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MODEL SCOPE OF WORK

LEGAL & REGULATORY REFORM FOR ACCESS TO FINANCE
POLICY & PROGRAMMING TOOLKIT

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POLICY & PROGRAMMING TOOLKIT

DISCLAIMER

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SUBMITTED BY

The IRIS Center, University Research Corporation International
Chemonics International

SUBMITTED TO

Anicca Jansen, EGAT/PR/MD, Cognizant Technical Officer
Sherry Sposeep, Chemonics International

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CONTACT INFORMATION

IRIS Center
University of Maryland
Department of Economics
2105 Morrill Hall
College Park, MD 20742
USA

E-mail: info@iris.econ.umd.edu
Phone: +1.301.405.3110
Fax: +1.301.405.3020
Web: www.iris.umd.edu

ABSTRACT

This Model Scope of Work was developed to accompany the “Legal and Regulatory Frameworks for Access to Finance: Policy and Programming Tool.” This tool was created for practical use by USAID Mission staff, practitioners, and other stakeholders in the field and provides guidelines for assessing the need for legal and regulatory reform that would increase access to finance for poor households and micro entrepreneurs. The toolkit is comprised of three steps: assessing the existing situation for financial services, analyzing the conditions for reform, and determining what is feasible.

KEY WORDS

Legal and regulatory reform, access to finance, microfinance

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<http://www.microlinks.org>

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OVERVIEW & OBJECTIVE

[Bracketed, bold grey text indicates information that should be inserted or adapted for the purposes of tailoring this model scope of work to fit the particular circumstances of a Mission. This text can be replaced by relevant details or used as part of the explanation of the work to be performed, as the user sees fit.]

The unfolding of worldwide efforts to increase the poor’s access to financial services has often taken place within institutional and legal environments that are not designed to support the expansion and sustainability of these services. The goal of any institutional reform for private sector growth should be to create an environment that supports the expansion of financial services to the poor, thereby **increasing access**. The approaches taken in the past, however, have sometimes not helped to achieve this goal. In some cases, laws have directly obstructed the implementation of international financial best practices among providers. Financial investors are hesitant to partner with or invest in MFIs because of uncertainty about the legal status of the organization or the legality of the investment. Finally, the lack of supportive policies, laws and regulations hinder providers’ ability to offer – and clients to access – dependable savings, transfer and insurance products. As a result, financial providers have not built greater relationships with the poor, and access to financial services continues to be constrained.

There is a growing realization that a transparent microfinance policy environment, supported by a flexible set of laws and regulations, will discourage fraud, improve the quality of investments in MFIs, ensure operational transparency and forge critical links to the broader financial market. In the medium to long run, if microfinance is to be fully integrated within the formal financial sector, and the poor’s needs met at scale and sustainably, supportive legal and regulatory frameworks are necessary. This does not necessarily mean, however, that the development of a new set of laws and regulations designed to facilitate the poor’s access to finance always represents the best use of scarce fiscal and donor resources. In many cases, this access can be significantly increased without reform of the legal and regulatory environment. In others, a number of conditions are not ripe for such a reform to take hold and be sustainable, and so efforts should be delayed until the initial conditions can be met.

It is not necessarily simple to identify and interpret the conditions required for successful reforms that will have a significant contribution to increasing access. This assessment, however, will utilize the Policy and Programming Tool for Legal and Regulatory Frameworks for Access to Finance (or LRFAF) to assist USAID Mission staff and their country counterparts **to identify the conditions under which such legal and regulatory reform may be warranted**—and the circumstances under which it is not recommended—**and to suggest various programmatic options**.

This assessment will provide each of the following components which are discussed in full detail in the LRFAF Toolkit: [All of the components below constitute a full assessment, sequentially structured. A Mission may choose to pursue fewer components. For example, an analysis of financial services may be already available, or the consultant may not be equipped enough to analyze USAID’s own opportunities to effect change. Any components omitted here will also need to be deleted from subsequent sections.]

