



BRINGING
SMART
POLICIES
TO LIFE

POLICY FRAMEWORK FOR RESPONSIBLE DIGITAL CREDIT



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ACKNOWLEDGMENT

The Policy Framework on Responsible Digital Credit is developed by the Expert Group on Financial Inclusion Policy (EGFIP) of the African Financial Inclusion Policy Initiative (AfPI) under the direction of the AfPI leaders.

Mrs. Carla Fernandes from Banco de Mozambique and Mr. Bernard Dadi from Bank of Tanzania led the work under EGFIP. AFI is also thankful to Mr. John Owens for helping the subgroup conduct relevant research and drafting the document.

We would like to thank AFI's AfPI leaders, member institutions and other stakeholders for their contribution and guidance in developing this knowledge product.

Kennedy Komba, Ivan James Ssettimba and Ali Ghiyazuddin Mohammad from the AFI management unit also provided inputs and comments for the framework.

This report is financed through AFI's Multi-Donor Financial Inclusion Policy Implementation Facility (MD-PIF), with participation of French Development Agency (AFD), the German Federal Ministry of Economic Cooperation and Development (BMZ), and the Ministry of Finance of the Grand Duchy of Luxembourg.

INTRODUCTION

At their 7th Annual Roundtable held in Abidjan, Côte d'Ivoire, the leaders of AFI's regional initiative for Africa, the African Financial Inclusion Policy Initiative (AfPI), noted the need for a policy framework that would help members address the challenges of regulating and supervising digital credit markets in Africa. This policy framework would, in turn, guide them in developing appropriate legal and regulatory frameworks and mitigate the potential risks of providing digital credit under inadequate regulatory regimes.

Through the Policy Framework for Responsible Digital Credit, AfPI can help to ensure that the overwhelming success of digital financial services on the continent is not undermined by risks introduced through innovative digital financial services.

The framework is intended to be a tool for sharing best practices and strengthening the capacity of AFI members to regulate and supervise digital credit in Africa. AfPI leaders directed its technical team, the Expert Group on Financial Inclusion Policy (EGFIP), to develop the policy framework, and it began by gathering information on best practices on the continent and beyond.

The policy framework provides minimum regulatory and supervisory requirements for developing a responsible digital credit regime. For ease of reference, these minimum requirements are grouped into 10 key principles. AFI members are encouraged to use these principles to enhance their policy and regulatory environment and support responsible digital credit products and services. Members should view the policy framework as an evolving document they can build on as they share experiences and best practices.

The Policy Framework on Responsible Digital Credit defines digital credit as the delivery of small loans through digital means.¹ Key features of digital credit include small-value loans, shorter loan tenures, loans offered through digital channels, remote/self-initiated access, fast loan processing and new, alternative forms of credit assessment.

¹ AFI CEMC Working Group. September 2015. Digitally Delivered Credit: Policy Guidance Note and Results from Regulators Survey. Available at: https://www.afi-global.org/sites/default/files/publications/guidelinenote-17_cemc_digitally_delivered.pdf

10 GUIDING PRINCIPLES FOR RESPONSIBLE DIGITAL CREDIT

PRINCIPLE 10:
COMPLAINTS AND
REDRESS SYSTEM



PRINCIPLE 1:
CLEAR LEGAL MANDATE AND
REGULATORY FRAMEWORK



PRINCIPLE 9:
COMPETITION AND
COLLABORATION



PRINCIPLE 2:
INSTITUTIONAL
CAPACITY



PRINCIPLE 8:
DIGITAL FINANCIAL
EDUCATION AND LITERACY



PRINCIPLE 3:
COMPREHENSIVE AND
EFFECTIVE CREDIT
REFERENCING SYSTEMS



PRINCIPLE 7:
FRAUD, CYBERSECURITY
AND RESILIENCE



PRINCIPLE 4:
TRANSPARENCY
AND DISCLOSURE



PRINCIPLE 6:
DATA PROTECTION
AND PRIVACY



PRINCIPLE 5:
INDUSTRY CODE
OF CONDUCT



PRINCIPLE 1: CLEAR LEGAL MANDATE AND REGULATORY FRAMEWORK



Authorities should have a clear legal mandate for licensing, regulating and supervising market conduct for the provision of digital credit.

