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REVIEW OF THE CURRENT STATE OF PRACTICE OF CONSUMER PROTECTION AND FINANCIAL LITERACY FOR FINANCIAL SERVICES IN THE WEST BANK

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ACRONYMS

ABP	Association of Banks in Palestine
AED	Academy for Educational Development
AML	Anti Money Laundering
APR	Annual Percentage Rate
DIG	Development Innovations Group
ESAF	Expanded and Sustained Access to Financial Services program
GDP	Gross Domestic Product
KYC	Know Your Customer
MFI	Microfinance Institution
MONE	Ministry of National Economy
MOU	Memorandum of Understanding
MSME	Micro, Small, and Medium Enterprises
NGO	Non Governmental Organization
OECD	Organization for Economic Co-operation and Development
PCMA	Palestinian Capital Markets Authority
PIF	Palestinian Insurance Federation
PLC	Palestinian Legislative Council
PMA	Palestinian Monetary Authority
PNA	Palestinian national Authority
PNSMF	Palestinian Network for Small and Micro Finance
USAID	United States Agency for International Development

EXECUTIVE SUMMARY

Consumer protection in financial services is an important component of financial sector development. Consumers of financial services have less information than providers and are therefore at a disadvantage in the market. Consumer protection regulation attempts to correct that market disparity through improved transparency and market discipline. To achieve the correct balance between consumers' rights and the cost of regulation, market regulators need to understand both sides.

In the West Bank today, consumers have no advocate or organization to represent them. Regulators therefore have insufficient information about consumers to ensure regulation strikes the correct balance between the rights of consumers and the needs of the industry. Additional constraints to improving consumer protection include: a legal basis that does not explicitly cover financial services; uneven regulation across the different parts of the financial services industry; codes of conduct that are not implemented or enforced; a civil code that makes it difficult for consumers to use the judicial system for redress.

Banking customers enjoy the best consumer protection in the West Bank due to the recent Fair Credit Instructions issued by the PMA. These Instructions require banks to act as advisors to their customers and provide them with sufficient information to select the most suitable product or service, ensure the products are affordable for the customer, and provide a mechanism for dissatisfied customers to complain. However, the Instructions fall short in certain areas such as: requiring a uniform calculation of interest rate; disclosing the PMA as the regulator; and providing a simple Key Facts sheet. The Instructions were issued in April 2009, and implementation is not yet uniform across providers. The Code of Conduct of the Association of Banks in Palestine could fill in some gaps in consumer protection, but it is not implemented by banks or enforced.

There is no specific protection for depositors. The exceptionally high deposit rates seen in the West Bank are more a reflection of the high degree of remittances and aid funding than individual deposits. The low level of bank accounts compared with other countries in the region rather indicates that customer cannot or choose not to use the deposit services of banks.

Insurance regulations are not being enforced. A statutory code of conduct exists for the insurance industry that addresses some of the critical consumer protection issues such as: ensuring products are suitable for customers; claims handling; and renewals. However, the PCMA is not currently enforcing the Code of Conduct. There are no specific provisions regarding complaints handling or redress.

The most vulnerable consumers have the least protection from providers seeking to use their information advantage. As more vulnerable consumers enter the expanding market for financial services, they are likely to be served by unregulated microfinance institutions. The draft microfinance law would establish the PMA or PCMA as regulator, but it is unclear when the law will be passed and instructions written. In the meantime, consumers rely on the goodwill of the microfinance institutions to ensure protection against abusive practices. There is no third party to whom microfinance customers can complain or seek redress.

The main recommendations to improve consumer protection in financial services in the West Bank cut across the main lines of business and regulatory bodies. Specific recommendations for each sector will be most effective if the following three recommendations are implemented:

- Regulators must ensure consumer protection until consumer advocates emerge and become established in the market. Because regulators serve the public interest, they should develop the capacity to promote and enforce consumer protection in financial services. Regulators should establish separate units to handle consumer protection so the focus on consumer protection and prudential regulation are not combined or diluted. Regulators must take care to balance these two functions and ensure they neither succumb to regulatory capture by the industry or over-regulation with a chilling effect on innovation. The consumer protection unit should take on the following three functions:

Redress: A system of grievance resolution should be established at the regulator level for cases where customers do not get satisfaction from the service provider

Research: Empirical information about consumers of financial services should be collected to inform and improve regulation

Financial Literacy: Public information campaigns, information through financial services providers and civil society programs should be encouraged to promote better understanding of consumer rights and responsibilities, and use of financial products and services.

- Improve and harmonize market conduct regulations between the two main regulatory bodies and the financial service providers they regulate. Within the context of the different regulations with which they operate, the PMA and the PCMA should seek to harmonize market conduct regulation along the following lines:

Expand application of Fair Lending Instructions to microfinance, insurance and leasing. These Instructions are the best existing example of consumer protection regulations and should serve as a model for the non-bank financial services sectors to ensure consumers are equally protected.

Revise industry codes of conduct to fill gaps in consumer protection and provide oversight to ensure adoption and enforcement. Codes of conduct can be an important component of an effective consumer protection regime. Regulators should use their influence to ensure the industry provides information and protection not specifically covered by regulation.

Disclosure of the applicable regulator to consumers. Consumers should be informed as to which regulator has authority over the financial service provider and how the consumer can contact the regulator.

- Improve financial capabilities among consumers of financial services. Consumers will be better able to avail themselves of increased information and protection if they are educated about the financial products and services available to them. The general level of knowledge among financial services customers and the public at large should be

improved regarding the opportunities and risks associated with financial products and services, as well as their rights and responsibilities as consumers. The following activities will help improve financial capabilities:

Using a uniform interest rate calculation, such as APR, in advertising and product information will help customers compare between products offered by different providers.

A financial capabilities study will provide a baseline of the current state of knowledge about financial services. If well designed, this baseline can serve as a reference point to measure the effectiveness of consumer protection efforts.

A media campaign can serve to quickly inform consumers of efforts in consumer protection and provide a common message about rights and responsibilities.

I. INTRODUCTION

Analysis of consumer protection in financial services as a strategy for financial sector development is a very recent trend. Most of the experience comes from industrialized countries with highly developed regulatory bodies for the financial sector. However, the realization in the past twenty years of the importance of financial inclusion has caused emerging market countries to evaluate their own systems for expanding financial services to under-served markets. This evaluation has led to a realization that the consumers in those markets are relatively unsophisticated, often first time users, which could leave them vulnerable to abuse by even well-meaning financial service providers. Populations in these markets are also generally poorer and less well educated than traditional financial service customers, which raises public policy issues of how to protect these vulnerable populations. Consumer protection regulation is thus often a policy response to new dynamics brought about by financial inclusion.

Consumer protection is a cross-cutting topic that requires a broad analysis. While the focus is on the financial services industry, limiting the review to the sector would miss several important elements of consumer protection for financial consumers. The World Bank has been the leading proponent of approaching consumer protection using a wide angle to analyze the laws, institutions and practices that protect consumers of financial services, and using this analysis to identify gaps. This approach has been successful in many countries and was used for this review. The review included: a full legal review to understand the laws and regulations that protect consumers generally and consumers of financial services in particular; an analysis of the institutions that protect consumers of financial services including the financial services industry and its regulators, but also the judicial system and consumer advocates; and the practices in the financial services industry that impact consumer protection.

The main sectors of the financial services industry that were reviewed include the banking, microfinance, and insurance sectors. The leasing sector was included in the legal review, but the market is currently too small and concentrated in the commercial markets with few consumers using leasing services. The securities industry was not included, as it is outside the purview of the ESAF program. This document, thus, compares international good practices with the current state of practice in the West Bank as they pertain to the banking, microfinance and insurance sectors in the following recognized areas of consumer protection: (A) Institutions Supporting Consumer Protection; (B) Disclosure; (C) Customer Account Handling and Maintenance; (D) Privacy and Data protection; (E) Dispute Resolution Mechanisms; (F) Guarantee and Compensation Schemes; (G) Financial Education; and (H) Competition.

There are a number of important laws and regulations with implications for consumer protection in financial services that have not yet been finalized. As in any dynamic financial sector, the financial services industry in the West Bank is evolving and changing. Relevant laws that are in draft form include the micro lending law, the leasing law and the companies' law. At the time of this report, due to a political stale-mate, the Palestine Legislative Council (PLC) is not meeting to vote on laws. The fate of these draft laws is, thus, uncertain and the corresponding regulations and instructions are similarly blocked. For the purposes of this review, therefore, we rely on the actual laws and regulations in effect today.

The review took place between April and August 2009. The methodology for the review included: off-site document collection during the months of April and May 2009; on-site interviews and data collection in the West Bank from June 8-18 2009; a stakeholder workshop to present draft conclusions on August 4, 2009; and this final report submitted August 31, 2009.