1. Analysis conducted for Step 1, “*Assess the Situation.*” This includes an overview of the supply and demand for credit, deposits, and transfer services.

2. Analysis conducted for Step 2, “*Analyze Conditions for Reform.*” This involves an analysis of four fundamental factors: characteristics of the financial regulatory framework, capacity of the regulatory authority, existence of an influential advocate(s), and opportunities for USAID.

3. Analysis conducted for Step 3, “*Determine What is Feasible for your Country.*” Utilize the Decision Roadmap and the Step 2 analysis to decide the best programming options.

[Insert a paragraph here stating the Mission’s intended use of the assessment findings. Some examples:

- Findings may be used to help USAID decide whether legal and regulatory reform would be a good programming option or what mix of interventions might be more successful.
- Findings could facilitate incorporating legal and regulatory programming to increase access to finance into other types of programming.
- Detailed information on the crucial problems facing the financial services industry can inform the selection of counterparts for various objectives.
- The overview of supply and demand for credit, deposits, and transfer services may be used as baseline information thus enabling the monitoring and evaluation of impact over time due to subsequent programming.]

BACKGROUND

[The background section should outline:

- **USAID’s interest in the sector**
- **Existing concerns about access to finance in the country as a whole and legal and regulatory implications in particular**
- **Any past efforts by USAID, the government, or other donors to address access to finance**
- **An initial assessment of the degree of government political will to correct problems in the sector**
- **Agreements in place between USAID and relevant agencies to facilitate this assessment]**

STATEMENT OF WORK

OBJECTIVES

The purpose of this assignment is to assess whether [country] has a sufficient legal framework for the microfinance industry to develop or whether institutional reform is needed, and if so, whether USAID is in a position to intervene. It utilizes the *Legal and Regulatory Reform for Access to Finance: A Policy and Programming Tool* available at www.microlinks.org.

The assessment has three steps which lead to recommendations for program design.

- **Step 1 – Assess the Situation.** The objective of Step 1 is to understand the environment in which microfinance operates. This involves documenting the existing financial services market, looking specifically at ways the poor already access credit, savings, and transfer services. This market assessment will help focus efforts in the remainder of the assessment on specific areas of the financial services market where the poor lack access.
- **Step 2 – Analyze Conditions for Reform.** In Step 2, the primary task is to obtain information on a list of four factors, which are i) characteristics of the financial regulatory framework; ii) capacity of the financial regulator; iii) existence of a public advocate for access to finance; and iv) opportunity for USAID to effect change. Analysis will focus on how these factors shape the financial services market and potential USAID programming.
- **Step 3 – Determine What is Feasible.** In Step 3, these four factors are plugged into a “decision roadmap” that helps users see what types of interventions may be needed and what other interventions should be included to create an optimal project. Information on countries that have faced comparable situations is offered through examples.

TASKS

[Should be modified if the contractor is not being asked to conduct the full assessment to include only those areas where tasks will be assigned.]

1. REVIEW THE TOOLKIT AND RELATED ASSESSMENT MATERIALS

The contractor will review and follow the assessment methodology laid out in the *Legal and Regulatory Reform for Access to Finance: A Policy and Programming Tool*. This toolkit provides the essential guidelines for carrying out the assessment. In addition, the contractor is encouraged to show familiarity with other financial services assessment literature and microfinance regulation and supervision literature, including:

- CGAP’s [Building Inclusive Financial Systems: Donor Guidelines on Good Practice in Microfinance](http://www.cgap.org/docs/donorguidelines.pdf) (www.cgap.org/docs/donorguidelines.pdf)
- CGAP’s [Microfinance Consensus Guidelines: Guiding Principles on Regulation and Supervision of Microfinance](http://microfinancegateway.org/content/article/detail/13473) (microfinancegateway.org/content/article/detail/13473)