KEY ASPECTS

- > The legal mandate should include licensing, regulatory, supervisory and enforcement powers that ensure effective market conduct in the provision of digital credit.
- > The regulatory framework should, where practical, apply a principle-based approach and be proportionate to the risks introduced.
- > Clearly provide enforcement powers to the regulator in the event of non-compliance.
- > Include fair and practical credit contract enforcement terms for credit providers.
- > The scope of the regulatory mandate for the relevant authorities in the jurisdiction should be clearly stipulated to ensure that digital credit provision is supervised widely and effectively.
- > Supervisory authorities should collaborate with other domestic regulatory authorities (e.g. telecommunications authority, consumer protection authority, data protection authority) to harmonize regulations related to digital credit and reduce the possibility of benefiting from regulatory arbitrage.

EXPLANATION

A legal mandate is important to ensure that regulatory authorities can facilitate and supervise the responsible provision of digital credit. Since both banks and non-bank entities offer digital credit, it is imperative that authorities have the mandate to ensure there is a level playing field in the market and providers adhere to prudent market conduct. Further, authorities should ensure that they apply a principle-based approach to regulating services regardless of the service provider. A proportionate regulatory approach should also be applied to ensure service provision is efficient commensurate to the risks. The proportionate regulations should also be designed to match the capacity of service providers, such as tiered approaches to capital, transaction limits, size of the loans that can be offered, and market conduct regulations that are commensurate with the size and outreach of digital financial services providers.

PRINCIPLE 2: INSTITUTIONAL CAPACITY



Authorities should have adequate capacity in terms of technical skills, resources, supervisory tools and systems.

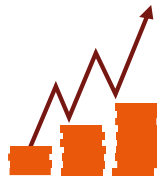
KEY ASPECTS

- > Human and financial resources should be allocated to build the necessary institutional capacity for effective market conduct supervision.
- > Institutional structures should be designed to ensure that roles and responsibilities are assigned to dedicated units that consistently execute market conduct functions.
- > To optimize resources, authorities should, to the extent possible, consider applying a risk-based market conduct approach and use effective supervisory tools, including technology-based ones (supervisory technology applications) to monitor, oversee and supervise financial service providers, including digital credit providers.

EXPLANATION

Institutional structures and enhanced capacity will assist authorities in monitoring, overseeing and supervising market conduct for the provision of digital credit and other financial services. It is important that authorities establish dedicated units with clear responsibilities to carry out market conduct supervision.

PRINCIPLE 3: COMPREHENSIVE AND EFFECTIVE CREDIT REFERENCING SYSTEMS



Authorities should implement comprehensive and effective credit referencing systems that incorporate a wide range of sourcing information, including from non-bank financial services providers.

KEY ASPECTS

- > Expand the role and capacity of credit reference systems to ensure all financial services providers, including non-bank digital lenders, submit data to the credit reference bureau. Credit reference systems should also facilitate real-time information sharing to meet customer needs.
- > Define rules and procedures that enable a range of consumer financial data to be included in the credit reference system, including data generated through digital financial services.
- > Ensure there are fair, transparent and clear criteria for digital credit providers to access and use alternative data (e.g. utility bill payments data, mobile phone usage data).
- > Institute rules to ensure digital credit providers access and use credit reference systems, which reduces the risk of overindebtedness. At the same time, due consideration should be given to the costs associated with credit reporting and referencing, as well as the adverse consequences of negative listing of small ticket loans.
- > Institute rules for obtaining supply-side data on non-performing loans from digital credit providers, and periodically conduct demand-side surveys to assess overindebtedness levels in the market. Supply and demand-side data should also be analyzed to identify any credit gaps among women and women-owned MSMEs.

EXPLANATION

Consumer overindebtedness is a major bottleneck to financial inclusion. It may also have an impact on financial stability and erode consumer confidence in the financial system. It is important that authorities create an enabling regulatory environment that supports comprehensive coverage of the credit

referencing system, as this will enhance the ability of service providers to offer credit in the market effectively. Expansion of credit information, including incorporating alternative credit referencing, will also contribute to greater financial inclusion for underbanked consumers.

PRINCIPLE 4: TRANSPARENCY AND DISCLOSURE



Authorities should ensure digital financial services are offered with appropriate disclosure of terms and conditions.