II. IMPORTANCE OF CONSUMER PROTECTION FOR FINANCIAL SECTOR DEVELOPMENT

Protecting consumers' rights has become a prerequisite for sound and competitive financial markets. Emerging countries worldwide have seen rapid development of their financial sectors over the last ten years. Growth of income and remittances has provided consumers with more opportunities to invest and utilize financial services. As a result, the global economy adds an estimated 150 million new consumers in financial services annually. Most are in developing countries, where consumer protection and financial literacy are still in their infancy.

Consumer protection leads to deepening of retail financial markets. When customers have more complete information, they impose discipline on the market which leads to competition in the market on the basis of product offering and price, which draws more customers into the market. Conversely, in markets where customers don't have information or protection from uncompetitive practices, they are hesitant to engage in the market, resulting in fewer clients, less diversified products and a smaller market.

An imbalance of information puts consumers at a disadvantage when dealing with a financial service provider. Financial institutions have a great deal of information about the transactions in which they engage. Consumers have relatively little information. In lending, for example, a bank knows: the cost of making the loan, the market dynamics, the borrower's loan history, and the risk of similar loans. Whereas the borrower generally only knows the terms of the loan as described by the bank (payment amount and frequency, interest rate, and additional fees disclosed). This imbalance of information is considered a market failure because the party with less information will be less likely to enter the market.

Consumer protection regulation attempts to level the playing field between buyers and sellers through greater transparency. Competition can cause financial service providers to hide the true cost of using financial services and engage in other practices that put the consumer at a disadvantage, such as over-zealous selling or collections. Disclosure of information using uniform definitions that buyers can understand helps them compare providers with confidence and use more services.

Establishing consumer rights helps guide the process of consumer protection. Most consumer rights include the right to: choice; information; redress and be heard. In financial services, we also add the right to privacy. The specific rights may vary based on the market, but these five are the most important:

- **Choice:** Consumers should have a choice of financial service providers and a variety of products from which to choose.

- **Information:** Transparency increases the efficiency of the transaction. Consumers can make better decisions and providers can compete to provide better products at lower prices.
- **Be Heard:** Without a voice in the process, consumers' rights cannot be assured. Consumers need to be heard by the financial institution, the industry and the regulator in order to ensure a level playing field.
- **Redress:** If consumers are harmed or do not receive the benefit promised from a financial service, there must be some process of compensation.
- **Privacy:** Because financial transactions involve a transfer of sensitive information about the user of the service to the provider, financial service providers must be held to a high standard of keeping information private.

Consumer protection regulation is separate from prudential regulation and the two should be separately regulated. Whereas prudential regulation protects the safety and soundness of the financial system and depositors, consumer protection regulation falls under market conduct regulation. Safety and soundness must be regulated by the government through a specialized agency. Market conduct regulation is more flexible and there is often a role for the industry to self-regulate, with government oversight. Using the same regulatory mechanism for prudential regulation and market conduct may result in over-regulating market conduct and a subsequent chilling effect on innovation.

Self-regulation is a less expensive form of regulation but works best under the threat of regulation. All regulation imposes a cost on the industry being regulated, but the cost of self-regulation is lower and, therefore, more attractive to the industry. However, because there is some cost, businesses won't agree to self-regulate unless there is some external motivation, such as the threat of more costly regulation and supervision by the government. Therefore, self-regulation needs to be overseen by a regulator who can impose more stringent (and costly) regulation if self-regulation fails to protect consumers. This oversight requires a self-regulatory document, such as code of practice, which can be monitored and enforced. A general code of conduct may not be specific enough. Oversight of a self-regulatory mechanism is a form of light-touch regulation.

Effective consumer protection regulation requires consumers, the industry and the government. Where consumer protection is not well established, consumers often have no voice in the effort to protect their rights. It is essential that decisions about protecting consumers be made with the input of consumer advocates who understand consumer issues within the context of the country. Financial services are characterized by a relatively high degree of regulatory capture. Therefore, policy makers and the industry alone cannot ensure adequate consumer protection.

Financial literacy improvement will help advance consumer protection. Where consumers can quickly use information to change behavior, the impact of consumer protection will be felt more quickly. Unfortunately, there is a lack of empirical documentation about the impact of financial education on financial consumers. Nevertheless, as the complexity of financial products often outstrips the consumers' ability to understand them, financial education has become an accepted requirement for better financial inclusion.

III. KEY LAWS AND INSTITUTIONS

The regulatory environment for consumer protection in Palestine should be a well woven network of regulatory relations, based on cooperation between different regulators and harmony of regulations. However, the general legal framework of Palestine is a mosaic of various laws and legislations; Ottoman, British, Egyptian, Jordanian laws and Israeli military orders are applicable in the West Bank and Gaza. Sharia and customary laws are part of this legal mosaic. More recently, the Palestinian National Authority (PNA) laws and regulations came as an additional layer. In the aftermath of the Oslo Agreements and the establishment of the Palestinian Authority, efforts are taking place to unify and modernize the Palestinian legal system.

Judicial laws are relatively underdeveloped regarding financial and commercial transactions. The Law of Evidence in Civil and Commercial Matters, and the Law of Civil and Commercial Procedures have not kept pace with rapid developments in financial sector transactions. The most important legal instruments regulating consumer protection in financial services are detailed in Annex I and include:

- Consumer Protection Law No. (21) of 2005
- Palestinian Monetary Authority Law No. (2) of 1997
- Banking Law No. (2) of 2002
- Fair Credit Instructions No. (4) of 2009
- Capital Market Authority Law No. (13) of 2004
- Insurance Law No. (20) of 2005

IV. BACKGROUND ON HOUSEHOLD FINANCE

Household finance in the West Bank is limited by the restrictions imposed on Palestinians. Movement of goods, services and currency are restricted by Israel with resulting limits on the effectiveness of financial intermediation and economic growth. According to the World Bank, more businesses in the Palestinian Territories (37%) describe access to finance as a “major or severe problem” than in any region outside sub-Saharan Africa.¹

¹ ‘West Bank and Gaza Financial Sector Review’, The World Bank, December 2008.

Savings and credit are dominated by the banking sector which does a poor job of intermediating funds for investment in Palestine.

While the Palestinian deposit ratio is high at 102% of GDP, bank accounts are scarce with only 200 deposit accounts per 1,000 people. Most deposits are a result of very high remittances and international development assistance, not household deposits. Only licensed banks are allowed to mobilize savings deposits, most banks are foreign, and commercial banks do not contribute substantively to financing the local economy, especially the small and medium enterprises.² A mere 31.3% of deposits were converted into credit for Palestinians, despite a floor of 40% by the Palestinian Monetary Authority (PMA).³

Banks' ability to attract additional deposits depends on a number of factors. Most important among these are: public awareness of the advantages of depositing savings in banks rather than outside the banking system; the safety of the banking system and public confidence therein; preservation of confidentiality of data; deposit interest rates; as well as the general economic and political situation.

- 'The Impact of Implementing the Palestinian Banking Law on the Performance of the Private Sector'. Palestine Economic Policy Research Institute. 2008.

Credit is constrained, especially among households and small and medium enterprises.

Only 1% of Palestinians have outstanding loans, compared with the average in developing countries of 10%. Most businesses in Palestine are small firms, and only 9% of these use bank credit to finance working capital (compared, for example, with 13.4% in sub-Saharan Africa). Microfinance institutions that target the smallest businesses serve just over 31,000 customers, compared with 850,000 accounts in the banking sector.⁴

Fig. 1: Access to Credit

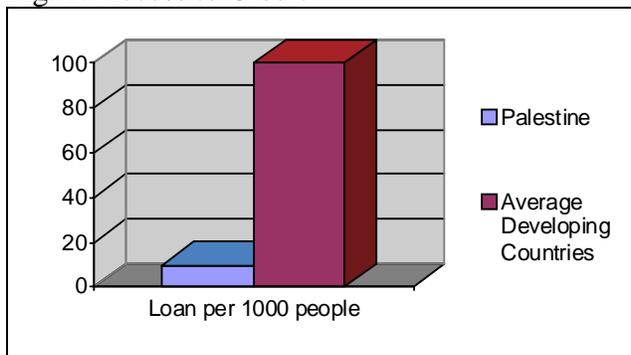
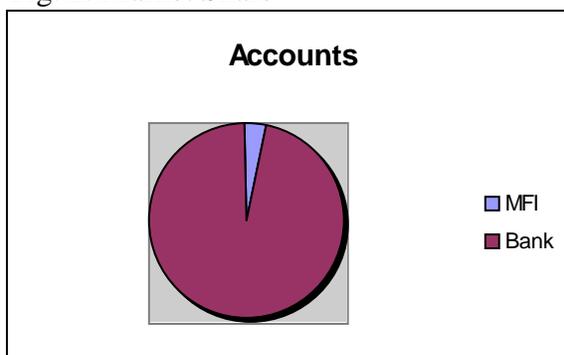


Fig. 2: Market Share



The insurance industry is dominated by mandatory automobile insurance and leasing has not yet taken hold. Until recently insurance companies operated in a largely unregulated environment. Currently, 55% of all insurance policies written in Palestine are for auto insurance, with medical and fire insurance representing a small but growing portion of the insurance industry. Other types of insurance are small but stable. Leasing represents only 2.3% of credit

² 'The Impact of Implementing the Palestinian Banking Law on the Performance of the Private Sector', Palestine Economic Policy Research Institute, 2008

³ Association of Banks of Palestine, Quarterly Bulletin, December 2008

⁴ 'Financial Performance Indicators, Microfinance Industry in Palestine as of December 31 2008', the Palestinian Network for Small and Micro Finance.

to the private sector; while it is expected to grow to serve business needs, it is unlikely to have an impact on household finance.

