MICROFINANCE Policy Monitor

MICROFINANCE CENTRE

Published by the Microfinance Centre (MFC) — Poland based network of microfinance institutions in Europe and Asia.

ISSUE NO. 16
DECEMBER 2011

Microfinance Centre (MFC) is a Poland based network of 100 microfinance institutions (MFIs) that operate in Europe and Asia. MFC began functioning in late 1997 as a regional network of 21 MFIs and initially provided services to its members only. Currently, through a variety of activities and programs, MFC targets member and non-member MFIs, country level associations, policy makers, donors, lending institutions, and investors. To learn more about MFC, please visit: www.mfc.org.pl

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Does Microfinance Need a Regulatory Definition?

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Everyone seems to know what microcredit (and microfinance) is, but when it comes to giving a precise legal or regulatory definition, the task appears to be much harder. To date there is no one single definition that can be applied globally. And for a good reason: an appropriate regulatory definition must be based on a clear expression of the objectives of regulators that match the particular economic situation in the country. For example, if microcredit is defined as adjusting prudent norms for depository MFIs, it may be appropriate to define „microcredit" in terms of a specific maximum loan amount. However, the same definition may not be appropriate for determining whether an NGO MFI serves a sufficient public benefit as to warrant an exemption on profit taxes.

While microfinance includes other financial services such as savings or insurance, there is little scope providing legal definitions for „microsavings" or „microinsurance"' and efforts to do so have mostly failed. So why is it important to provide a definition of microcredit? And does a definition help to increase financial inclusion and broaden access to financial services? International experience and practice is diversified and there is no globally accepted regulatory definition for microfinance or microcredit.

According to the BIS survey , about 50% of countries have some sort of definition related to microfinance in their financial laws or regulations and most also have definitions of „microcredit". Some countries include specific parameters in them (maximum loan size, maximum income or assets of the borrower, and source of funds to be used for repaying the loan). So, a possible definition can sound, for example, as „Loans that are [re]paid from funds coming from commercial, industrial, or rural activities, or services (…) as well as loans to small entrepreneurs, natural or legal persons who own microenterprises, or to groups of natural persons". Or „A microfinance loan means a credit facility granted to an individual single end user whose maximum amount should not exceed 2% of the institution' s core capital."

A few countries have definitions of microfinance business. They usually characterize specialized MFIs and distinct regulatory frameworks, for example, „The business of providing financial services essentially through very small or medium transactions." Or „An activity that consists of at least one of the following: a) extending credit, b) collecting savings, or c) extending credit and collecting savings, from a clientele not commonly served by the banking system." Or „Monetary funds provided by MFIs (…) to natural persons, or societies or legal entities".

Some countries define the term „microfinance institution" (MFI) refering to non-government organizations (NGOs) or other entities engaged only in the delivery of microcredit, or require a minimum level of microfinance activity from a specialized microfinance entity. „Microfinance loans represent at least 70% of the loan portfolio of deposit taking microfinance institutions."

Regulatory definitions of microfinance and microcredit may serve various purposes:

- imposing compulsory investments in microcredit by banks;
- allocating public funds to certain activities;
- classifying loan portfolios and setting provisions; or
- defining interest rate limits.

The starting point in attempting to define microcredit or microfinance should be a clear understanding of why a definition is needed and what policy and regulatory objectives it will accomplish. As current practice shows, it is not always necessary to have a distinct definition. There are other ways to ensure equitable access to capital and financial inclusion through various policy measures. The majority of countries have explicit policies to facilitate the ability of people to access financial services.

- guaranteeing the right of access to bank accounts;
- regulating prices;
- allowing the use of retail agents by banks;
- simplifying customer due diligence for low value accounts;
- permitting the use of itinerant branches or servicing points;
- lowering capital requirements in low access or underdeveloped regions;
- providing loans through government programs, or giving tax incentives.

Poland is an example of a country that does not have a definition of microcredit or microfinance, and indeed does not have „microfinance" in the classic sense of the word (specialized microfinance institutions with specialized regulation).

[1] CGAP Guidelines, April 2011
[2] BIS, May 2010

KREDITUNION for self-help and solidarity: ARE FINANCIAL COOPERATIVES BACK ON STAGE?

INTERVIEW WITH
CHRISTOPHE GUENE, KREDITUNION

The „Kreditunion for self-help and solidarity" is an organization that aims to give access to financial services to people, who for different reasons are not well served by mainstream banking or are denied by basic financial services. MFC interviewed Christophe Guene, one of the founders of Kreditunion, a financial cooperative based in Berlin, Germany.

MFC: You have recently set up Kreditunion in Germany. Why would you do that in the country that has one of the most and best developed financial infrastructures in the world? Where did the idea come from? What are the goals for the Kreditunion?

Christophe Guene: The problem with Germany and many other Western European countries is that most people and decision makers think that there is no gap in the provision of financial services. This means that they don't see the necessity in collecting data regarding this issue, and this belief thereby becomes self-fulfilling: we don't collect data because we believe there is no problem, and there is no problem because there is no data to show it. But when you do some research, you will find that there is a trend towards increasingly excluding people from certain financial services as well as a degradation of the quality of the services.

