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Kyrgyz Republic:

Diagnostic Review of Consumer Protection and Financial Literacy

Volume II: Comparison with Good Practices

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KYRGYZ REPUBLIC

Diagnostic Review of Consumer Protection and Financial Literacy

Volume II – Comparison with Good Practices

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ABBREVIATIONS AND ACRONYMS

AFI	Alliance for Financial Inclusion
AMFI	Association of Microfinance Institutions
CCMD	Coordination Council for Microfinance Development
CPFL	Consumer Protection and Financial Literacy
EU	European Union
GDP	Gross Domestic Product
IAIS	International Association of Insurance Supervisors
IFC	International Finance Cooperation
IOSCO	International Organization of Securities Commissions
IRG	International Resources Group
KfW	*Kreditanstalt fuer Wiederaufbau* (English Translation)
MFO	Microfinance Organization
MoU	Memorandum of Understanding
MTO	Money Transfer Operators
NBKR	National Bank of the Kyrgyz Republic
NGO	Non-governmental organization
OECD	Organization for Economic Cooperation and Development
RCT	Randomized Control Trial
UNDP	United Nations Development Program
WB	World Bank

I. Good Practices: Banking Sector

Section A. Consumer Protection Institutions

A.1. Consumer Protection Regime
Good Practice The law should provide clear consumer protection rules regarding banking products and services, and all institutional arrangements should be in place to ensure the thorough, objective, timely and fair implementation and enforcement of all such rules. a. Specific statutory provisions should create an effective regime for the protection of a consumer of any banking product or service. b. A general consumer agency, a financial supervisory agency or a specialized financial consumer agency should be responsible for implementing, overseeing and enforcing consumer protection regarding banking products and services, as well as for collecting and analyzing data (including inquiries, complaints and disputes). c. The designated agency should be funded adequately to enable it to carry out its mandates efficiently and effectively. d. The work of the designated agency should be carried out with transparency, accountability and integrity. e. There should be co-ordination and co-operation between the various institutions mandated to implement, oversee and enforce consumer protection and financial system regulation and supervision. f. The law should also provide for, or at least not prohibit, a role for the private sector, including voluntary consumer organizations and self-regulatory organizations, in respect of consumer protection regarding banking products and services.

Description

a. A very significant amount of work has either recently been completed or is currently in process for the establishment of the legal and regulatory framework in a variety of important areas. These include a series of regulations on risk management of various kinds, rules on lending processes and disclosures, draft legislation on credit reporting, draft legislation covering remittances and electronic payments, amendments of foreclosure processes, changes in administrative penalties, and others. NBKR, as well as the other stakeholders and participants in these processes, should be commended for their attention to these important issues and the substantial effort contributed. Nonetheless, progress has in some important areas been fragmented and piecemeal, with rules for consumer protection inserted into various normative acts that deal primarily with other subjects and a lack of procedural regulation to keep up with new substantive rules. This piecemeal approach, as well as the sheer quantity of recently issued and pending legislation, results in a voluminous and somewhat fragmented framework that may lead to gaps in coverage and create difficulties for both financial institutions and consumers in understanding and application of the rules.

A draft Banking Code currently in development takes a unified approach and offers an important opportunity to address both institutional authority and substantive consumer protection rules and to bring more order and coherence to the legal framework. The draft Code directly establishes some broad requirements for bank conduct in relation to clients and authorizes NBKR to issue regulation containing further detail in a variety of areas, strengthening and clarifying the NBKR mandate in this area. Substantive rules address important issues including disclosures and dispute resolution, but need to be further elaborated and clarified in a number of areas (advertising and public disclosures, communication with clients, requirements on early repayment of loans, restrictions on changes in contract provisions and others). The process of passage of the Code and the required process after passage to bring laws and normative acts into compliance with the provisions of the new Code will offer an important opportunity for NBKR to bring greater order to the normative legal framework. During this process it will be important for some of the many existing provisions to be consolidated into a more coherent and compact framework that is easier for financial institutions to apply, consumers to understand and NBKR to supervise.

Failure of laws and regulations to distinguish between individual banking consumers and business users of banking services contributes significantly to lack of clarity in provisions and low standards of consumer protection throughout the existing legal framework. Legal rules may rely on agreement of the parties to set terms and refrain from specifying rights and processes in detail in order to preserve the flexibility and autonomy needed by sophisticated corporate banking clients, at the same time prescribing substantial reporting and monitoring requirements and allowing aggressive enforcement policies to protect banks in relation to what may be large exposure on corporate loans. These same rules, however, may provide insufficient protection to unsophisticated individuals without the leverage or experience to negotiate contract terms and may result in impractical monitoring demands that intrude on individuals' privacy and unduly rapid or harsh collection policies that abuse individual consumers and are not efficient in overall debt collection.

b. Regulatory authority and enforcement responsibility for consumer protection in the banking sector are not clearly assigned**.** Banking legislation makes NBKR responsible for protection of depositors and creditors, and also specifically for enforcement in relation to its licensees of antimonopoly legislation, including rules on unfair competition. The latter assignment is sometimes (although not consistently) interpreted as sufficient to provide NBKR with authority in the area of consumer protection as well. References to protection of depositors and creditors, however, can also be understood to refer to prudential supervision (an interpretation consistent with the structure and remaining content of the banking legislation). The lack of a clear legal assignment to NBKR of authority and responsibility for protection of all users of banking and services raises questions about the scope and extent of NBKR's authority in this area. It may also force NBKR to address issues of bank conduct in relation to clients through prudential supervision and competition law tools and concepts that are less clear and efficient than is desirable.

Despite a lack of clarity about its authority in this area, NBKR is de facto the body regulating and enforcing in the area of financial consumer protection in relation to banks. NBKR has issued regulations addressing a variety of financial consumer protection issues and is now creating a unit that will be specifically responsible for these issues and for addressing complaints. A recent amendment to regulations on supervision supports its ability to address consumer protection issues through the supervision process.

The State Agency for Antimonopoly Regulation is responsible for enforcement of the general consumer protection law, but that law lacks any provisions appropriate for application to financial services and the Agency lacks experience and capacity to address banking matters**.** The Agency receives no complaints concerning banks and has never conducted any analysis or enforcement activity in the banking or financial sectors. A single staff member in the central office is assigned to address all financial markets issues. A primary focus in Agency activity to date has been the protection of consumers through oversight and control of tariffs and fees on utilities and consumer services – experience that will not transfer well to the banking context. The Agency has recently initiated a study of consumer lending by banks to determine whether general consumer protection norms are being violated. Although no formal mechanisms for cooperation between the Agency and NBKR exist, the Agency plans to organize joint consideration of the results with NBKR to obtain its views and discuss whether any action by either body is warranted.

c.- e. NBKR is now taking steps to form a unit that will be responsible for consumer protection issues. The responsibilities of that unit and the procedures for its work, as well as its methods for cooperation with other bodies in pursuing consumer protection goals, have all yet to be determined. As there has until this time been no organization or entity that is directly responsible for consumer protection in banking, and there are no specific procedures in place for this purpose, no assessment is made here of the adequacy of financing, transparency of procedures, or cooperation among bodies.

f. The law on consumer protection contains some general provisions that envision the existence of industry associations, social bodies or consumers' organizations and their participation in general consumer protection activities. That law, however, is poorly drafted for application to the banking sector and neither that general law nor any other law or regulation assigns those bodies any specific role or mandates consultation with them on issues of consumer protection in the banking sphere. They likewise do not prohibit such organizations from participating in consumer protection activities, although procedural avenues would be limited. There are a few existing consumer protection organizations, which on the basis of general principles of law could pursue a consumer complaint in relation to banking matters. Preliminary contacts with those organizations, however, indicated that they are not receiving complaints related to banking financial matters. A banking association – the Union of Banks of Kyrgyz Republic – represents the interests of its members before state bodies and takes part in policy discussion, development of programs and training, but has not been directly involved in any consumer protection initiatives.

Recommendation

a. A high priority should be placed on the use of the unique opportunity to establish good rules and standards across all areas of importance to consumers, and bring more coherence to the normative legal framework that is presented by current work on the draft Banking Code and the work on bringing laws and regulations into compliance with it that will follow its passage. This should include the issuance of one or more unified regulations containing complete and coherent rules concerning such matters as required information provision and disclosures in a variety of contexts to individual banking consumers. Attention should be paid to the ways in which legal rules stated in a general manner affect both business clients of banks and individual banking consumers and clear distinctions and separate rules used when appropriate.

b. Efforts to expand and clarify NBKR's role in banking consumer protection should be continued through (i) support for the new NBKR consumer protection unit through the allocation of appropriate resources and regulatory and capacity building measures, and (ii) a focus on ensuring that the new Banking Code and related laws contain a clear and appropriate NBKR mandate and tools in this area. The newly formed consumer protection division within NBKR will need resources and support for human capacity building, as well as appropriate regulatory support to ensure that it receives needed information and has effective channels for reaction in handling complaints. And it is particularly important that the new Banking Code provide not only for NBKR ability to regulate further in some specified areas, but also for a clear general mandate for protection of consumers and the ability to use regulatory and enforcement tools to achieve this end.

In light of severe capacity constraints and to avoid conflicts with market conduct regulations issued by NBKR, the State Antimonopoly Agency should not separately enforce the provisions of the general consumer protection law against financial institutions. A form for the interaction of the Agency and NBKR should be defined by regulation or by an agreement or Memorandum of Understanding between the bodies. A pattern that might be appropriate at the present time would be a more formalized Agency responsibility to produce a periodic report on competition and consumer protection issues in the banking sphere for discussion with NBKR and then publication and/or delivery to the Government and other state bodies. This would provide for alternate views and approaches to be aired and considered and would ensure that information on banking issues received by the Antimonopoly Agency in the process of its enforcement of the laws in other areas is taken into account by the banking regulator.

c-e. Immediate priorities for the new consumer protection unit within NBKR, in addition to staffing, will have to be the establishment of working procedures, dissemination of contact information through banks and other channels, and creation of a reliable flow of information on the kinds of problems that banking consumers are encountering and whether those problems are appropriately resolved by banks. In order to ensure that necessary flow of information, a reporting requirement for banks should be instituted concerning the amounts and types of complaints they receive. (See also Section E below.)

When the new consumer protection division has been staffed and has begun to function, and as it establishes its working procedures, an evaluation will need to be made concerning whether the resources initially allocated to the unit are adequate to allow it to effectively carry out the tasks assigned. Resources should be sufficient to allow the unit not only to take over the task of addressing complaints directly received by the NBKR, but also to monitor and respond to information on consumer concerns received from banks and to carry out effective coordination with consumer bodies, the Union of Banks, and other state bodies involved in banking activities.

A.2. Code of Conduct for Banks
Good Practice a. There should be a principles-based code of conduct for banks that is devised by all banks or the banking association in consultation with the financial supervisory agency and consumer associations, if possible. Monitored by a statutory agency or an effective self-regulatory agency, this code should be formally adhered to by all sector-specific institutions. b. If a principles-based code of conduct exists, it should be publicized and disseminated to the general public. c. The principles-based code should be augmented by voluntary codes of conduct for banks on such matters as facilitating the easy switching of consumers' current accounts and establishing a common terminology in the banking industry for the description of banks' charges, services and products. d. Every such voluntary code should likewise be publicized and disseminated.
Description a. There is not currently any code of conduct for banks. The Union of Banks reported that there had been some discussion of the possibility of developing such a code several years ago, but that this is not an active focus of current activity. The issue may be taken up again at a later time. b. No code exists to be disseminated. c. There are no voluntary codes of conduct for banks at the present time. With respect to terminology, the draft Banking Code includes a provision allowing the National Bank to issue a glossary of banking terms and to issue explanations on banking terminology. d. No codes exist to be disseminated.
Recommendation a.- d. The Union of Banks should revisit the question of development of a basic voluntary code of conduct or code of ethical principles with member banks and facilitate the beginning of work on such a code. It might be beneficial for work on such a code to be connected with the work the Union of Banks is already doing on customer concerns, such as the meetings that have been held to discuss the borrower issues that have been the subject of public attention in recent months. A voluntary code of conduct might be seen as a responsible and desirable step on the part of banks in addressing such concerns.

Staff of the new NBKR unit that will address consumer protection issues should take part in the work or be closely consulted for their views as a code is developed. Work done in developing a code of conduct could also facilitate consideration by NBKR of consumer protection issues and its consideration of which minimum rules and standards might need to be included in mandatory instructions or legal amendments and which should remain voluntary in nature. Although they do not yet have any experience in banking matters, existing consumer protection groups and associations, as well as the antimonopoly body, should be encouraged to make suggestions and to comment on the draft of the code.

When a code has been developed, banks observing the voluntary code may wish to reflect its provisions in appropriate parts of their contracts or in materials distributed to their customers indicating what to expect of the bank. The voluntary code itself could include such a requirement or suggestion if desired.

A.3. Appropriate Allocation between Prudential Supervision and Consumer Protection

Good Practice

Whether prudential supervision of banks and consumer protection regarding banking products and services are the responsibility of one organization or two institutions, the allocation of resources to these functions should be adequate to enable their effective implementation.

Description

There has, until recently, been no body or institution specifically responsible for consumer protection in relation to banking products and services. NBKR is now creating a unit that will be responsible for consumer protection issues and response to consumer complaint. The unit will be subordinate to the legal department.

The specific tasks of the new unit and procedures for its work have not yet been established and it is not yet possible to evaluate the adequacy of resources assigned to this purpose. Immediate priorities, in addition to staffing, will need to be the establishment of working procedures, dissemination of contact information through banks and other channels, and creation of a reliable flow of information on the kinds of problems that banking consumers are encountering and whether those problems are appropriately resolved by banks.

Recommendation

When the new consumer protection division has been staffed and has begun to function, and as it establishes its working procedures, an evaluation will need to be made concerning whether the resources initially allocated to the unit are adequate to allow it to effectively carry out the tasks assigned. Resources should be sufficient to allow the unit not only to take over the task of addressing complaints directly received by the NBKR, but also to monitor and respond to information on consumer concerns received from banks and to carry out effective coordination with consumer bodies, the Union of Banks, and other state bodies involved in banking activities.

A.4. Other Institutional Arrangements

Good Practice

a. The judicial system should ensure that the ultimate resolution of any dispute regarding a consumer protection matter in respect of a banking product or service is affordable, timely and professionally delivered.

b. The media and consumer associations should play an active role in promoting banking consumer protection.

Description

With respect to requirements imposed upon banks by NBKR regulations, consumers do not generally have a right to bring an action in court to force compliance, although they might be able to cite those regulations in other contexts, such as in an attempt to prevent bank enforcement of contract provisions that violate NBKR requirements.

In theory, a consumer could bring an action against a bank under the general consumer protection law. The law contains a number of provisions designed to encourage such actions, including providing 50% of fines awarded to a consumer group that brings a successful action and 30% of the fines to a body of local government that takes such cases. (Article 18, point 4) But the substantive provisions of the consumer protection law are poorly designed for application to banking and financial products, focusing on physical defects in goods, work or services and tying periods for the filing of a complaint to the service life of the item or similar benchmarks. This would make it difficult for a consumer to pursue an action under the law's provisions and for a court to determine what damages or other remedy might be legally required. Moreover, there is no requirement that consumer groups or social organizations provide assistance free of charge, and counterparts reported that most of such groups require consumers to pay a fee in order for their complaints to be pursued. No consumer organization was found during the diagnostic that had, in fact, handled any banking complaint.

Some judicial decisions of Kyrgyz Republic's courts are published, but publication is not systematic and access is limited, making an independent evaluation of the kinds of cases concerning banking consumers that are being heard, their time frames, and their results difficult. Counterparts reported that cases concerning disputes between consumers and banks are not unknown, but that the vast majority of these are cases in which a consumer seeks to block a bank's ability to take property (usually real estate) used as security for debt. Most counterparts indicated that such cases are the only circumstance in which individual consumers would find the costs and delays of judicial proceedings worthwhile. Some also indicated that it is uncommon for individuals to pursue any such problems through the courts, and that complaint to other authorities would be a more traditional approach. Decisions in such cases as do existing were not available for review concerning their legal substance and the degree to which they reflect a good understanding of banking law and practice on the part of the courts.

It appears that the judicial system has limited experience in the resolution of consumer disputes in general, and in the resolution of consumer disputes in financial services in particular. A timely and professional resolution of an individual dispute may not be available to individuals at an affordable price. Alternatives such as simplified small claims procedures, mediation, or quick and informal arbitration for an individual complaint do not appear to be available through the judicial system at all.

Note: A full evaluation of the treatment of individual civil disputes by the courts of the Kyrgyz Republic is well beyond the scope of this diagnostic review. The discussion here is based on information easily available from counterparts in the banking sphere and from public sources. It is reasonable to assume that those counterparts would be aware of significant developments in this area or a large practice of cases, as they must follow developments and abide by the relevant legal rules. However, no meetings were held with representatives of the judicial system during the diagnostic and no court statistics were available for review.

b. Financial issues and banking concerns do not appear to have been a topic of work for the existing consumer associations in the Kyrgyz Republic. No consumer association was available to meet with the team during the diagnostic and existing associations indicated during preliminary contacts that they had not received or dealt with any banking or financial matters.

Kyrgyz media publications do cover the general subjects of banking and finance, and the National Bank awards prizes for the best material on financial topics in a given year. While a significant amount of the coverage overall is brief and informational concerning developments in the law, recently issued reports, and similar matters, issues of concern to consumers do sometimes receive attention. A recent article, for example, advised consumers concerning how to evaluate the financial stability of their banks and to ensure that their deposits are insured.[1]

Recommendation

a. On the basis of further inquiry into court handling of consumer matters, consideration may need to be given to whether changes are needed in civil procedure arrangements to allow individual consumers to use the courts effectively for the redress of their rights. This could include waiver or reduction of filing fees for consumer complaints or a "small claims procedure" allowing for a simplified process and rapid hearing and decision on the matter. In relation to concerns of banking consumers in particular, consideration should continue concerning the role that an ombudsman service (either a banking ombudsman or financial services ombudsman) might play in assisting individual consumers with complaints and disputes. See also Section E.2, below, on that issue.

In any creation of simplified or less formal procedures for the handling of consumers' disputes, care should be taken that such informal procedures do not produce undue pressure on individual consumers to accept compromise resolutions. Nor should the provision of more effective processes for dispute resolution be considered a substitute for the necessary creation and clarification of consumers' rights in laws and normative acts. While accessible processes are necessary, they cannot be used by consumers to protect rights that they do not have and alternative dispute resolution options work best when the underlying law is clear and well established.

[1] See the article at http://www.knews.kg/vopros.

A.5. Licensing

Good Practice

All banking institutions that provide financial services to consumers should be subject to a licensing and regulatory regime to ensure their financial safety and soundness and effective delivery of financial services.

Description

Banks and other institutions that conduct banking activity are subject to licensing under and prudential regulation under the law "On Banks and Banking Activity" and other laws and regulations. Licenses are issued by the NBKR, which is authorized to regulate banks to ensure the soundness of individual banks and of the financial system as a whole. Responsibility of NBKR to ensure the effective delivery of financial services from the point of view of the users of those services is considerably less clear under current law, as is its responsibility for consumer protection issues. In practice, however, NBKR had included provisions intended to protect the rights of bank customers in its regulatory instructions and other documents.

Recent amendment (adopted in late February 2014) to the NBKR Provision "On Measures Applied to Banks and Some Other Financial-Credit Institutions Licensed by the NBKR" has specifically authorized NBKR to suspend or limit specific banking activities that a bank is otherwise authorized to perform if supervision activity reveals problems with consumer protection. This is an important step forward, as it recognized protection of consumers as a proper subject for supervision activity and NBKR imposition of measures. Suspension or withdrawal of the license as such, however, is not envisioned for consumer protection violations.

Recommendation

There is no need for change in the overall licensing regime at this time. It is important, however, for NBKR's responsibility for consumer protection in the banking sphere and its authorities to take action to be more clearly expressed in the law and in normative acts (regulations, instructions).

It would be appropriate for NBKR to have additional authorities to respond to consumer protection violations, since suspension of a bank's activities in relation to consumers may be at least as injurious to the consumers themselves as it is to a bank that is not primarily focused on the consumer market. Immediate consequences to bank consumers of such limitation or suspension should also e more clearly defined.

Section B. Disclosure and Sales Practices

B.1. Information on Customers

Good Practice

a. When making a recommendation to a consumer, a bank should gather, file and record sufficient information from the consumer to enable the bank to render an appropriate product or service to that consumer.

b. The extent of information the bank gathers regarding a consumer should:

(i) be commensurate with the nature and complexity of the product or service either being proposed to or sought by the consumer; and

(ii) enable the bank to provide a professional service to the consumer in accordance with that consumer's capacity

Description

a. Rules concerning the management of credit risk define in detail the kinds of information to be gathered from a customer seeking credit, and general rules concerning the creation and maintenance of banking records contain rules concerning the kinds of information to be recorded in relation to customer accounts and the periods for their retention. These rules, however, are not designed to ensure that recommendations made to a consumer are appropriate to the individual and there are no requirements in banking legislation or rules that serve that purpose directly. The narrow selection of products currently offered to consumers and the ability of banks to offer individualized terms to borrowers may have limited concern about this issue. Most banks do not offer a large number of varying products for which an individual consumer would qualify, and so are not called upon to recommend among them. At the same time, banks are able to vary the terms of a credit offer within a lending program for which an individual does qualify, making it unnecessary for the bank to "recommend" another program in order to accommodate differing risk or seek higher rates from some individuals.

Article 3 of the law "On the Protection of Consumers' Rights" does obligate a seller who has been made aware by a consumer of the concrete purposes for a purchased product or service to provide the consumer with a product or service that is suitable for those purposes. It does not, however, obligate the seller to make inquiries to determine either the consumer's purposes or other information that would affect the suitability of banking products for a specific consumer.

b. (i) & (ii) Information sought from a bank customer seeking credit is quite extensive, as is the information that is required to be recorded in the credit dossier of any customer that receives credit. Although rules concerning its collection are designed to limit a bank's credit risk rather than to ensure that the product is appropriate to the consumer, the information would be sufficient to allow a bank employee to make an appropriate recommendation for the individual and to comprehend the consumer's capacity. There are no rules concerning information to be gathered concerning other banking products and services.

Recommendation

a. & b. Bank employees should be obligated to use the information gathered from bank customers seeking credit not only to evaluate the credit risk to the bank, but also to determine whether the product offered meets the stated needs or purposes of the consumer and to make a notation in the credit dossier (record of the credit application) concerning any recommendation of a specific product that is made. It may be appropriate to require that bank employees make some limited inquiries in relation to savings products as well, to determine the planned use for savings and the period when they are likely to be needed in order to advise the consumer concerning a choice among available products. A rule concerning this requirement could be included in the existing normative legal acts on credit risk and on work with deposits, but should ideally be included also in a more comprehensive normative legal act concerning protection of banking consumers that could be issued under Chapter 2 of the draft Banking Code after its passage.

As more consumer offerings develop in the market, banks should avoid the use of compensation schemes that skew employee incentives toward the sale of more complex or costly products and NBKR may wish to consider limitations on such incentive schemes. In any case, the required notation of any bank employee recommendation and its basis should be reviewed by banks in evaluating employee performance and by NBKR as a part of on-site review – and particularly notations in records concerning non-performing loans and other problematic accounts – to determine whether inappropriate recommendations have been made.