V. KEY FINDINGS

A. Institutions Supporting Consumer Protection

Summary of International Good Practices

Consumer protection should be based on law and supported by public and private institutions that interpret, uphold and enforce the law. The complexity of financial services requires that specialized agencies such as regulators and supervisors have a statutory role in protecting consumers, balancing these with their prudential supervision duties. Industry associations and financial institutions themselves should codify their commitment to protecting consumers from abusive practices. Civic organizations such as consumer advocates and the media should follow, report on, and promote consumer protection laws and practices. The judicial system should be accessible to consumers for enforcement of consumer protection laws.

Current Practice in the West Bank

Legal Framework Governing Consumer Protection in Financial Services

Banking, Microfinance, Insurance and Leasing: The regulatory framework for consumer protection in financial services is a reflection of the general legal environment. It is a compilation of laws and regulations spanning different eras. A number of regulatory agencies share the administrative authority for consumer protection, but the lack of sufficient coordination makes uniform enforcement of consumer protection regulations challenging (for a description of the laws and regulations see Annex I).

The basic law intended to protect Palestinian consumers is the Consumer Protection Law No. (21) of 2005.⁵ This very minimal law has not been fully implemented. Although the goals provision of the law states that it “aims to protect consumers’ rights from any health hazards or inequity or economic losses and to ensure expedited and accurate economic transactions between the supplier and consumer,” it does not cover all aspects of consumer protection, especially with regard to services. The Ministry of National Economy has not yet issued the implementing regulations or created the Consumer Protection Council as the law calls for. Application of this law has focused on food safety.⁶

To date, the regulatory framework governing consumer protection in financial services in Palestine is incomplete and missing a number of legislative tools, such as the leasing law and the law regulating the microfinance sector. Other laws, such as the competition law and the insurance law, are applicable, but their implementing regulations do not sufficiently protect

⁵ Published in the official Gazette No 63 date 24/7/2009

⁶ Detailed instructions for this law were being written at the time of this report, which could serve to clarify and improve the legal rights of consumers of financial services.

consumer rights. Furthermore, there are no specialized courts, such as commercial courts, and judges lack economic or financial expertise. This weakens the legal environment in which micro, small, and medium enterprises (MSMEs) operate since the law cannot adequately regulate their activities or settle disputes arising from trading or financial transactions.⁷

The regulatory framework for microfinance is still not clear yet. There are various issues around the passage of the proposed law mainly due to the fact that the Palestinian Legislative Council (PLC) did not meet for over two years, leading to a backlog in legislation that will take some time to clear. It is, therefore, not clear when microfinance institutions (MFIs) will become regulated, or what form that regulation will take. In addition, the sector has been subject to competition between regulatory agencies. It is not clear whether this competition has delayed passing the law as well. However, it does illustrate the lack of harmony between regulators and legislation, which could reduce the focus on consumer protection.

B. Disclosure

Summary of International Good Practices

To ensure transparency and enhance market discipline, financial institutions should disclose information pertaining to the health and stability of the institution itself, the details of the specific transaction, the consumer's rights, the financial institution's obligations and the system of redress. These disclosures should be written in plain language using calculations and definitions that have been agreed upon by all industry actors. Staff should be trained to ensure competence in dealing with customers. Additional disclosures should include: information that the financial institution is collecting about the customer; cooling off periods; and linked products.

Current Practice in the West Bank

Terms and Conditions

Banking: Disclosure practices among banks vary significantly, reflecting the diversity of corporate cultures and regulatory regimes of other countries in which they operate.

Various Palestinian laws and regulations require that banks be open and transparent with their customers, but the laws are not detailed enough for effective regulation. The only specific requirement for disclosure comes from the PMA's recent Fair Credit Instructions, which requires banks to provide copies of the loan agreement and disclose information such as fees, interest rate type and calculation, cost of loan, truth in advertising, terms and conditions and the contract agreement. The Fair Credit Instructions were recently issued (April 2009) and to date not all banks fully comply with its provisions.

⁷ 'Evaluation of the Legal Environment of Micro, Small and Medium Enterprises in Palestine', Mohammed Khalifa, and Ibrahim Abu Hantash, Palestine Economic Policy Research Institute, 2009.

Microfinance: Disclosure practices vary widely between MFIs which are effectively unregulated. The Microfinance Code of Conduct commits MFIs to “disclose all of the terms and conditions of financial services offered in the language understood by the client,” and “members shall explain to every prospective client, before a contract is signed, the meaning and consequences of the contract.” Unfortunately, compliance with the Code of Conduct is not monitored or enforced.

Insurance: Disclosure practices vary among insurance companies. The Insurance Code of Conduct includes general provisions regarding disclosure of insurance documents. Although the Code of Conduct is a statutory code, it is insufficiently detailed to allow for regulation. The insurance industry has developed a unified insurance policy for auto insurance (which is mandatory in the West Bank), ensuring that all customers have the same disclosures. Nevertheless, customers feel inadequately informed about the options or terms of their policies. The Palestinian Capital Markets Authority (PCMA) intends to make insurance more transparent. Their website already lists licensed insurance companies. The public can also view the register of insurance brokers and agents at the Insurance Directorate at the PCMA, but this information is not available on the website and is not widely viewed.

Key Facts Document

Banking: A Key Facts document is required under the terms of the Fair Lending Instructions. The document is in effect the first page of the loan contract and is not available to the consumer before the loan contract is ready for signature.

Microfinance: Practices vary widely among MFIs which are effectively unregulated. The Microfinance Code of Conduct commits MFIs to “use a standard written agreement containing all of the terms and conditions of a loan. The effective interest rate and all other charges shall at all times be clearly stated.” As stated above, compliance with the Code of Conduct is not currently being monitored or enforced.

Insurance: Practices vary widely among the different insurance providers. There are no provisions regarding a Key Facts document in this sector.

Advertising and Marketing

Truth in advertising in the West Bank is governed by contract law, which prohibits misleading a party to a contractual relationship. However, misleading advertising is not generally looked upon as breaching contract law.

Banking: Lack of clear definitions about truthful advertising within the law, instructions and code of conduct leaves the door open for interpretations by banks. The PMA Fair Credit Instructions addresses advertising and sales issues, requiring that banks advertise details of credit products in a truthful manner and avoid misleading information. Also, the advertisement must provide customers with sufficient information to make knowledgeable decisions. These instructions do not require banks to provide the same level of details and information for

products other than credit, nor do they specifically address the legal consequences for statements banks make in their advertisements. The Association of Banks' Code of Conduct also requires that banks advertise in a truthful manner; however, this voluntary Code of Conduct is not monitored or enforced. Not all banks in the West Bank follow these rules. In many cases, the advertisements are misleading and do not provide customers with sufficient information to make informed decisions.

Microfinance: No laws or regulations address advertising for microfinance.

Insurance: The Insurance Code of Conduct provides clear rules for truthful advertising. Insurance companies must clearly present the name of the company and the type of coverage they provide. They must not mislead customers in terms of their services or offers. Any forms used in marketing should be identical to those used in practice. Prices in advertising and marketing should be the same as those actually charged and should be accompanied by complete information about fees and charges associated with the product. The Insurance Directorate must approve advertisements if they include new information about insurance programs, pricing, financial information or the financial position of the insurance company. While these terms are good, they are not enforced. The PCMA does not review advertising.

Suitability

Banking: Banks do not ensure services are suitable and affordable for customers before making a loan. The recent PMA Fair Credit Instructions require banks to provide products and services that respond to the customers' needs. Banks must also provide clients with clear and sufficient information about the products and services available to them to allow customers to access them without any constraints. In addition, banks should quickly resolve any client's complaints. The Fair Credit Instructions were recently issued (April 2009) and to date not all banks fully comply with these instructions. Focus group discussions with customers indicate that banks do not provide consumers with sufficient information to ensure services are suitable to their needs before engaging them in banking transactions.

Microfinance: Each MFI follows its own internal underwriting procedures. There are no laws or regulations pertaining to suitability of products for MFIs. The Microfinance Code of Conduct commits MFIs to "take reasonable steps to establish whether the client has an outstanding loan with another member of the Network." As stated above, compliance with the Code of Conduct is not monitored or enforced. Thus, practices vary widely among MFIs which are unregulated and vary widely. However, in anticipation of supervision by the PMA, some MFIs are already preparing to participate in the credit bureau operated by the PMA, which could provide them with important information to help them determine what products are suitable for customers.