This trend of degradation has strengthened during the current financial crisis, where banks in financial trouble themselves are charging very highly for services that used to be provided for a lower price or for free. These charges tend to be highest on those client groups whose options are limited. Using ATMs, debit cards, making a bank transfer or simply depositing cash into an account incurs increasing charges. I myself, as a self-employed, have seen my charges dramatically increase over the last years; the mere use of bank accounts cost me about EUR 700 annually. It really is a lot of money and explains one of my drives for creating the Kreditunion.

When it comes to our Kreditunion, things are very clear indeed. We meet people who don't even have a bank account. So even in a country with such a strong banking infrastructure like we have it in Germany, there are people like new migrants and the self-employed, for whom it is not obvious to have access to basic and affordable banking services. There is an obvious gap of perception, between the self-congratulating delusions of bankers and politicians and the reality at the street level.

MFC: Germany was the first country in the world to develop the credit unions (as they are known today). Can you explain the current legal framework for credit unions in Germany? Who are the players?

C.G.: One of the reasons of the increasing banking gap has to do with the EU banking regulation. It began with the first EU banking directive and became worse in the mid 80s with the second banking directive. Since that time it has became almost impossible to create traditional savings and credit cooperatives. What the directives did was to unify the banking business, or specifically the business of collecting deposits, under one single institutional frame: only banks are now allowed to take deposits in the EU. Furthermore, one of the conditions to get a bank license is to have a minimum capital of EUR 5 million. So, the diverse sector that used to exist, which included commercial banks, savings banks, savings and credit cooperatives, has been unified with a very high entry level.

Since the 90's hardly any new cooperatives were formed in Western Europe, except for the few countries that have asked for specific exemptions from this directive (such as Poland, who asked for exempting the national savings and credit cooperatives, the SKOK, or the UK and Ireland for their credit unions). In a country like Germany it has been impossible to create a new Reiffaisenkasse or Sparkasse, which was a traditional way of responding to market failure or to new emerging needs. The whole sector had a capacity to generate responses and had the capacity to create new initiatives where existing financial institutions weren't doing their job. But with the need for a minimum capital of EUR 5 million, this is no longer possible. The same is true for most new member states, who are particularly impacted by this regulatory hurdle.

But in Germany there is an additional problem going beyond the conditions required by the EU directives: in Germany we do not only have a bank monopoly on deposits, but we also have a bank monopoly on credits. This is quite an extreme situation, which is shared with about ten other EU countries. This restriction is absurd: if a group of people are willing to put capital together to lend money at their own risk to whatever purpose that suits them, why should they be a bank? This bank monopoly on credit explains, why microfinance has hardly been able to develop in Germany until very recently. The only way of carrying out microfinance activities here is through a bank.

Since the early 2000s an ethical bank, the GLS Bank, has provided a partnership that finally enabled microfinance institutions to deliver their loans. It is only thanks to this partnership that microfinance activities, including our own Kreditunion, were able to start in Germany.

MFC: Who can be a member of the Kreditunion?

Of course, anyone can be a member. However, we focus on helping groups of people, not individuals. There are various reasons for that, one is that we do not have the capacity to set up a branch network. Another fundamental reason is that the pattern of exclusion is not like a pyramid, where you have a top of the pyramid which is well served by the banking sector and the bottom which is not served at all. The German situation is far more complex. I usually compare it to a Swiss cheese: you have a block which is fairly well served overall, but then you have lots of holes which are very difficult to identify and to reach out to. You can have low income people who are overburdened with credit card offers, while at the same time you have middle class entrepreneurs who struggle with even being heard by their banker to access an investment loan. This is why we focus on self-organized groups that share common characteristics: a common fate or need, a common objective, common values, or common behavior patterns.

MFC: What are the groups you are working with ?

C. G.: These can be migrant communities, professionally based groups, local communities — all of them can make quite homogeneous target groups. Among our first target communities we have artists, taxi drivers, Asian and African communities with quite homogeneous financial needs. Very often these are self-employed individuals who are completely isolated. The cooperative is a way of connecting them to each other.

MFC: How are the day-to-day operations managed?

C.G.: As said, we are based on self-organized groups with a back office in Berlin, and hopefully we'll get 2 or 3 more offices in the near future. This is a place the financial aspects and processes are being taken care of, all the paperwork is done, and where we have a phone operated help-desk.

MFC: How do the self-help groups work?

The groups have a primary function of helping. They mutually help their members through guarantee funds and direct solidarity. The specific mix of personal help and guarantee intervention, however, depends on each group and the type of its membership: some are more formal, while others can rely on a strong level of social capital.

MFC: What financial services are offered by Kreditunion? Are savings insured?

C.G.: Our Kreditunion works on capital-backed loans: members are invited to pre-save in the form of coop shares that serve to secure the loans delivered by a partner bank. The Leverage of capital to loan increases with the quality of reimbursement of previous loans, as it often goes with credit unions. We also will offer remittance services as well different types of loans: for business purposes and later on also for securing families better. But as a cooperative, our orientation will very much depend on the needs expressed by the members themselves., individually or through their groups.

The savings of our members are cooperative shares. This means that they are in effect capital, not deposits, which means that we are not part of bank deposit guarantee system and that it is entirely in our responsibility to secure our members' funds.

