievance resolution mechanisms in order to resolve the individual problems of clients and improve the products and services on offer.

Practice

The six SFDs assessed were found to have a very low score for this final CPP as 85% of indicators were not met at all, 8% were partially met, and only 8% were fully met. Of the seven CPPs, this principle is the least compliant with Smart Campaign standards of client protection.

Mechanisms for Complaint Resolution



+ Two SFDs have a document (in the form of an internal regulations and risk management manual) in which elements of grievance management are mentioned. However, these documents are not applied in practice;

+ When clients complain orally, SFDs endeavor to resolve their problems.

○ Although clients are aware of their rights, they receive no clear guidance on how to exercise these rights;

○ There is no sufficiently clear procedure for dealing with client complaints and suggestions (communication channels, designated staff, monitoring mechanisms, processing timeframe, etc.);

○ There is no formal mechanism for receiving complaints (suggestion boxes, toll-free numbers, etc.) or for quantifying them;

○ No employees are tasked with collecting complaints or redirecting them to the appropriate department.

Take Away

Even though in principle SFD clients are aware that they have the right to file grievances and do so from time to time generally through informal communication channels, SFDs have no mechanism (whether procedures or tools) for resolving grievances or effectively taking client suggestions on board. Greater formalization of the process would make it possible to better meet the needs and concerns of clients, thereby improving client retention. Clients tend to be unaware of the few existing external recourse mechanisms. Strengthening these mechanisms would send a strong message about respecting clients' rights. **Grievance resolution is the CPP where the implementation level is weakest.**

Priorities for the Sector

- Support SFD managers in setting up effective mechanisms for resolving client grievances and taking on client suggestions based on the Smart Campaign tools;
- Raise client awareness over existing regulations and their rights to file grievances;
- Explain to clients the various recourse channels (both internal and external) available to them;
- Consider the possibility of establishing a free mediation service for clients of financial institutions;
- Consider the possibility of including the obligation to set up a grievance resolution mechanism in regulations concerning SFDs.

Summary of the Priorities to the Sector

As this analysis indicates, there are shortcomings in the implementation of the CPPs. With the necessary time, effort, and resources, it will be possible to institute change within the sector, even if not all problems can be resolved simultaneously. Fortunately, since the shortcomings observed do not all pose the same risks for consumers, it would be advisable to draw up priorities. The various stakeholders (financial institutions, AP/SFD-BF, supervisory authorities, technical and financial partners, etc.) should begin addressing the problems most likely to harm clients and institutions. The table (next page) summarizes all the priority areas recommended for Burkina Faso's microfinance sector. Each CPP is assigned a high, medium, or low risk level.

	Risk to Clients	AP/SFD with support from technical and financial partners	Supervisory authorities
Responsible Pricing	HIGH	<ul style="list-style-type: none"> - Advocate a review of interest rates. - Offer training on how to determine interest rates based on a study of feedback. - Train managers on financial analysis and risk management. 	<ul style="list-style-type: none"> - Adjust interest rates upward. - Strengthen oversight. - Set up deposit protection fund.
Prevention of over-indebtedness	HIGH	<ul style="list-style-type: none"> - Ensure that SFDs have credit and internal control handbooks that address Smart Campaign requirements. - Train SFDs in more fine-grained analysis of repayment capacity and equip them with ad hoc management tools to improve the ratio of their portfolio at-risk ratio. - Assist SFDs in setting up incentive-based mechanisms to improve portfolio quality and ensure that internal loan policies and procedures are complied with. 	<ul style="list-style-type: none"> - Speed up the establishment of credit bureaus. - Consider an information-sharing mechanism for SFDs that do not fall under Art. 44 of Law 023. - Send clear alarm signals to SFDs when portfolio at-risk ratios, PAR90, exceed the BCEAO standard, and require them to take stringent measures to remedy them when the ratio exceeds 10%.
Responsible pricing	MEDIUM	<ul style="list-style-type: none"> - Support the computerization of SFDs to increase the productivity of agents, - Provide access to reliable data in real time, and facilitate internal control. 	
Fair and respectful treatment of clients	MEDIUM	<ul style="list-style-type: none"> - Encourage SFDs to draft a code of ethics and have it signed by their employees. - Assist SFDs in implementing incentive-based mechanisms to encourage behavior in line with professional ethics and conduct. - Strengthen internal control. 	<ul style="list-style-type: none"> - Review the provisions of the Uniform Act regulating collateral that apply to SFDs
Transparency	MEDIUM	<ul style="list-style-type: none"> - Disseminate among SFDs the BCEAO user guide on the calculation of the APR. - Train SFDs on the calculation of the APR and encourage the inclusion of this rate in the loan contract or repayment schedule. 	<ul style="list-style-type: none"> - Ensure compliance with the regulatory provisions on displaying and publishing applicable pricing.
Confidentiality of Client Data	MEDIUM TO LOW	<ul style="list-style-type: none"> - Support SFDs in updating their management tools and include privacy protection measures. - Raise client awareness of the existence and role of the Data Protection Authority and credit rating agencies (once in place). 	
Transparency	LOW	<ul style="list-style-type: none"> - Provide funding to enable SFDs to carry out financial literacy campaigns for their clients. 	
Mechanisms for Grievance Resolution	LOW	<ul style="list-style-type: none"> - Support SFDs in establishing mechanisms designed to handle client grievances. - Explain to clients the recourse mechanisms available to them and encourage them to use these. 	<ul style="list-style-type: none"> - Provide for the implementation of a free mediation service. - Consider the addition of provisions to the law regulating SFDs requiring them to set up a complaint resolution mechanism.
Appropriate product design and delivery	LOW	<ul style="list-style-type: none"> - Provide training on product development processes and market research in particular. - Assist SFDs in designing procedures to collect, analyze, and use client feedback. - Support SFDs in implementing technological innovations. 	<ul style="list-style-type: none"> - Continue adopting appropriate legislation for technological innovations.

About SEEP



SEEP is a global learning network. We support strategies that create new and better opportunities for vulnerable populations, especially women and the rural poor, to participate in markets and improve the quality of their life.

Founded in 1985, SEEP was a pioneer in the microcredit movement and helped build the foundation of the financial inclusion efforts of today. In the last three decades our members have continued to serve as a testing ground for innovative strategies that promote inclusion, develop competitive markets, and enhance the livelihood potential of the worlds' poor.

SEEP members are active in more than 170 countries worldwide. They work together and with other stakeholders to mobilize knowledge and foster innovation, creating opportunities for meaningful collaboration and, above all, for scaling impact.

About RFL



Microfinance associations play a key role in supporting the sustainable growth of the microfinance industry. The SEEP Network serves these associations by connecting them to a global learning community and by promoting capacity building efforts. As microfinance scales and commercializes in Africa, there exists an opportunity to foster greater consumer protection and transparency within the industry. SEEP is implementing the Responsible Finance through Local Leadership Program (RFL), a four-year partnership with the MasterCard Foundation to improve management capacity of microfinance associations, advance financial transparency, and promote consumer protection. The knowledge and experience that results from this program will be shared with other associations to scale and sustain industry growth across Sub-Saharan Africa and beyond.