Insurance: Insurers do not attempt to verify that products are suitable. The Insurers' Code of Conduct, article 2 (4), stipulates that the insurance company will ensure that the coverage provided to consumers is the most suitable and sufficient for their specific needs, and the company will provide the insured with information explaining the coverage level. However, this

article does not provide sufficient details for regulation, and the PCMA does not monitor or enforce the code. Customers indicate that insurers do not ensure they offer suitable products.

Know Your Customer

Banking: Banks are required to implement a Know Your Customer (KYC) program, and are modifying their systems and training their staff to play this advisory role using the information gathered from the consumers. The PMA requires banks to gather, file and record sufficient information from their customers. Due to the political situation in the West Bank, banks abide by these instructions. However, banks do not necessarily use this information to recommend appropriate products and services to consumers. The new Fair Credit Instructions specifically require banks to recommend appropriate products and services to consumers, which some banks have started to do. To date, however, some banks do not comply with these instructions.

Microfinance: KYC rules are not being enforced for microfinance institutions. The Anti-Money Laundering (AML) Decree of 2007 includes KYC rules, which applies to all institutions including banks, lenders and money changers, as well as designated non-financial businesses and professions, including lawyers and accountants. Therefore, MFIs fall under the law. The PMA is the designated implementation body for the AML decree; however, the PMA does not yet monitor the MFIs' implementation of the AML provisions.

Insurance: The insurance industry is lagging in implementation of information gathering norms. Although the Insurance Law does not have any KYC provisions, the Anti-Money Laundering Decree of 2007 requires all financial institutions, including insurance companies, to gather information on their consumers. Insurance companies are not yet implementing the AML decree and do not generally use gathered information to recommend appropriate products and services to their customers.

Bundling

Banking: Banks see bundled offering as a service to their consumers who choose to use this option, but consumers are not always aware they have this option. There are no provisions in the various laws regarding the bundling issue. However, banks indicated that they sometimes offer bundled products to their consumers, especially when credit life insurance is required to get a loan.

Microfinance: Currently, microfinance institutions do not bundle services. There are no laws or regulations pertaining to bundling services for microfinance.

Insurance: There are no laws or regulations pertaining to bundling services for the insurance sector, and bundling of insurance services in the West Bank is rare.

Professional Competence

Banking: There are no mandatory training requirements for bank staff in the West Bank. However, the Association of Banks in Palestine (ABP) and the Palestine Institute for Financial and Banking Studies offer training courses in all aspects of banking. In addition, each bank has its own internal training plan consisting of on-the-job training and regular training and capacity building sessions for staff before they can serve customers. The training sessions cover the main components of banking and operations. To date, any consumer protection training is purely incidental. This situation may change as banks implement the Fair Credit Instructions.

Insurance: To date, there is no industry-wide training initiative in the insurance sector in the West Bank. However, both the PCMA and the Insurance Federation indicate plans to establish a specialized training program for the insurance companies' staff, brokers and agents. It is not clear whether this training program will include consumer protection courses.

The Insurance Law stipulates that the PCMA may put in place conditions for the licensing of insurance agents, brokers, and insurance experts, including required skills. The law also requires that agents and brokers have a minimum educational level and relevant experience, and they must pass an exam given by the PCMA. The PCMA then publishes the names of agents and brokers that pass the exam.

Disclosure of Financial Situation

Banks: The Association of Banks in Palestine annually publishes financial statements from all licensed banks in Palestine.

Microfinance: There is no regular disclosure of the financial health of microfinance institutions in the West Bank. The Microfinance Code of Conduct commits member MFIs to “disclose a summary of activities to the general public on at least an annual basis” and “furnish the Network with such regular and financial information as the Network or donors may require for consolidated reporting to the PMA and in compliance with any legislation.” However, there is currently no regulator of microfinance to whom MFIs or the Network could report their financial information. The Palestinian Network for Small and Micro Finance (PNSMF) has published select performance information from eight of the largest MFIs for 2008. While this information is useful, it is a technical document not intended for consumers.

Insurance: The Palestine Insurance Federation publishes financial statements of select insurance companies on an irregular basis. The insurance companies in the West Bank are publicly traded companies and issue their annual reports and financial statements. The PCMA issues some financial indicators on the website for the sector but not for individual companies.

Brokers and Agents

Insurance: The Insurance Directorate of the PCMA has established good practices regarding the roles of brokers and agents. The Insurance Law and a subsequent PCMA Decision stipulate that insurers are fully responsible for their insurance agents and insurance activities, including the insurance policies issued by these agents. The PCMA prohibits any intermediary to fill both brokering and agency roles, and the Code of Conduct stipulates that

insurance companies should not compete with their agents and insurance brokers or attract customers with discounts and special perks. The Insurance Directorate at the PCMA can review the level of commission that insurance companies pay to their agents and insurance brokers and require them to decrease their commissions if it is above the market level.

C. Customer Account Handling and Maintenance

Summary of International Good Practices

Financial institutions should scrupulously maintain customer records and provide customers unfettered access to these records. Customers should be notified of any changes to their accounts and provide statements regarding the details of all financial transactions. Collections practices and claims processing should carefully avoid any potentially abusive practices.

Current Practice in the West Bank

Customer Records

Banking: Banks fully comply with the Banking Law and the PMA's various instructions related to collection and filing of customer information. The Anti-Money Laundering Decree requires all financial institutions to keep consumer records and files for at least ten years from the date the financial transaction between the consumer and the bank ends. Records include detailed personal information about consumers (names, addresses, identity verifications, and supporting documents), information about their businesses and all supporting documents, and the purpose of the financial transaction.

Microfinance: Each MFI has its own internal procedures for keeping records of their consumers. The level and detail of internal rules regarding treatment of customer records differs significantly among MFIs.

Insurance: Insurance companies comply with the Insurance Law related to keeping records of their consumers. The level and details are in line with article number 72 of the law. However, the insurance companies do not follow the KYC rules.

Notification

Banking: Practice varies significantly between banks on the method, frequency and content of customer notifications. The Fair Credit Instructions prohibit banks from changing interest rates or from adding more fees before informing the borrower in writing of these changes. For non-credit accounts, banks follow their own internal policies.

Microfinance: Practice varies significantly between MFIs on the method, frequency and content of customer notifications.

Insurance: Insurance companies send notices at minimum 30 days before the expiration of the contract term. There are no detailed provisions regarding notification; however, the Code of

Conduct stipulates that the insurance company shall send a renewal notice sufficiently in advance of the contract expiration, but it did not define a time frame. Insurers have adopted different policies and practices in this regard.

Debt Recovery and Claims Processing

Banking: Banks follow their own internal policies regarding debt collection. There are no uniform provisions to this effect in the West Bank. The Fair Credit Instructions require banks to inform customers of issues such as charging late payment fees, or paying loan balances in full. The instructions also require that banks inform the guarantors in writing if and when they will deduct the late payments from their accounts. However, the laws did not address other methods that banks may use and include any abusive practices.

Microfinance: There are no specific laws or regulations protecting consumers from abusive debt collection practices. Consumers that face abuse have recourse only to civil law. The MFI Code of Conduct is vague about protecting customers against abusive debt collection practices.

Insurance: Insurance companies in the West Bank are not fully compliant with the law requiring expedient claims processing. The Insurance Code of Conduct (a statutory code) stipulates that insurance companies must have a mechanism to deal with claims, including defining a reasonable time frame to review and resolve these claims, the type of documents necessary for consumers to file a claim, and the forms required. Insurers must review and settle claims as soon as possible and keep the claimants updated on the status of their claims. Claims must be disbursed within one month from the date they are approved for settlement. The practices in this regard vary among the different insurance companies, especially because the information provided by these laws is very general. As a result, there are an estimated 4,300 claim cases pending in the West Bank judicial system.

Electronic Fund Transfers

Banking: There are no provisions covering any of the details for transparency on price, value dates, locations of access points and terms and conditions. The PMA instructions and various circulars address Electronic Fund Transfers and Remittances from the AML perspective, include gathering and verifying information on the sender and beneficiaries, and the nature and source of the funds.

D. Privacy and Data Protection

Summary of International Good Practices

Financial institutions should be required to protect the security and confidentiality of customer data, including when releasing information to government authorities. Credit bureaus should be overseen by competent regulatory agencies that ensure the law regarding the use of and updating credit bureau information is respected. Customers should have access to their credit reports and a system of error correction should be accessible to them.

Current Practice in the West Bank

Confidentiality

Banking: Banks in Palestine comply with confidentiality requirements as stipulated in the Banking Law and the PMA Law. These laws require that banks retain in strict confidence all information and documents pertaining to bank customers. Banks may not disclose any such information or enable a third party outside the bank to access it, unless disclosure is made with written consent from the customer or in compliance with a court order.