MFC: What is the governance structure like?

C.G.: It is group based, though of course we have the typical structure of a cooperative. We have a general assembly and a board. What is a bit different from other credit unions is that we also have a cooperative council who ensures that the cooperative is more farsighted with regard to its mission than how cooperatives tend to be. We should learn from the limitations and weaknesses of past coop movements. What we have noticed is that after some time cooperatives become very conservative: Raiffeisen Banks, for instance, are nowhere to be seen in microfinance these days. Cooperatives really grow and get old with their members. We would like to have a mechanism ensuring that our pioneering spirit is kept alive.

MFC: What are your challenges and opportunities?

C.G.: Well, the challenges are heavily linked to regulations. Everything is very complicated to set up, and we have lawyers and IT specialists who we keep consulting about how to do this and that. The slightest document we produce or step that we want to take is already under the spotlight of so many regulations. Lawyers are very helpful, however they are conservative and tell us mainly what we cannot do. Fortunately, we also have access to people with long experience in this field. Keeping things simple for our user-members in the end remains a challenge with every step.

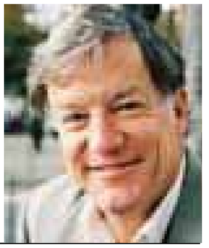
Opportunities? Well basically the market gap is there. It's a bit like this man who shows up with a very rare flower and people keep asking him where he found it, saying that they thought the flower was extinct. The man replies, „Well it's pretty easy: you go through that door that says „no trespassing", then you reach another door that says „get in at your own peril" and later, when you pass through a third door where it says "for members only", you will find thousands and thousands of these flowers." It is a bit like that in banking, you have so many regulations which make it difficult to reach out to people who really need financial services, that once you have found the solutions there are lots of market opportunities. I really believe that financial cooperatives have market opportunities, and I believe to speak on behalf of hundreds of thousands of people who are now excluded, and probably needlessly so.

MFC: Do you have any expansion plans in Germany and/or Europe?

We start in Berlin and intend to expand to other major areas in Germany, but this will depend on our target groups. I believe that our work will be less based on geography than on the characteristics and needs of our members. We will try to follow them to where they are and where they need us.

Sound banking, community reinvestment and social cohesion:

The affirmative obligation of banks to serve all territories fairly



KENT HUDSON`S PRESENTATION FROM THE ACTIVE EUROPE CONFERENCE, SEPTEMBER 7 -8TH, 2011, CRACOW, POLAND.

While many large banks in Europe stumbled during the financial crisis and some even failed, FEBEA members and other social banks grew rapidly and safely. They expanded funding and provided services to the social and private enterprises that created thousands of jobs across Europe. Yet the combined lending of all responsible lenders doesn't begin to match the scale that is needed to reinvest in a prosperous, sustainable Europe. The crisis makes it increasingly clear that European development requires a radical increase in responsible bank finance. But the changes in regulation that are emerging from the Basel 3 negotiations promise to deliver just the reverse of what is needed. FEBEA banks are concerned about the inadequacy of the announced regulatory reforms, and they are far from alone. It is widely understood that prudential oversight alone did nothing to prevent the crisis. Higher reserves by themselves will not significantly reduce financial speculation. Yet the profitability of this unsustainable speculative sector pays for the lobbies and drives policies that continue to undermine responsible banking and limit job growth in Europe and elsewhere. Higher reserve costs will further reduce access to capital for responsible lending, hindering investment in the real economies on the very diverse European territories.

FEBEA is uniquely able to provide the expertise and support needed for legislative and policy advocacy all across Europe. The situation is economically and socially untenable. Broad citizen and political support can be mobilized for legislation and regulation that support ethical, sustainable finance. FEBEA members have already spoken for evaluation of ethical bank performance as a regulatory counterweight to Basel 3.

Understanding the American Community Reinvestment Act (CRA) can help FEBEA and European governments think practically about how to achieve this. For CRA is a win-win proposition for each of the constituencies: social banks, large banking networks, national governments and regulators. Here is what we can expect to see throughout Europe, once legislation inspired by CRA is applied:

- **All banks foreign and domestic must demonstrate that they serve all territories equitably and prudently,** while regulators in each country are required to evaluate and sanction bank performance. **Banks continue to enjoy great strategic liberty as to how to do so: no quotas, no credit allocation**.
- **This „affirmative obligation"** leads banks to actively search for prudent lending opportunities among small businesses and moderate- and low-income communities. This **reduces capital flight and ensures that an important part of wealth of each nation, region and city is invested to the economic benefit of local businesses, banks and citizens..**
- **Socially mandated banks and specialized NGOs** as well as local governments find significant new large-bank interest in partnerships. This provides **new funding, capacity and skills development resources for the social banking sector.** For the first time confidence between partners is founded on results-based oversight of each partner's actual performance.
- This increased **transparency improves the efficiency and safety of banking markets** across the entire retail banking sector. It enables banks to „share" the costs and opportunities of **opening substantial new market potential** improves their risk management and reduce costs of intermediation. It improves competition. All banks, foreign and domestic, contribute and gain equitably from the law, in proportion to their size; none is favored or hindered.
- **Governments** gain ability to **regulate banking markets to favor** profitable private investment leading to **local development and job creation without protectionism or credit rationing, and without special subsidies**. So regulated, private banks can profitably provide the large sums of private capi-

tal needed for responsible development and reduce the need for subsidies.