A principle reflecting this good practice should be included in any code of conduct developed for banks under point A2.

It is important to note that this good practice should not be interpreted too broadly. It is not good practice for bank employees to be instructed or required to collect or record personal identifying information on all individuals who seek information about bank products and services before providing that information to them. This can discourage consumers from seeking full information and from comparison shopping for banking products, dampening competition in banking services and increasing the likelihood that consumers will receive important information at a stage that is too late for it to be useful to them. Similarly, the information asked for should not go beyond that necessary to determine which of several available products may be best for the consumer's needs and whether the consumer has the needed financial capacity, especially at preliminary stages. No personal information should be recorded on potential customers of banks who choose not to make an application for a product or service after receiving basic information on bank offerings. Overly intrusive practices during preliminary inquiry discourage use of banking services and may delay development of an inclusive financial system.

B.2. Affordability

Good Practice

a. When a bank makes a recommendation regarding a product or service to a consumer, the product or service it offers to that consumer should be in line with the need of the consumer.

b. The consumer should be given a range of options to choose from to meet his or her requirements.

c. Sufficient information on the product or service should be provided to the consumer to enable him or her to select the most suitable and affordable product or service.

d. When offering a new credit product or service significantly increasing the amount of debt assumed by the consumer, the consumer's credit worthiness should be properly assessed.

Description

a. There are no rules specifically in the banking sphere that discuss recommendations to consumers concerning which products and services they should purchase or require that bank employees consider this issue. Existing banking rules focus on the provision of information rather than of advice. Article 3 of the law "On Protection of Consumers' Rights" requires a seller of services that has been told the consumer's purpose to provide a service that is suitable for that purpose, but does not obligate sellers to undertake any inquiry. The draft Banking Code (Article 10) requires in relation to lending that banks generally to take account of the economic interests and capacities of clients and pursue a relationship of partnership with client borrowers, but does not specifically address advice or recommendations.

b. Banks are free to determine the products and services they will offer, within the terms of their licenses and other legal restrictions and there is no requirement that they offer multiple options to consumers. Article 50 of the current Banking Law (point 3) requires that banks inform their customers about the paid services that they offer and also about any changes in those services or their terms that affect a particular customer, but does not specifically address the question of consumer choice among products or services meeting similar needs. With respect to credit products, consumers are required to receive a detailed list of information as a part of the contracting process and there are some regulations applicable to the content of bank materials concerning their products. The information that must be presented to a client at a preliminary stage of the process, when the consumer is considering whether to apply for credit, is not regulated in detail and the issue of presentation of multiple options to choose from is not addressed. The draft Banking Code is similarly vague about the specifics of information provision to clients, particularly at early stages. Article 7 requires that a client be provided with full disclosure on the conditions of provision of a service before signing a contract and states that refusal to provide "exhaustive" information shall not be permitted. But it does not discuss what kind of information must be provided at stages prior to contracting nor refer clearly to the provision of multiple options.

c. With regard to credit, a consumer presented with the information required under regulations concerning management of credit risk and the contracting process would certainly have sufficient information to choose among credit products, but it is unlikely that any bank could provide this level of detail at an early stage in the process. There are no rules concerning the amount of information to be provided to a consumer prior to an application for a specific loan. In practice, there may be limited choice for consumers within any particular bank due to the limited selection of available credit products, but consumers should be provided with adequate information to allow them to compare products across banks as well as within banks. There is likewise no specific requirement applicable to savings products other than the general requirements of Article 50 of the Banking Law. Brochures on savings products obtained from a number of banks generally contained enough information to allow consumers to compare and to choose among these products.

d. Rules on the minimum standards for credit risk management require an in depth evaluation of the customer's financial condition and ability to repay as a part of the process of issuance of credit, as well as substantial monitoring of an existing borrower's financial condition during the life of the obligation. Banks are specifically instructed to inquire into the proposed borrower's prior borrowing from the bank and from other sources (point 30), and while this is treated primarily as an indicator of responsible use of credit and good repayment discipline rather than a check on overindebtedness, it would in practice serve both purposes. The instruction does not distinguish between issuance of an initial amount of credit and a decision to issue additional credit that would increase a customer's debt.

Recommendation

a. Given the low level of financial literacy in the Kyrgyz Republic, it is important that customers not only be presented with information, but also advice that is designed to help them make good choices. A provision should be added to the draft Banking Code (Article 7 or a separate provision) requiring that advice given to customers be designed to meet their needs and to ensure that options chosen are affordable, and to require banking employees to undertake sufficient inquiry to be able to do this. It would be appropriate for the NBKR to insert such a requirement also in instructions concerning the procedures for conduct of specific kinds of banking activities, and particularly in the rules concerning the issuance of credit.

b. – c. The draft Banking Code should be amended before passage to contain a clear requirement that consumers, prior to the point that they apply for a specific loan or other banking product, have free access to information on bank products and services that is adequate to allow them to compare products and make choices. NBKR should be authorized to define the requirements for this kind of information disclosure, and such requirements should clearly distinguish between information that is required to be immediately available to any consumer who inquires (or freely available in bank premises and on the bank website) and the more detailed and personalized information that must be provided to a consumer applying for a loan or other product. The information should be provided in plain language, in the form of a "key facts" statement describing the product or in other format that makes it easy for consumers to understand and compare products.

d. Existing requirements to undertake a review of the creditworthiness of a borrower are sufficient, provided they are applied not only at the time of an initial extension of credit, but also at the time of any substantial increase in credit to a consumer. If necessary, an addition or amendment to existing rules could be made to clarify this requirement. Given the substantial nature of the creditworthiness inquiry prescribed in current requirements and the presence of ongoing reporting requirements and other relatively intrusive measures in relation to borrowers, it may be appropriate to provide some guidance concerning what kind of an increase would qualify as substantial and/or to allow a modified review of information.

B.3. Cooling-off Period

Good Practice

a. For financial products or services with a long-term savings component, a bank should provide the consumer a cooling-off period of a reasonable number of days (at least 3-5 business days) immediately following the signing of any agreement between the bank and the consumer.

b. On his or her written notice to the bank during the cooling-off period, the consumer should be permitted to cancel or treat the agreement as null and void without penalty to the consumer of any kind.

Description

a. & b. The NBKR Provision on Minimum Requirements for Credit Risk Management (point 26) requires that bank clients be permitted to refuse receipt of credit at any time after the signing of the credit contract but before the receipt of funds, without any charge. A bank is permitted, however, to charge an application fee ("commission") in accordance with its established tariffs for the consideration of the client's application, and this fee is not refundable upon the client's refusal of the credit. There is no minimum specified time period within which a consumer has the right to refuse the credit and the right of refusal applies only until the consumer has received funds. For many types of consumer credit, the receipt of funds is likely to follow quickly upon signature of the contract or even to be simultaneous, making this right of rescission of limited practical use to most consumers.

There are no provisions requiring a "cooling-off period" for deposits or other bank products or services. With respect to bank deposits, provisions of the Civil Code (Article 752) require that individual depositors must receive their deposits back immediately upon request, with payment of at least the interest rate applicable to accounts without time conditions (unless the contract specifies a higher rate upon early withdrawal). This limits customer risk on such accounts and the corresponding need for a required rescission period. On the basis of advertisements and informational materials gathered from banks, it appears that some banks are offering "staged" interest on time deposits, providing a client who withdraws funds prior to the end of the full period but after a certain percentage of it (for example, after more than half of the period has passed) with an interest rate that is below the full contract rate but above the minimum.

The draft Banking Code contains provisions similar to those in current law and requires that credit contracts allow the client to cancel the contract and refuse the loan without penalty at any time after the conclusion of the contract but prior to the receipt of the funds. (Article 10, part 2, point 6) There is no similar provision in the draft in relation to deposits or other banking products or services.

Recommendation

a. & b. Current provisions allowing clients to refuse a credit without penalty only before funds are received do not provide significant protection to individual consumers, as these borrowers are very likely to receive funds from their loans almost immediately upon signing the loan documents. Consumers should be provided with a minimum of several business days within which they may cancel the loan agreement. Banks, however, should be free to determine the circumstances in which they will disperse funds within that period. In order to protect banks from fraud or undue complication, exercise by a consumer of the right to cancel the contract within the rescission period should be limited to circumstances in which the funds remain in the consumer's account or the consumer returns the loan funds in full together with notification to the bank concerning the cancellation of the loan.

It would be appropriate for NBKR to monitor the types and amounts of fees or commissions charged for various aspects of the loan application, issuance and closure process to ensure that these do not amount to fees for consumer loan cancellation under another name.

The creation of rules concerning a minimum cooling off period should not be considered a substitute for the requirement that banks provide a copy of their standard form contracts to customers that specifically request them and that banks provide a "key facts" statement or other short document in plain language explaining all of the significant terms of products and account types. All three of these requirements are important in protecting consumer rights.

B.4. Bundling and Tying Clauses

Good Practice

a. As much as possible, banks should avoid bundling services and products and the use of tying clauses in contracts that restrict the choice of consumers.

b. In particular, whenever a borrower is obliged by a bank to purchase any product, including an insurance policy, as a pre-condition for receiving a loan from the bank, the borrower should be free to choose the provider of the product and this information should be made known to the borrower.

Description

a. Tying refers to the sale of two or more products or services together as a single product and refusal of the seller to separate the products and sell each of them separately. Bundling refers to the sale of two or more products or services together as a package when the products can also be purchased separately.

Tying is usually considered a problem where the seller has dominance or significant market power in relation to one of the products, making it difficult for customers to obtain it from another source that does not require the purchase of the tied product. For important goods and services, however – including basic banking services – specialized regulations may prohibit tying by all sellers in order to protect consumers and ensure that such goods and services are available at an affordable price. In considering a tying case, the relevant question is often the relationship between the items that are "tied" and when they should be considered sufficiently unrelated that they should be sold separately.

Bundling of products together – that is, the offer of a combination of products, often at a discount compared to the price of separate purchase. – may be a problem if it misleads customers about the real prices of the products or retards the development of competition in the market for one of the bundled items. In a competitive market, however, offers of bundled products or services can provide benefits to consumers in the form of discounts.

The legal rules related to tying in the Kyrgyz Republic are difficult to determine due to a severe lack of clarity in the laws and regulations related to competition issues. The law of the Kyrgyz Republic "On Competition" defines "agreement to conclude a contract only on the condition that goods are included in which the …consumer has no interest" as an abuse of dominance. (Article 6, point 6) The law's definition of dominance, however, is entirely opaque and appears to include all enterprises in any market in which market shares are stable and there are barriers to entry, any enterprise within a group of five whose market shares exceed those of others in the same market, and any enterprise that is found by the enforcement agency to be abusing its position in the market (Article 4). By contrast, the NBKR Policy in this area makes the fact of a dominant position of a bank itself a violation of the antimonopoly legislation "if it was obtained by means of" forcing consumers to conclude contracts containing extraneous or unacceptable provisions. (Article 3.3 (b)) There was no indication that the provisions have ever been enforced and their degree of internal inconsistency and divergence from common practices in this area would make them difficult to apply in any productive manner and raise questions about comprehension of the underlying concepts.

Tying of unrelated products and/or services is prohibited generally by Article 17, point 2, of the Consumer Protection law. This article has likewise not been enforced in relation to banking services.

b. Some counterparts indicated that the purchase of insurance is not commonly required in connection with consumer loans. The common requirement for a security interest in property may reduce the banks' need for insurance on the life and earning capacity of a borrower. Nor was there any indication that banks are commonly tying bank services to one another or requiring the purchase of other kinds of services as a condition of credit (with the exception of notarial services and in some instances appraisal services). It should be noted, however, that neither model loan contracts nor full packages of loan documents could be obtained for review. Several counterparts commented on the resistance of retail customers to any use of banking products and services at all, strong competition among banks for financially stable retail clients, and/or the existence of programs designed to encourage non-cash payments and the use of bank accounts of all kinds. They viewed these factors as tending to discourage banks from tying practices, particularly in relation to card accounts and deposits.

Recommendation

a. There is no indication that tying or bundling of differing kinds of banking services or of banking services and other products is currently a significant problem in the Kyrgyz Republic. If it were, however, it is far from clear that the existing legal provisions could be applied to stop any abusive practices. Provisions of NBKR's Policy and regulations on enforcement of competition law in the banking sector (as well as those of the general law on competition) need revision on this issue to provide workable definitions of tying violations and clear definitions of the conditions under which they are prohibited. It would be appropriate for this to take place in the context of a wider review of the NBKR normative acts on competition (and the general competition law as well) to add clarity, address gaps, and bring the provisions into line with broadly shared concepts in this area.

b. Insurance purchases in relation to loans have been a particular problem in some other CIS jurisdictions, with widespread tying practices, bundling of insurance products with loans in ways that obscure the cost of both products, and collusion and kickbacks between banks and their "approved" list of insurance providers. With respect to insurance products, it may be appropriate for NBKR to prevent problems by the development of appropriate instructions for banks and their inclusion in the existing regulations concerning consumer credit.

B.5. Preservation of Rights
Good Practice Except where permitted by applicable legislation, in any communication or agreement with a consumer, a bank should not exclude or restrict, or seek to exclude or restrict: (i) any duty to act with skill, care and diligence toward the consumer in connection with the provision by the bank of any financial service or product; or (ii) any liability arising from the bank's failure to exercise its duty to act with skill, care and diligence in the provision of any financial service or product to the consumer
Description There is not currently a general provision requiring banks to act with care or diligence in relation to customers, nor one that prohibits them from escaping such a requirement through contract or by unilateral statement. This is not an unusual circumstance, as the laws of the Kyrgyz Republic do not generally rely on broadly worded duties or standards of care that are to be further interpreted in practice by courts and other authorities. (This is a trait shared by many of the legal systems in the CIS.) Article 17 of the general consumer protection law (in point 1) provides that contract provisions that limit the rights of consumers or worsen their position in comparison to what is otherwise established by legislation are void and unenforceable. In principle, this could be applied to the provision of financial services to consumers, and could be used to invalidate contract provisions that reduce duties or liabilities directly imposed on banking and financial services providers by legislation, including by rules duly issued by NBKR under its legal authority. In order for this provision to apply, however, the rights, duties or liabilities in question would need to be clearly stated, particularly in areas that would otherwise be governed by civil law rules providing for freedom of the parties to determine the content of a contract. Moreover, the rules would have to be clearly designed to protect consumers.

Where different types of banking clients are not distinguished, this may result in inadequate legal protections for individual consumers, as the laws will avoid mandatory provisions in order to promote competition among banks and to retain maximum flexibility for the negotiation of differing terms as required by more sophisticated business customers with more complex needs. NBKR should, as a priority matter, consider the issuance of coherent separate regulations for banks concerning the treatment of individual consumers. In the alternative, clearer and more detailed sections should be included instructions on various banking activities concerning the treatment of individual consumers. Rights, duties, and liabilities defined in such separate documents or provisions would provide greater clarity to both banks and their customers and would be plainly designed to protect the rights of consumers and so fall within the general restriction on limitation of consumer rights discussed above. While this would have the benefit of clearly establishing identifiable and enforceable "consumer protection" standards in banking legislation, it would raise some additional questions concerning when and if individuals using banking services in relation to their small-scale economic activity (who do not fall within the definition of a consumer) should be distinguished from larger and more sophisticated business clients in banking rules.

Recommendation

NBKR should issue separate rules and/or include separate provisions in banking legislation and regulatory instructions that more clearly define the rights of individual consumers (as opposed to the rights of all banking customers) and the duties of banks toward them in areas that are of special concern or importance. This would provide additional protection to consumer and allow rules to be differentiated for banking customers with differing sophistication levels. A first priority would be to ensure that the draft Banking Code includes appropriate references to individual consumers where needed, in particular in Chapter 2 to distinguish instances in which consumers may need more protection than business clients. Thereafter, any necessary amendment of existing regulations and also the issuance of clearer and more unified instructions addressed to the treatment of consumers should take place as a part of the process of bringing existing legislation and normative acts into accord with the new Banking Code.

B.6. Regulatory Status Disclosure
Good Practice In all of its advertising, whether by print, television, radio or otherwise, a bank should disclose the fact that it is a regulated entity and the name and contact details of the regulator.
Description Banks in the Kyrgyz Republic are not required to indicate information about the bodies that regulate them and the means by which a consumer can contact those bodies in advertising. The NBKR is the primary bank regulator and also the body that produces and is familiar with all of the laws and regulations that specifically regulate banking activities. But the NBKR is not formally responsible at this time for taking complaints from the public and it does not have a response mechanism for such complaints (although it does receive and respond to letters).
Recommendation As the new consumer protection unit in NBKR is formed and begins work, the first priority should be provision of clear information by banks to their customers concerning NBKR's role, such as in written materials and as a part of contractual disclosures together with information on the bank's complaints handling procedures. It may thereafter be appropriate to consider a requirement that all bank advertising inform the public that banks are regulated by the NBKR and how to contact the NBKR. Statements of this kind can be confusing if not clearly made, however, particularly in environments with low levels of financial literacy. And overloading of some forms of advertising with required information can make the advertisements too complex for consumers to understand or retain. In introducing any advertising requirement of this kind, consideration should be given to all of the regulations concerning bank advertising and a careful determination made of what kinds of advertisements (product, media, and so forth) should be required to contain specific kinds of information. Where mandatory content requirements are imposed, care should be taken to craft a requirement that is very clear, perhaps including the precise language to be used.

B.7. Terms and Conditions

Good Practice

a. Before a consumer opens a deposit, current (checking) or loan account at a bank, the bank should make available to the consumer a written copy of its general terms and conditions, as well as all terms and conditions that apply to the account to be opened. Collectively, these Terms and Conditions should include:

(i) disclosure of details of the bank's general charges;

(ii) a summary of the bank's complaints procedures;

(iii) a statement regarding the existence of the office of banking ombudsman or equivalent institution and basic information relating to its process and procedures;

(iv) information about any compensation scheme that the bank is a member of;

(v) an outline of the action and remedies which the bank may take in the event of a default by the consumer;

(vi) the principles-based code of conduct, if any, referred to in A.2 above;

(vii) information on the methods of computing interest rates paid by or charged to the consumer, any relevant non-interest charges or fees related to the product offered to the consumer;

(viii) any service charges to be paid by the consumer, restrictions, if any, on account transfers by the consumer, and the procedures for closing an account; and

(ix) clear rules on the reporting procedures that the consumer should follow in the case of unauthorized transactions in general, and stolen cards in particular, as well as the bank's liability in such cases facilitates the reading of every word.

b. The Terms and Conditions should be written in plain language and in a font size and spacing that facilitates the reader's comprehension.

Description

a. (i) – (ix)The Law on Banking (Article 50, point 2) states that banks' "general conditions for the conduct of operations" are to be considered open information and may not be considered a commercial or banking secret. Banks are required to provide their general conditions for the conduct of operations at the first request of any client, but Article 50 does not require that they be provided without request to any client before they enter into a contract with the bank.

There does not appear to be a standard definition of the content of "general conditions for the conduct of operations" as a separate document and a search of a number of bank websites did not produce documents with that title. Point 3 of the same article of the Law on Banking defines banks' obligations to inform clients concerning changes in banking charges and conditions, with an illustrative list of such changes that includes: information on the services provided by the bank; information on the costs of those services, including credit; information on the rates and conditions for payment of interest on deposits; the procedure and period for the consideration of complaints; and other conditions of conduct of banking operations. This obligation, however, concerns notification of changes in "conditions of service that affect that concrete client," and it does not appear to be a definition of what must be included in a single general terms and conditions document.

Similar language appears in the draft Banking Code (Article 7), which states that the "general conditions for the provision of banking services" are to be considered open information and may not be the subject of a commercial or banking secret. Changes in these general conditions for the provision of banking services must be published in the press or on the bank website prior to their entry into force. The Code does not state when or how the information must be provided to a client or to other persons nor define what information qualifies as such general conditions. The same article, however, specifically requires NBKR to define the procedure for disclosure of information on banking services, so this may be the subject of further regulation after the passage of the Code (and should be in order to allow banks to comply with notice requirements).

There are quite a number of provisions in law and regulatory instructions that require banks to provide information on the terms and conditions of specific types of account opened with the bank. In general, these requirements relate to information that is to be provided at the time an account is opened or contract signed. Many of the provisions refer to information that is to be included in the contract, but others require provision of information without specifying the form in which it is provided. (For example, point 6 of the NBKR "Instructions on Work with Bank Accounts and Deposit Accounts" states that banks must "explain the rules for the completion of document forms and the procedure for calculation of earned interest, as well as provide other explanations," but does not specify whether a separate document is to be provided.)

The law "On Banks and Banking Activity" (Article 50, point 1) requires generally that the relationship between the bank and customer be defined by contract, and that the contract define the rights, obligations and liabilities of the parties, the conditions and procedures for payment of interest on deposits and credits, the rates and tariffs for conduct of banking operations, the period of validity of the contract and procedure for amendment, penalties for failure to fulfill the conditions of the contract (including for unilateral change in its terms), and other terms and conditions as required by law or agreed between the parties. This requirement would appear to cover most or all of the information referred to in points **(i), (v), (vii)** and **(viii)** in this good practice description. If the rights of the client are interpreted to include an explanation of the complaints procedure, it may also cover point **(ii).** As a part of the contract, however, this information would not necessarily be separately available as "general conditions."

In relation to credit accounts, NBKR regulations on the Minimum Requirements for Management of Credit Risk contain extensive requirements for the content of a credit contract and its attachments, including separate documents detailing the rights of bank clients and the schedule for repayment of the credit specifying all expenses, the dates and amounts of all payments, and explanations of any payments to third parties. A variety of additional provisions concerning specific rights and obligations of the bank and the client are specifically required to be included in the credit contract and related documents. A number of these required provisions have the character of mandatory general terms and conditions for credit (e.g. bank obligations to provide a statement on payment history within 3 days, requirement to suspend accumulation of penalty charges under specific circumstances, and so forth). Taken together, these requirements would appear to cover the information referred to in points **(i)**, **(v)**, **(vii)**, and the portion of **(viii)** related to charges.

Banks are required to maintain a book for complaints and comments in a form defined by the regulations on credit risk management. Outside this requirement, banks do not appear to be required to have specific kinds of formalized complaints procedures, although the Law on Banks and Banking Activity does require that changes in those procedures be notified to clients. (See also section E.1 of this review, below.) There is currently no ombudsman or other third party dispute resolution system in place in the Kyrgyz Republic about which customers could be notified. (See section E.2 of this review, below.) A deposit guarantee system has recently been formed and banks are beginning to inform customers about its existence, but there are no legal rules requiring customer notifications or defining their content. (On guarantee schemes, see also sections B.10 and F.1 of this review.) There are currently no bank codes of conduct about which a customer might be informed. (See section A.2, above.) Thus, the information referenced in points (ii), (iii), (iv) and (vi) either does not exist or is not required to be provided in detail to consumers.

b. There are no "plain language" requirements applicable to a bank's statement of general conditions for banking operations. The text of credit contracts and associated contracts concerning a security interest in property are required by the applicable regulations to be "clear and accessible to the perception and understanding of borrowers." Credit contracts and all of their appendices and attachments must be provided in an identical font size throughout, which may not be less than 12. (Points 39 and 54 of the Minimum Requirements for the Management of Credit Risk)

The draft Banking Code would apply similar requirements to all contracts between banks and their clients. Article 8 of the draft requires that the text of a contract be "maximally clear and accessible to the perception and understanding of clients" and that all of the text of a contract be printed in a single font size (although the size is not specified).