The Bank Code of Conduct also addresses the confidentiality issue by encouraging banks to be secretive and accurate when dealing with consumer information, stipulating that the consumer must explicitly agree in writing to allow banks to share their information with third parties, and then only for the specific purpose described.

Microfinance: Microfinance customers are not assured of confidentiality. Since MFIs in the West Bank are essentially unregulated, they are therefore not subject to external oversight regarding the confidentiality of their customer information. That said, the MFI Code of Conduct refers generally to privacy of customer information as a “core value” under the Confidentiality clause.

Insurance: The Insurance Law and pertaining instructions do not cover confidentiality of information for insurance customers.

Information Sharing and Credit Reporting

Banking: All banks are strictly in compliance with all confidentiality and sharing of information laws and regulations. Also, the Banking Law, ensures additional protections regarding exchange of customer data. This became an important consumer protection issue with the launch of the Credit Bureau in 2008. The Credit Bureau is a comprehensive repository of information on all bank creditors and their guarantors available for banks and other specialized lending institutions to help them make better informed credit decisions. The service is available for banks online and paid for with the banks’ annual subscription, not pay per use. The information is updated daily.

Finally, the AML Decree of 2007 clearly stipulates the process and procedures for sharing information, especially on suspicious transactions in compliance with the law.

Microfinance: In preparation for eventual regulation by the PMA, some MFIs are beginning to report to the Credit Bureau under authorization of the PMA by MOU with participating MFIs, which will subject them to the existing PMA laws on information exchange (see Banking above). The Microfinance Network Code of Conduct commits members to safeguard personal information about clients, only allowing disclosure to authorized individuals. However, the Code of Conduct is not currently enforced.

Insurance: The Insurance Law and pertaining instructions do not protect insurance consumers against insurance companies sharing their personal information.

E. Dispute Resolution Mechanisms

Summary of International Good Practices

Financial institutions should have clear procedures for handling customer complaints that are disclosed to customers and overseen by a competent authority. Additionally, consumers should have access to an affordable, efficient third party recourse mechanism, such as an ombudsman, with enforcement capacity. Records of complaints should be kept and used to analyze trends and identify areas for improvement. Statistics should be made publicly available.

Current Practice in the West Bank

Internal Complaints Procedure

Banking: Banks generally have an internal complaints process, although some are more detailed than others. The PMA's circular No. (67/2005) requires each bank to establish a compliance department responsible for receiving complaints from customers, investigating the complaints, gathering information and arriving at a suitable solution. In practice, banks are implementing these provisions; however, some banks have clearer policies and procedures to deal with consumer complaints than others.

Microfinance: MFIs rely on customers and staff bringing complaints to the appropriate level. The MFI Code of Conduct (April 2008) requires MFIs to establish a complaint handling process and for the Network Board to "form an independent Grievance Review Committee, consisting of parties from outside of the Board and membership, to facilitate compliance with this Code." However, this Code of Conduct has not yet been implemented, so each MFI determines its own internal process to handle complaints.

Insurance: There are no clear rules for insurance companies to handle complaints in the West Bank. In practice, insurance customers complain to the manager of the insurance company or the head office, and some complain directly to the PCMA or the Insurance Federation. When the PCMA or the Federation receives a complaint, they inform the relevant insurance company, investigate the complaint and try to resolve the issue. While this system may provide relief to the customer and avoid a protracted legal battle for the parties involved, it is not advertised by the insurers, the PCMA or the Palestinian Insurance Federation (PIF) and, therefore, is not often used. Some seek the assistance of a lawyer to negotiate on their behalf with the insurance company, while others seek the help of the court. Cases which go to court may stay in the system for many years and judges lack the technical skills to effectively rule in these cases.

Dispute Resolution

Banking: The PMA will respond to complaints initiated by consumers, but there is no mechanism to advise customers on the process for filing an official complaint. The PMA cannot

handle a large number of complaints. Banks are not required to advise their customers that they may complain to the PMA and indeed none of the banks' documentation (agreements, contracts or forms) mention that the bank is supervised by the PMA and that the PMA may receive consumer complaints.

In addition to complaining to the bank management and the PMA, some customers seek the assistance of a lawyer to negotiate on their behalf, while others seek the help of the court. Judges lack the technical skills to effectively rule in these cases, which could take years to resolve in court.

Microfinance: There is no dispute resolution process for customers of microfinance institutions. The PMA system for responding to complaints and monitoring banks' internal systems does not apply to microfinance institutions, which are unregulated.

Insurance: The PCMA and the PIF try to investigate and resolve complaints when they are aware of them. The PCMA has posted a comment and complaints form on its website, but there is no mechanism to advise customers on the process for filing a complaint. The PCMA does not have the capacity to handle a large number of complaints. Furthermore, insurers are not required to advise their customers that they may complain to the PCMA and insurance documentations (agreements, contracts or forms) do not mention that the insurer is supervised by the PCMA and that consumers have a right to file complaints with the PCMA. Some customers resort to a lawyer to negotiate on their behalf with the insurance company, while others seek the justice in the legal system. As previously mentioned, judges lack the technical skills to effectively rule in these cases, which could take years to resolve in court.

F. Guarantee and Compensation Schemes

Summary of International Good Practices

Depositors should be assured of effective and timely access to their deposits in case of distress or failure of a financial institution, either through access to a guarantee or payout mechanism. Depositors should be ahead of other unsecured creditors in the event of liquidation of a financial institution.

Current Practice in the West Bank

Banking: Depositors in the West Bank are insufficiently assured of the security of their savings. While the PMA Law envisions the eventual establishment of an institution to insure loans and deposits, deposits are currently uninsured in the West Bank. In addition, while the PMA has sufficient authority to protect the assets of a troubled bank, there is no timely payout mechanism for depositors in the event of insolvency of a bank.

G. Financial Education

Summary of International Good Practices

Consumers should have access to independent information about their rights and responsibilities, costs, risk and benefits of using financial services. Government should enable the media, non-governmental organizations (NGOs) and other independent sources to provide such information.

Current Practice in the West Bank

These practices hold for the banking, microfinance and insurance sectors.

Financial Consumer Advocacy: There are no consumer advocates in the West Bank that advise consumers of their rights, educate them about financial services, or speak on their behalf. The PMA consults with industry bodies and regulated institutions in formulating policy. However, there is no vehicle, either within the government or through an independent third party, to speak on behalf of microfinance consumers. The Consumer Protection Law envisions such advocates, but they do not yet exist.

Financial Information Resources for Consumers: Consumers of financial services rely on the institution providing the service for information. There is no source for impartial information or assistance. The PMA Fair Credit Instructions stipulate that the PMA has the right to advertise the effective interest rate and returns of individual banks in the Palestinian Territories for the benefit of the general public. However, the PMA does not advertise this information. In addition, no NGOs or other types of institutions offer consumer counseling or awareness programs.

Measuring Financial Capability: There has not been a financial capabilities study done in the West Bank. The PMA plans to conduct research in consumer attitudes, although the scope of the study has not yet been determined.

Financial Education through the Media: There is no targeted effort to address financial consumer issues in the media in the West Bank. Media coverage is ad-hoc in nature. The PMA and the banking industry do not provide sufficient support and information resources to encourage the media to follow financial issues from a consumer perspective. Information provided through banks to the media is for public relations and marketing purposes.

Financial Education in Schools: While not part of the formal educational curriculum, there is a program called INJAZ in partnership with the US Junior Achievement organization, the Palestinian private sector, and the Ministry of Education. INJAZ serves 2,600 students, with 600 volunteers from 73 companies from the private sector teaching courses in topics such as personal economics, enterprise in action, banks in action, and economics for success, among others.

H. Competition

Summary of International Good Practices

Competition and financial services authorities should collaborate to ensure consumers have a choice of financial services.

Current Practice in the West Bank

Competition Policy

These practices hold for banking and insurance industries.

There is no competition law in the West Bank. The Codes of Conduct of the Palestine Association of Banks and the PIF encourage their members to compete in an honest and fair manner and avoid practices that will harm the sector and increase the risk from competition. However, these Codes of Conduct are not enforced or monitored.

VI. RECOMMENDATIONS

A. Banking

Palestine Monetary Authority

Short Term

While the PMA is already engaged in several areas to improve consumer protection and could reap large benefits with minimal efforts, DIG recommends the following steps be taken:

Complete financial capabilities study: The PMA has begun planning for a baseline study of consumer attitudes and experiences with financial services. This is an excellent opportunity to better understand the capabilities of financial consumers in different market segments in the West Bank. A qualified survey firm with experience in market segmentation and financial services should be selected to undertake the study.

Ensure banks include regulatory status disclosure in all agreements and advertising: To ensure financial consumers know that their financial institution is regulated and can contact the regulator with questions or complaints, the PMA should require banks to identify the PMA as the regulator of the institution and include the name and contact information of the PMA on all bank agreements with their clients and advertising. This step will require the PMA to upgrade its complaint handling process as more consumers become aware of this avenue for redress. At the same time, it will provide the PMA with raw data about the experiences of financial consumers which can be analyzed and used to improve consumer protection and financial education in the West Bank.