- **CRA improves social cohesion by inviting local officials, small business associations, NGOs and local groups of all kinds to contribute to the oversight process**. In this way **CRA** adapts regulatory practice to local conditions and **creates business confidence and growth opportunities**.

Here is how CRA works

This simple law is only a few paragraphs long. It establishes an „affirmative obligation" for all banks to demonstrate that they lend and provide services equitably in each community, where they take ensured deposits, and do so safely and soundly. This means that in order to continue retail and small business lending in 'easy' territories, banks must also learn how to lend profitably in „hard" territories, or else use their resources to fund those banks that can. CRA specifically requires regulators to perform periodic inspections to assess performance and ensure that banks cease discriminating against „bottom of the pyramid" territories by refusing to lend or by lending under onerous terms. CRA provides for sanctions, which have been rarely used.

Bank inspectors used four **„tests"** to assess CRA performance on the basis of the bank's own data and records, not just on 'showcase' projects and glossy annual reports. The tests are for lending, investments, service and community development. Under the **Home Mortgage Data** Act of 1976 (**HMDA**), all lenders furnish complete statistical data on mortgages. Inspectors can therefore compare and assess each bank on its performance in specific „assessment areas" in relation to performance in ordinary areas: numbers and types of loan requests received by the bank, numbers approved, terms (since 2006), delinquency rates, types of clients, branch openings and closings, marketing, etc.

The data and the bank ratings are published. This invites comparison and competition. The law requires regulators to take Citizens' groups comments into account in the evaluation of a bank's performance. Associations, community- based and professional organizations as well as local elected officials provide public input, and regulators respond to these comments. Cities and other institutional clients may use CRA ratings in their selection of financial partners.

CRA releases the enormous potential of responsible banking

Under CRA all banks are required to „reinvest" a reasonable part of the savings of neighborhoods equitably and soundly back into the local economy. Community Development banking is „ethical" banking, because small businesses, cooperatives and social enterprises, homeownership in underserved territories are at the heart of it. Their growth creates new value; and this growth is what explains overall profitability of CRA for American banks. The volume and profitability of CRA lending shows that evaluation of bank performance has successfully driven 'bottom-of-the-pyramid' banking into the mainstream of responsible retail finance.

Here's why: CRA evaluations require banks to analyze and be graded on their performance in hard-to-serve territories. Smart bank managements make use of this analysis. They use it to improve local management, discern new opportunities and better price their risk. They better manage and lower the risk of current clients. They use the analysis to measure the benefits of innovation in products and methods. Other bankers follow.

The resulting volume of responsible CRA loans is remarkable when compared European figures. It demonstrates the enormous potential of „social" banking that appropriate legislation and regulatory policies can unleash, without subsidy.

1. Banks lend 60 billion dollars a year in responsible credit and investments in previously underserved neighborhoods, leading to wealth creation and job creation in these areas. Banks with no retail strategy fund local NGOs, neighborhood associations to make these loans and manage them.
2. Banks have lowered their costs of intermediation for households and small businesses, while at the same time the most innovative of them have developed new fee-based banking services that create value for SMEs.
3. Banks make use of vastly improved data on low-income neighborhoods and loan behaviors provided by CRA and HMDA and by their Community Development partners locally. This information identifies opportunities for profitable partnerships, provides better, cheaper deal flow for all banks, improves the pertinence of scores and builds the professionalism of banks and their local partners. Over time this data enables lower reserves under Basel 2.
4. CRA creates value in successfully evolving neighborhoods, resulting in new business opportunities. This is linked to improvement in civic life, which is partly due to successful lending to local SMEs, partly to the new negotiating powers CRA gives to Community Development and other civic associations and local officials. The new value also results from the increasing professionalism and expertise of the social enterprise sector and it's trade organizations, such as the National Community Reinvestment Coalition (NCRC). Regulators solicit the input of the sector to evaluate bank performance locally, but also call on its expertise in designing new legislation and in writing regulations.
5. CRA credits go to banks that fund philanthropic foundations, those provide grants to NGOs that co-invest and support the loans and investments the banks make in various sectors. Banks find that these expand their effectiveness in serving the credit needs of low- and moderate-income populations.

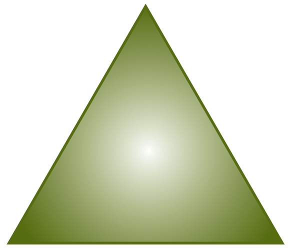
CRA encourages banks to fund local partnerships and to improve governance Reasonable profitability is what enables

CRA-regulated banks to fund the counseling, lending and other operations of over 6000 community based organizations without special subsidies. Over 2000 of these are either regulated „social" banks (1200 Community Development Financial Institutions „CDFI" community banks) or specialized, ethical investment funds, including 125 community development venture capital funds. Together they hold 45 billion dollars in assets and employ about 55,000 people trained in banking and related fields.