Although requested, no standard contracts or customer information packages for loans or deposit accounts were received from banks for review during the diagnostic, making it difficult to determine in what form, with what detail, and how clearly the information required by the various legal rules is presented in practice.

Overall, while the existing laws and regulatory instructions do contain provisions intended to ensure that bank customers receive required information, the provisions are distributed among different laws and regulations, are sometimes repetitive or inconsistent in their language, and vary widely in their degree of detail and in the specifics of required form and content from one type of account or service to another. Most concern information that must be included in the contract or provided when it is signed rather than information that is to be more generally available.

Individual consumers need to receive clear information on all of the important terms of their accounts and on the processes for their dealings with a bank, in a form that they can understand and take with them for later reference. But they may be confused and overwhelmed if presented with large amounts of documentation or with sets of terms that overlap one another or appear inconsistent (such as one set of general or default rules covering on calculation of charges and other matters along with a contract containing a statement of the rules applying to a specific loan or account).

Recommendation

Rules concerning the provision of information to consumers on the terms and conditions applying to all basic types of accounts need to be reviewed and revised for clarity, consistency, simplicity and effective communication. This review could be undertaken as a part of the necessary process of bringing the normative legal acts of the NBKR into accord with the new Banking Code, under the NBKR authority to define rules for information disclosure and for contracts that is already reflected in the draft Code.

The review should aim to produce a more coherent set of regulations concerning the information that must be provided by banks to individual consumers. The regulation(s) should separate these requirements from those that apply to business and corporate banking services to allow for an appropriate balance of flexibility and protection (more flexibility and fewer mandatory requirements for the varied needs of more sophisticated business borrowers and less flexibility and more protection for less sophisticated individuals). They should address both the information that must be made freely available by banks (to allow accurate product comparison) and information that must be provided to consumers at later stages of the inquiry and contracting process. The use of "key fact statements" should be included in the new regulation(s) and taken into account in crafting appropriate surrounding rules (see also B.8).

B.8. Key Facts Statement

Good Practice

a. A bank should have a summary statement, such as a Key Facts Statement, for each of its accounts, types of loans or other products or services and provide these to its customers and potential customers.

b. The summary statement should be written in plain language and summarize in a page or two the key terms and conditions of the specific banking product or service.

c. Prior to a consumer opening any account at, or signing any loan agreement with, the bank, the consumer should have delivered a signed statement to the bank to the effect that he or she has duly received, read and understood the relevant summary Statement from the bank.

d. Summary statements throughout the banking sector should be written in such a way as to allow consumers the possibility of easily comparing products that are being offered by a range of banks.

Description

a.- d. Banks are not legally required to use "key facts statements" and do not generally appear to use documents of this kind.

As discussed immediately above in section B.7, banks are required by law and regulatory instructions to provide consumers with certain information on the terms and conditions that apply to bank products and services or to include that information in the contract with the consumer. There are a number of separate documents that are required, some of which are intended to assist borrowers in understanding the loan process and terms and their own obligations. These include a set of reminders ("pamyatka") for consumers with a set text essentially instructing them to consider loans and loan documents carefully and a separate document containing a chart in a prescribed form listing the rights and obligations of the borrower and all expenses of the loan.

In some instances, consumers are specifically required to sign a statement that they have been provided with required information, such as at the opening of a deposit account for an individual consumer. For loan accounts, consumers are required to sign specific documents indicating that they have read and understood them (including the chart), and also to sign every page of the loan contract and of all of its attachments and associated documents.

A significant amount of the information that is legally required to be provided to consumers is required to be included in contracts. The specific language or format of the information is generally not specified. The NBKR Provision on the Minimum Requirements for the Management of Credit Risk require that borrowers be provided with the proposed loan contract and allowed to take it with them for study and consultation for a period of not less than one day (but no more than three days), but borrowers are not otherwise required to receive any detailed information on the terms of a loan at an early stage of their shopping process that would allow them to accurately compare products being offered.

Recommendation

As discussed in B.7., above, revision of the applicable laws and instructions to more clearly and simply define the form and content of information that must be provided and time at which it must be available/presented is needed. The goal should be to ensure that consumers have sufficient time to review information, that they are able to properly compare the products and services offered by banks, and that the information provided is simple, clear, and not overwhelming**.** NBKR should develop new regulations providing more detailed guidance to banks on this issue, including a requirement for "key facts statements" or similar standardized form of description of account terms in plain language that would ensure that consumers can easily understand the important terms of products and services offered. Similarly, regulations should clearly define the information that must be freely available from banks and what must be provided to consumers upon their inquiry at bank offices, so that consumers are not in the position of being informed of important terms only after they are already at the end of the application process for accounts and loans. Legal rules specifying a clear and simple form and specific content requirements could also be considered in relation to other issues that are of importance to consumers, including, in particular, a plain language explanation of the risks inherent in use of a home as security for a loan and the conditions and procedures for bank execution on that security in the case of default. (See also section C.9.)

B.9. Advertising and Sales Materials

Good Practice

a. Banks should ensure that their advertising and sales materials and procedures do not mislead customers.

b. All advertising and sales materials of banks should be easily readable and understandable by the general public.

c. Banks should be legally responsible for all statements made in their advertising and sales materials (i.e. be subject to the penalties under the law for making any false or misleading statements)

Description

a. Article 34 of the Law on Banking prohibits advertisement that is not accurate and authorizes NBKR to require a bank to correct or withdraw an advertisement or other information about the bank, and also to change the name of the bank, if the content of the advertisement or information or the name of the bank could cause confusion on the part of depositors or other persons. If a bank fails to carry out an NBKR requirement, NBKR may publish information correcting the bank's incorrect information at the expense of the bank.

The draft Banking Code contains a general article on the accuracy of advertising (Art. 119) with provisions similar to those currently in the Law on Banking prohibiting advertisements or distributions that contain information that is not correct and authorizing NBKR to require change or withdrawal or to publish a correction at the expense of the bank. The draft Article 119 also specifically authorizes NBKR to apply other measures that are at its disposal under the Code to banks that publish incorrect information – an improvement over current provisions that suggest that the only remedies are correction or withdrawal. The current language of the Article, however, refers only to information that is not correct, omitting any reference to information that is misleading about the bank or its products and services. This would be a significant narrowing of the requirement, potentially depriving NBKR of the ability to address bank advertisements and information that are not technically false but are designed to mislead consumers.

The draft Banking Code also contains specific provisions concerning advertisement of the costs of credit (Article 11) that require the statement of both the nominal and effective interest rates and of commissions in any material that discusses the cost of credit. This requirement may be more confusing than enlightening to consumers, who are likely to have difficulty understanding the difference between the nominal and effective rates of interest.

b. There are no specific "plain language" requirements or rules concerning the clarity and simplicity of language in advertisements and sales materials. While the references in the law to the possibility that clients or other persons may be misled might conceivably be interpreted to include overly complex language that is true in content, the phrasing used in the provision more commonly refers to material that deliberately causes the recipient to believe something that is untrue rather than to material that is simply too complex and technical to be understood.

c. Both the current Law on Banking and the draft Banking Code allow the NBKR to undertake corrective publication at a bank's expense if a bank fails to comply with instructions to do so. The draft Banking Code authorizes NBKR to use other methods at its disposal as well, and specifically allows NBKR to withdraw a bank's license if it publishes knowingly false information or in another manner deliberately misleads clients about its activities. (Article 83, part 1, point 8) In addition, under Article 360 of the Code of Administrative Violations, publication of advertisements that may mislead bank clients or cause them damages (as well as those that advertise banking services for which a bank is not licensed) may lead to the imposition of fines on officials of the bank of from 1000 to 2000 soms. A draft law amending the Code of Administrative Violations in the part concerning banking would increase fines against individual bank officials to a range of 10,000 to 20,000 soms and provide for fines on legal entities of from 50,000 to 100,000 soms. Under the general provisions of the Law on Consumer Protection, a consumer has the right to receive accurate information about products and services and a consumer who has been misled about a product or service has rights to return or reject it and to compensation for damages. It is not clear how these provisions would apply to banking products and services, however, and there is not currently any practical and efficient means for their enforcement by individual consumers.

Recommendation

a. The draft Banking Code (Article 119) should be amended to specifically cover advertising or other publication or distribution of material that is misleading to consumers, not only that which is demonstrably false, and should allow NBKR to issue more detailed requirements concerning bank advertising. With respect to the specific rules concerning advertising of the costs of credit (Article 11), a less confusing alternative for consumers may be advertisements that state only the effective interest rate, calculated according to the NBKR's formula. Such a statement would need to be accompanied by clear language concerning its inclusion of fees and commissions, and it would be appropriate for NBKR to work together with banks in developing appropriate statements that are clear and accurate.

b. In addition to prohibiting false or misleading material, Article 119 of the draft Banking Code should also require that advertising and sales materials be clear and understandable to consumers and allow NBKR to take action to require a bank to change material that uses technical language with which consumers are unfamiliar, is unduly complex, or is otherwise unclear for an average consumers.

a. & b. With input from the banks and other interested parties (consumer associations, the antimonopoly agency and others) NBKR should develop and adopt an instruction on bank advertising that establishes basic requirements specifically for the common types of banking products and services. These requirements should take account of the current sophistication of consumers in the Kyrgyz Republic, the products offered, and the capacities of the various advertising media. Banks should be required to retain copies of all of their advertisements and distributed materials and these should be reviewed by NBKR as a part of its supervision of bank behavior.

c. It is important for NBKR to be able to use the full range of measures to correct distribution of false, misleading, or unclear material by banks, and these provisions should remain in the Banking Code. Fines available against bank officials may also be an effective means to encourage accurate statements, and these administrative penalties should be enforced, especially where violations are serious or repeated. Currently available fines are only a fraction of the average monthly wage in the Kyrgyz Republic,[2] however, and are unlikely to be a serious deterrent to well-compensated bank officials unless they are increased substantially.[3] Even the increased fines under the proposed amendments to the Code of Administrative Violations are quite modest, with the largest potential fine against an individual accounting for less than two months of the average wage in the country and the largest fine against a bank less than USD 2000 at current exchange rates.

[2] According to official statistics, the average monthly wage in the Kyrgyz Republic overall was 11,008 soms as of January 2014. See the figures at http://stat.kg/index.php?option=com_content&task=view&id=123&Itemid=130.

[3] Fines under the Code of Administrative Violations are expressed as multiples of a standard "accounting figure" or coefficient in order to allow them to be adjusted to account for inflation without requiring large-scale amendment of the Code. Thisr "accounting figure" has not been adjusted since 2006, when it was delinked from the minimum monthly wage, and is equal to 100 soms. The draft amendments increase the fines against bank officials from their current range of 10-20 times the accounting figure to a range of 100-200 times that amount.

B.10. Third-Party Guarantees

Good Practice

A bank should not advertise either an actual or future deposit or interest rate payable on a deposit as being guaranteed or partially guaranteed unless there is a legally enforceable agreement between the bank and a third party who or which has provided such a guarantee. In the event such an agreement exists, the advertisement should state:

(i) the extent of the guarantee;

(ii) the name and contact details of the party providing the guarantee; and

(iii) in the event the party providing the guarantee is in any way connected to the bank, the precise nature of that relationship.

Description

The only guarantee that is advertised by banks at the present time is the guarantee provided by the deposit insurance system, which is discussed in detail in F.1., below. Banks are not yet consistent in their notations of the existence of the deposit insurance on advertising materials, with some not mentioning it at all, and others providing information on the limits of the guarantee. Contact details for the Deposit Protection Agency were not provided by any of the bank materials reviewed.

There are no specific provisions in banking regulations related to the advertising of guarantees and the information that must be provided. Although this does not appear to be a significant problem at this time, and may therefore not be a particular priority, it would be relatively easy to insert rules of this kind in the draft Banking Code (Article 119 on bank advertising) and/or to include it in the more coherent regulation on information that must be provided by banks that is recommended in Section B.5. However, consideration should be given to whether, given the current state of stability in the financial system, the ability to enforce any private guarantees, and the low level of financial literacy, the advertising of other kinds of guarantees might be likely to cause damaging confusion. It is unlikely that most consumers are able to differentiate between the state-backed guarantee scheme and claims of other kinds of guarantee, and they will certainly not have the sophistication to consider whether a relationship between the bank and the insurer is appropriate. (Indeed, this may be beyond the capacity of consumers even in populations with far higher financial literacy levels.) It may be most appropriate to restrict any advertisement of guarantees other than those provided by the Deposit Protection Agency for the present.

Recommendation

The DPA and NBKR, with the participation of banks and the banks union, should develop standard language that can be used in printed bank materials and in other forms of advertisement to provide brief and accurate information about the limits of the deposit insurance guarantee and contact information for the Agency. See also the recommendations in section F.1.

Given low levels of financial literacy, low awareness of the relatively new state-sponsored deposit guarantee system, and a lack of capacity on the part of NBKR or other bodies to verify the adequacy and reliability of private insurance schemes, advertisement of guarantees other than the new deposit guarantee system should probably be delayed until a later time. This could be accomplished by means of a direct prohibition or by a provision requiring the review and approval of any guarantee statement by NBKR prior to its use, including an evaluation of the reliability and legal enforceability of the advertised guarantee.

B.10. Professional Competence

Good Practice

a. In order to avoid any misrepresentation of fact to a consumer, any bank staff member who deals directly with consumers, or who prepares bank advertisements (or other materials of the bank for external distribution), or who markets any service or product of the bank should be familiar with the legislative, regulatory and code of conduct guidance requirements relevant to his or her work, as well as with the details of any product or service of the bank which he or she sells or promotes.

b. Regulators and associations of banks should collaborate to establish and administer minimum competency requirements for any bank staff member who: (i) deals directly with consumers, (ii) prepares any Key Facts Statement or any advertisement for the bank, or (iii) markets the bank's services and products.

Description

a. & b. The law "On Banks and Banking Activity" requires that bank management and senior officers, as well as directors on bank boards, meet minimum qualification requirements established by the NBKR (Articles 14 & 24) and makes the appointment of bank officers subject to the approval of NBKR (Article 25-1).

Law and regulations do not address the knowledge or qualifications of bank staff members in general, or specifically those of bank staff members dealing with the public or those who may be involved in specific marketing or advertising activities or the preparation of specific documents used in banking operations. NBKR rules On the Minimum Standards for Management of Operational Risks by Banks do require banks to have in place policies concerning minimization and oversight of operational risks, including risks related to inadequate training of personnel. Adequate education and training of staff is recommended as a means to reduce operational risk (point 3.1.4) and banks are required to review and oversee the education and continuing training of bank staff (point 4.5). Monitoring of operational risks and the measures taken to control them must be in place, and recommendations include the use of measures that would be capable of signaling a problem with staff training, such as the number of errors in documentation, rates of staff turnover, and others (point 3.5). The focus of such monitoring, however, is not to determine whether accurate information is being adequately conveyed to consumers in their interactions with bank staff or whether bank staff members are following regulations in advertising and document preparation. It is rather the avoidance of losses to the bank and the recommended form for reporting that is appended to the rules would not encompass instances of misrepresentation to consumers unless this resulted in a fine on the bank or other form of loss.

Banks indicated that they have internal guidelines for the behavior of their staff and for the presentation of information in regarding to each of the types of products or services offered. As there is little or no specific information on consumer complaints to banks, there is no means to determine how often consumers feel that they have been given inaccurate or incomplete information about bank products and services. Banks did not report this as a common subject of consumer complaint. Most complaints received by NBKR directly are reported to concern credit difficulties, and while it is possible that failures of proper explanation or description of the credit products contributed to some of these instances it is not clear at this time how often that may have been a factor.

The Union of Banks of Kyrgyz Republic has established a training center that offers training on a variety of subjects for staff of banks and non-bank credit institutions. At present the training center is described as focusing on the middle and higher echelons of bank staff rather than regular bank staff dealing with consumers.

Recommendation

First priority at the present time should be given to the establishment of clear institutional structures and institutional responsibility for consumer protection in banking, and to the creation of a more coherent and complete set of consumer protection rules, including those concerning advertising and provisions of information to consumers by bank staff and in bank documents. As the new NBKR unit responsible for consumer protection is established and begins its work, it should monitor the types and causes of consumer problems and also review information from bank supervision processes concerning bank implementation of staff training programs and operational risk monitoring in that area. On the basis of this information, it may be appropriate for the unit to cooperate with the Union of Banks to design and offer training classes for bank staff on newer rules or in areas where consumer complaints or bank reporting indicate that better training is needed. Detailed regulatory or association requirements and attestation for minimum competency of customer-facing bank staff or staff working with specific documents (advertising, key fact statements) should not be a first order priority until clear legal/regulatory standards are in place and may not be necessary unless there is indication of a systemic problem with inaccurate statements to consumers.

Section C. Customer Account Handling and Maintenance

C.1. Statements

Good Practice

a. Unless a bank receives a customer's prior signed authorization to the contrary, the bank should issue, and provide the customer free of charge, a monthly statement of every account the bank operates for the customer.

b. Each such statement should: (i) set out all transactions concerning the account during the period covered by the statement; and (ii) provide details of the interest rate(s) applied to the account during the period covered by the statement.

c. Each credit card statement should set out the minimum payment required and the total interest cost that will accrue, if the cardholder makes only the required minimum payment.

d. Each mortgage or other loan account statement should clearly indicate the amount paid during the period covered by the statement, the total outstanding amount still owing, the allocation of payment to the principal and interest and, if applicable, the up-to-date accrual of taxes paid.

e. A bank should notify a customer of long periods of inactivity of any account of the customer and provide a reasonable final notice in writing to the customer if the funds are to be treated as unclaimed money.

f. When a customer signs up for paperless statements, such statements should be in an easy-to-read and readily understandable format.

Description

a. & b. There are no general rules that would require banks to provide periodic statements to consumers on all types of accounts. Rules on payment card accounts, which cover both debit card accounts and credit cards, do require statements to be provided to clients at least once a month containing information on the transactions in the account and the balance. Interest is not specifically mentioned in the statement requirement, although if charged or credited it would presumably appear as a transaction. (These rules appear in point 5.4 of the Provision on Payment Cards, discussed in detail in C.5, below). The rules do not require that the statement be provided in any particular form, but the means for its provision must be specified in the contract for the account. Existing rules on account handling in general, including deposit accounts, do not appear to contain any corresponding requirement for regular statements in relation to deposit accounts.

The rules on payment cards do not contain any requirements related to statements for transactions using an overdraft, which may be provided by the bank on payment accounts assigned through "salary projects" in which salary payments go directly into the account. Separate rules on overdraft credit require that the payment for the overdraft and interest on its use be made by the bank automatically from funds deposited into the account, in the manner provided by the contract with the account holder. The statement should provide clarity on the payments, the application of the interest rate to the overdraft, and if repayment of the overdraft over time is permitted (as opposed to immediate coverage by the next salary deposit), information on how long it will take to cover an existing overdraft and how much in total will have been paid in principal and interest.

c. There are no detailed rules regulating the content of statements for a credit card account and credit cards are not widely used or available in the Kyrgyz Republic at this time. See also C.5., below.

d. Despite significant attention in recent years to the lending process and the provision of adequate information to borrowers, there is no requirement that banks provide individual borrowers with periodic statements of account in any form. Borrowers are required to receive a detailed schedule of all payments on a consumer loan at the time that the loan contract is signed, showing the components of each payment, the date it must be made and the balance that will remain on the loan after each payment. Provided that a borrower makes payments as scheduled, these documents would serve some of the purposes served by periodic statements, although they would not provide timely reminders of payment due or reflect any additional charges or changes in the account (such as a penalty for late payment). In relation to "problem" credit that has become overdue, banks are required to take measures to work with the borrower. Such measures may (but are not required to) include a notice to the borrower that the conditions of the contract have been violated and what the possible problems/consequences associated with this may be. Notice must also be provided if the bank intends to execute against property provided as security.

e. General rules on account handling allow a bank to close an account when there are no funds in the account and/or there have been no transactions in the account for the period specified in the contract. A contract may also specify a minimum amount of funds to be maintained in the account and the right of the bank to close the account if the amount of funds falls below the minimum. In such instances, the bank must inform the client at least one month in advance of any closure of the account. (Point 54 of the NBKR Instructions on Work with Bank Accounts and Deposit Accounts)

f. Because there is no existing practice of provision to individual consumers of detailed paper statements on accounts and internet banking is not generally available to individual consumers, the provision of "paperless statements" in the form of an electronic copy of such a detailed statement provided through email or internet banking connections is not available. Other kinds of electronic statements, however, in the form of balance inquiries and recent transaction records obtained through bank ATM terminals are available to payment card holders and payment card contracts may specify this form of provision of statements. Some banks are also offering SMS notification services on accounts, providing notification of transactions.

Recommendation

a.-b. Banks must be required to provide customers with periodic statements of account that are sufficient for customers to manage their personal finances, monitor account activity, and take timely action to correct mistakes or other problems in their accounts. NBKR should monitor the provision of statements on payment accounts to ensure that consumers are receiving sufficient information in a timely manner and should issue more detailed requirements if necessary.

Overdraft arrangements should be subject to more detailed statement requirements than simpler payment card accounts, requiring clear statements of the interest rate applied, the payments taken to cover the overdraft and their division into principal and interest, and (if applicable) the number of additional payments that will be required to cover the overdraft and the amount that will be paid in interest over the entire period.

Rules are needed on the provision of statements/account information on deposit (savings) accounts to establish minimum reporting requirements. These should be appropriate to the type and term of the account, but at a minimum should require a bank to notify a consumer within a stated period of the maturity of a time deposit contract concerning the upcoming maturity, the consumer's options, and the fact that money left in the deposit account beyond the date of maturity will be subject to the lower "upon demand" interest rate (if this is applicable).

c. More detailed rule will be needed in regard to statements on credit card accounts when those accounts begin to be more available to consumers.

d. Clearer rules are needed in relation to banks reporting obligations to consumer borrowers with respect to loan accounts as well as borrowers rights to receive statements on request. At a minimum, consumers should receive notice (a statement) at any time that any additional charge is applied to the account or and at any time that the repayment amounts or schedules change (for example due to late repayment penalties or to early repayment of part of the loan).

e. Rules concerning notice on the closure of accounts appear adequate, provided that the required notice is clear concerning the actions the consumer may take and the means by which money left in an account that is closed may be repaid to the consumer. NBKR should monitor the implementation of these kinds of contractual rules to ensure that they do not contain balance or activity requirements that are unrealistic for individual consumers, especially when these are combined with high fees for account maintenance and/or reopening of closed accounts.

f. NBKR should monitor the forms of electronic statements to ensure clarity and completeness for consumers. This may be especially important in relation to mobile banking services. It may be appropriate for NBKR to establish minimum standards for the availability of account information for consumers who access their accounts primarily through mobile banking arrangements. There should always be a reliable and reasonably rapid means for a mobile banking consumer to obtain a paper document reflecting the transactions in their accounts, even if this is not the means used for regular statements.