- Bank for International Settlements, [Basel Core Principles of Effective Banking Supervision](http://www.bis.org/publ/bcbsc102.pdf) (www.bis.org/publ/bcbsc102.pdf)
- The World Bank's [Financial Sector Assessment Handbook](http://publications.worldbank.org/ecommerce/catalog/product?item_id=5174172) (publications.worldbank.org/ecommerce/catalog/product?item_id=5174172)

2. GATHER SECONDARY MATERIALS ON FINANCIAL SERVICES IN THE COUNTRY

The contractor will collect and analyze existing information on the financial services market and how the poor access such financial services, utilizing the toolkit as the analysis guide. Relevant background material may come from the following sources:

- [Microfinance Regulation and Supervision Resource Center](http://www.cgap.org/regulation)
www.cgap.org/regulation
- [USAID's Microenterprise Development Office](http://www.microlinks.org)
www.microlinks.org
- [FIRST Initiative](http://www.firstinitiative.org)
www.firstinitiative.org
- [Financial Sector Assessment Program \(FSAP\)](http://www.imf.org/external/np/fsap/fsap.asp)
www.imf.org/external/np/fsap/fsap.asp
- [Savings Information Resource Center](http://www.cgap.org/savings)
www.cgap.org/savings
- [IDB Migrant-Remittances](http://www.iadb.org/mif/remittances)
www.iadb.org/mif/remittances
- [World Council of Credit Unions](http://www.woccu.org)
www.woccu.org
- [eStandards Forum](http://www.estandardsforum.com/)
www.estandardsforum.com/
- *The Economist's* [Country Briefings](http://www.economist.com/countries)
www.economist.com/countries

In addition, the contractor should perform an extensive literature review on existing studies of the financial services sector, including any quantitative demand surveys or market research that have been conducted. This information should be sought from donors, government agencies, financial institutions, and non-governmental organizations.

3. CONDUCT INTERVIEWS WITH ALL STAKEHOLDERS

The contract will meet with all relevant stakeholders in the financial services sector, including

- Donors (USAID and other donors working in this area, including [select or add as appropriate] UNDP, DfID, GTZ, World Bank, NORAD, IDB, ADB, AfDB.

- Government agencies, including [select or add as appropriate] Ministry of Finance, Ministry of Justice, central bank, banking regulator
- Financial institutions, including [select or add as appropriate] major banks (regardless of their current target markets), non-bank financial institutions, credit unions, and other MFIs.
- Industry and support organizations, including [select or add as appropriate] bankers' association, MFI association, credit bureau, training institutions, academic institutions

4. ANALYZE INFORMATION USING THE TOOL.

The contract will utilize the *Legal and Regulatory Reform for Access to Finance: A Policy and Programming Tool* to analyze the collected information. This will include making decisions in Step 1 concerning where to focus efforts (i.e., where lack of access issues are most pressing – credit, deposits, and/or transfers) and filling in this matrix as instructed in the Toolkit:

	Credit	Deposits	Transfers
Providers			
Services currently provided			
Potential future services			
Estimates of unmet demand (saturation, some demand, major unmet demand)			
Where are the gaps?			

It also includes answering the questions laid out in Step 2 for each of the four factors, which are:

- Does the financial regulatory framework inappropriately inhibit access to finance among the poor?
- Does the financial regulator have the potential capacity to undertake new responsibilities that would increase access to finance?
- Is there an influential public advocate who will push the reform agenda in order to make it successful? Is this the right advocate to help address the problem

- Is there an opportunity for USAID to make a difference in increasing access to financial services?

It also includes carefully documenting the analysis process using the worksheets provided in the tool.

5. MAKE RECOMMENDATIONS BASED ON THE DECISION ROADMAP

The contractor will utilize the “decision roadmap” provided in the toolkit to make recommendations regarding the most effective programming USAID could undertake at this time. In doing this, the contractor will consult with USAID about current program design and what interventions would be feasible based on the conclusions drawn in the assessment and current USAID priorities.

DELIVERABLES

[These deliverables are appropriate for a full assessment. Modify to include only a report on the specific tasks contractor is asked to complete if appropriate.]