Good economics is at the heart of CRA success. It is based on the bottom-up dialogue that reinforces regulation and adapts it as local conditions evolve. The law implements a three-way, territorial conversation that has become highly professional over time. CDFI banks and community-based organizations are valuable partners for large banks especially in the area of small business loans, because they have deep roots in local communities. So do FEBEA banks.

But America's Community Development banks (CDFIs) and other groups are also armed with detailed, statistical information on their bank partners' retail lending practices in each neighborhood. And to exploit this information, they have federated among themselves to develop IT capacity, legal expertise, demographic and analytical skills. Professionalism and information make Community Development banks and community-based organizations and their professional organizations useful economic partners for large banks, but also for local government officials.

At the same time, the data gives the American social banks oversight information on their bank partners' community reinvestment performance. This informs their work with local elected officials and regulators to enforce CRA and to improve bank governance locally. They work with regulators, who hold out the possibility of sanctions. The law thus responds precisely to what its authors intended: creating „fair credit markets" and insuring banking innovation without intruding in bank internal operations and at a reasonable cost for banks. This dialogue under „dynamic tension" can be pictured as a triangular relation.



It is this ongoing „dialogue under tension" on performance that guarantees the economic usefulness and thus the longevity of CRA. Public (and bank) analysis of the production data in every community as it evolves over time provides the factual basis for highly professional discussions about legitimate bank profits and the viability of the lending and service needs of consumers and businesses.

Due to their financial weight, huge banks will doubtless continue to have an unequal advantage for the attention of national regulatory authorities. But at the local level the CRA gives real power to local voices: local groups can slow down mergers and branch openings, they can embarrass major banks. This power in local hands „aggressively encourages" banks to find ways to collaborate with the social-mission banks and organizations of Community Development, it requires regulators to listen to them, and it mobilizes elected officials.

Above all else, CRA is about generating safe and prudent lending in all communities. John Taylor, the head of America's CRA NGO/Trade Association, the National Community Reinvestment Coalition (NCRC), makes this critical point in describing CRA. „Imprudent, unsustainable lending is the antithesis of what CRA stands for. What CRA does is to demonstrate that the definition of „credit worthy" is not the exclusive domain of the wealthy, and that responsible borrowers come from the ranks of all classes."

CRA's „qualitative" assessment of bank performance thus serves as a necessary corrective to the limits of prudential oversight of banks, limits that have been amply underscored during the current crisis. CRA levels the playing field for social and all responsible bankers; it encourages large banks to fund them and it gives them a legitimate role in the ongoing dialogue between regulators, citizens and their banks.

Europe needs FEBEA to take a leading role in legislative advocacy

FEBEA's network of mission-based financial institutions across Europe makes it an irreplaceable partner for legislators and regulators in designing, implementing and overseeing the legislation needed to repair our broken banking markets. Most of the elected officials are not bankers, therefore their qualifications matters, since they oversee national and European authorities responsible for banking regulation, as well as those who design and enforce development and urban policy,

„Dynamic tension" between banks, regulators and citizens ensures regulation adapted to evolving local conditions

which are significantly hindered by inappropriate bank behavior. Yet the current crisis demonstrates that public officials need to be able to call on independent expertise when confronted with the affirmations of bank lobbyists.

I might add by the way that the current crisis demonstrates that some Bank boards may need to consult FEBEA experts as well!

In concluding, I would suggest to FEBEA members and other bankers - as well as to national and European officials - that the following points are a tested and reasonable basis for legislation. They should of course be applied to all foreign as well as domestic banks, as a natural counterpart to state guarantees, deposit insurance and other subsidies.

1. Establish an „affirmative obligation" for all banks to lend and to provide services and counsel equitably, safely and soundly in all territories of the country.
2. Require full bank transparency on its deposits, savings, lending and services in each territory, with the explicit goal of enabling ongoing supervision by bank managements, by regulators and through public dialogue on bank performance.
3. Require bank regulators to periodically rate foreign and domestic banks on their performance overall and in target territories and to publish the ratings along with relevant bank data.
4. Establish sanctions based on bank performance. Positive sanctions might include statutory recognition of the social performance rating as a legitimate criterion in tenders.

Key US numbers for CRA

$1.4 trillion dollars in loans between 1996 – 2009, 60% of which are SME
Average SME loan size is $39,000.00
Bank CRA commitments of > $ 4.5 trillion dollars (2005; projected over 10 years)

$ 68.5 billion dollars in investments and services (1996-2009)
Including investments in CDFIs and purchase of CRA securities and over $ 2 billion dollars in capacity grants to Community Development nonprofit NGOs.

Normal quality and profitability of CRA lending
- Normal returns across all product lines: CRA is not a credit ukase on banks
- Loan quality equivalent or better than non CRA loans of the same class : not high-risk loans
- Prime real estate loans: Not high cost or predatory loans
- Minor administrative/regulatory costs to banks

6000 Community Development organizations with no special public subsidies
- The sector employs approximately 55 000 people
- Combined assets of approximately $ 45 billion dollars
- 2000+ ethical banks, coops and private ethical funds, including 1200 regulated CDFI banks
- 125 Community Development Venture Capital Funds
- CDFIs are handling the crisis better than many small banks.