C.2. Notification of Changes in Interest Rates and Non-interest Charges

Good Practice

a. A customer of a bank should be notified in writing by the bank of any change in:

   (i) The interest rate to be paid or charged on any account of the customer as soon as possible; and

   (ii) A non-interest charge on any account of the customer a reasonable period in advance of the effective date of the change.

b. If the revised terms are not acceptable to the customer, he or she should have the right to exit the contract without penalty, provided such right is exercised within a reasonable period.

c. The bank should inform the customer of the foregoing right whenever a notice of change under paragraph a. is made by the bank.

Description

a. Current law is not entirely clear on the nature of notice that must be provided to banking clients concerning changes in terms applying to their accounts. Article 50, part 3 of the Law on Banks and Banking Activity states that a bank must "explain to its client or send in written form each time information concerning changes in the conditions of service concerning each concrete client, including: (1) information on the paid services provided by the bank; (2) information on the amount of payment for services provided, including credit; (3) information on the interest rates and conditions for payment on deposits; (4) the procedure and periods for the consideration of client complaints; (5) other conditions for the conduct of banking operations. " It is not clear when or how the option to explain changes to a client can take the place of written notice of change, and it does not appear that banks, in practice, are sending written notices to clients concerning every change in the conditions for the conduct of banking operations that might affect that specific client.

   The draft Banking Code would abandon language concerning written notice, at least as a general principle of bank-client relationships. Article 7, part 4 of the draft Code provides that changes in the general conditions or the provision of banking services must be published in the mass media or on the website of the bank not less than thirty calendar days before the change enters into force, and must also be available on information stands in the bank's branches. As an exception to this rule, changes in interest rates and in exchange rates must be published "immediately," presumably through the same means, although what qualifies as immediate is not defined in the draft Code. Under this kind of notice provision, consumers who do not continually monitor the bank's web site or the press for change announcements or those who do not have access to the Internet or the mass media in which the change is announced may not receive any notice of changes affecting them until the effects of those changes appear in their accounts.

Unilateral changes in terms and conditions that are directly reflected in the contract with the bank are prohibited by general civil law rules on contract and by Article 50, part 4 in relation to deposit contracts. Some provisions of law and of regulations, however, do envision the possibility for banking contracts themselves to include the possibility for variable interest rates. Article 36, part 2 of the law "On Banks and Banking Activity" provides that banks may, by agreement with their clients, periodically adjust the interest rate on deposits or credits depending upon the economic situation. This must, however, be reflected in the contract between the bank and the client. Point 40 of the Provision "On the Minimum Requirements for the Management of Credit Risk" likewise prohibits the unilateral change of the initial conditions of a credit contract, with the exception of cases when this is directly provided for in the credit contract. Point 40 does on to specify that this must include the statement of the period for notice to the client and a statement of a limited list of the concrete articles and conditions that may be changed and the minimum and maximum boundaries for such changes. Although these provisions would authorize the use of variable rate loans, bank advertisements and brochures review for the diagnostic did not indicate that variable rates are commonly offered.

Although they were requested both at diagnostic review meetings with banks, copies of standard contracts for deposit accounts or loan accounts could not be obtained for review. It is therefore not clear whether those contracts may contain provisions on periodic adjustment of fees or interest rates on accounts and whether other adjustments may be envisioned.

b. There do not appear to be any rules requiring that a customer be given any particular rights to withdraw from a contract in the event of a change in rates or fees that is not acceptable to the customer. Since provisions of the contract itself cannot be unilaterally changed, such a right would have to apply either to changes in other (general) conditions for the provision of banking services that affect the customer in relation to the contract or to a change envisioned in a contract with variable rates.

   With respect to credit contracts, customers have a right to pay off the contract early at any time without penalty, provided they provide at least 30 days notice to the bank. Such consumers would have to receive actual notice of a change a good deal more than 30 days in advance if this provision were to protect them from changes that they find unacceptable. In practice, however, full early repayment is rarely an option for consumer borrowers, so the right of early repayment without penalty is not an effective protection against objectionable changes.

c. As unilateral changes in contract conditions are prohibited and there is no general legal right for consumers to withdraw from contracts without penalty if the contract itself envisions changes or if other changes affect their accounts, there is no requirement for notification to consumers of such a right.

Recommendation

Rules on notice of changes affecting consumer accounts are very much in need of clarification. Legal rules in this area should require direct notice to consumers of any change in the fees, interest rates or other charges that are directly applicable to their accounts. Notice by publication is unlikely to be effective and should not be permitted. As a rule, notice of changes should be required to be written, and all changes in interest rates on variable rate loans and deposits should be notified in writing. Appropriate exceptions may need to made, however, in relation to notifications in mobile banking terms or notifications made in areas with limited postal delivery services. Such exceptions should, however, to the maximum extent possible provide for actual notice directed to the individual consumer (through messaging or other communication, for example) rather than constructive notice by general posting or publication. Rules should distinguish appropriately between changes directly affecting a consumer account and changes in general terms and conditions of service.

C.3. Customer Records

Good Practice

a. A bank should maintain up-to-date records in respect of each customer of the bank that contain the following:

   (i) a copy of all documents required to identify the customer and provide the customer's profile;

   (ii) the customer's address, telephone number and all other customer contact details;

   (iii) any information or document in connection with the customer that has been prepared in compliance with any statute, regulation or code of conduct;

   (iv) details of all products and services provided by the bank to the customer;

   (v) a copy of correspondence from the customer to the bank and vice-versa and details of any other information provided to the customer in relation to any product or service offered or provided to the customer;

   (vi) all documents and applications of the bank completed, signed and submitted to the bank by the customer;

   (vii) a copy of all original documents submitted by the customer in support of an application by the customer for the provision of a product or service by the bank; and

   (viii) any other relevant information concerning the customer.

b. A law or regulation should provide the minimum permissible period for retaining all such records and, throughout this period, the customer should be provided ready access to all such records free of charge or for a reasonable fee.

Description

a.& b. Article 60 of the law "On Banks and Banking Activity" requires banks to provide for strict account and proper retention of documents used in financial reporting and other required reporting, making the head and chief accountant of a bank responsible for this task. Although this language might suggest that only a limited number of reporting documents must be retained, the list of documents and required periods for their retention issued by the NBKR is extensive. The current rules are provided by Decree No. 22/9 of the Board of the NBKR "On the List of Basic Documents Created During the Activity of Commercial Banks and Financial-Credit Organizations Licensed by the National Bank of the Kyrgyz Republic, with Statement of the Periods for their Retention" issued in 2004. The instructions for the List state as its purposes not only the rational organization of work with documents and provision for their preservation, but also the protection of the legal interests of the creditors, depositors and clients of banks and financial institutions (point 1.2 of the Appendix to the List).

The List includes most of the documents that are created and used in the day-to-day operations of banks and in the work of their managements, ranging from management plans and predictions to records of employee training to customer communication and account records and transactions receipts for specific operations. It is organized by type of operation or activity and contains a list of documents created during that activity and a period for the retention of each type of document. Section 6.3, for example, concerns deposit operations and lists 18 types of documents and their retention periods including deposit contracts (10 years), alphabetical lists of personal deposit accounts (5 years), correspondence about deposit accounts with their holders (10 years), and the bank's registration book for lost deposit books and bank cards on deposit accounts (15 years). The List and its accompanying instructions are not organized so as to group requirements concerning the records of a specific customer together, but taken together the listed documents would include most or all of the information listed in parts a.(i)-a(viii) of this good practice description. Given the differing terms for retention of various types of records concerning a single customer's account, however, and the probability that such records may be archived according to their type and period for retention, questions may arise concerning the ease with which a bank could compile full information on its dealings with a specific customer. The List and its instructions do not contain requirements concerning customer access to bank records.

With respect to credit, NBKR rules on the "Minimum Requirements for the Management of Credit Risk" contain very specific and inclusive instructions concerning the information and documents on credit applications in general and on a specific client that must be created and maintained. All applications for credit, for example, (whether accepted or rejected) must be registered in a journal and retained, along with information on the client, for a period of not less than 15 years. (Point 20) A credit dossier on a specific borrower is required to contain all documents related to loans to that client beginning with the application and supporting information and to include all correspondence with the borrower and notation of every meeting, discussion and telephone call related to the credit. (Points 36 and 37). The rules require that a credit contract include a provision obligating the bank to provide a borrower within three days of a request with information on the receipt of the credit and the borrowers payment discipline for presentation by the borrower to any other financial-credit institution (point 42) but do not otherwise concern client access to the bank's records, rights to copies, or the costs that may be imposed.

Recommendation

a. & b. Although there are extensive rules concerning the retention of bank records, including most records related to bank dealings with each individual customer, the rules are not focused on the retention of a unified record reflecting all of a bank's dealings with a specific client and do not provide banking customers with clear rights of access to the records in general or to copies of those records. Although electronic document creation and record keeping may make the linking and retrieval of all records for a specific customer substantially easier than for any records kept on paper, archiving and retention rules that do not organize records by customer may complicate access to older records. NBKR should impose clear rules on this issue to ensure that consumers have appropriate access to their own banking records. A section on the availability of consumer banking records and consumers' access rights (including reasonable charges where appropriate) could be included in the more coherent and unified normative legal act on consumer rights that is recommended above.

C.4. Paper and Electronic Checks

Good Practice

a. The law and code of conduct should provide for clear rules on the issuance and clearing of paper checks that include, among other things, rules on:
   (i) checks drawn on an account that has insufficient funds;
   (ii) the consequences of issuing a check without sufficient funds;
   (iii) the duration within which funds of a cleared check should be credited into the customer's account;
   (iv) the procedures on countermanding or stopping payment on a check by a customer;
   (v) charges by a bank on the issuance and clearance of checks;
   (vi) liability of the parties in the case of check fraud; and
   (vii) error resolution

a. A customer should be told of the consequences of issuing a paper check without sufficient funds at the time the customer opens a checking account.

b. A bank should provide the customer with clear, easily accessible and understandable information regarding electronic checks, as well the cost of using them.

c. In respect of electronic or credit card checks , a bank should inform each customer in particular:
   (i) how the use of a credit card check differs from the use of a credit card;
   (ii) of the interest rate that applies and whether this differs from the rate charged for credit card purchases;

(iii) when interest is charged and whether there is an interest free period, and if so, for how long;

(iv) whether additional fees or charges apply and, if so, on what basis and to what extent; and

(v) whether the protection afforded to the customer making a purchase using a credit card check differs from that afforded when using a credit card and, if so, the specific differences.

d. Credit card checks should not be sent to a consumer without the consumer's prior written consent.

e. There should be clear rules on procedures for dealing with authentication, error resolution and cases of fraud.

Description

a. – f. inclusive Customers are currently offered a limited range of products and services by banks, which do not include use of paper or electronic checks or the issuance of credit card checks that would allow payments to be drawn by a written check on a credit line. Article 51 of the law "On Banks and Banking Activity" does list checks as among the payment instruments that banks in the Kyrgyz Republic may use, that article is simply an authorizing provision for the use by banks in Kyrgyz Republic of "any system of settlement accepted in international banking practice." It does not appear that expansion of services in this direction is likely and additional payment options offered to banking consumers in the short to medium term are likely to be based on the expanded use of payment cards and the introduction of mobile banking services. This eliminates any immediate need for detailed regulation of the use of checks. If additional services begin to be offered more widely by banks, the banking regulator will need to expand rules and instructions as required in order to supplement the application of general rules to the new products and services. This should not, however, be a priority at this time. The first order priority should be improvement of consumer protection regulations in respect to the payment card, deposit, and loan accounts that are currently available to consumers and appropriate framework regulation to protect consumers as electronic payments services and mobile banking services expand.

Recommendation

General rules protecting consumers of banking services, including additional rules recommended for adoption in this document, should apply to protect consumers using any paper or electronic check services that begin to be offered by banks, as well as to other new forms of banking products. If those products become more widely available to consumers, NBKR should monitor bank performance and any problems revealed by consumer complaints, and should adopt more detailed rules concerning their terms, authentication methods, fraud prevention measures and other matters as required by the services offered.

C.5. Credit Cards

Good Practice

a. There should be legal rules on the issuance of credit cards and related customer disclosure requirements.

b. Banks, as credit card issuers, should ensure that personalized disclosure requirements are made in all credit card offers, including the fees and charges (including finance charges), credit limit, penalty interest rates and method of calculating the minimum monthly payment

c. Banks should not be permitted to impose charges or fees on pre-approved credit cards that have not been accepted by the customer.

d. Consumers should be given personalized minimum payment warnings on each monthly statement and the total interest costs that will accrue if the cardholder makes only the requested minimum payment.

e. Among other things, the legal rules should also:

   (i) restrict or impose conditions on the issuance and marketing of credit cards to young adults who have no independent means of income;

   (ii) require reasonable notice of changes in fees and interest rates increase;

   (iii) prevent the application of new higher penalty interest rates to the entire existing balance, including past purchases made at a lower interest rate;

   (iv) limit fees that can be imposed, such as those charged when consumers exceed their credit limits;

   (v) prohibit a practice called ―double-cycle billing‖ by which card issuers charge interest over two billing cycles rather than one;

   (vi) prevent credit card issuers from allocating monthly payments in ways that maximize interest charges to consumers; and

   (vii) limit up-front fees charged on sub-prime credit cards issued to individuals with bad credit.

f. There should be clear rules on error resolution, reporting of unauthorized transactions and of stolen cards, with the ensuing liability of the customer being made clear to the customer prior to his or her acceptance of the credit card.

g. Banks and issuers should conduct consumer awareness programs on the misuse of credit cards, credit card over- indebtedness and prevention of fraud.

Description

a. Credit cards are not widely used in the Kyrgyz Republic, and are just beginning to be offered to individuals. Payment cards, some bearing the logos of international payments systems, are issued by a number of banks, but in most cases these operate as debit cards requiring that a client deposit money in the account before using the card and limiting purchases to the amount in the account. Prepaid cards containing a set amount of credit are also available in some instances. Legal rules concerning the use of credit cards are quite limited. The Provision on Bank Payment Cards in the Kyrgyz Republic, issued by NBKR, does cover credit cards as well as debit cards attached to an account and prepaid cards carrying a specific amount of credit, although its provisions are designed more appropriately for the latter two types of account.

Point 5.4 of the Provision requires that contracts for all kinds of payment cards include the following:

(i) personal information on the owner of the account sufficient to identify them conclusively;

(ii) personal information on the card holder sufficient to conclusively identify them conclusively;

(iii) the rights, duties and liability of the card holder and of the issuer in relation to operations with the card;

(iv) the types and amounts of commissions to be paid;

(v) the period and means for provision of a statement on the movements in the account and the amount remaining in it (with a minimum of at least once a month);

(vi) basic requirements for maintenance of security by the holder of the card (use of the PIN-code, limits, required actions of the holder in the case of loss or theft of the card);

(vii) procedure for informing the issuer concerning loss, theft or use of the card by an unauthorized person;

(viii) liability of the parties in the case of loss, theft or use of the card by an unauthorized person;

(ix) conditions that will result in the blocking or withdrawal of the card by the issuer;

(x) risks of the parties in the case of violation of security procedures or of the other conditions of the contract;

(xi) the procedure for consideration of disputes; the procedure for the termination of the contract.

There are no requirements stated in the Provision concerning the content of the required provisions of the contract (with the exception of the once per month minimum for statements).

f. Point 5.4 of the Provision requires that dispute resolution procedures be included in the contract, along with terms on the liabilities and risks of the parties in cases of theft, loss, or fraud. In addition, point 3.16 requires that there be a procedure in place for the resolution of issues related to mistakes or fraudulent payments identified after the payment has been completed. This procedure is not intended to regulate disputes between the card holder and the business that accepted the card, which are to be governed by other legislation of the Kyrgyz Republic. Point 3.18 notes that a card holder may notify the emitting bank concerning a problem and request a "chargeback" within the rules applicable to the payments system, but that if such notifications are made outside the required timeframe, they will not be considered. None of these legal provisions regulate the content of dispute resolution rules or set any minimum standards other than to require that they be in accord with the rules of the payments system being used.

b. – e. & g. The Provision does not regulate the content of credit card offers and advertising, substance of billing practices, calculation of interest, advertising or provision of credit cards to minors, or any of the other issues listed in items b.-e. and of the good practice description. Since credit cards have not been available in the Kyrgyz Republic, these issues and abuses have not arisen as matters to be regulated. It is possible that a credit card might be treated as accessing a credit line extended under the terms of legal rules concerning credit, which would impose some specific requirements concerning provision of information to the client about the costs of the credit and other matters. But the terms of the existing rules (in the Minimum Requirements for Management of Credit Risk) are very poorly designed to apply to a credit card account as opposed to a simple loan, so this would not resolve the lack of appropriate legal regulation and would cause additional confusion about legal requirements.

Some of the provisions of the draft law "On the Payments System" would apply to the use of credit cards, including Article 15's definitions of the point at which payments can no longer be repudiated by the sender or emitting bank and the point at which the payments become final.

Recommendation

NBKR will need to develop and issue appropriate regulatory instructions governing the advertising, issuance and use of credit cards and the requirements for bank billing, notification and dispute resolution practices. To avoid confusion, rules concerning credit cards should be separated from those that apply to prepaid cards and debit cards, to allow the rules to clearly address concerns that arise from the fact that use of a credit card carries different risks and complications for consumers (interest charges, over-indebtedness risk) and also for banks. Basic rules designed to protect consumers using credit cards are important and should be in place before bank offers of credit to consumers through credit card agreements become common. However, their development and passage should not take priority over consumer protection rules related to the kinds of accounts and services that are currently being widely used by consumers.

C.6. Internet Banking and Mobile Phone Banking

Good Practice

a. The provision of internet banking and mobile phone banking (m-banking) should be supported by a sound legal and regulatory framework.

b. Regulators should ensure that banks or financial service providers providing internet and m-banking have in place a security program that ensures:

   (i) data privacy, confidentiality and data integrity;

   (ii) authentication, identification of counterparties and access control;

   (iii) non-repudiation of transactions;

   (iv) a business continuity plan; and

   (v) the provision of sufficient notice when services are not available.

c. Banks should also implement an oversight program to monitor third-party control conditions and performance, especially when agents are used for carrying out m-banking.

d. A customer should be informed by the bank whether fees or charges apply for internet or m-banking and, if so, on what basis and how much.

e. There should be clear rules on the procedures for error resolution and fraud.

f. Authorities should encourage banks and service providers to undertake measures to increase consumer awareness regarding internet and m-banking transactions.

Description

a. – f. generally Internet banking services are not widely available to consumers in the Kyrgyz Republic, although a few banks have begun to offer internet banking services for business and high-income individual clients. Most other forms of mobile banking are not yet available at all. There is, however, very strong interest in the development of mobile phone banking as a means to provide services to the large mass of currently unbanked consumers. The mobile phone networks have wide coverage and voice and text services are reported to be affordable and widely used, making this a potentially promising direction for rapid expansion of access to banking services. Although the legal and regulatory frameworks are not yet well developed, work on this is in process.

The draft law "On the Payments System in the Kyrgyz Republic" contains basic provisions concerning internet and mobile phone banking, as well as any other form of electronic banking. The draft law requires that contracts for such services include the conditions and procedures for: receipt of information concerning account balances and deposits into the account; receipt of a record of recent transactions; payments from the account into other accounts (both in the same bank and at other banks); receipt of cash from and deposit of cash into the account; change in personal identification code; money transfers; any other operations that can be performed and do not violate applicable rules. (Article 14, point 1)

Contracts must include provisions requiring mandatory registration of the client within the bank and identification of the client using connected information within the bank's mobile banking system. The client's account number may not be directly transmitted in notifications made through mobile banking and banks must provide for the safety and confidentiality of information, including through the use of multi-level identification codes for the client, such as differing codes for different types of transaction or notice and confirmation codes at each stage of a transaction. (Article 14, part 2)

The draft law also contains rules defining the point at which various kinds of payments can no longer be repudiated by the sender and the point at which a payment is considered to have been completed. (Article 15)

b. Specific requirements for security programs to be used in internet and mobile banking operations, business continuity plans, or notice concerning service interruptions are not addressed by rules available for review for this diagnostic.

c. The draft Law on the Payments System generally makes banks responsible to clients for conduct of operations by bank agents, creating an incentive for banks to monitor performance of agents and payments systems with which they contract. It does not specify the means by which such monitoring is to take place. The Law also emphasizes the role of NBKR in regulation, monitoring and oversight of the payments system.

d. The provisions of the draft law do not specifically require that consumers be informed concerning whether fees apply for the use of internet or mobile banking payments (with the exception of money transfers). General provisions on required terms of contracts should apply to require this, but it may be appropriate for normative legal rules supplementing the law to provide clarity on this issue. The issue could also be dealt with in the regulation on disclosure of information to consumers that is discussed in B.7.

e. The draft law "On the Payments System" requires that the rules of a payments system include a separate procedure for investigation of instances when a payment is recognized as mistaken or fraudulent after at has become final and return of the money. The rules for resolution of disputes concerning such payments must be established in the contract between the client and the bank, and also in the procedures for the work of the corresponding payments system. The draft law does not, however, contain any limitations or requirements concerning the content of those rules designed to protect consumers using the services. (Article 15, part 7) The law places general responsibility on the client for their correct use of the system and completion of payment documents and instructions, and envisions that this will be governed by other normative legal acts. (Article 16, part 1)

Recommendation

A first priority at the present time should be improvement of consumer protection in relation to the types of accounts and services that are currently offered to consumers in the Kyrgyz Republic. However, it is clear that the types of services are beginning to expand, and also that mobile banking services in particular are likely to be an important part of plans to increase the access of Kyrgyz citizens to banking services. The NBKR should begin now to develop rules and instructions regulating the provision of these services to consumers and standards for data protection and other relevant requirements. Given the difficulties experienced by the banking system in recent years and the correspondingly low levels of consumer trust in banking services, it will be quite important for effective consumer protection standards on mobile banking to be in place as those services are rolled out to the population. Significant consumer difficulties with mobile banking services could frustrate plans to make mobile banking a strong component of systemic development and expansion of financial inclusion.

C.7. Electronic Fund Transfers and Remittances

Good Practice

a. There should be clear rules on the rights, liabilities and responsibilities of the parties involved in any electronic fund transfer.

b. Banks should provide information to consumers on prices and service features of electronic fund transfers and remittances in easily accessible and understandable forms. As far as possible, this information should include:

   (i) the total price (e.g. fees for the sender and the receiver, foreign exchange rates and other costs);

   (ii) the time it will take the funds to reach the receiver;

   (iii) the locations of the access points for sender and receiver; and

   (iv) the terms and conditions of electronic fund transfer services that apply to the customer.

c. To ensure transparency, it should be made clear to the sender if the price or other aspects of the service vary according to different circumstances, and the bank should disclose this information without imposing any requirements on the consumer.

d. A bank that sends or receives an electronic fund transfer or remittance should document all essential information regarding the transfer and make this available to the customer who sends or receives the transfer or remittance without charge and on demand.

e. There should be clear, publicly available and easily applicable procedures in cases of errors and frauds in respect of electronic fund transfers and remittances

f. A customer should be informed of the terms and condition of the use of credit/debit cards outside the country including the foreign transaction fees and foreign exchange rates that may be applicable.

Description

There is a significant market for the transmission of remittances from the Kyrgyz Republic's large migrant labor population, and money transfers are one of the most commonly used banking services. In addition, consumers can make payments for utilities and other services through money transfers directly to the service provider through banks, post offices, and a number of payments system operators who operate "cash in" terminals that accept cash for such payments. The market appears to be quite competitive, with services available through a number of money transfer systems. Banks often offer their customers a choice among a number of transfer systems with differing costs and conditions.