Establish a single formula for annual percentage rate (APR) calculations that all banks must use in advertising: The current system of providing information about how the bank calculates the interest rate is confusing for consumers. All banks should use the same formula for calculating the interest rate that consumers see in advertising or on bank documents. The formula should take into consideration the time value of money as well as any fees that are known to be required (origination fee, servicing fee, etc.). In addition, financial institutions should publish a fee schedule to ensure disclosure of any additional fees the customer may have

to pay (late fees, special processing fees, etc.). Ideally, all financial institutions would use the same APR calculation where possible (for example, banks and microfinance institutions), so that customers can easily compare similar products.

Formalize grievance process: Building on the required grievance process for banks, the PMA should quickly formalize its own grievance process to offer affordable and efficient recourse for bank customers using a variety of mechanisms by which consumers can contact the PMA (free phone call, text phone message, mail, internet, and in-person visit). The process should ensure that new and unsophisticated customers are not intimidated by the service. The service should be marketed through providers and the media. Eventually, the grievance process should expand into a Consumer Protection Unit (see below).

Launch financial literacy campaign: Financial consumers in the West Bank have very little access to information about financial services. A campaign to educate the public should be launched to explain the rights and responsibilities, opportunities and risks associated with using financial services. The campaign should take into consideration the learning from the financial capabilities study to target the least sophisticated consumers.

Extend Fair Lending Instructions to MFIs through Memoranda of Understanding (MOU): Microfinance institutions target the most vulnerable and least sophisticated customers. Yet because MFIs are unregulated, these customers are the least protected from unfair practices. Given the anticipated regulation of MFIs, the PMA should use its authority to encourage MFIs to adopt the Fair Lending Instructions through MOU with the MFIs and/or the Palestinian Network for Small and Micro Finance.

Medium Term

In the coming three to five years, the PMA should introduce some more systemic improvements to consumer protection for financial services in the West Bank, such as a deposit insurance scheme, a Microfinance Supervision unit, and a Consumer Protection Unit.

Establish a deposit insurance scheme: The PMA is considering establishing a deposit insurance scheme. The scheme should clearly establish the classes of depositors who are insured, the extent of the coverage, the holder of all funds for payout, the contributors to the fund, the events that will trigger payout to each class of the insured, and the mechanisms to ensure timely payout to depositors.

Establish a unit to supervise microfinance institutions: Microfinance institutions attempt to serve the “unbanked,” customers that save and borrow small amounts for microenterprises and household finance. Due to the non-traditional nature of this market segment, MFIs often have different capital and cost structures, and use different credit methodologies than traditional retail banks. There are a large number of small MFIs compared with the small number of large traditional banks. MFI customers also have less exposure to financial services than traditional banking customers. This lack of experience requires a different customer service approach that includes financial education and specific types of protection against abusive practices such as

over-selling, aggressive collections or high pressure sales. For these reasons, once the microfinance law is passed, the PMA should establish a separate unit to take the unique situation of microfinance institutions into consideration when structuring and implementing a supervision and consumer protection regime for these institutions.^{8,9}

Establish a consumer protection unit with redress, research and financial literacy

responsibilities: Building on the grievance process (see short-term recommendations), the PMA should establish a permanent Consumer Protection unit.¹⁰ This unit would engage not only in redress, but also in promoting and undertaking research to establish how consumers could be better served by financial services, how financial services are extended to “unbanked” populations, and to understand the consumer experience with financial services in different markets. Using the information gathered from the research, the Consumer Protection Unit should undertake activities to improve financial literacy for the purpose of enhancing market discipline and ultimately expanding these markets.

Association of Banks in Palestine

Short Term

Launch a consumer information campaign: The ABP should take a more proactive role to help financial services consumers better understand the financial services they use, or could use. The ABP understands the connection between enhanced consumer knowledge and increased market size for its members. Supported by its member banks, the ABP should create and deliver messages informing consumers how they can protect themselves against unscrupulous actors and maximize the benefit of accessing financial services. These messages should be disseminated through the media and through retail banking outlets.

Medium Term

Revise Code of Conduct: The Code of Conduct for banks in Palestine should be revised to articulate the principles the industry believes in and can support. The articles of the code should be reflected in the practices of the sector and used to inform the public and the regulators about the industry’s commitment to transparency. An enforcement mechanism is needed to ensure the Code of Conduct promotes confidence in the industry. The PMA should work closely with the ABP to devise a code that reduces the need for additional regulation. This may be a statutory code or a less formal agreement with the industry through an MOU that acknowledges the responsibility of the industry in upholding the code and the role of the PMA in oversight.

⁸ At the time of this report, there is a draft microfinance law circulating that would establish the PMA as the regulator of microfinance, but this is a draft and could change. If another regulator is selected for microfinance institutions, they should be responsible for implementing this recommendation.

⁹ "The existing regulations are designed with commercial banking in mind, but microfinance requires a dedicated regulator and a relevant set of rules. Commercial banking is like a super tanker whereas microfinance is like a dinghy boat with which you can reach small corners. If you design a dinghy boat with the architecture of a supertanker, it is sure to fail," Professor Mohammed Yunus, Indiaknowledge@Wharton, 13 December 2007

¹⁰ An independent ombudsman would be another option to establishing a unit within the PMA.

Establish grievance process¹¹: In addition to the PMA's grievance process, the ABP should establish its own process to respond to customers' complaints about its member banks. This process should be referenced in the Code of Conduct and publicized in the ABP's materials.

B. Insurance & Leasing

Palestine Capital Markets Authority

Short Term

The PCMA has begun planning for the implementation of the existing consumer protection rules for insurance and leasing. Below are several short-term activities that the PCMA could undertake to improve consumer protection:

Participate in financial capabilities study to include insurance: While insurance is a separate specialty in financial services, there are economies to be gained in covering insurance along with banking and microfinance in a study to understand the state of financial capabilities in the West Bank. Since the PMA has already begun planning for the study, the PCMA should collaborate with the PMA to ensure the study covers consumer understanding and use of insurance services as well as banking services. This information could serve as a baseline for the additional activities outlined below.

Establish grievance process: The PCMA should immediately establish the internal procedures for the grievance process it has conceptualized and establish a variety of mechanisms in addition to the website by which insurance customers can contact the PCMA (free phone call, text phone message, mail, internet, and in-person visit). The process should ensure that new and unsophisticated customers are not intimidated by the service. The service should be marketed through providers and the media. Eventually, the grievance process should expand into a Consumer Protection Unit (see below).

Ensure insurers include regulatory status disclosure in all agreements and advertising: To ensure financial consumers know that their financial institution is regulated and that consumers can contact the regulator with questions or complaints, the PCMA should require insurance companies, their agents and brokers, to identify the PCMA as the regulator and include the name and contact information of the PCMA on all agreements and advertising. This step will require the PCMA to upgrade its complaint handling process as more consumers become aware of this avenue for redress. At the same time, it will provide the PCMA with raw data about the experiences of financial consumers which can be analyzed and used to improve consumer protection and financial education in the West Bank.

Launch financial literacy campaign: Insurance customers in the West Bank have very little access to information about financial services. A campaign to educate the public should be launched to explain the rights and responsibilities, opportunities and risks associated with insurance. The campaign should take into consideration learning from the financial capabilities study to target the least sophisticated consumers.

¹¹ See Appendix 3 for an example of a grievance process

Establish instructions equivalent to the Fair Lending Circular for insurance and leasing: The Fair Lending Circular is a comprehensive set of rules designed to ensure banks provide consumers with sufficient information to make good decisions, help them determine which products will work for them, provide them with a way to complain if they feel they are not being well served, and ensure their transactions are confidential. A similar set of rules for insurance and leasing customers would likewise improve consumer confidence in those institutions.

Medium Term

Establish an Arbitration Unit as per the ESAF Insurance Law Review¹²: Building on the grievance process (see short-term recommendations), the PCMA should oversee the establishment of an arbitration panel.¹³ Arbitration seeks to provide a fast and inexpensive resolution of the disputed claim. Arbitration works to the advantage of both the insurer and the claimant in terms of time and cost required to resolve the disputes.

Palestinian Insurance Federation

Short Term

Establish grievance process: In addition to the PCMA's grievance process, the PIF should establish its own process to respond to customer complaints about its member insurance companies. This process should be clearly referenced and implemented in the Code of Conduct and publicized in the PIF's materials.

Launch consumer information campaign: The PIF should take a more proactive role to help financial services consumers better understand the insurance services they use, or could use. The PIF understands the connection between enhanced consumer knowledge and increased market size for its members. Supported by its members, the PIF should create and deliver messages informing consumers how they can protect themselves against unscrupulous actors and maximize the benefit of accessing insurance services. These messages should be disseminated through the media and through insurance brokers and agents.