Visit: http://www.ncrc.org/

Countries with existing or pending legislation that shares features of CRA or HMDA

Australia (Uniform national consumer credit transparency code similar to HMDA)

Brazil („Resoluçaò 3019" of the National Monetary Council mandates a 2% bank set-aside of for microcredit; aspects of the Caixa Economica Federal)

Britain (Section 106 „inclusionary zoning", fiscal recognition of the Social Impact Bond)

China (Study underway on adapting CRA to promote and oversee rural lending and investments)

France (Obligatory bank accounts; a bank transparency Bill introduced in 2011 „Bouclier rural" inspired by HMDA; the Caritas France „Manifesto", for the latter see www.secours-catholique.org/actualite/le-secours-catholique-travaille-a,7433.html)

India (India's „Priority Sector Lending" regulations direct a portion of total bank loans to 14 development sectors; see www.rbi.org.in/scriptds/FAQView)

South Africa (A „Financial Services Charter" created in 2004 within the Black Economic Empowerment Act of 2003, see www.fscharter.co.za/page.php?p_id=137)

United States (CRA; HMDA; diverse anti-discrimination legislation; the Consumer Financial Protection Bureau. On CRA/HMDA in French see http://entempsreel.com/2009/12/29/banques-et-territoires#attachments

The origin of cooperative banks in Poland

ANNA BAFELTOWSKA,
COOPERATIVE BANK IN PŁONSK

Cooperative banks are the largest group of banks operating in Poland. They are present on the market continuously for the last 150 years. During this time both the banks themselves as well as their activities were subject to transformations determined by market conditions and law regulations. The banks have evolved and changed from small entities aimed at lending to their own members into universal banks whose activities more and more frequently go beyond the local area.

A cooperative bank is one of the legal forms of a bank (along with joint stock company and state enterprise) provided by Polish banking law. Cooperative banks are cooperatives that carry out banking activities. Therefore, the following acts are the legal basis of their organisation: the Act of 16 September 1982 on Cooperative Law as amended, the Act of 7 December 2000 on the functioning of cooperative banks, their affiliation and affiliating banks as amended, also known as the „millennium" act as well as the Banking Act of 29 August 1997 as amended.

A cooperative is a voluntary association of an unlimited number of people, with variable membership and variable members' fund, which operates a common business enterprise in the interest of its members and could also manage their social and educational enterprise[1].

The primary aim of cooperative banks is different from aims of banks operating in forms of joint stock companies or state enterprises, aiming mainly to maximize profits. In cooperative banks the profit maximization should only be a mean to achieve cooperative members' aims[2].

A cooperative bank operates in the county where its seat is located and in the counties where its branches conducting banking activities were on the day when the „millennium" act came into force. A cooperative bank whose equity is higher than 1 million euro but lower than 5 million euro may operate in the province where its seat is located and in the counties where its branches conducting banking activities are. Furthermore, a cooperative bank whose equity is equal or higher than 5 million euro may operate in the whole country. When cooperative banks operating in different areas merge, the area of the bank that takes over is extended by the area that belongs on the day of the merger to the bank which is taken over[3].

According to article 122 of the Banking law, banks may affiliate with other banks on the basis of an agreement. A cooperative bank's membership in an affiliation may be voluntary as well as obligatory (by a choice of an affiliation, to which the bank wants to belong). According to the adopted guidelines, cooperative banks may function within an affiliation or outside it. The condition that the bank has to fulfill to be independent and free to decide, whether to join an affiliation or to operate outside it, is the bank's equity of an appropriate height (and in the case of the establishment of a bank – the initial fund).

Cooperative banks with equity not lower than 5 million euro are free to decide whether to join an affiliation or to operate separately[4]. The affiliating entity is the affiliating bank, whose definition is in Article 2 paragraph 2 of the „millennium" act. The definition lists the names of the banks that may operate as affiliating banks and indicates that if a bank originates from a merger of at least two of these banks and affiliates at least one cooperative bank, then the bank is also an affiliating bank. Furthermore, the equity of the affiliating bank is at least 20 million euro, and every affiliated cooperative bank has to own at least one share of the affiliating bank. The responsibilities of the affiliating bank to the affiliated cooperative bank are as follows:

- keeps current accounts of the affiliated cooperative banks, where the banks keep their compulsory minimum reserves, and conduct through them their accounts settlement,
- calculates and maintains the com-

[1] the Act of 16 September 1982 - Cooperative Law, Journal of Laws of 1982 No. 30, item 210 as amended, Articles 1, 2
[2] J. Węcławski: System bankowy w Polsce. Rzeszów, MIG, 2000, s. 30, 34.
[3] the Act of 7 December 2000 on the functioning of cooperative banks, their affiliation and affiliating banks, Journal of Laws of 2000 No. 119 item 1252, Article 5.
[4] A. Zalcewicz, Bank Spółdzielczy. Aspekty prawne tworzenia i funkcjonowania, Wolters Kluwers Polska Sp. z o.o., 2009, s. 146-147

pulsory minimum reserves of the affiliated banks on an account in the National Bank of Poland,
- keeps a separate account, where the cooperative banks' assets for covering the fund of protection of guaranteed funds are deposited,
- fulfills the information responsibilities of the affiliated banks to the National Bank of Poland and the Bank Guarantee Fund,
- monitors the compliance of activities of the affiliated cooperative banks with the provisions of the affiliation agreement, law regulations and statutes,
- represents the affiliated cooperative banks in external relations arising from the affiliation agreement,
- carries out other activities provided in the affiliation agreement[5].