Counterparts generally agreed that problems and complaints concerning both remittances and payments transfers are not a common occurrence. At the same time, NBKR has expressed a desire to increase its oversight over payment flows and the payments system in general, for the purposes of combatting money laundering and also for the protection of consumers. In connection with this, payments system operators and participants also expressed concern, both about the possibility that new rules require more bank involvement in payments systems and may increase costs and damage existing networks and about the rules that should apply concerning liability in the case of mistakes or frauds.

a. Rules on money transfers are currently provided by the Rules for the Conduct of Money Transfers Through the System for Money Transfers in the Kyrgyz Republic, issued by NBKR. The rules cover a number of aspects of money transfers, including the information to be provided to consumers (users of the transfer system), but do not set other minimum standards or govern the rights and responsibilities of the parties for purposes of protection of consumers.

b. Point 3.4 (1) of the Rules requires an operator of a payment system to "provide for the transparency of the system for money transfers, to provide the sender and recipient with the opportunity to receive information on the services prior to their use (including commissions, speed of completion of the money transfer, exchange rate and so on) and to provide for adequate protection of the consumer." Subpoint (3) of the same point requires an operator to have in place a "rational, predictable and non-discriminatory" set of rules and regulations. The purpose of these regulations, however, is to be "above all, the prevention of money laundering and the financing of terrorism." Operators are to meet the requirements of the "know your client" principles of FATF for this purpose.

Participants in the payment system that carry out the individual transfers are generally required to inform the sender and/or recipient about the rules for transfers, provide all necessary documentation, verify their identities, and ensure that they correctly provide the information required. (Point 4.5) Participants are specifically required to inform the sender of a transfer about:

(i) the sum that will be paid to the recipient;

(ii) the sum of commissions that must be paid by the sender and/or recipient;

(iii) the exchange rate;

(iv) the date and time that the money will be available to the recipient;

(v) the place where the money will be available to the recipient;

(vi) other information necessary to the sender.

Participants are required to identify a recipient and check all of the stated parameters and to refuse to issue money if all parameters are not met. They are required to keep records identifying the sender and receiver of transfers, with all other information, including the purpose of the transfer. (Point 4.9)

A draft law "On the Payments System in the Kyrgyz Republic" that is now in the process of passage contains some general provisions on money transfers. Under Article 5 of the draft law bank-participants in the money transfer system are generally required to inform the sender and recipient about the rules for the money transfer, to provide the necessary documents, and to verify the identity of the sender and/or recipient and ensure that that they correspond to the requisite information for the transfer. The bank is specifically required to inform the sender of a transfer about:

(i) the sum that will be paid to the recipient;

(ii) the fees to be paid by the sender and/or recipient;

(iii) the exchange rate;

(iv) the date and time that the money will be available to the recipient; and

(v) the place(s) where the money can be received.

c. – d. Neither the existing Rules nor the provisions of the draft law specifically require banks (participants in the transfer system) to review all of the different types of transfers and their costs with a sender prior to their use of the system. Although records are required to be kept, neither document addresses the question of when and how documentation is to be provided to a sender or recipient and whether a charge may be made for this.

e. Rules must be in place to resolve problems of mistake or fraud that are discovered after a payment has become final, but the draft law does not contain any substantive requirements for the content of such rules.

f. Rules concerning money transfers do not deal with issues related to the use of credit cards abroad and this issue would be more appropriately dealt with within the rules governing the use of credit cards. Credit cards are not in wide use in the Kyrgyz Republic and the existing rules regarding bank payment cards do not address this issue.

Recommendation

The NBKR should, in connection with the passage of the draft law on the payments system and with the participation of those providing payments services, consider the issuance of rules containing minimum standards for consumer protection in relation to money transfers. These rules should more clearly define the information that must be made available to consumers prior to use of the service, the form and content of records and of documents (receipts) that must be provided to senders and recipients, and clear rules concerning the minimum protections for consumers (senders and recipients) in the case of mistake or fraud.

C.8. Debt Recovery

Good Practice

a. A bank, agent of a bank and any third party should be prohibited from employing any abusive debt collection practice against any customer of the bank, including the use of any false statement, any unfair practice or the giving of false credit information to others.

b. The type of debt that can be collected on behalf of a bank, the person who can collect any such debt and the manner in which that debt can be collected should be indicated to the customer of the bank when the credit agreement giving rise to the debt is entered into between the bank and the customer.

c. A debt collector should not contact any third party about a bank customer's debt without informing that party of the debt collector's right to do so; and the type of information that the debt collector is seeking.

d. Where sale or transfer of debt without borrower consent is allowed by law, the borrower should be:

(i) notified of the sale or transfer within a reasonable number of days;

(ii) informed that the borrower remains obligated on the debt; and

provided with information as to where to make payment, as well as the purchaser's or transferee's contact information.

Description

a.- d. There are no legal or regulatory provisions specifically defining or restricting abusive debt collection practices. According to information provided by counterparts during the diagnostic review, third party debt collection and sale of the debts of individual borrowers to others are not currently practiced in Kyrgyz Republic. They are not, however, specifically prohibited by law and general provisions on credit (which do not distinguish between corporate and consumer borrowing) contain references to sale of debt as means for banks to achieve repayment. (Point 77 of the Minimum Requirements for the Management of Credit Risk) In general, banks take responsibility for collecting their own debts and do so through their internal legal departments.

Banks are discouraged by normative legal acts from issuing unsecured debt (see, e.g. point 61 of the Minimum Requirements for the Management of Credit Risk) and most consumer debt is secured against property. Credit cards are not generally available to consumers and banks do not carry the large pools of unsecured consumer credit debt that have commonly been the subject of abusive behavior on the part of debt collection companies in other jurisdictions. In the case of continued nonpayment, bank recourse is generally to begin foreclosure processes against the secured property. Consistent with these market characteristics, foreclosure and its avoidance are at the center of recent discussions about individuals' credit difficulties. Foreclosure is discussed in Section C.9.

a. Although there are no separate rules applicable specifically to debt collection by banks or to debt collection in general, the making of false statements about a debtor or distribution of false credit information to third parties could well fall under legal rules prohibiting libel or slander. There are no specific rules restricting bank employees from making false statements to customers in an attempt to collect a debt, although in general the making of false statements would violate a bank's obligation to observe principles of honesty, transparency, fairness and partnership in relation to clients that are envisioned in Article 3, part 1 of the draft Banking Code as well as Article 10, part 1 of the draft Code specifically in relation to credit.

b. Contracts are not required to include information on who may collect debt on behalf of banks or the limits of their behavior. Credit contracts that involve a security in property are required to include, in the contract creating the security interest, provisions describing the procedures by which the bank may execute against the secured property and a minimum notice is required concerning the bank's intention to foreclose. Normative acts recommend, but do not require, that contracts using forms of security other than moveable property or real estate contain specific provisions describing the procedures and facilitating direct enforcement against the security, but these forms of security are not generally used in consumer borrowing (e.g. security against short-term government bonds under point 57 of the Minimum Requirements for the Management of Credit Risk).

c. Legal provisions concerning bank secrecy would generally prevent banks or their agents from revealing banking information on clients to third parties. Exceptions may be provided by contract, such as in relation to a guarantee that might be provided by an employer for employee overdrafts within the framework of a "salary project" with a bank (providing for payment of salaries through payment card accounts and the provision of specific services to card holders). Possible publication of information in the press concerning a borrower is envisioned in the rules on credit risk management, although this would need to be envisioned in the credit contract. (Point 76 of the Minimum Requirements for the Management of Credit Risk) This is not an appropriate provision in relation to individual consumers.

d. There are no legal rules concerning notifications to consumers regarding sale of their debt to a third party. As discussed above, banks do not generally sell consumer debt but rather take steps to foreclose on the property that serves as security for the debt.

Recommendation

On the basis of the limited information available during the diagnostic review, systematic abuses by third party debt collectors and/or debt collection staff of banks did not appear to be a pressing problem at this time. NBKR, and also consumer protection bodies and organizations, should remain alert to indications that abusive behavior is, or is becoming, a problem. This should include attention to this issue by the new unit at NBKR that will be responsible for consumer protection issues, which should make note of whether abusive or improper actions in debt collection are reflected in the complaints they receive.

Acceptable conduct and permissible debt collection tactics in relation to individual consumers should be addressed separately from conduct related to business borrowing. (Rules should likely extend to individual entrepreneurs as well.) It would be appropriate for NBKR to include some general provisions in the consumer protection rules recommended above prohibiting abusive conduct in the process of attempts to collect debts and restricting the use of methods such as publication of information on the debtor's failure to repay. If NBKR receives information through the consumer protection unit indicating that specific abuses are occurring, it should take immediate steps to address those abuses in the instructions and in its bank supervision activities if necessary.

To the extent that any abusive behavior is occurring on an informal basis rather than through formal debt collection activity or is being committed by non-bank third parties, other authorities (police, public prosecutors, local government bodies) may need to be involved and rules preventing such abuses may need to be embodied in the Code of Administrative Violations and/or the Criminal Code so that they can be properly enforced.

C.9. Foreclosure of mortgaged or charged property

Good Practice

a. In the event that a bank exercises its right to foreclose on a property that serves as collateral for a loan, the bank should inform the consumer in writing in advance of the procedures involved, and the process to be employed by the bank to foreclose on the property it holds as collateral and the consequences thereof to the consumer.

b. At the same time, the bank should inform the consumer of the legal remedies and options available to him or her in respect of the foreclosure process.

c. If applicable, the bank should draw the consumer's attention to the fact that the bank has a legal right to recover the balance of the debt due in the event the proceeds from the sale of the foreclosed property are not sufficient to fully discharge the outstanding amount.

   In the event the mortgage contract or charge agreement permits the bank to enforce the contract without court assistance, the bank should ensure that it employs professional and legal means to enforce the contract, including regarding the sale of the property.

Description

All counterparts reported that consumer credit in the Kyrgyz Republic is commonly available only as secured credit and that the most commonly used security by far is a security interest in real estate – usually an apartment or house that serves as the home of the borrower and/or members of his /her family. Security interests in personal real estate are also a common form of security for small loans to individuals intended to fund income earning activities. Inability of the borrower to pay the loan can result in serious consequences for the residents and social tensions may arise if this occurs on a larger scale due to unusual economic hardship or other events. Reports concerning the loss of debtors' homes as a result of difficult circumstances have contributed to recent expressions of public concern about bank lending practices. Appropriate regulation in this area is particular important and particularly sensitive at this time.

A number of laws contain rules on the establishment and use of security interests in property, including the Civil Code and the Law on Security Interests. NBKR Provision on Minimum Requirements for the Management of Credit Risk contains instructions to banks on the use of security interests in lending, including a number of recently added provisions. But many of the rules are very general in content or are designed to be applicable to all forms of security in property and they may not always be appropriate for security in real estate that serves as the home of the borrower. Examples include requirements that the lender have a specific plan for control over the condition of the property and conduct regular inspections.

a. NBKR rules on the management of credit require lenders to actively work with borrowers when problems arise with repayment. Banks are instructed to send a notification to borrowers when problems arise with repayment, informing them about the possible consequences of their failure to repay (which would include foreclosure), and to conduct negotiation with the borrower and provide assistance in improving the possibilities for repayment. At the same time, the bank is also instructed to take one or more measures to ensure the return of the debt in the quickest possible period, the first of which listed is execution against property serving as security for the loan. (Points 75-77) Moreover, banks are encouraged to include in contracts a right of the bank to begin execution against the property securing a loan prior to the expiration of the period for loan payment. (point 78)

If a bank does decide to begin proceedings to foreclose on the property, it is required to send a notice to the borrower, which must include a proposal that the outstanding obligation be paid and allow a timeframe for this of not less than 15 days (Article 57 of the Law on Security Interests). Recent amendments to the rules require that the accumulation of penalties under a loan contract with an individual (including an individual entrepreneur) must stop 15 days after that notice is sent. (Point 78-1 of the rules on credit risk management).

b. The Law on Security Interests defines the required content of a notice of intent to foreclose, which include information on the contract and the security interest granted and a statement of the obligations that have not been met and a demand for payment of outstanding amounts with a stated time period for compliance of not less than 15 days, among other information. There is no requirement that the notice contain an explanation of the debtor's rights in relation to the foreclosure process. The NBKR rules on management of credit risk recommend to banks (but do not require) that they provide a client with the possibility to independently locate a buyer for real estate that is the subject of the security interest during a period of one or more moths following the expiration of the period for repayment of the debt that is stated in the required notice. (Point 59)

c. Unless it is otherwise provided in the contract between the borrower and the lender, a lender does have the right to seek further repayment from the borrower if the sale of the property that was the subject of the security interest does not cover the entire amount of the debt. (Law on Security Interests, Article 60, part 6.) There is no requirement that the notice to the debtor concerning the intent to foreclose contain any note of this fact.

d. A lender cannot enforce against secured property without any assistance at all, but in general the law does envision both a court process for foreclosure and sale and a non-court process for foreclosure and sale. The non-court process involves the review of the documents concerning the debt and the security interest by a notary and issuance by the notary of an order for execution against the property. The type of execution process is to be established by the contract between the parties, and for real estate the agreement to a non-court procedure for execution requires notarization at the time it is concluded. Once an agreement on the means for execution is properly reached and recorded, however, the means may not be changed by either of the parties unilaterally.

Some counterparts indicated that the use of this type of non-court proceeding in relation to the homes of borrowers was one source of some of the recent social tension around debt problems. A change in the law now requires that property that serves as the sole residence of a debtor, as well as certain property with cultural value, may be sold in foreclosure only through a court proceeding.

Banks report that in practice foreclosure on real estate presents significant problems, due to the length of the legal processes involved and in some cases to the absence of interested buyers and to legal complications concerning the eviction of the prior owner or of tenants with lease rights. For this reason, banks state that they make every attempt to avoid foreclosure proceedings, often spending months attempting to reschedule debt, find alternative means for repayment or even offering partial debt forgiveness.

No information was available during the diagnostic on the prevalence of foreclosures as a means of debt repayment (or of voluntary sales in anticipation of foreclosure) or on consumer perceptions of the process.

Discussion with some banks also suggested that although customers must go through a significant number of formalities before being able to establish a security interest in real estate, they may still not fully understand the potential consequences of the agreement or the process by which the bank will seek to enforce it if necessary. It may be appropriate for a clear and simple statement to be developed that would be suitable for provision to borrowers as a part of pre-contractual disclosure of terms.

Recommendation

NBKR should, with input from banks, develop a clear and simple statement of basic information in plain language that makes clear to a consumer the meaning and risks of a security interest (mortgage) in property, the process for execution on the property if the debt is not paid, and the consumer's rights during that process. Banks should be required to provide this statement to consumers considering any loan that will be secured against real estate and also to include a copy of the statement in the notice to a borrower that foreclosure on the property is immanent.

NBKR should review the provisions of the Provision on Minimum Standards for the Management of Credit Risk and consider the creation of a separate section with provisions on the rules and processes for execution against the home of an individual borrower, including a moderated emphasis on immediate steps to ensure debt repayment and appropriate rules concerning oversight and inspection of the property. This could be a part of the broader review of normative acts and creation of coherent provisions distinguishing consumer rights and protections (protection of individual borrowers) from the rights of business borrowers, as recommended above.

C.10. Bankruptcy of Individuals

Good Practice

a. A bank should inform its individual customers in a timely manner and in writing on what basis the bank will seek to render a customer bankrupt, the steps it will take in this respect and the consequences of any individual's bankruptcy.

b. Every individual customer should be given adequate notice and information by his or her bank to enable the customer to avoid bankruptcy.

c. Either directly or through its association of banks, every bank should make counseling services available to customers who are bankrupt or likely to become bankrupt.

d. The law should enable an individual to:

(i) declare his or her intention to present a debtor's petition for a declaration of bankruptcy;

(ii) propose a debt agreement;

(iii) propose a personal bankruptcy agreement; or

(iv) enter into voluntary bankruptcy.

Any institution acting as the bankruptcy office or trustee responsible for the administration and regulation of the personal bankruptcy system should provide adequate information to consumers on their options to deal with their own debt and rehabilitation process in the event of bankruptcy.

Description

a. – e. Kyrgyz law does not provide for bankruptcy proceedings in relation to private individuals and banks cannot therefore make a creditor's petition for bankruptcy against an individual consumer who is in debt to the bank.

Kyrgyz law does provide for bankruptcy proceedings in relation to individual entrepreneurs, however, and in relation to these individuals it does not always distinguish clearly between their business and personal debts. In relation to the presentation of claims during the bankruptcy process, rules clearly distinguish between debts related to the business activities and those that are not. Creditors with claims not related to an individual entrepreneur's business activities may choose whether to present the claims within the bankruptcy process and accept the resulting payment, or to retain their claims against the individual as a private person and pursue them outside (and after) the bankruptcy process. In defining who qualifies as "creditors," however, and in rules concerning the filing of a creditor's petition, the law does not distinguish between the personal and business creditors of an individual entrepreneur, which could leave open the possibility that a personal creditor of an individual entrepreneur could make a creditor's petition on the basis of unpaid consumer debt.

In practice, most individuals appear to be able to obtain significant amounts of consumer credit only against a security interest in real estate. In limited circumstances, security may be in moveable property (in an automobile in relation to a car purchase for example) or through guarantee by third parties, but counterparts indicated that this is rare. In the event of failure to pay, the bank's recourse is generally to foreclose on the property serving as security. There was no indication that banks are using the complex and potentially lengthy bankruptcy process to seek consumer debt repayment from individual entrepreneurs.

Recommendation

Introduction of personal bankruptcy provisions at this time is not recommended. A law on individual bankruptcy would not improve protection of individual debtors at this time, would be unlikely to be understood by consumers, and could be subject to abuse.

If not clarified by rules outside the bankruptcy laws, steps should be taken to clarify legal questions concerning which creditors may bring a petition to have an individual entrepreneur declared bankrupt. If status as an individual entrepreneur does, in practice, expose an individual to significantly greater or differing risks in relation to consumer debts than that faced by other consumers, banks and other lenders should be required to have clear policies in place in this regard and to include appropriate information when lending to any individual entrepreneur as a consumer through consumer lending programs.

Section D. Privacy and Data Protection

D.1. Confidentiality and Security of Customers' Information

Good Practice

a. The banking transactions of any bank customer should be kept confidential by his or her bank.

b. The law should require a bank to ensure that it protects the confidentiality and security of the personal data of its customers against any anticipated threats or hazards to the security or integrity of such information, as well as against unauthorized access.

Description

Current Law

Confidentiality issues are currently governed by the Law of 2002 "On Banking Secrets," as amended. That law defines a banking secret as information on the accounts (deposits) of clients or their transactions that has become known to the bank in the course of serving them, as well as information about the client, about the clients of other banks, or any other information that was entrusted to or became known to the bank in the process of its relations with a client.

The law forbids revelation of a banking secret to third parties. Revelation under the law specifically includes the provision to such parties of the ability to obtain such information by means of "allowing, failing to prevent, or creating the possibility of [revelation] as a result of violation of the procedure for the storage of such information." A bank, its client, the National Bank, and the state body responsible for anti-money-laundering enforcement are not considered third parties for these purposes. Use of banking information by persons performing audit, accounting, legal or other consulting services is not considered revelation of a banking secret, provided the information is necessary for the work and the persons are obligated not to reveal it.

A bank may reveal information in court in relation to a dispute with a client and may provide information to heirs (successors) of a client on the basis of adequate documentation confirming their rights. A bank may also provide information to other parties on the basis of a properly issued court order. Banks are to provide information to the state body responsible for anti-money laundering enforcement on the basis of the relevant law and to the tax authorities, although the formulation of this provision leaves it unclear whether the latter requires a court order.

Banks are specifically permitted to exchange information between themselves for the purposes of their own protection and to secure repayment of credits. No consent of the client is required by the bank secrecy law for such exchange, nor is a procedure for the exchange defined by the law, but legal protections on personal data require client permission for banks to share some of the personal information necessary for a credit history with others.

The Criminal Code of the Kyrgyz Republic (Art. 193) provides for penalties for illegal receipt of banking secrets that include public apology and damage reimbursement, fines, or up to two years in prison, but these are available only if the means by which the information was received was itself illegal (such as theft of documents, bribery or threat, hacking or tapping of communications and so on). If the crime involved a shift in ownership of assets against the legal owner's will, the penalty increases, allowing up to five years imprisonment. Those who reveal banking secrets are subject to penalties ranging from fines to up to three years in prison, or up to five years if large damages or shift in ownership of assets were involved (Article 194). Standards for proof of guilt and causation in criminal cases, including issues of intent, may make these provisions difficult to apply to any but extreme cases of deliberate actions which can be shown to have resulted in serious losses to specific clients. NBKR could forward materials from its own bank supervision activities to the appropriate authorities for prosecution, but cannot enforce the criminal provisions directly.

There are no administrative penalties within the ability of NBKR to impose that directly concern treatment of customer information. If a revelation of customer information or treatment of that information is a violation of banking legislation, Article 359 of the Code of Administrative Violations could be applied to impose fines on bank officials of from 1000 to 2000 soms. Draft legislation would increase the range of fines on individual bank officials to 10,000 to 50,000 soms and allow for fines on legal entities (such as banks) of from 50,000 to 100,000 soms. But application of this provision would require the behavior involved to be a clear violation of banking legislation.

Draft Banking Code

The draft Banking Code contains a full chapter (Chapter 20) on bank secrecy, and defines a bank secret as any information that was provided to the bank by a client or that was developed by the bank or that arose in any other way in connection with the relationship between the bank and the client during the conduct of any banking activity. Pre-contractual relations between the bank and the client are specifically included in this definition. Only information that is public or that is in a consolidated form that does not allow identification of the client is excepted, along with certain information about persons directly connected with the bank itself.

Under the provisions of the draft Banking Code, a bank may reveal banking secrets without the consent of the client to a court, to bodies responsible for anti-money laundering enforcement, to tax bodies within the limits of tax legislation, to the deposit insurance agency, to the state body responsible for regulation of securities markets within the limits of its supervisory authority, and to the heirs (legal successors) of the client or to a notary conducting process in relation to a deceased depositor. No court order or client permission is required for these types of information sharing.

A bank is also obligated to reveal information containing banking secrets to the National Bank. The National Bank has the right to reveal banking secrets to the Government of the Kyrgyz Republic for the purposes of protection of state interests, and may also reveal such information to the banking supervision bodies of other states.

Employees of the bank may have access to banking secrets to the extent necessary for their work activity. Persons providing services to the bank in connection with its banking activities are also permitted access if this is required for the given service, as are persons preparing consolidated accounts.

Banks are permitted to provide information about a client in court, if this is required in connection with a dispute between the bank and the client. Either the bank or the client would, in this case, have the right to petition for a closed hearing.

The Code requires the bank to provide for the protection and confidentiality of the information that is made available to bank employees, contractors, and auditors, although the means by which this is to be accomplished is not specified. A general article requires that all persons who have received information constituting a banking secret through any means to provide for its proper protection and confidentiality. This is to be accomplished by means of the adoption of "adequate organizational, legal, and technical measures." Unlike the current law "On Bank Secrets," the draft Code does not specifically state that failing to prevent access to information or creation of the possibility for improper access through failure to follow proper procedures is a violation of the law. This may result in a narrowing of protection, effectively limiting violations to cases where actual revelation of information can be shown and making it difficult for NBKR to take measures if supervision shows lax information security practices on the part of banks.