KEY ASPECTS

- > Set and enforce rules for transparency and disclosure by digital credit providers. Rules should clearly disclose loan tenure, effective interest rates, fees and charges, recovery process, sharing of consumer data, penalties and other information.
- > Institute rules to ensure that terms and conditions for digital credit are disclosed digitally in simple terms and in a language that most target consumers understand.
- > Disclosure and transparency rules should conspicuously show the key terms of the service, including charges at digital providers' premises and their agent outlets.
- > Require immediate publishing of terms and conditions (and any future changes) of digital credit products and services. Further, the terms and conditions should be fair, equitable and responsible without disproportionately favoring any party.
- > Institute specific rules to have clear and legible text that can be adapted to smartphones and other small digital devices.

EXPLANATION

Transparency and disclosure of relevant information on digital credit offerings empower consumers to make informed decisions, including being able to make comparisons and choose between multiple service providers. This disclosure should be in simple and comprehensible language that is easily understood by a typical consumer. It is recommended that disclosure information be in a language widely understood by the target market.

PRINCIPLE 5: INDUSTRY CODE OF CONDUCT



Authorities should ensure all financial services providers, including non-bank providers, ascribe to an industry code of conduct for the provision of financial services.

KEY ASPECTS

- > Advocate for an industry code of conduct for fair client treatment in the provision of financial services, including digital credit.
- > The rules for fair client treatment should include adherence to principles of transparency, disclosure, complaints handling and ethical debt recovery procedures.
- > The code of conduct should stipulate that financial services providers, including third-party providers, shall be responsible and committed to their customers in providing services based on principles of fair conduct.
- > Sufficient care should be taken during product design and delivery to ensure the provision of digital credit does not widen the credit gap, especially among women and women-owned MSMEs.

EXPLANATION

An industry code of conduct ensures that the market adopts self-regulated standards that enhance fair client treatment while also making industry regulation more efficient. An effective code of conduct enhances consumer confidence and quality provision of services, especially for individuals and small business customers, a target segment for financial inclusion. At minimum, a code of conduct should include standardized rules on transparency, disclosure requirements, adherence to non-discriminatory practices, ethical loan recovery practices and appropriate complaints and redress systems. In some markets, authorities may also wish to explore the potential for industry associations to serve self-regulating/monitoring roles. An industry code of conduct should also ensure that controls are in place to cover outsourcing activities, such as lead generators, data analytics providers and third-party collectors. This is especially important given the role of mobile network operators (MNOs) that partner with banks to provide digital credit in Africa.

PRINCIPLE 6: DATA PROTECTION AND PRIVACY



Authorities should ensure consumer data is protected effectively in accordance with legal requirements.

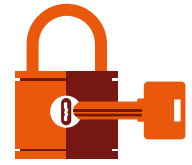
KEY ASPECTS

- > Issue and enforce rules for consumer data protection, data privacy and usage rights.
- > Require providers to institute risk mitigation measures to protect the security, integrity and confidentiality of customers' information. Data privacy rules and principles should, at minimum, include restricted access to consumer data, consent to use/process the data, fair and transparent use/processing of data and ensuring confidentiality of customer data.
- > Include requirements for providers to obtain customer consent before sharing their data with third-party entities.
- > Rules that stipulate exceptions to the use of consumer data without consumer consent may include compliance with laws or court orders.
- > Regional data privacy initiatives should be encouraged and implemented on the basis of common principles, support interregional data flows and be interoperable with existing APEC and EU approaches and with similar national approaches.

EXPLANATION

Consumer data protection is critical in ensuring that digital credit, as well as other financial services, give consumers confidence that their data is private and being used appropriately. Limiting the sharing of consumer information without their consent, except when providers must comply with law, enhances fair market conduct by ensuring that consumers are not unfairly treated, discriminated against or manipulated when obtaining financial services. Where practical, regional cross-border initiatives can build confidence between countries, facilitate sharing of best practices between policymakers and allow data privacy regulators to detect and address non-compliance more easily.

PRINCIPLE 7: FRAUD, CYBERSECURITY AND RESILIENCE



Authorities should ensure there are effective fraud prevention and cybersecurity measures to protect digital credit services.

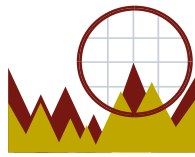
KEY ASPECTS

- > Institute and enforce rules that require providers to implement fraud prevention and cybersecurity measures.
- > Require providers to periodically submit fraud and cyber threat incident reports to the relevant authorities, including measures taken to ensure these incidents will not happen again.
- > Require providers to conduct periodic information technology audits.
- > Institute measures for cross-agency collaboration to mitigate cybersecurity threats and risks in the industry.
- > Require providers to have robust Business Continuity Plans (BCP) in place to enable continuity following a cybersecurity attack or other business disruption.