Currently there are two operating affiliating banks:
- Bank Polskiej Spółdzielczości S. A. (Polish Cooperative Bank) in Warsaw (BPS),
- SGB Bank S. A.

The only unaffiliated cooperative bank is the Krakowski Bank Spółdzielczy (Cracow Cooperative Bank) which cooperates with BPS.
Cooperative banks affiliated with Bank Polskiej Spółdzielczości (Polish Cooperative Bank) are about 62.33% of all cooperative banks in the country and have around 4 thousand branches in total. The BPS Group consists of 359 affiliated cooperative banks with BPS Bank as the affiliating bank[6].

As of September 15, 2011, the Gospodarczy Bank Wielkopolski S.A. (Commercial Bank Wielkopolski) (GBW S.A.) changed its name to SGB-Bank S.A. This strategic decision was a consequence of widening the Group by Mazowiecki Bank Regionalny S.A. (Mazowiecki Regional Bank) (former affiliating bank) and the banks affiliated with it. Spółdzielcza Grupa Bankowa (Cooperative Banking Group) affiliates over 200 cooperative banks in total and has a network of over 1.8 thousand branches in Poland[7].

Who and how can establish a cooperative bank?
According to the Banking law, founders of a cooperative bank can only be individuals who contribute the initial fund of not less than equivalent of 1 million euro in Polish zloty (converted at average exchange rate announced by the National Bank of Poland, effective on the day when the authorization to establish the bank is issued). A cooperative bank can be established after receiving authorization from the Polish Financial Supervision Authority.

Furthermore, a bank can be established when:
1. the bank is provided with equity and facilities with appropriate equipment that ensure proper security of valuables stored in the bank,
2. the founders and those proposed for the bank's board members, including the chairman, give the guarantee of cautious and stable bank management, while at least two of those proposed for the board members have education and professional experience necessary for bank management, and they prove their knowledge of Polish language,
3. the plan of the bank's activities for at least three years, presented by the founders, indicates that the activities will be safe for the funds held in the bank.

After receiving the authorization from the Polish Financial Supervision Authority, cooperative banks may perform banking transactions that include:
- collection of financial contributions playable on demand or on scheduled date and keeping accounts of these contributions,
- keeping other bank accounts,
- granting credits and financial loans,
- granting and confirming bank guarantees,
- carrying out bank finance settlements,
- granting loans and consumer credits as defined in a separate law,
- carrying out cheques and bills exchange operations,
- issuing payment cards and performing operations concerning their use,
- purchase and sale of receivables,
- storage of valuables and securities and provision of deposit boxes,
- grating and confirming sureties,
- performing other banking activities on behalf of and for the affiliating bank[8].

Cooperative banks have various competitive advantages over commercial banks. The most important one is the knowledge of the environment in which these banks operate. It allows to minimize the risk of operations and to facilitate work. Furthermore, due to the knowledge of its Clients (who cooperate with such bank even for several generations), cooperative banks may easier adjust the quality of their services and product offerings to the Clients' needs. They also help to overcome difficulties at the stage of their appearance, because they approach every Client individually. The year 2012 has been declared the International Year of Cooperatives and will be celebrated with a slogan „Cooperatives build a better world!"

[5] the Act of 7 December 2000 on the functioning of cooperative banks, their affiliation and affiliating banks, Journal of Laws of 2000 No. 119 item 1252, Article 19.
[6] http://www.grupabps.pl/o-grupie-bps/
[7] http://www.sgbbank.com.pl/gbw_aktualnosci_tresc/1233/SGB_Bank_S_A_nastepca_GBW_S_A_/
8 Act of 29 August 1997 - Banking Law, Journal of Laws of 1997 No. 140 item 939, Article 6

Newly established - Croatian Association of Credit Unions

On July 1, 2011, the first Croatian Association of Credit Unions was established from an initiative of a group of nine credit unions from entire Croatia[1].

The initiative is a result of inefficient collaboration between competent state bodies and institutions, that was caused after the Law on 'Credit Unions and transformation of Savings and Loan Cooperatives into Credit Unions' was passed. Due to the new law, approximately 100 Savings and Loan Cooperatives went into liquidation, thus only 24 Credit Unions are now operating.

The New Association's tasks are:
- promoting and representing the interests of Credit Unions,
- providing opinions and proposals to government bodies when adopting regulations pertaining to Credit Unions,
- providing professional and other assistance in the business of Credit Unions,
- organizing professional business consulting,
- advising the public through the media on public information about the work of Credit Unions,
- developing programs of international cooperation,
- strengthening collaboration with related organizations in Croatia.

Zeljko Piri-Benaković, the president of the Croatian Association of Credit Unions, talks about the main objectives, threats and tasks of the newly created institution.

„The Croatian Association of Credit Unions was founded to promote, develop and implement the work of existing credit unions. Special attention is paid to: collaboration with governmental bodies concerning regulations in credit unions, technical assistance to other members of the Association, communication with the public on the work of credit unions and development of international cooperation.