There is no provision in the relevant articles of the draft Code allowing NBKR to define minimum standards for information protection.

Under the draft Code, client consent would be required for a bank to provide client information for the purposes of formation of a credit history and to exchange such information with other banks. It is not clear how this would affect actual practices in this area, as the laws on data protection were reported to require such consent now. While this might increase transparency and trust between bank and client, there is some indication that credit reporting is poorly understood and clients may be unwilling.

Recommendation

The draft Banking Code should, before passage, be amended to include failure to take adequate precautions that creates the possibility for improper access as a violation of the law, to avoid a narrowing of protection and clearly enable NBKR to take action in relation to lax security standards at banks before a concrete loss of information occurs. It should also be clear that NBKR has the authority to further define the legal rules for protection of customer information as well as to define the minimum technical standards and minimum procedural requirements for the protection of such information.

NBKR should use this authority to draft, with input from the banking industry, a new law or regulatory document(s) on the confidentiality of customer information that goes further than the Code's definition of what information is considered a banking secret and the requirements for requests in circumstances when it may be revealed. To the extent possible given the technology currently in use in banks, rules should be formulated governing the minimum technical and procedural standards for handling and storage of customer information in daily banking operations. These should be drafted with an eye both to preventing unauthorized access to banking secrets and to having clear records concerning which authorized users have accessed that information so as to improve enforcement ability. Such a detailed regulatory instruction would also provide NBKR with the substance and detail needed to review bank practices in this area during inspections and to impose appropriate corrective measures where necessary.

Appropriate administrative sanctions should be available to be imposed by NBKR for violations of secrecy alone and/or violations of the required processes for information protection (without the need for a criminal trial and requirements to show intent and specific losses of information or damages). The Code of Administrative Violations should be amended, if necessary, to provide clear authority in this regard, or NBKR should use the existing provisions to enforce rules on protection of information.

NBKR should monitor security of customer information and be attentive to any indication that there are problems in this area. Concerns about security of information and the possibility that it will be improperly shared with state bodies or with private parties or groups with predatory intent have been cited in neighboring jurisdictions as primary reasons for the avoidance of the banking system.

D.2. Sharing Customer's Information

Good Practice

a. A bank should inform its customer in writing:

(i) of any third-party dealing for which the bank is obliged to share information regarding any account of the customer, such as any legal enquiry by a credit bureau; and

(ii) as to how it will use and share the customer's personal information.

b. Without the customer's prior written consent, a bank should not sell or share account or personal information regarding a customer of the bank to or with any party not affiliated with the bank for the purpose of telemarketing or direct mail marketing.

c. The law should allow a customer of a bank to stop or – opt out‖ of the sharing by the bank of certain information regarding the customer and, prior to any such sharing of information for the first time, every bank should be required to inform each of its customers in writing of his or her rights in this respect.

d. The law should prohibit the disclosure by a third party of any banking-specific information regarding a customer of a bank.

Description

a. Legal obligations concerning the abilities of banks to share client information with third parties relate almost exclusively to required revelation to state bodies. The current law allows, but does not require, banks to share information with each other for the purpose of credit return and commercial banks, as well as many credit unions and microfinance organizations, are members of the credit bureau that has been formed on the basis of this right. The law On Bank Secrets does not specifically require banks to obtain client permission or to reveal the sharing of information with the credit bureau to their clients, but legal rules on data protection are interpreted to require client permission to share the personal data required to maintain a credit history, so clients are in practice apprised of this information sharing. Some banks reported that they provide information on the credit bureau and the rights of those with credit histories at the bureau to their clients.

b. Neither current law and regulations nor proposed measures address the possibility that banks in the Kyrgyz Republic might share customer information with third parties for advertising or other purposes not specifically envisioned by law and regulation. Banks are permitted to reveal customer information to third parties only on the basis of written customer consent. In theory it would be possible for banks to include a provision in contracts allowing the release of customer information to third parties for such purposes. Although they were requested, no bank contracts could be obtained for this diagnostic. In conversations with banks and other counterparts, however, there was no indication that banks are currently using specific customer information even to market their own additional services.

c. No ability to "opt out" of information sharing is envisioned by law or regulations as they address only instances in which the bank is obligated to provide information. The only exception to this is the provision of information to a credit bureau, which under the draft Banking Code would require the written consent of the consumer.

d. Third parties who receive information constituting a banking secret through their official positions or work duties are also obligated to protect it. The current law on Bank Secrets and the draft Banking Code both specifically extend secrecy obligations to all person who have access to the information as a result of their profession, position, or activities in providing services to a bank. The criminal provisions concerning revelation of banking secrets (Article 194 of the Criminal Code) that are discussed in section D.1. would also cover all persons to whom the information was entrusted or who have access to such information as a result of their work or their official position.

Recommendation

On the basis of the limited information available during the diagnostic review, there does not appear to be a pressing need for substantial change in the law in this area. If consumers are not receiving an explanation of the legal rules concerning bank secrets and the exceptions to those rules as a part of banks general terms and conditions or other written information provided when opening an account, the rules concerning information to be provided to consumers at that time should be amended to require that this take place. Such a requirement could be envisioned in a new normative document issued by NBKR on treatment of customer information, as discussed in D.1.

A.2. Code of Conduct for Banks
Good Practice The law should provide for: (i) the specific rules and procedures concerning the release to any government authority of the records of any customer of a bank; (ii) rules on what the government authority may and may not do with any such records; (iii) the exceptions, if any, that apply to these rules and procedures; and (iv) the penalties for the bank and any government authority for any breach of these rules and procedures.
Description (i) Permitted disclosures of information to state bodies are currently governed by Article 10 of the law "On Bank Secrets." That Article requires information to be provided on the basis of a properly issued court order. It also requires information to be provided to state bodies in connection with prevention of money launder and financing of terrorism and for the purposes of oversight of tax payment. The article does not clearly indicate whether these provisions are separate or cumulative, leaving it unclear whether provision of information for tax enforcement and anti-money-laundering purposes require a court order. Article 5 of the same law removes anti-money-laundering authorities from the definition of a "third party" under the law altogether, which would seem to remove any restriction on the provision of information to those bodies, as the law restricts revelation of information only to such "third parties." This would suggest that the provisions are separate, and that information is also to be provided to tax authorities without a court order, but it would be preferable if the legal provisions were clearer. The law does not contain information on the procedure for sharing information with those bodies. The draft Banking Code allows broader sharing of information with state or official bodies, including courts, anti-money laundering bodies, tax bodies within the limits of tax legislation, the deposit insurance agency, the state body responsible for regulation of securities markets within the limits of its supervisory authority, and to a notary conducting process in relation to a deceased depositor (as well as directly to the heirs or successors). No court order or client permission is required for these types of information sharing. The Code does contain requirements concerning the content of any request for information from the listed state bodies, including identification of the person requesting the information, identification of the client and the amount of information requested, and the purpose and legal grounds for the request. As currently written, however, these are simply a list of attributes to be met by the request letter. The Code does not contain rules concerning what bank officials may decide upon the release of client information according to such a request, whether a request may be refused and how, when clients should be advised of a request, and so forth.

In addition to other obligations to provide information, the draft Code obligates banks to provide information to the NBKR, which has the right (but not the duty) to provide information to the Government of the Kyrgyz Republic for purposes of the protection of state interests and to the central banks or other supervisory bodies of other states. It does not provide a procedure or any limitations in respect to NKBR's sharing of information in these instances.

All other provision of information to state bodies requires a court order.

(ii) Neither current law nor the draft Code contain specific restrictions on what each of the state agencies permitted to receive client information may and may not do with the information. Those bodies are, however, required to protect the information and individuals may be subjected to penalties for revealing it.

(iii) Current law provides exceptions from the rule requiring court orders for the anti-money-laundering authorities and the tax authorities, without specifying any process for receipt by those bodies of client information. The draft Banking Code is clear regarding the authorities that may receive information without a court order and does not contain any exceptions from its provisions on the required content of a request for information.

(iv) Both the current law and the draft Banking Code state a general right of those injured by a violation of bank secrecy law to compensation for damages in accordance with the legislation of the Kyrgyz Republic. In practice, however, it would likely be difficult to meet proof requirements for causation except in egregious cases.

Both also refer to liability of those who have violated the law to punishment in accordance with the applicable legislation. Those who reveal banking secrets illegally are subject to criminal penalties ranging from fines to up to three years in prison, or up to five years if large damages or shift in ownership of assets were involved (Art. 194 of the Criminal Code). These provisions would not likely be applied, however, to mistakes in procedure or minor failures to follow required process, as these would not meet standards for guilt in the commission of a criminal act. Although Article 193 of the Criminal Code provides penalties for the illegal receipt of banking secrets, that article applies only to receipt of the information by illegal means, such as theft or bribery, and so would not necessarily apply to failure to follow legally required procedures. In principle, a bank official involved in improper release of information in violation of NBKR rules could be subjected to a fine of from 1000 to 2000 soms under the Code of Administrative Violations for violation of banking legislation. Draft amendments to that Code would increase the potential fine for violations of banking legislation to a range of from 10,000 to 50,000 soms on bank officials and add a potential fine of from 50,000 to 100,000 soms on the bank or other legal entity involved.

Recommendation

The creation of one or more new regulatory document(s) on the protection of customer information is recommended in Section D.1. (above). It is important that the rules currently in the draft Code do not become simply a list of required points in a letter that will always guarantee release of information, the new regulations (revised law on bank secrecy or other document) should include more detailed rules concerning the processes for bank response to requests from various state bodies for client information. Information to be reflected should include the identity of bank officials with the right to make a decision to reveal client information, procedure in case of bank objection to the request, and other required information. A role for NBKR in advising banks on the legality of such requests would be desirable and NBKR should, at a minimum require retention of such requests and their review during supervision activities.

The rules should also provide clarity concerning whether a bank must, may, or may not inform the customer in any of the instances in which it is required to provide information to state bodies. While it is clear that in some cases (for example, a criminal investigation) confidentiality might be called for, it would add clarity for the law or regulations to specify when the customer should receive notice of a request for information. Inclusion of the customer's information in an NBKR inspection, for example, should clearly not require notice, nor should report of a customer's accounts to the deposit insurance agency. However, if the release is in relation to a court decision, or in relation to an execution order from a court concerning debt, or to a standard tax audit, those are events about which a customer should have received notice, and the bank should inform the customer that information has been requested and is being provided. This would allow the customer to take appropriate action if they have not received proper notice of the underlying events or if they believe that the request has been made on false grounds.

As discussed in D.1., less serious and more easily administrable penalties for violations of rules in this area should be available to allow NBKR to impose penalties on banks and bank officials for inappropriate releases of customer information.

NBKR should also monitor the numbers of such requests that are received by banks from courts and enforcement authorities and the reasons commonly given. If the data gives rise to concern that the procedures are being abused, it may be necessary for NBKR and the enforcement authorities involved to consider whether changes in the number or position of officials authorized to make requests to banks or other changes in the rules are required.

D.3. Credit Reporting

Good Practice

a. Credit reporting should be subject to appropriate oversight, with sufficient enforcement authority.

b. The credit reporting system should have accurate, timely and sufficient data. The system should also maintain rigorous standards of security and reliability.

c. The overall legal and regulatory framework for the credit reporting system should be: (i) clear, predictable, non-discriminatory, proportionate and supportive of consumer rights; and (ii) supported by effective judicial or extrajudicial dispute resolution mechanisms.

d. In facilitating cross-border transfer of credit data, the credit reporting system should provide appropriate levels of protection.

e. Proportionate and supportive consumer rights should include the right of the consumer

(i) to consent to information-sharing based upon the knowledge of the institution's information-sharing practices;

(ii) to access his or her credit report free of charge (at least once a year), subject to proper identification;

(iii) to know about adverse action in credit decisions or less-than-optimal conditions/prices due to credit report information;

(iv) to be informed about all inquiries within a period of time, such as six months;

(v) to correct factually incorrect information or to have it deleted and to mark (flag) information that is in dispute;

(vi) to reasonable retention periods of credit history, for instance two years for positive information and 5-7 years for negative information; and

(vii) to have information kept confidential and with sufficient security measures in place to prevent unauthorized access, misuse of data, or loss or destruction of data.

The credit registries, regulators and associations of banks should undertake campaigns to inform and educate the public on the rights of consumers in the above respects, as well as the consequences of a negative personal credit history.

Description

a. Credit reporting is currently accomplished through a single credit bureau, founded in 2003, that is run as a non-profit organization providing reporting services to more than 100 participating lenders. Participants may choose to be members of the organization and participate in its management (currently 37 in total) or may simply conclude a contractual agreement for exchange of information. Nearly all of the banks currently operating in the Kyrgyz Republic are full members of the bureau.

In addition to the credit bureau, a credit registry is currently being established through the NBKR. The credit registry is designed to allow banks and other lenders to receive information on other loans that a borrower may have. Banks require this information in order to meet recently passed prudential rules requiring additional reserves in relation to parallel loans (where the borrower is already indebted on another loan). Although the credit registry is not intended as a credit rating bureau, it does allow banks to perform a check on the accurate reporting of debt by an applicant for credit. Provision of information to the credit registry is mandatory.

The existing credit bureau operates on the basis of contract with the participants concerning the information and services to be provided. There is no detailed regulation of credit reporting in law or regulation and the content of the contracts was defined by the members of the non-profit organization. NBKR is a member of the organization, but is not legally responsible for oversight of its activity. Consent of both the borrower and of the participating lenders is required for the bureau to operate. There has been a sharp increase in the number of contracts with the bureau on the part of lenders, and bureau management believes this is primarily due to the new rules on parallel loans.

A draft law regulating credit reporting was adopted by the parliament in November 2013, but the law was returned by the President in January 2014 with a number of objections, including the absence of any identified state body responsible for the licensing and oversight of credit reporting activities. NBKR would be the logical body to take on this role, but it has expressed concern about capacity to perform the licensing, regulatory, and supervisory functions envisioned in the law.

b. These issues are not currently regulated by mandatory legal rules. Technical standards are set by the private credit bureau. A technical note prepared by the World Bank highlighted concerns about operational flaws in the database that may affect quality and integrity, as well as limitations in the currently used software and the lack of any off-site backup. Quality of lender records and technical standards for participation have presented problems for some lenders and bureau management reported that a few lenders have had to be excluded from the system after attempting to participate because they have been unable to meet requirements concerning the form and accuracy of reports. The credit bureau works with participants to assist them in meeting the requirements for participation, but is not always able to resolve problems.

Some counterparts expressed concern about the lack of inclusion of all lending, and particularly microcredit, in the credit bureau database and its effect on the accuracy of credit reports. The size of the microcredit sector is very significant, with more than 500,000 recipients of credit in 2013 receiving a total of more than 27 billion soms.[4] Technical issues will need to be resolved before participation in credit reporting can be extended to include the smallest lenders.

c. There is currently no legal and regulatory framework governing credit reporting activities or providing for any form of third party dispute resolution. There are internal rules concerning participation in the credit bureau, as well as a code of ethics for participants developed with the participation of the IFC, that provide rules for reporting and conduct of bureau participants. The credit bureau does provide for rights to correct errors and offers assistance to subjects of credit histories in resolving problems, but it does not take responsibility for resolving disputes between a reporting entity and a subject.

[4] The state statistics agency reported a total amount of microlending in 2013 of 27,534,000,000 soms. Only 10.8% of that lending was for consumer needs, with the largest shares going to agricultural development (52%) and to projects in trade and public catering (23%). Figures at http://stat.kg/images/stories/microcredit%20news.pdf.

d. There are no legal rules specifying standards of security for international transfers of information. Evaluation of the adequacy of the standards currently used in practice is beyond the scope of this diagnostic review.

e. Consumer protections in credit reporting are at present governed primarily by the internal operating procedures and the code of ethics of the existing credit bureau. The draft law on credit histories that is currently being developed contains some rules establishing the basic rights of the subject of a credit report but the draft law does not prescribe the specific procedures to be used by credit bureaus.

(i) The credit bureau currently requires participants to obtain the consent of subjects of credit information before reporting information on them to the credit bureau. Consent of each reporting participant is also required, and the type and permitted uses of information about a subject that is shared by a participant may vary according to the contract with that participant.

A form for obtaining client consent to credit reporting is provided by the bureau as an appendix to its code of ethics, although its use is not obligatory. Although the form itself is not lengthy, the language of the form is rather complex, relying on abbreviations and containing long sentences full of dependent clauses and parentheticals. It is unlikely that most individual consumers would find the form easy to read and understand. Although the form begins by listing standard information for credit reporting (e.g. personal identifying data and information on credit provided and the history of its repayment), the form goes on to authorize a bank or other lender to share any other information that has become known to the lender in the process of consideration, issuance and payment of credit. NBKR rules on the management of credit require lenders to gather and record a wide variety of information on individual borrowers, including on their personal reputations, earnings history, and other matters. The rules also recommend, and in some cases require, that information be gathered on members of the borrowers family and that the borrower be required to make periodic reports to the lender on their financial status and other matters that might impact their repayment of the credit. All such information, as well as the content of every communication and conversation with the borrower, is to be recorded in the borrower's credit dossier. A blanket approval for a lender to share any and all information that has become known to it during the life of the credit relationship authorizes the sharing of a very large amount of personal information.

The recommended form for obtaining consent for credit reporting does not contain any explanations of the rights of a subject of a credit history, but rather refers the borrower to the website of the credit bureau to obtain more information.

The draft law on credit histories would require client consent for access by a potential lender or any other party to the credit history as well as for reporting of information on the client to credit bureaus. Reporting of credit information by lenders, however, is mandatory subject to the consent of the individual borrower and does not require the lender to agree to provide the information or allow the lender to limit its volume or use. A number of state bodies (e.g. tax authorities, the registry of immoveable property) are also required to provide information to credit bureaus, within legal limits.

(ii) Current credit bureau rules allow the subject of a credit history to review the history free of charge, which can be done either at the credit bureau itself on a computer monitor and also at some banks. A subject that would like a printed copy of the credit history must pay a 50 som fee, and will receive a copy that is stamped and can be submitted to a lender or other party. The credit bureau's website also indicates a possibility to obtain a copy of the credit report through the post for a fee of 300 soms for individuals. The bureau is currently setting up its capacity for access to credit history over the internet, but this service will require the payment of a fee.[5] In addition to internet services, the bureau plans to offer SMS services by which a subject of a credit history can be notified of changes in the credit history by SMS. Where an error in a credit history has been noted and steps taken to correct it, the subject will receive corrected copies of the credit history free of charge for each instance of correction and corrected copies will be provided free of charge to any entity that received the incorrect version.

The draft law provides for the subject of a credit history to receive a copy of the history free of charge once per year. It does not address the means by which this must be provided.

(iii) & (iv) NBKR rules on the minimum requirements for management of credit risk require bank staff to include in their own written conclusion on a denied credit application a justification and all of the reasons for the denial of credit. The procedure for informing a client of the decision on the denial, however, is to be determined by the bank and there is no stated requirement concerning the level of detail that must be provided in explaining the decision or whether the role of a credit history must be mentioned. The draft law on credit histories does not govern information that must be provided by a lender to an applicant on denial of credit, but does require that the subject of a credit history have the right to information on who has received the credit history and for what purpose.

(v) The credit bureau currently allows subjects of credit histories to request correction of any inaccurate information in the credit history. A subject may make the request in person at the credit bureau's office or may submit a request for correction by post. A request sent by post must be notarized. Although the credit bureau states that it will assist in the investigation and correction of such problems, it emphasizes that its contracts with the providers of credit information allow the information provider to decide concerning all disputes or complaints about the information provided, so the credit bureau does not have any ability to exclude or correct information on its own (with the exception of technical or other errors on the part of the bureau itself). It was indicated during the diagnostic that subjects may be advised to apply first to the lender for information on the report or correction of the error and thereafter to the credit bureau, although a requirement for this preliminary step is not reflected in the credit bureau's own information on the error correction process. If an error is corrected, the subject of the report has the right to a free copy of the corrected report and to have corrected reports sent to anyone who received the report containing the error.

(vi) The draft law proposed a five-year period for the retention of credit information. Comments of the credit bureau and members on the current draft suggest that on the basis of experience in the operation of the bureau, this period is too short. They propose a retention period of 10 years for positive information and 7 years for negative information.

[5] Information on the Ishenim website indicates a fee of 100 soms per month for an individual to have unlimited online access to their credit history. Online access will also offer the option to access and print out a copy of the credit history without maintaining regular access, with a fee of 50 soms for a single print. SMS services are included in the subscription fee for unlimited online access, with an additional monthly charge of 30 soms for more than 5 messages per month. See the service description at http://www.ishenim.kg/files/doc/onlinecib/onlinecib.pdf.

(vii) Both current practice of the credit bureau and the provisions of draft legislation treat credit history information as confidential and require the measures be in place at the credit bureau and in relation to users of the information in order to preserve confidentiality. The draft law does not define the minimum standards in this regard.

f. Some public education efforts have been undertaken by the credit bureau itself and in cooperation with members to raise awareness of the existence of the credit bureau, its functions, and the benefits of a good credit record. The credit bureau has prepared brochures that it distributes at its own offices and through banks. Bureau management reported, however, that these measures had not been very effective to date and that studies show only about 10% of the population is aware of and understands the function of the credit bureau. Studies also indicated a significant negative perception of the idea of the credit bureau among individuals, with many viewing it as a sort of "black list" of borrowers that would cause injury without providing any benefits. Credit bureau management is seeking new ways to convey the functions and benefits of credit reporting to the population.

Recommendation

Passage of the law on credit histories will be required to allow the creation of enforceable legal standards in the credit reporting industry, including standards for the protection of consumers who are the subjects of credit history reporting. A determination will need to be made concerning the appropriate entity to perform the licensing, regulatory and supervisory tasks required. NBKR, as the regulator for most lenders and a member of the existing credit bureau, appears to be the state body best placed to perform these functions. Additional resources should be provided to NBKR if necessary for the fulfillment of these tasks. The new unit responsible for consumer protection within NBKR should participate in the work, in particular in the creation of appropriate regulations concerning consumer protection issues.

If possible during the remaining work on the draft law, consideration should be given to division of provisions of the law where appropriate to distinguish between rules applicable to reports concerning business entities and those applicable to reports on individual persons. This would allow, for example, for the definitions of entities providing information and of what constitutes a reportable transaction to be expanded for business entities to cover a broader range of types of debt (such as those related to leasing or other business agreements with a debt component) without creating confusion or overbroad reporting in relation to the kinds of transactions used by individual consumers.

Work should begin on appropriate regulations to supplement the provisions of the law. In particular, a regulation (or other normative act) should be drafted and passed containing a clear set of rules for the protection of the subjects of credit histories, including separate rules for the protection of individual consumers where necessary

These should specify the procedures and conditions for access to credit histories, correction of information, and other similar matters. Rules concerning access to a copy of a credit history should provide a practical means for consumers without Internet access and without the ability to visit the offices of the credit bureau to obtain their credit histories for review (including once per year without charge). Rules concerning the quality of information provided to the credit bureau by lenders and concerning correction of errors in credit histories should, at a minimum, ensure that a credit bureau has some responsibility to exclude information in a consumer's credit history if its investigation shows that the data received appears unreliable (for example there were problems in its transmission that corrupted information), or if the lender does not authenticate the information appropriately when requested or fails to respond to inquiry. Without this responsibility, it may be too easy for lenders to simply refuse or fail to respond to consumer requests for correction. It may also be appropriate to consider a requirement that credit bureaus indicate to a recipient of a credit history if specific information in the history has been challenged by an individual consumer as incorrect.