EXPLANATION

Cybersecurity concerns are at the core of digital financial service provision. Loss of consumer funds and their information has a negative impact on both consumer trust and the reputations of financial services providers and the industry. Fraud prevention measures are essential to ensuring service providers are resilient. Due to the nature of cybersecurity risks, it is imperative that authorities institute collaborative measures with domestic stakeholders (public and private sector collaboration) as well as cross-border collaboration on cybersecurity. Submission of fraud incidence reports to the relevant authority will help prevent and protect against recurrence of fraud.

PRINCIPLE 8: DIGITAL FINANCIAL EDUCATION AND LITERACY



Authorities should institute consumer awareness, education and literacy programs on digital financial services.

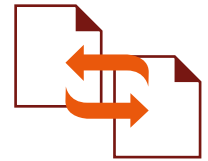
KEY ASPECTS

- > Institute policies, strategies and programs that promote awareness of digital financial services and enhance digital financial education and literacy, especially among disadvantaged groups like women and youth.
- > Require digital financial services providers to conduct effective product awareness advertisements and campaigns and contribute to industry-wide financial education programs.
- > Ensure that financial awareness and education programs are not misleading or biased.
- > Digital financial literacy and education policies should include awareness raising, risk mitigation and the consumer complaint and redress process.
- > Conduct periodic demand-side surveys to assess the financial capabilities of consumers and devise appropriate national financial education strategies.

EXPLANATION

Awareness and understanding of digital financial services empower consumers to make informed decisions about accessing and using them. Most consumers do not have a sophisticated understanding of financial services, especially given the dynamic changes in financial services delivery through digital innovations. Financial literacy and education are daunting tasks that require national and industry-wide collaboration. National financial education strategies provide an effective and systematic way to implement industry-wide financial education and enhance the capabilities of consumers. Awareness-raising campaigns should include youth and gender-focused digital financial literacy initiatives.

PRINCIPLE 9: COMPETITION AND COLLABORATION



Authorities should ensure fair market competition and enhance collaboration to make the provision of digital credit more efficient.

KEY ASPECTS

- > Institute and enforce rules for fair competition in the provision of digital credit and other financial services.
- > Prohibit anti-competitive market practices to protect consumers from predatory business practices and collusion.
- > Collaborate with other regulatory agencies in enforcing fair and competitive business practices.
- > Institute policies and rules for the interoperability of all financial services, including digital financial services.

EXPLANATION

A competitive market for the provision of financial services, including digital credit, creates a level playing field and reduces predatory business practices and collusion. This ensures that customers are protected and have a more extensive and competitive range of choices. However, in markets where there is only one dominant player, it is imperative that authorities devise ways to ensure that the sole or dominant provider is not engaging in predatory business practices. Collaboration and cooperation in the market are essential to make service delivery more efficient. Cooperation between regulatory agencies is vital to mitigate regulatory arbitrage while industry collaboration helps to improve interoperability.

PRINCIPLE 10: COMPLAINTS AND REDRESS SYSTEM



Authorities should ensure there are appropriate, accessible and efficient consumer complaint and redress systems in place for digital credit services.

KEY ASPECTS

- > Institute and enforce rules for establishing an effective complaint and redress mechanism that handles complaints appropriately, is easily accessible and offers efficient redress.
- > The rules and regulations for handling consumer complaints should stipulate the roles and responsibilities of financial services providers and the appeals process to a relevant authority/ombudsman.
- > Require financial services providers to keep a record of and submit consumer complaint data to the relevant authority on a regular basis. Data formats should enable additional disaggregation on the basis of gender, age and other demographic factors.
- > Sufficient measures should be taken to ensure complaints and grievance redressal mechanisms serve women clients better.

EXPLANATION

Consumer complaint and redress mechanisms are vital to consumer protection. It is therefore imperative that these mechanisms are easily accessible, appropriate and clearly understood by consumers of digital financial services. An effective and efficient complaints and redress mechanism should include instituting convenient and affordable processes that handle complaints expediently and judiciously. The use of technology to improve the efficiency of the complaint and redress system should be considered.

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