The role of the Croatian Association of Credit Unions, is extremely important today for several reasons. Credit unions in Croatia are financial institutions that are authorized by the Croatian National Bank. There are twenty three credit unions currently operating in Croatia that are unevenly distributed over the territory due to the transformation of savings and loan cooperatives. In the process of transformation, a number of problems in conducting business have appeared, so the association will be actively involved in solving them.

The association will also endeavor to help establishing new credit unions in different regions of the country. This will significantly stimulate regional development and microfinance in Croatia. The Croatian Association of Credit Unions is currently mostly committed to create an adequate legislative framework, within which interests of individual members as well as the interest of Croatia will be met.
*When adopting the Law on Credit Unions, which came into force on 01.01.2007, the process was carried out to comply with the **Acquis Communautaire**. Due to certain legal regulations, Credit Unions in the previous period had lots of problems in conducting their activities. Therefore, the Association, together with relevant institutions, is again initiating actions to determine the appropriate legal solutions. The work of Credit Unions is significantly hampered by legal constraints. Application of „territorial principle" (Article 9 Paragraph 3 and section 4 of the Credit Unions Act) is explicitly restrictive, even when compared to EU regulations. For example, the application of the Act, means that a citizen, who resides in Velika Gorica or Samobor (in the County of Zagreb) and works in the city of Zagreb, cannot become a member of a Credit Union in the city of Zagreb; and in the County of Zagreb no Credit Unions are registered.*

Particularly disadvantaged are members of savings and credit cooperatives, who due to their residence, which is different from the Credit Union, can no longer be a members and cannot use its services.

I expect that in the process of adopting amendments to the Law on Credit Unions all the problems we have faced over the past years will be taken into account, since the savings and credit cooperatives had to transform themselves into Credit Unions".*

*The full interview is available in Croatian and can be found at http://www.profitiraj.hr/poduzetnicke-price/kreditne-unije-mogu-potaknuti-regionalni-razvoj-hrvatske/#

[1] ABC CREDIT UNION from Sisak, APOEN from Valpovo, DUKAT from Viskovo, GAMA from Zagreb, ZAGORSKA KREDITNA UNIJA form Zabok, LIBERTINA from Cakovec, KOD SATA from Sisak, DEPONENT from Zagreb and NOA from Osijek

Tajikistan Policy Updates

Update on the new RT law „On MFIs”

According to the position No. 45 of the RT Government Action Plan for the second half of 2011, the National Bank of Tajikistan has to present the draft version of the new RT Law „On MFIs” to the attention of RT Government till December 2011. AMFOT will continue to play an active role in the development of the final version of the law and ensure that suggestions of the microfinance sector and Working Group of AMFOT consultants will be taken into consideration.

New NBT instructions on regulation of MLO and MLF activities

The National Bank of Tajikistan (NBT) adopted two new instructions: No. 136 on regulation of activities of microloan organizations (MLOs) and No. 137 on regulation of activities of microloan funds (MLFs). According to the instruction No. 136, newly created MLOs should have a minimum start capital of 1.000.000 Somoni. Microloans to individuals should not exceed the equivalent of 50.000 USD and to legal entities — the equivalent of 80.000 USD. Microloans to other MFOs should not exceed the equivalent of 150.000 USD.

According to the instruction No. 137, microloan funds should fulfill the following requirements: Microloans to individuals should not exceed the equivalent of 50.000 USD and to legal entities — the equivalent of 70.000 USD. Microloans to other MFOs should not exceed the equivalent of 100.000 USD. According to the RT legislation, National Bank of Tajikistan can apply for MLF liquidations through court. In case of liquidation, the property of MLF will be handed over to those stated in its charter, after the requirements of creditors have been fulfilled.

Work on improvement of RT tax legislation

On July 17th, 2011, AMFOT representatives participated in the meeting of Advisory Panel under the Tax Committee of RT Government. The main objective of Advisory Panel is to provide wide and transparent discussion on development of measures for taxation improvement in the Republic of Tajikistan. This includes analysis of available taxation system for small and medium entrepreneurship and provision of recommendations and assistance to the Working Group on the new Tax Code under the RT Ministry of Finance.

At the meeting, participants discussed the status of Advisory Panel and also approved Mr. R. Jabborov, Deputy Chairman of Tax Committee, as a Head of Advisory Panel. In addition, the action plan of further activities was approved at the meeting. According to the action plan, all members of Advisory Panel will provide proposals on improvement of taxation system for small and medium businesses. In September 2011, the consolidated proposal will be submitted to the Working Group on the new RT Tax Code.

Strategic partnership for Credit Information Bureau of Tajikistan

The process of choosing a strategic partner for the Credit Information Bureau of Tajikistan (CIBT) is coming in its final round. In June and July 2011, the CIBT Working Group visited three shortlisted candidates: D&B (USA), Creditinfo SCHUFA Group (Germany) and CRIF (Italy), and considered their tender bids for strategic partnership with CIBT. In the next step, all three companies will be evaluated upon objective criteria in order to identify the most suitable potential CIBT partner. The members of CIBT Working Group will comment on key strategic questions, and present their results to the Group and CIBT executive director. The final selection of the strategic partner will be determined through discussion and subsequent voting.

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