Medium Term

Revise Code of Conduct: The Code of Conduct for the insurance industry in Palestine should be revised to articulate the principles the industry believes in and can support. Because this is a statutory code, the PIF will have to work closely with the PCMA to ensure the code reflects the practices of the sector and is used to inform the public and the regulators about the industry's commitment to transparency. The code should reduce the need for additional regulation and acknowledges the responsibility of the industry in upholding the code and the role of the PCMA in oversight.

¹² ESAF/WDI Field Report - PCMA Insurance Directorate, July 09, p. 29)

¹³ An independent ombudsman would be another option to establishing a unit within the PCMA.

C. Microfinance

Palestinian Network for Small and Micro Finance (PNSMF)

Short Term

Participate in financial capabilities study to include microfinance: While microfinance is a separate specialty in financial services, there are economies to be gained in covering microfinance along with banking and insurance in a study to understand the state of financial capabilities in the West Bank. Since the PMA has already begun planning for the study, the PNSMF should collaborate with the PMA to ensure the study covers consumer understanding and use of microfinance services as well as banking services. This information could serve as a baseline for the additional activities outlined below.

Educate MFIs on Fair Credit Instructions: MFIs target some of the most vulnerable consumers who are perhaps most in need of consumer protection. As MFIs prepare to become regulated, they should become familiar with the Fair Credit Instructions issued by the PMA so that they can become compliant quickly and/or convince the PMA that their own internal processes are adequate to ensure microfinance borrowers are protected.

Establish grievance process: MFI customers should have a mechanism for voicing their complaints. Without the benefit of a regulator to oversee the grievance process, the PNSMF should establish its own process to respond to customer complaints about its member MFIs. This process should be referenced in the Code of Conduct. A disclosure should be provided to all MFI customers and information about filing a complaint should be publicized through the MFIs.

Revise Code of Conduct: The Code of Conduct for MFIs in Palestine should be revised to articulate the principles the industry believes in and can support. Because of the lack of regulation of the microfinance sector, the Code of Conduct should provide some basic protections for consumers such as truth in advertising. The articles of the code should be reflected in the practices of the sector and used to inform the public and the regulators about the industry's commitment to transparency. An enforcement mechanism is needed to ensure the Code of Conduct promotes confidence in the industry. The PNSMF should work closely with the PMA to devise a code that compliments proposed regulation and reduces the need for additional regulation. The purpose and implementation of the code should be established in an MOU that acknowledges the responsibility of the industry in upholding the code and the role of the PMA in oversight.

Launch consumer information campaign: The PNSMF should take a more proactive role to help financial services consumers better understand the financial services they use, or could use. Supported by its member MFIs, the PNSMF should create and deliver messages informing consumers how they can protect themselves against unscrupulous actors and maximize the benefits of accessing microfinance services. These messages should be disseminated through the media and through the MFIs' own outreach.

Medium Term

In the medium term, the microfinance industry should be regulated and should undertake consumer protection actions in coordination with the regulator.

ANNEX 1: LEGAL INSTRUMENTS REGULATING CONSUMER PROTECTION IN FINANCIAL SERVICES

The regulatory framework on consumer protection is based on a compilation of different legal instruments. The PMA, PCMA, and Council of Ministers are still developing important draft instruments necessary to complete the legal framework such as the micro lending law, the payment system law, and the leasing draft law. Some instruments do not yet exist, such as those related to consumer credit. Other agencies are developing important draft laws, such as the new draft companies' law, that affect the financial service sector.

This report is based on the following legal instruments, in force at the time of writing, that comprise the basic legal framework regulating consumer protection in financial services in Palestine.

1. **Consumer Protection Law No. (21) of 2005:** enacted by the Palestinian legislative Council. The law vests authorities with the Ministry of National Economy and the Palestinian Consumer Protection Council, though the latter is not yet formed. This law intends to protect consumers from any health hazards, inequity or economic losses, and to ensure expedited and accurate economic transactions between the supplier and consumer. It should therefore serve as the overarching law establishing the rights of consumers and the principles by which all subsequent consumer protection regulation is derived. However, the law is vague as to its application over the services sector including inter alia financial services that are not mentioned explicitly. It provides and encourages the establishment of civil society or private sector Consumer Protection organizations, which should be registered as not for-profit organizations at the Ministry of Interior and the MONE. The law stipulates that the relationship of these organizations with the official authorities overseeing consumer protection shall be subject to a special regulation issued by the Council of Ministers, which is not yet issued. Once the instructions for this law are passed, the degree to which it can guide other agencies such as the PMA and PCMA will be clearer.
2. **Palestinian Monetary Authority Law No. (2) of 1997:** This law organizes all matters regarding the establishment of the PMA and its authorities and responsibilities, management and governance. It addresses fiscal issues, licensing of banks, and the relationship between the Monetary Authority and the Palestinian National Authority as well as between the PMA and the banks. Article (41) mentions that the Board of Directors shall lay down the regulations and instructions regulating the secrecy of the accounts at banks and for the banks' exchange of information and data relating to the indebtedness of their customers.

The PMA has issued instructions related to fair credit to be applied by the banks in relation to corporate and individual borrowers. These instructions are detailed below under the Banking Law.

3. **Credit Bureaus Instructions:** As part of the PMA's effort to improve its bank supervision techniques in line with the best international practices, the PMA has

established the Credit Bureau, which is a comprehensive repository of information on all bank creditors and their guarantors. The PMA has developed and issued detailed instructions related to the function of the Credit Bureau to ensure the accuracy and credibility of the information that it shares, and to ensure timeliness of updating consumer information. The instructions provide the retention period of the credit record for the confidentiality of consumer's record. Unfortunately, consumer credit reports are accessible only by creditors (banks and other specialized lending institutions) to help them make better informed credit decisions. Thus, customers cannot access their credit reports.

4. **Banking Law No. (2) of 2002:** Enacted by the Palestinian Legislative Council. This law deals with all matters relating to bank licensing and management, permissible and prohibited banking actions, bank accounts, capital and reserves, financial accounts, reports and inspections and the role of the monetary authority in the monitoring of banks, trusteeship, liquidation, and bank mergers. Article (26) relates to privacy of data and data protection. In addition, the presidential decree of 2007 regarding the executive regulation for the banking law has set in article (5) a provision related to privacy and data protection; however, the special instructions to detail this have not yet been issued.

In accordance with article (35) of the Law, the Monetary Authority may determine appropriate rules concerning interest ceilings, expenditures, tariffs, and related conditions. Similarly article (38) granted the Monetary Authority the right to issue instructions for the treatment of complaints by bank customers. For proper implementation of article (35) and (38) of the Banking Law, the PMA issued the Fair Credit Instructions No. 4/2009.

5. **Fair Credit Instructions No. (4) of 2009:** These instructions were written to increase transparency and disclosure, clarity and fairness in an effort to improve implementation of banking practices and increase competition. The Instructions remain the most comprehensive set of protections for financial consumers in the West Bank. Once they are fully implemented, bank customers will have significantly more information about the financial services they are purchasing and greater recourse in case of abuse. Some of the more pertinent articles include:

Paragraph (1) from the general provisions requires the banks to follow certain practices that ensure fairness through:

- Services tailored to the customer's need
- Thorough information given to customers about their services
- Appropriate advice for customers
- Easy credit application process
- Integrity and balance to avoid any conflict of interests
- Professionalism in providing services
- No misrepresentation of products or services
- Collection of all necessary information from the client to ensure services are appropriate

- Full disclosure in a simple and clear language of all terms and conditions including interest rate, commission and fees
- Errors and complaints handled immediately and efficiently.

Paragraph (2) regulates interest rate disclosure, mandating rate information be clearly displayed in the bank premises as well as in any of its publications including the website.

Paragraph (3) stipulates that banks shall disclose all necessary information before granting credit to consumers, particularly regarding: amounts, dates, interests, commissions and fees. It also states that contracts shall be completed with all details in writing clearly on the first page, the customer shall be informed of this information before signature, and the customer shall have an original or authenticated copy of the contract.

The third section of the instructions, related to credit granted to individuals, includes the following topics:

1. Pre-credit disclosure and procedures:

- The total amount of loan expenses/ interest rate/annual returns
- Marketing and advertising regarding loan programs
- Conditions that should be met in the credit contract
- Review of individual financial status, maximum amounts for repayment installments, and periods for repayment.

2. Post-disbursement disclosure and procedures:

- Non repayment and interest on delays
- Borrowers exceeding credit ceilings
- Early repayment of loans
- Account statements and repayment schedules
- Guarantor responsibility to banks
- Rescheduling.

6. Best Practices for Good Governance of the Banking Sector, Number (3) of 2009:

The PMA issued this new regulation to improve practices for good governance in the banking sector in Palestine. Based on OECD standards, it provides for a number of practices and standards that, when applicable, shall ensure more transparent and reliable banking practices.