Consumers should be required to receive clear, simple information on the credit bureau and on the ability to review their credit histories and to correct errors at the time that they are asked to sign permission for credit reporting and/or access to their credit records by lenders. The permission form itself should be required to be written in plain language that is easy for an average consumer to read and understand. If necessary, a unified form could be defined by regulations. The requirements for the form and for the receipt of information on credit reporting should be reflected in the regulations on credit reporting, as well as in any broader regulation of NBKR covering the disclosure of information to banking consumers (recommended above).

Financial education programs should include, where appropriate, information on credit reporting and both the positive and negative roles of credit histories.

Section E. Dispute Resolution Mechanisms

E.1. Code of Conduct for Banks

Good Practice

Internal Complaints Procedure

a. Every bank should have in place a written complaints procedure and a designated contact point for the proper handling of any complaint from a customer, with a summary of this procedure forming part of the bank's Terms and Conditions referred to in B.7 above and an indication in the same Terms and Conditions of how a consumer can easily obtain the complete statement of the procedure.

b. Within a short period of time following the date a bank receives a complaint, it should:

   (i) acknowledge in writing to the customer/complainant the fact of its receipt of the complaint; and

   (ii) provide the complainant with the name of one or more individuals appointed by the bank to deal with the complaint until either the complaint is resolved or cannot be processed further within the bank.

c. The bank should provide the complainant with a regular written update on the progress of the investigation of the complaint at reasonable intervals of time.

d. Within a few business days of its completion of the investigation of the complaint, the bank should inform the customer/complainant in writing of the outcome of the investigation and, where applicable, explain the terms of any offer or settlement being made to the customer/complainant.

e. The bank should also inform the customer/complainant of the availability of the services of a financial ombuds service or other form of alternative dispute resolution.

f. When a bank receives a verbal complaint, it should offer the customer/complainant the opportunity to have the complaint treated by the bank as a written complaint in accordance with the above. A bank should not require, however, that a complaint be in writing.

g. A bank should maintain an up-to-date record of all complaints it has received and the action it has taken in dealing with them.

h. The record should contain the details of the complainant, the nature of the complaint, a copy of the bank's response(s), a copy of all other relevant correspondence or records, the action taken to resolve the complaint and whether resolution was achieved and, if so, on what basis.

i. The bank should make these records available for review by the banking supervisor or regulator when requested.

Description

a. Legal and regulatory provisions do not prescribe specific procedures for banks to follow in the resolution of consumer complaints. Provisions concerning complaint resolution are contained in several laws and regulations, but these do not form a coherent whole.

Banks are required by rules on the management of credit risk to have a book in which customers may enter complaints and receive responses. The form for the book is prescribed in an appendix to those rules. (Point 24 of the Minimum Requirements for the Management of Credit Risk). Although the requirement is contained in rules related to credit, complaints recorded in the book are not limited to credit issues and in fact banks report that most complaints noted in the book concern minor customer service matters such as the length of lines at service windows in the bank. This may in part be due to the fact that the book is a public document and confidentiality of the complaint and its response are not provided for. In any case, the space in the book to record a complaint is limited and it is certainly not a means for consumers to resolve serious or detailed concerns about their dealings with the bank.

Article 50 of the law "On Banks and Banking" requires customers to be informed concerning changes that affect their accounts, including changes in the bank's procedures for handling consumer complaints. Although this provision implies that the customer would have been informed of the procedures initially, there do not appear to be clear rules requiring the bank to do so or prescribing the form in which it must do so.

Some banks reported that other rules concerning the conduct of bank business affect the handling of customer complaints, including rules requiring that a response be made within a specific period of time. If applicable, these rules were not provided for review.

Banks interviewed for the diagnostic review all reported that they have clear and specific internal procedures in place for reviewing and responding to customer complaints. The degree to which these procedures are communicated to customers, however, and the degree to which a customer could insist upon their observance was not clear in all cases.

b. – d. The very formal, multi-step written complaint and notification procedures described in these points of the good practice description are not required by any applicable rules and do not appear to be a part of common bank complaint resolution practices. Although banks do have written complaint procedures, these were usually described as considerably less formal, particularly at the early stages of the process.

e. No banking or financial services ombudsman or other alternative dispute resolution option exists.

f. All banks interviewed allowed customers to make complaints orally as well as in writing and some indicated that oral complaint to a bank staff member is usually the first recourse of a customer. There do not appear to be any mandatory rules requiring that such complaints receive a written response, but at least one bank indicated that it provides such a written response unless the issue is immediately resolved in the bank with the customer.

g.-h. Banks are required by the general rules concerning maintenance of bank records to keep a wide variety of written records concerning their activites and operations. Rules concerning those records are organized by type of banking activity or service rather than by customer or relationship, but in most categories of banking activity, a bank is required to keep records of correspondence with a client concerning many issues related to all types of accounts, which would in most cases be likely to include correspondence between the bank and client related to any complaint in the relevant area. The complaint book that is required by the rules on credit risk management must be kept for 15 years. There is no requirement for record keeping and maintenance that deals specifically with complaints (other than the requirement concerning the complaint book) or requires them to be maintained in a separate manner or with specific documents or notations.

Special rules apply to records concerning credit. Rules on the minimization of credit risk specifically require that a bank keep an extensive dossier on each borrower, up to and including notations on all meetings, inquiries and telephone conversations with the borrower. This would certainly include records of any complaint of the borrower in relation to the credit and its repayment.

Although banks are not required to keep records of complaints in a specific manner, the general NBKR rules On the Minimum Requirements for the Management of Risk require banks that banks take steps to address reputational risks to the bank. As a part of such steps, banks are required to have repots periodically made to the board of directors containing information on potential risks to the reputation of the bank. The report must include information on the complaints of clients, a legal analysis of any court cases that are in process or are threatened, and information on any other source of risk of the loss of reputation by the bank. (Point 11.4.3 of the Provision).

Banks are also required to take active measures and exercise oversight to reduce the likelihood of reputational injury. (Point 11.4.4.) Although not specifically required, the Provision indicates that such reduction of risk may be achieved by means of methods such as careful review of press releases and advertisements, adoption of a code of conduct for bank employees, and the conduct of training. The same provision, however, also suggests that reduction of reputational risk may be achieved by restriction of the types of information provided by banks to clients (except for what is required by legislation) and restriction of the information that is provided about the bank itself (with exception of information required by legislation). (Point 11.4.4, sub-points d. and e.) Such advice (which is questionable in its likely effect) emphasizes the fact that the focus of the rules is on the protection of the banks themselves and not on the protection of bank clients.

i. Banks are not required to report complaint statistics, summary information on complaint contents, or information on complaint resolution to NBKR. Documents concerning complaints that are required in other contexts, such as the periodic reports to the board of directors on reputation risk, the complaints book, and required records in credit dossiers, would be available to NBKR during on-site inspections and staff of the inspection services indicated that they do review the complaints book and also documentation concerning complaints about which they have become aware. Off site inspection staff, in evaluating a complaint that has been received by the NBKR, may require that the bank in question provide all documents and information related to the subject of the complaint, including any records of the bank's own response.

Recommendation

NBKR should issue a single, coherent set of instructions regarding the handling and recording of customer complaints by banks to replace the fragmented and widely disbursed provisions currently in force. This could be done either as a separate set of rules concerning customer complaints or as a component part of a larger set of instructions governing other matters in relation to the protection of individual banking consumers. Given the level of financial sophistication of consumers, the simplicity of some of the banking products offered, and indications from some counterparts that there may be social constraints on the use of formal complaint mechanisms, care should be taken that the instructions ensure the proper handling and recording of complaints received by telephone and in person at the bank. Banks should be required to keep a record of all such complaints and their resolutions, and rules should be in place concerning when a written record must also be provided to the customer.

The instructions will need to include a clear definition of what constitutes a "complaint" for these purposes – since there may be little to distinguish between a complaint and an inquiry and some "complaints" may be resolved by an explanation to customer. For example, a bank might be required to record all inquiries concerning the accuracy of interest calculations, or about the level of fees charged, or about delayed, missing or inaccurate transactions in accounts, whether or not these are characterized by the customer as "complaints." This would have the advantage of providing more accurate information about customer problems (including problems that are based on a misunderstanding rather than any bank error or misconduct) and could assist banks, the NBKR, and other interested parties in devising better materials and programs to inform and educate consumers. In order not to overburden banks with reporting requirements, however, definitions would need to be clear concerning what must be recorded and reported and the methods for doing so should to be simple.

Banks should also be required by the rules to have more formal, written procedures for those who might wish to use them, including identification of responsible parties, indication of the appropriate channel for escalation of a complaint to higher levels in the bank, rules concerning the timeframes in which customers must be informed about the results of consideration of the complaint, and other pertinent information.

Regulatory instructions dealing with the information to be provided to consumers (recommended above) and/or those concerning consumer complaint handling should require that customers be provided with a copy of the rules concerning the handling of complaints and inquiries, as well as contact information for the person or department responsible for handling that specific customer's complaints or inquiries. The rules and contact information should also be required to be freely available in writing to customers at bank offices.

Banks should be required to keep records of complaints and their resolution and to report this information in an appropriate form to the new unit in NKBR that will be responsible for consumer complaint issues. A requirement for individual banks to publish information on complaints, or for the NKBR to publish complaint information that can be identified to individual banks, could be useful in providing incentives to avoid complaints. However, it may be most appropriate in the near term to provide banks with strong incentives to accurately record and report complaints and problems and to develop good practices in addressing them rather than to provide any disincentive. Generalized information on the numbers and subjects of consumer complaints should be published by the NBKR periodically and shared with the Union of Banks of Kyrgyz Republic and other interested bodies to facilitate industry solutions to common problems.

E.2. Formal Dispute Settlement Mechanisms

Good Practice

a. A system should be in place that allows customers of a bank to seek affordable and efficient recourse to a third-party banking ombudsman or equivalent institution, in the event the complaint of one or more of customers is not resolved in accordance with the procedures outlined in E.1 above.

b. The existence of the banking ombudsman or equivalent institution and basic information relating to the process and procedures should be made known in every bank's Terms and Conditions referred to in B.7 above.

c. Upon the request of any customer of a bank, the bank should make available to the customer the details of the banking ombudsman or equivalent institution, and its applicable processes and procedures, including the binding nature of decisions and the mechanisms to ensure the enforcement of decisions.

d. The banking ombudsman or equivalent institution should be appropriately resourced and discharge its function impartially.

The decision of the banking ombudsman or equivalent institution should be binding upon the bank against which the complaint has been lodged.

Description

a. – e. There is no financial ombudsman or any institution performing similar functions in the Kyrgyz Republic.

Responsibility for the enforcement of the general law on consumer protection rules on the basis of specific complaints and own-initiative investigations currently rests with the State Antimonopoly Agency, which is responsible for enforcement of competition and consumer protection legislation. There is some doubt, however, concerning whether its authority in this area extends to the banking sphere, since the clear assignment of responsible for competition law enforcement regarding banks to the NBKR has been interpreted to include the assignment of responsibility for consumer protection as well. The State Antimonopoly Agency lacks any experience or expertise in banking matters, has received no complaints about banking matters, and faces significant resource constraints. Even if that body were to take up specific consumer issues in the banking sphere, it is unlikely that this would result in a resolution of an individual consumer's concerns, as its enforcement methods are focused on the issuance of corrective orders and imposition of fines and penalties rather than solution of individual problems.

Although NBKR does not currently have direct responsibility for taking consumer complaints or resolving disputes, it reports that it does in practice organize meetings between consumers who have sent complaints to NBKR and the bank in question. In large part, these have been complaints concerning a bank's unwillingness to restructure, or forgive, a debt that was legally contracted but that the consumer is not able to pay. NBKR's efforts in this direction are understandable in light of the social and political tensions that have arisen around this issue, and in the absence of any other avenue for resolution the facilitation by NBKR of individual settlement or restructuring arrangements may be preferable to a more widespread refusal of debtors to honor their obligations. In the longer term, however, it will not be appropriate for NBKR, as the primary bank regulator, to be directly involved in negotiating discretionary concessions for individual customers with banks. A new unit responsible for consumer protection is now being formed within NBKR, but it is not currently intended that this unit serve as a permanent dispute resolution forum for individual consumer disputes.

Overall, consumers lack any direct channels to quickly and effectively resolve disputes with banks that are not resolved by the banks' own initial complaint procedures. The creation of a body or institution with the power to undertake the rapid resolution of such matters is highly desirable, but it may present institutional and resource challenges. A working group has been considering the possibility of an ombudsman's service, either in the area of banking services or in relation to financial services more broadly, but significant progress has not yet been made. Some counterparts questioned the willingness of banks and the capacity of government to finance the service, and others expressed concerns about an absence of any substantial number of "everyday" consumer complaints for the ombudsman to resolve.

Consideration of an ombudsman structure in the current environment also raises questions about the role of the ombudsman in the resolution of problems that do not involve improper behavior on the part of banks – and in particular in the negotiation of debt restructuring or forgiveness for individual consumers. Ombudsman models that involve binding authority as against banks create concern if it is expected that the ombudsman will be addressing large numbers of cases in which the main issue is a request by an individual debtor for discretionary relief from a bank. In order for all stakeholders to find an ombudsman model acceptable it may be necessary to define some limits to the ombudsman's authority to impose solutions that fall outside what is legally required. This will be a delicate task, however, as laws and regulations are not well developed in a number of areas and the ombudsman may experience difficulty in defining the limits of legal behavior. If the ombudsman is not going to serve in the role of a debt counselor and mediator/arbitrator for consumers experiencing problems in paying legally binding debt, then it may be necessary to establish this kind of service elsewhere.

Recommendation

a. – e. The working group considering the question of the establishment of a banking or financial services ombudsman should move forward with its work, concentrating initially on the question of what role it would be beneficial for the ombudsman's office to play and allowing more specific questions of structure, funding and details of authority to be resolved on that basis. If an ombudsman is not found to be acceptable, other models that could be considered include a dispute resolution board with participation of both consumer representatives and representatives of the industry, or other configurations. Mechanisms should be in place requiring reporting and communication between the ombudsman or other institution for dispute resolution and the other bodies that play important roles in the banking sphere (NBKR, consumer organizations, the banks union) to ensure that information on complaints and problems is shared and that action can be taken by those bodies on a broader scale if required.

Creation of a dispute resolution body, while highly desirable, should not be viewed as a substitute for the continued development of laws and regulations protecting consumers. In the absence of sufficiently developed consumer protection standards, an ombudsman may be unable to assist consumers (if bound by existing law) or may be perceived as biased or arbitrary in decision making (if not so bound).

E.3. Publication of Information on Consumer Complaints

Good Practice

a. Statistics and data of customer complaints, including those related to a breach of any code of conduct of the banking industry should be periodically compiled and published by the ombudsman, financial supervisory authority or consumer protection agency.

b. Regulatory agencies should publish statistics and data and analyses related to their activities in respect of consumer protection regarding banking products and services so as, among other things, to reduce the sources of systemic consumer complaints and disputes.

c. Banking industry associations should also analyze the complaint statistics and data and propose measures to avoid the recurrence of systemic consumer complaints.

Description

a. There is currently no body that serves as the primary or central recipient of consumer complaints in the banking sector and banks themselves are not required to report information and statistics on consumer complaints. NBKR does receive some complaints, primarily from consumers who are in difficulty in relation to debt obligations. Other possible recipients (the state antimonopoly agency, consumer associations) indicated that they do not receive complaints concerning banking matters. NBKR publishes a brief yearly complaints statement.

b. & c. There is currently little or no enforcement activity in relation to consumer protection in banking and financial services, so there are no statistics or data for regulatory agencies to report or for the banking association to analyze.

Recommendation

A requirement for the collection and publication of the relevant statistics and information should be included in the duties of the new unit of NBKR that will be responsible for consumer protection activities. The publication requirement could be met by the issuance of a self-standing report or by the inclusion of an appropriate statement or section in other NBKR reports. The information should be available and easy to locate on the NBKR website.

Banks should be required to keep records of complaints and their resolution and to report on this periodically to NBKR, as discussed above in section E.1. A requirement that banks publish information on complaints might be useful in providing incentives to avoid them, but it may be more appropriate in the short term to provide banks with strong incentives to accurately record and report complaints and problems and to develop good practices in addressing them rather than to provide a potential disincentive. Any requirement for publication of complaints that identifies the banks involved could be instituted at a later time.

Section F. Privacy and Data Protection

F.1. Depositor Protection

Good Practice

a. The law should ensure that the regulator or supervisor can take necessary measures to protect depositors when a bank is unable to meet its obligations including the return of deposits.

b. If there is a law on deposit insurance, it should state clearly:

   (i) the insurer;

   (ii) the classes of those depositors who are insured;

   (iii) the extent of insurance coverage;

   (iv) the holder of all funds for payout purposes;

   (v) the contributor(s) to this fund;

   (vi) each event that will trigger a payout from this fund to any class of those insured;

   (vii) the mechanisms to ensure timely payout to depositors who are insured.

c. On an on-going basis, the deposit insurer should directly or through insured banks or the association of insured commercial banks, if any, promote public awareness of the deposit insurance system, as well as how the system works, including its benefits and limitations.

d. Public awareness should, among other things, educate the public on the financial instruments and institutions covered by deposit insurance, the coverage and limits of deposit insurance and the reimbursement process.

e. The deposit insurer should work closely with member banks and other safety-net participants to ensure consistency in the information provided to consumers and to maximize public awareness on an ongoing basis.

f. The deposit insurer should receive or conduct a regular evaluation of the effectiveness of its public awareness program or activities.

Description

a. The Kyrgyz Republic passed a law on deposit insurance in 2008, but it took some time for the creation of the Deposit Insurance Agency (DPA) to be completed (its current Statute was adopted by the Government in 2011) and the Agency is still at a relatively early stage of its development and operations.

b. (i)-(vii) The Law on the Protection of Bank Deposits provides for the DPA to insure the deposits of individual persons in banks up to a limit of 100,000 soms. There are a number of exceptions, including deposits of insiders and affiliated persons of the bank and of their close relatives that are taken on a privileged basis, deposits of persons who have been foreign consultants or auditors for the bank within the last three years, and funds deposited by an individual on behalf of a legal entity.

The law also contains a specific exception for deposits by individual persons who carryout entrepreneurial (income earning) activity without having registered a legal entity for this purpose, if the deposits are connected with that activity. This exception is likely to be difficult to administer and to unfairly distinguish between individual banking consumers, as there is very often no real distinction between the personal (family) funds of an individual engaged in small scale economic activities and the funds that are used for those activities. The DPA reported that a draft that would extend coverage to the deposits of individual entrepreneurs is being developed but that an analysis will need to be done first to determine whether the DPA would be able to cover those deposits and at what level of contribution.

100% of the initial funding was provided by the Government of the Kyrgyz Republic, with a target ratio for sources of funds of 76% government and 24% banks. Banks make quarterly contributions to the Fund that are currently set at 0.2% of the deposit base of the bank. The DPA holds and invests the Fund, with income on the investments going to defray the operating costs of the DPA and increase the Fund itself. If necessary, the Board of Directors of the Fund may increase rate for fund contributions by banks (to a limit of twice the initial rate or 0.4% of the deposit base), to seek a one-time emergency contribution from banks (to a limit of 50% of the prior year's contribution), to borrow funds on the commercial market with a Government guarantee, or to seek a loan from the Government. Grant funds may also be used for this purpose.

Under current law, payment of deposit insurance is triggered when a deposit covered by the guarantee is not paid in accordance with contractual terms due to a court decision recognizing a bank as insolvent or mandating its liquidation. Payment on guaranteed deposits must begin not later than 60 days after the triggering event (or 120 days if the DPA extends this period), and is to be made through agent banks assigned by the DPA or by any other effective means. However, should there be a dispute about the triggering event that is being considered by the courts, no payout will begin until the exhaustion of all legal options and the issuance of a final court decision that is not subject to any appeal (Article 7, point 3 of the Law on Protection of Deposits). This provision could subject depositors to long delays while court disputes drag on, depriving the guarantee of much of its value. Under the draft Banking Code, the withdrawal of a bank's license by the NBKR (which would not be subject to court appeal according to that draft) would trigger deposit insurance payouts.

There has not yet been any instance in which the DPA has been called upon to make payments under the deposit guarantee and its ability to return deposits in a timely way remains untested. The failure of Asia Universal Bank in 2010 could have resulted in such a demand, and would also have tested the DPA's ability to obtain emergency funding through Government loan or guarantee during a difficult period, as the Fund was not sufficient to cover insured deposits. Because AUB was a systemic bank, however, NBKR took a decision to restructure, transferring deposits to a bridge bank. At present, the DPA is seeking grant or loan assistance to enable it to establish automated processes that would allow it to respond in a timely fashion to an insured event.

c.-f. The DPA maintains a website with information for consumers as well as a social media presence through Facebook and other avenues, and maintains a hot line that can be called for information. It has undertaken a variety of activities designed to publicize the deposit guarantee program and educate consumers about its availability and conditions, including seminars and roundtables and the placement of print, radio and video advertisements and information. The DPA cooperates with banks in providing information to depositors, including through the provision of booklets describing the Fund. However, in a selection of descriptive brochures concerning deposit products obtained from banks, treatment of the Fund varied considerably, with some containing no information at all, some showing the symbol indicating membership without any explanation, and some providing a short text stating the monetary limit of the guarantee. No materials provided information on where to get further details, nor did any state any restrictions – including the restriction on insurance of deposits of individual entrepreneurs.

In 2012, the DPA conducted an awareness study that found only about 23-25% of the population were aware of the existence of the Fund. That study also found that television and video forms were the most effective in raising awareness levels. The DPA also participated in several studies concerning remittances in which 20-25% of labor migrants indicated that they were aware of the existence of the guarantee on deposits.

Recommendation

a. – b. Exclusion of the deposits of individual entrepreneurs from the deposit guarantee is likely to create administrative complications, and may unfairly disadvantage small farmers, traders, and craftspeople and discourage them from using the banking system. Steps toward eliminating this exception from the guarantee scheme should continue as quickly as is reasonably possible.

The provision in the law allowing a delay in the payment of compensation while court disputes concerning the guarantee event are resolved subjects depositors to long potential delays and should be eliminated, and to the extent that court decisions concerning troubled banks are not issued promptly and reliably, a different trigger for the guarantee chosen (such as the withdrawal of license as proposed by the draft Banking Code). If depositors are likely to suffer an inability to access their funds in circumstances prior to the withdrawal of a banking license (for example, during suspension of a license or of the ability to conduct particular operations), consideration may need to be given to extension of the guarantee to these circumstances as well, and provision in the law for an appropriate accounting if normal functioning of the bank is reestablished.