STATUS REPORTS

The contractor should deliver one to two interim reports summarizing work to date and detailing obstacles encountered.

WORKSHEET AND DRAFT RECOMMENDATIONS

The contractor will fully fill in the worksheet provided in the tool and prepare draft recommendations to be discussed with the Cognizant Technical Officer. These recommendations will show a clear link to the Decision Roadmap and the analysis of the financial services market and the financial regulatory framework. The recommendations will explain how the proposed programming would be the most effective use of USAID resources to address access to finance issues. The contractor will present these recommendations to USAID for comment and revise based on this feedback.

STAKEHOLDER WORKSHOP [OPTIONAL]

The contractor may convene a stakeholder workshop in coordination with USAID to discuss the draft recommendations and gather feedback from the participants, which should include both USAID personnel, policymakers and microfinance industry personnel. The draft recommendations will be adjusted on the basis of comments made at this workshop.

FINAL RECOMMENDATIONS FOR PROGRAM DESIGN

Based on the above discussions, the contractor will prepare the final recommendations for program design and finalize the worksheet documenting the decision-making process. The contractor will disseminate the worksheet and final recommendations as instructed in the tool, by giving copies to the following:

- Development Experience Clearinghouse
- USAID Mission Library
- At least two local stakeholders, including [select or add as appropriate] the microfinance association and the bankers' association.

RECOMMENDED COMPOSITION OF TEAM & LEVEL OF EFFORT

The assessment team includes one expatriate and one local staff member. The contractor will be responsible for all translation and support staff. [Write as appropriate for contract.] A six-day work week is authorized for contractor staff when in the field,

Project staffing and level of effort assume that a full assessment is conducted.

Microfinance Specialist. A seasoned professional experienced in conducting analyses of the microfinance industry with the skills to traverse a variety of financial sector actors, including banks and policymakers. Experience in regulatory considerations for microfinance. The Microfinance Specialist is responsible for leading the assessment, deciding which materials to utilize, and drafting recommendations.

Local Financial Regulatory Specialist. A local lawyer or economist with experience in the laws and regulations affecting the financial sector and microfinance institutions. Fluency in both English and the local language. Experience in a relevant government agency or USAID projects a plus. The local financial regulatory specialist will identify stakeholders to interview, gather local background materials, participate in interviews, and assist in drafting recommendations.

PERIOD OF PERFORMANCE & EXPECTED LEVEL OF EFFORT

[Based upon completion of a full assessment. Performance period and expected LOE will change if the contractor is asked to complete fewer tasks.]

PERIOD OF PERFORMANCE

The assessment should take place over a period of three weeks. The overall breakdown is as follows:

1. Review the Toolkit and related assessment material: 1 day (.5 for Microfinance Specialist, .5 for Local Financial Regulatory Specialist)
2. Gather and analyze relevant secondary material: 7 days (3 for Microfinance Specialist, 4 for Local Financial Regulatory Specialist)
3. Conduct interviews: 11 days (5 each for Microfinance Specialist and Local Financial Regulatory Specialist, working together, plus 1 day for Local Financial Regulatory Specialist to make appointments)
4. Draft recommendations, fill-in worksheet, and discuss with USAID: 3 days (2 for Microfinance Specialist, 1 for Local Financial Regulatory Specialist)
5. Optional stakeholder workshop: 1 day (.5 for Microfinance Specialist, .5 for Local Financial Regulatory Specialist)
6. Finalize recommendations: 1 day (1 for Microfinance Specialist)

EXPECTED LEVEL OF EFFORT

The expected Level of Effort for each team member is as follows for a total of 24 days.

Microfinance Specialist: 12 days

Local Financial Regulatory Specialist: 12 days

U.S. Agency for International Development

1300 Pennsylvania Avenue, NW

Washington, DC 20523

Tel: (202) 712-0000

Fax: (202) 216 3524

www.usaid.gov