The regulation in article 6 of standard 3 provides for the responsibility of the bank to receive customer complaints, process these complaints and find suitable solutions.

Article 7 under the third standard provides for banks' application of applying Know Your Customer rules.

7. **Excessive Undue Interest (RIBA) Law No. (20) of 1934:** This is a very outdated Ottoman law. It was enacted and applied when no official supervisory authorities to regulated loans, lending, and interest rates. The law gives courts the right to determine if interest is excessive or not. This authority is now vested with the Palestinian Monetary Authority under the Banking Law No. (2) of 2002, which has the right to establish interest ceilings? Only banks and lending institutions violating this law shall be subject to court's jurisdiction. This legislation shall probably be cancelled after conferring all issues related to interest rates to the PMA.
8. **Ottoman Murabaha Regulation of 1904:** Murabaha is when a customer requests his bank to purchase a certain good with a promise to repay the amount in installments or as agreed. This Law/Regulation is still in effect and article 4 stipulates the maximum interest rate to be determined by the courts shall be 9%. This provision still applies to all bank transactions except for Shekel lending which was liberated from this rate by earlier Israeli military orders, and with accordance with the Israeli Central Bank practices. The law also limits compound interest (article 3) and the total amount of interest due, specifying that it shall not exceed the original loan. Recently, the PMA issued a circular clarifying that in long-term lending agreements such as housing finance that exceed 12 years, the compound interest rate may exceed the amount of the original loan.
9. **Companies Law No. (12) of 1964:** This law regulates company registration procedures, types of companies, share registration and transfer, board of directors, management of companies, company's dissolution and liquidation, and penalties. The most recent development in the companies' regulatory framework is the introduction of the Presidential decree number (6) of 2008 introducing three new types of companies; the civil company, the not for profit company, and the holding company. The new decree does not provide detailed regulatory articles pertaining to commercial transactions. The Companies Law could affect financial consumers if microfinance institutions transform from NGOs (registered under the Charities law) to not for profit corporate entities (registered under the companies law).
10. **Commercial Law No. (12) of 1966:** This law regulates commerce and merchants, detailing requirements for business books and records of traders, shops and business address. General provisions relate to commercial contracts and mortgages. Special chapters cover commercial contracts such as transport, agency, and brokerage. It also regulates bank accounts, bank deposits and letters of credits. However, these have been written with very simple provisions that need elaboration and clarification. For example, article (115), related to bank deposits, does not clarify deposit types, forms or the mode of repayment and thus allows banks to determine what type of deposits they accept and the mode of repayment. Article (116) provides for the relation between the banks and the

depositor of financial papers at a bank without stipulating the identification of these papers, thus leaving the depositor without legal protection in case of dispute. The law also regulates bankruptcy; however, neither this law nor the PMA or banking laws have specified that upon insolvency and liquidation, deposits of a bank ought to enjoy higher priority than unsecured creditors in the liquidation process. There are also no legal provisions on the insolvency of banks to enable the timely refund of deposit to depositors.

11. **Securities Law No. (12) of 2004:** The Securities law came to regulate the stock exchange market and the relationship between the stock exchange and the PCMA. It also detailed the authorities of the PCMA. It provided for the underwriting in securities and the procedures thereto. The Securities law also provides for the purchase or sale of a security in a private transaction through a commission agent. The law organizes the financial companies in the stock exchange, as well as overseeing the stock exchange, investment funds, listed companies, disclosure requirement and confidentiality.
12. **Capital Market Authority Law No. (13) of 2004:** This Law regulates the establishment of the capital market authority, its organizational structure, format, management, powers, and provides for its independence. It empowers the PCMA to license, supervise and oversee all the work and activities of the non-banking financial sector. This includes the Palestine Securities Exchange and persons who are subject to the scope of securities law and insurance law, and the areas of real estate mortgage financing and financial leasing.

The PCMA law provides for general supervisory authority of PCMA over leasing activities. Under this authority, the PCMA issued regulation number 7TT for the year 2007. This regulation included some provisions that deal with consumer protection indirectly, such as article 4, which provides for information that should be available in the leasing contracts.

13. **Insurance Law No. (20) of 2005:** This law regulates all insurance business as companies, agents, brokers, insurance specialists and licensed actuaries, including persons who are connected with the insurance sector and other related matters. The insurance law does not contain any explicit articles related to consumer protection. In article 4/4 the insurance law gives the PCMA the authority and mandate to issue market conduct regulations to protect the interests of the customers and beneficiaries of insurance services and better advance the activities and services to ensure fair competition in this industry. Article 5/13 gives the PCMA authority to issue regulations obliging the insurance companies to provide the PCMA with statistics and information on insurance contracts and companies' documents and full disclosure on companies' activities, boards of directors and insurance and reinsurance contracts. Regulation number 4 of 2007 on professional conduct of insurance companies provides for a number of provisions on consumer protection in financial services:

- Article 2 establishes the responsibility of the insurance company to provide customers with detailed information on the contracts, assess the financial situation of the clients, and to answer the clients' requests professionally and on timely basis.
- Article 3 and 4 mandates the clear communication of insurance contracts with clients before signing new contracts in addition to keeping records of communications in this regard.
- Article 6 requires true and accurate information to be published in media campaigns, by insurance companies.
- Article 8 & 9 establish the penalties for non-compliance with this regulation and provides for cooperation between PCMA and the Insurance Companies' Union.

14. Investment Promotion in Palestine Law No. (1) of 1998: The investment promotion law specifically excludes any financial institution with the exclusive exception of the real estate mortgage. The law establishes an authority responsible for promoting and facilitating investment in Palestine. It came with a number of incentives including tax and customs exemptions for local and foreign investors. It provides for general guarantees for the projects such as the prohibition of nationalization or expropriation and free financial transfers. It specifically excludes certain high public interest sectors from its application such as electricity, solid waste, and petrol.

15. Law No. (1) of 2000 On Charitable Associations and Civil Society Organizations: This law establishes the right of the Palestinians to practice their social, cultural, professional and scientific activities in freedom, including the right to establish and run Associations and Community Organizations. All microfinance organizations in the West Bank are currently regulated under this law, but it deals mostly with the procedures for registration, the formation of the board of directors and its role, and the general assembly and its duties and responsibilities. It does not specifically address consumer protection. The law addresses the financial resources of such institutions as well as issues of mergers, winding up and dissolution.

16. Mejalet Alahkam Ala'adlieh (Ottoman Civil Code):

Al-Mejallah contains general provisions that must apply when the context is not explicitly covered in any other branch of private law, such as commercial law or labor law. The Mejjallah is derived from the basic principles of the Islami Sharia, and despite its solid background, it fails as an updated and comprehensive piece of legislation. Not having a proper Civil Code to address contracts and business relations has a very negative impact on the protection of the rights of the consumer who is usually the weak party in the contract. Most Arab countries that developed their civil code incorporated the Mejjallah, and added chapters and provisions necessary for a comprehensive and updated civil code.

ANNEX 2: LIST OF PEOPLE INTERVIEWED

NAME	ORGANIZATION
Dr. Anis Al-Hajjah	Consumer Protection Society
Dr. Jihad Al Wazer	Palestinian Monetary Authority
Mr. Ahmad Musha'sha	National Insurance Company
Mr. Alaa' SeSalem	CHF - Ryada
Mr. Alex Pollock	UNRWA
Mr. Ali Faroun	Palestinian Monetary Authority
Mr. Fadi Abdullatief	USAID
Mr. Hani Naser	Bank of Palestine
Mr. Jamil Shihadeh	ESAF/AED
Mr. John Naser	The World Bank
Mr. Khader Bashier	Housing Bank - Bethlehem
Mr. Khaled Qutoub	IFC
Mr. Maurice Girgis	WDI/ESAF
Mr. Mohammed Badwan	Housing Bank for Trade and Finance
Mr. Nabil Abu Diab	Association of Banks in Palestine
Mr. Nader Ackall	ESAF/AED
Mr. Nihad As'ad	Head of Palestinian Insurance Federation
Mr. Reyad Abu Shihadeh	Palestinian Monetary Authority
Mr. Tariq Touqan	Equity Legal Group
Mr. Tim Nourse,	ESAF/AED
Mr. Waddah Khatib	Head of Insurance Directorate, PMCA
Mr. Yacoub Kalouti	Ahlia Insurance Group
Mr. Yousef Habash	IFC
Mr. Ziad Wahbeh	ESAF/AED
Mr. Ziedon Darwish	UNRWA - Bethlehem
Ms. Afnan Mahmoud	PNSMF - Sharakeh
Ms. Bashaer Al Rishiq	Director general of Legal Affairs, Ministry of National Economy
Ms. Lina Ghbeish	General Manager – Mortgage and Leasing Directorate , PMCA
Ms. Ranada Salameh	INJAZ - Palestine
Ms. Suzan Khoury	Housing Bank for Trade and Finance