It should be noted that limitation of the deposit guarantee scheme to instances of bank failure (withdrawal of license) provides a strong guarantee to consumers only if there are quick and effective mechanisms of redress for consumers whose banks fail to return their deposits in other circumstances (either because the bank is beginning to experience difficulties or for other reasons). This underlines the importance of effective dispute resolution mechanisms for banking consumers.

c. – f. Efforts to raise consumer awareness of the deposit guarantee should continue. In order to ensure that consumers correctly understand the limit of the deposit guarantee, statement of that limit should be required on any material that shows the symbol of the Fund or mentions the guarantee. It would be appropriate for the DPA, in consultation with NBKR and the banks that participate in the Fund, to develop a short, standard text that members could include on written materials advertising deposit products, as well as a text or document to be provided to consumers when they make inquires or are concluding a contract for a deposit product.

F.2. Insolvency

Good Practice

a. Depositors should enjoy higher priority than other unsecured creditors in the liquidation process of a bank.

b. The law dealing with the insolvency of banks should provide for expeditious, cost effective and equitable provisions to enable the maximum timely refund of deposits to depositors**.**

Description

a. In the event of the liquidation of a bank, the Law on the Conservatorship, Liquidation, and Bankruptcy of Banks defines the priority for payment of creditors claims (Article 51). Claims of individual depositors not related to the bank have a higher priority than those of other unsecured creditors, and are subordinate only to amounts payable on judgments for personal injury and to wages and pensions owed to employees of the bank for up to three months prior to liquidation.

The current law divides the claims of individual depositors into two priority levels: the first covering claims on deposits up to a limit of 25,000 Kyrgyz som per individual depositor, and the next covering claims on deposits of individuals that are related both to principal and interest, with no stated limit. This is essentially a form of deposit insurance – providing for the claims up to the 25,000 som limit to be satisfied first and on an equal basis for all depositors, and then the remaining claims on deposits to be subject to satisfaction proportional to the size of the claim (if funds are not sufficient). This priority order was created in 2004, prior to the creation of a deposit insurance scheme in Kyrgyz Republic.

The draft Banking Code (Art. 189) would make a number of changes in the priority order for payment of claims. Some of the claims of individual depositors remain in the third tier, after judgments for personal injury and amounts due to bank employees (not limited to three months but as defined by the Labor Code). However, in the draft Code, individual depositor's claims in this third tier are limited to the amount covered by deposit insurance. Moreover, the right of claim on those amounts passes to the deposit insurance agency once they are paid and the agency's claims remain in the third priority tier, so that the Agency must be completely repaid before any other claims against the bank are satisfied. All other claims of individual depositors that are not covered by deposit insurance are moved into the sixth priority and are subordinate both to the repayment of any monies provided by the Government for the recapitalization of the bank (fourth priority) and to payment of the bank's debts to budgetary or extra-budgetary state funds (fifth priority). Even if there are funds available beyond the insured amounts, provision of such monies seems likely to be a common occurrence in relation to a bank that has been on the edge of solvency for some time, as does the existence of significant debts for taxes and other budgetary payments. So these provisions, in practice, are likely to prevent depositors from recovering more than the limit of insurance in most, if not all, cases. It should be noted in this respect that although the 100,000 soms limit of the deposit insurance guarantee is larger than the 25,000 soms that are currently in the law on bank insolvency, that sum represents less than a year's average wages in the Kyrgyz Republic.

b. A state agency created in 1996 is responsible for conducting the special administration and rehabilitation or liquidation of banks (Agency of the Kyrgyz Republic for Reorganization of Banks and Debt Restructuring or "DEBRA"). NBKR transferred the administration of the affairs of 5 bankrupt banks to DEBRA in 1998, and since that time a number of additional banks have been placed under administration, most recently Asia Universal Bank in 2010. Seven banks remain under administration at the present time, with some liquidation processes nearing a 15th year without a final resolution and closure.

DEBRA's progress reports indicate a number of problems contributing to these delays. Collection of debt owed to some banks is complicated by inability to efficiently collect debt from nationalized or reorganized corporate debtors and lengthy legal disputes concerning execution against property that may have multiple claimants, have changed ownership, and/or be subject to arrest in connection with other criminal or civil proceedings. Collection of debt from low income individual borrowers in depressed areas and from those affected by political unrest several years ago may not be feasible in either economic or political terms. Final completion of some liquidation processes has been prevented by refusal of agreement from either national authorities or creditors committees whose members continue to hope for additional repayment at a later time and are unwilling to extinguish unpaid claims by completing the bankruptcy process.

While a detailed analysis of the circumstances of individual bank liquidations is well beyond the scope of this diagnostic, it seems clear that the current arrangements are not yet providing timely repayment to individual depositors or expeditious final resolutions of bankruptcy proceedings. Individual depositors in some of the earliest banks taken under administration continue to have unpaid claims and the ongoing process may contribute to social tension by failing to provide certainty. Even if these earliest banks are excluded from consideration (as having become insolvent prior to the effect of the law on bank insolvency and, indeed, most of the other legislation that currently applies to the banking system), delay is significant. Claims of individual depositors against Asia Universal Bank, for example, were reported fully paid out in 2013 – three years after the bank was declared insolvent. (This includes both the 3rd tier claims for deposits up to 25,000 som and the 4th tier claims for principal and interest on all deposits of individuals.)

Recommendation

a. Current law on bank insolvency does provide a higher priority to individual depositors than to other unsecured creditors, but the two-tier priority order for individuals is confusing and somewhat outdated given the creation of the deposit insurance scheme. The priority order proposed in the draft Banking Code, while it takes account of the deposit insurance scheme, subordinates all claims for amounts above the insured amount to repayment of the insured amounts to the deposit insurance agency and to claims of the government for recapitalization funds and for payments owing to the budget and to extra-budgetary funds. This will limit individual depositors' recovery to the insured amount in many cases and prevent any recovery by other depositors, including recovery on the deposits of individual entrepreneurs. Full return of banking consumers' funds should have a higher priority than payments to the state. The draft Banking Code should be amended before passage to give depositors not related to the bank priority over repayment of monies provided to a bank by the Government or back taxes and other debts to the state.

b. The reasons for slow resolution of bank liquidation processes are not solely a matter of the bank insolvency law and regulations and involve broader economic, political and social concerns, as well as issues of judicial system reliability and efficiency that will take time to resolve. The fact of slow resolution, however, and in particular the presence of individual depositors who are waiting years on end for satisfaction of their claims, could deprive the banking system of the public trust required for it to function. In light of the long term and ongoing nature of some existing claims and the recent nature of others, it is of critical importance that visible steps be taken to protect individual banking consumers from this kind of harm. In this context, the stability and smooth function of the deposit insurance system take on particular importance (see F.1, above), as do efforts to publicize its availability.

In addition to priority measures to strengthen the deposit insurance system and integrate it into bank supervision and insolvency processes, stakeholders (DEBRA, NBKR, and other bodies) should review the experience to date with bank liquidations with an eye to identifying steps that may be taken to streamline the process. Possibilities could include revision of the procedure for completion of liquidation to reduce creditor incentives to prolong the process, imposition of time limitations on some stages of the process, and/or introduction of procedural mechanisms encouraging courts to combine cases concerning multiple claims on property that secures bank debt into a single proceeding.

Section G. Consumer Empowerment

G.1. Broadly based Financial Capability Program
Good Practice a. A broadly based program of financial education and information should be developed to increase the financial capability of the population. b. A range of organizations, including those of the government, state agencies and non-government organizations, should be involved in developing and implementing the financial capability program. c. The government should appoint an institution such as the central bank or a financial regulator to lead and coordinate the development and implementation of the national financial capability program.
Description See Annex A.
Recommendation See Annex A.

G.1. Using a Range of Initiatives and Channels, including the Mass Media
Good Practice a. A range of initiatives should be undertaken by the relevant ministry or institution to improve people's financial capability regarding banking products and services. b. The mass media should be encouraged by the relevant ministry or institution to provide financial education, information and guidance to the public regarding banking products and services. c. The government should provide appropriate incentives and encourage collaboration between governmental agencies, banking regulators, the banking industry and consumer associations in the provision of financial education, information and guidance regarding banking products and services.
Description See Annex A.
Recommendation See Annex A.

G.3. Unbiased Information for Consumers
Good Practice a. Regulators and consumer associations should provide, via the internet and printed publications, independent information on the key features, benefits and risks –and where practicable the costs– of the main types of banking products and services. b. The relevant authority or institution should encourage efforts to enable consumers to better understand the products and services being offered to consumers by banking institutions, such as providing comparative price information and undertaking educational campaigns. c. The relevant authority or institution should adopt policies that encourage non-governmental organizations to provide consumer awareness programs to the public regarding banking products and services**.**
Description See Annex A.
Recommendation See Annex A.

G.4. Consulting Consumers and the Financial Services Industry
Good Practice a. The relevant authority or institution should consult consumers, banking associations and banking institutions to help them develop financial literacy programs that meet banking consumers' needs and expectations. b. The relevant authority or institution should also undertake consumer testing with a view to ensuring that proposed initiatives have their intended outcomes.
Description See Annex A.
Recommendation See Annex A.

G.5. Measuring the Impact of Financial Capability Initiatives
Good Practice a. The financial literacy of consumers should be measured, amongst other things, by broadly-based household surveys and mystery shopping trips that are repeated from time to time. b. The effectiveness of key financial literacy initiatives should be evaluated by the relevant authorities or institutions from time to time.
Description See Annex A.
Recommendation See Annex A.

Section H. Competition and Consumer Protection

H.1. Regulatory Policy and Competition Policy
Good Practice Regulators and competition authorities should be required to consult one another for the purpose of ensuring the establishment, application and enforcement of consistent policies regarding the regulation of financial services.
Description Responsibility for the enforcement of competition law in the banking sphere is assigned by law [citation] to NBKR rather than to the competition authority. A number of counterparts expressed the view that this assignment encompasses responsibility for the enforcement of consumer protection law as well. (See discussion in A.1. above.) The "Policy and Basic Principles of Antimonopoly Regulation, Competition Development, and the Protection of Consumers' Rights on the Market for Banking Services in the Kyrgyz Republic [when] Provided by Commercial Banks and other Financial-Credit Institutions Licensed and Regulated by the NBKR," adopted by the NBKR in 2005, contains a set of basic rules (largely repeated from the competition law in force at the time), a list of NBKR authorities in their enforcement, up to and including withdrawal of a banking license, and a description of NBKR enforcement by means of inclusion of antimonopoly concerns into the regular processes for bank licensing, regulation and supervision. An NBKR regulation issued in 2007 defines a dominant position in relation to banking services.

The State Agency for Antimonopoly Regulation of the Kyrgyz Republic reported that it has taken no actions and conducted no studies in relation to competition in financial services markets, as enforcement in this area is not within the Agency's competence. Neither have financial services markets been the subject of consumer protection enforcement, as the assignment of authority in the area is not clear and the Agency has not received complaints on such issues. The Agency reported that its primary focus in the consumer protection area to date has been on the protection of consumers through oversight and control of dominant entity pricing and of the tariffs and fees on important basic services such as utilities and transportation. It does now intend to include such issues in its work, however, and has recently begun an inquiry into the contracting practices of commercial banks in relation to consumer lending. Resources for any expansion of Agency activity into this area are very limited, however, and a single Agency employee (out of a total of 81 in all Agency offices) is currently assigned responsibility for all financial markets issues.

As the competition authority is excluded from enforcement of the competition law in relation to banking, the issue of inconsistent approaches to competition policy and competition law enforcement in the sector has not arisen. The same has been true to date for enforcement of consumer protection norms, but the potential for conflict may arise if the State Agency for Antimonopoly Policy begins to undertake independent enforcement in the banking sphere.

Recommendation

In light of severe capacity constraints and to avoid conflicts with prudential standards and market conduct regulations issued by NBKR, the State Antimonopoly Agency should not separately enforce the provisions of the competition law in relation to financial institutions. A mechanism allowing the Agency to raise competition concerns in relation to financial services should be defined, if necessary by a formal agreement or MOU between the bodies. In addition, the NBKR will need to have clear channels by which complaints concerning competition law issues (abuse by a dominant bank, collusion between banks, use of unfair methods of competition) can be submitted for NKBR to address. The new unit that is currently being formed to address consumer matters will likely receive any complaints from individuals on these kinds of issues, but channels for complaints and reports by other banking customers and by banks themselves concerning violations by their competitors should also be clear.

H.2. Review of Competition
Good Practice Given the significance of retail banking to the economy as a whole and to the welfare of consumers, competition authorities should: (i) monitor competition in retail banking; (ii) conduct, and publish for general consumption, periodic assessments of competition in retail banking (such as the range of interest rates across banks for specific products); and (iii) make recommendations publicly available on enhancing competition in retail banking.
Description (i) – (iii) There are no such requirements applicable to the antimonopoly body in the Kyrgyz Republic, as competition law policy and enforcement are assigned to NBKR exclusively. A requirement that the antimonopoly body undertake such analyses periodically could be inserted into the relevant law, but that body's lack of any experience or expertise on banking issues and lack of resources in general raise questions about whether the independent production of any in depth competition analysis on banking markets is within its current capability or should be a priority at the present time. This is by no means, however, to suggest that competition issues in retail banking are unimportant or that a view on those issues from outside the primary regulator in the industry is not useful. NBKR, as the entity currently responsible for the enforcement of competition policy in the banking sphere, should be required to undertake the tasks discussed in this good practice and to issue periodic reports on the state of competition, which could be either self-standing or included as a separate section in other periodic NBKR publications on the banking system. The State Agency for Antimonopoly Policy should be invited to participate in the production of this report and/or to contribute its views on this issue for discussion and for inclusion in the relevant publication. The mechanism for that contribution could be defined within the agreement or MOU between the bodies on consumer protection issues that is recommended in A.1. above.
Recommendation NBKR, as the state body responsible for competition policy in the banking sphere, should have both the responsibility and authority to broadly promote competition in the banking industry and to take competition issues into account in all of its regulatory activity, not only in relation to concentration control matters and changes of ownership in banks. NBKR should be required to periodically assess the state of competition in retail banking and to issue periodic reports on this issue. The State Antimonopoly Agency should be invited to contribute to these analyses and reports, including the publication of views that are not in accord with those of the NBKR on relevant questions. These responsibilities should be reflected clearly in the relevant laws and regulations, as well as the statute on the NBKR.

H.3. Impact of Competition Policy on Consumer Protection
Good Practice The competition authority and the regulator should evaluate the impact of competition policies on consumer welfare, especially regarding any limitations on customer choice and collusion regarding interest and other charges and fees.
Description There is no specific requirement for such evaluations under the competition law or the banking laws. Enforcement of the law against collusion – including in the area of bank fees – is the responsibility of NBKR. Monitoring of competition levels on banking services markets and of indications of possible collusion or restriction of consumer choice due to a lack of competition would be an integral part of both enforcement of the competition law on those markets and of the performance of the monitoring and reporting functions discussed in H.2., above.
Recommendation See recommendations in H.1 and H.2, above.

II. Good Practices: Non-Bank Credit[6] Institutions

Section A. Consumer Protection Institutions

A.1. Consumer Protection Regime
Good Practice The law should provide clear consumer protection rules in the area of non-bank credit institutions, and there should be adequate institutional arrangements to ensure the thorough, objective, timely and fair implementation and enforcement of all such rules, as well as of sanctions that effectively deter violations of these rules. a. There should be specific statutory provisions, which create an effective regime for the protection of consumers of non-bank credit institutions. b. There should be a government authority responsible for implementing, overseeing and enforcing consumer protection in the area of non-bank credit institutions. c. The supervisory authority for non-bank credit institutions should have a register which lists the names of non-bank credit institutions. d. There should be coordination and cooperation among the various institutions mandated to implement, oversee and enforce consumer protection and financial sector regulation and supervision. The law should provide for, or at least not prohibit, a role for the private sector, including voluntary consumer associations and self-regulatory organizations, in respect of consumer protection in the area of non-bank credit institutions.

[6]These include microfinance organizations and credit unions.

Description

a. Specific statutory provisions pertaining to consumer protection are in place for non-bank financial institutions:

(i) The Law on Microfinance Organizations (Law on MFOs) was amended in April 2013 to include statutory provisions on consumer protection. In addition, regulations regarding "minimum requirements for credit risk management" and "for internal control" were put in place in for microfinance institutions.

(ii) For credit unions, the legal framework per se does not include dedicated statutory provisions for consumer protection, but a number of provisions are included in the legal framework to protect the members and clarify complaint procedures. Furthermore, the regulation on credit risk management includes a number of provisions, as will be specified below.

There is also a general consumer protection law in the country, which applies to goods, services and trade. The provisions are general, and none of the three categories explicitly includes financial services. In this regard, there is some uncertainty whether the Law on Consumer Protection is applicable for financial services.

b. See Good Practice A.1. of the banking sector assessment for a summary of the overall institutional arrangements.

c. In accordance with the Law on Licensing[7] , the legal department of the NBKR is in charge of certifying / licensing the credit unions and microfinance organizations, and maintains a register with the names of all the registered micro-finance organizations and credit unions.

d. The NBKR is the only government institution that is carrying out regulation and supervision of the microfinance organizations and credit unions. There is appropriate coordination between the various units within the NBKR in charge of off-site, on-site and licensing of the sector. However, with only 8 staff in off-site supervision, and 16 in on-site supervision, the units are understaffed to supervise 430 non-bank credit entities.

The Anti-Monopoly Agency currently does not actively supervise financial sector related topics. It has however recently started to assess standard bank loan documents regarding their compliance with provisions stipulated by the Consumer Protection Law and possibly suggest changes to the legal framework.

e. The regulatory framework for microfinance organizations and credit unions does not assign any direct role for the sector in the area of consumer protection, but also does not prohibit such a function. It provides for the creation of associations to represent the sector[8].
The Law on Consumer Protection[9] explicitly provides for a role of consumer associations or unions to play a role in establishing standards and addressing consumer complaints.

[7] Article 1-3 and 17-1.

[8] Article 6 of Law on MFOs and Article 6 of the Law of Credit Unions.

[9] Article 58.

Recommendation

It is recommended to clarify in the legal framework that financial services do not fall under the Law on Consumer Protection, and that the NBKR is the agency formally in charge of supervising market conduct for banks and other financial entities providing banking services.

The staffing levels in the units in charge of supervising non-bank credit institutions should be assessed to determine whether additional staff will be required to adequately supervise the sector.

The legal and regulatory framework should be evaluated to determine cost-effectiveness of the introduced measures and alternative approaches considered where appropriate.

A.2. Code of Conduct for Non-Bank Credit Institutions

Good Practice

a. There should be a principles-based code of conduct for non-bank credit institutions that is devised in consultation with the non-bank credit industry and with relevant consumer associations, and that is monitored by a statutory agency or an effective self-regulatory agency.

b. If a principles-based code of conduct exists, it should be publicized and disseminated to the general public.

c. The principles-based code should be augmented by voluntary codes on matters specific to the industry (credit unions, credit cooperatives, other non-bank credit institutions).

d. Every such voluntary code should likewise be publicized and disseminated.

Description

a. Not available.

b. Not applicable.

c. The Association of Microfinance Institutions (AMFI) issued an Ethics Code in 2010. The Code is mandatory for all members, and accordingly was signed by all 34 members. The Code aims at safeguarding the reputation of the members, and establishes as core values (i) transparency, (ii) high quality of products and services, (iii) equality for all members and clients, and (iv) professionalism at every level. It already provides for fair and transparent disclosure requirements, right to early repayment, clarity in language, and information on consequences of failure to the obligations assumed under the contract, and non-offensive debt collection. While the Code is general in its wording, it has already established the majority of measures that were eventually incorporated into the legal framework applicable to microfinance institutions.

d. The Ethics Code of AMFI is published on its Webpage, along with information on the SMART Campaign.

Recommendation

It is recommended to further promote the adoption of the Ethics Code within the microfinance sector, and provide more guidance material on what constitutes for example "Respectful attitude towards the customer, non-offensive debt collection, and reasonable steps towards ensuring that clients have sufficient ability to repay". Furthermore, standardized loan documents, that are written in clear and easily understandable language, as well as model guidelines for credit evaluations, internal claims processes etc. could be developed to facilitate and support uptake in the industry. Furthermore, AMFI itself could promote greater transparency by including on its webpage information on interest rates, explanation of terms and rights, and providing a platform for voicing complaints about unethical behavior by member entities.

A similar code should be developed and implemented by the Association of Credit Unions for its members. To support implementation, the Finance Company for Credit Unions could focus on providing support to only those entities that have signed the code and adhere to the principles.

A.3. Other Institutional Arrangements

Good Practice

a. Whether non-bank credit institutions are supervised by a financial supervisory agency, the allocation of resources between financial supervision and consumer protection should be adequate to enable their effective implementation.

b. The judicial system should ensure that the ultimate resolution of any dispute regarding a consumer protection matter with a non-bank credit institution is affordable, timely and professionally delivered.

c. The supervisory authority for non-bank credit institutions should encourage media and consumer associations to play an active role in promoting consumer protection regarding non-bank credit institutions.

Description

a. Both the on- and off-site units of the NBKR are involved in supervising the adherence to consumer protection measures. This mandate is clearly defined in the Law on Credit Unions[10] , which assigns the NBKR a role in protecting the interest of the credit unions members, which are also the clients of the respective entity. For microfinance institutions, the legal framework does not formally mandate the inclusion of consumer protection provisions in the off- and onsite inspections[11], there is currently however a strong focus placed by the NBKR on the actual implementation of core consumer protection measures:

[10] Article 30.1.

[11] Article 29 of the Law on MFOs puts a strong focus on supervision of AML related measures.

(i) The off-site division has until recently received and processed complaints from clients, and assessed the self-reported financial information, such as increasing non-performing loans, that could indicate problems with over-indebtedness of the clients, as well as average reported interest rates. The assessments and received complaints can trigger a request to the on-site inspection department to conduct an on-site visit. The processing of complaints will be spun off into a separate unit inside of the legal department.

(ii) During the on-site visits, meetings with borrowers are being conducted, including borrowers that voiced complaints in the complaints handling book at the individual institutions or directly at the NBKR. Furthermore, the adequacy of loan documentation and publicly available information is being assessed, and information and correctness of interest rate calculation confirmed. The on-site inspection already detected a number of problems, which led to the imposition of sanctions and eventual withdrawal of licenses.

The system of on- and off-site supervision was recently revised to reduce the burden of supervision and prioritize supervision of the larger entities which hold the majority of assets, loans and borrowers. This revision was made necessary due to the scarce resources of the NBKR, which only has 16 inspectors and 8 staff for off-site supervision, in charge of supervising 430 entities.

Nevertheless, despite the noted scarce resources, the NBKR has been very active in supervising and enforcing the legal and regulatory framework for the sector. In 2013, it withdrew 29 licenses (9 from credit unions, the rest from non-bank credit institutions). This included failure to comply with the regular reporting requirements provided for by the legal framework or for providing false information. In 2012, 98 licenses were withdrawn.

b. Given the small amounts of money involved in micro-credits, most court proceedings will be too expensive compared to the actual claim under dispute. It is thus no surprise that hardly any complaints are being brought to the level of courts. An out-of court arbitration mechanism is not available in Kyrgyz Republic, leaving the clients of microfinance organizations and credit unions with the sole option of bringing their unresolved problems to the attention of the NBKR.

c. The NBKR is currently not actively involving sector and consumer associations in efforts to enhance transparency in the sector. There is also some indication that the changes in the legal and regulatory framework are not sufficiently discussed with stakeholders, and implemented without sufficient anticipation for internalizing the required changes.

Recommendation

Despite the recent revamping of the on- and off-site supervision system for non-bank financial institutions, considerations should be given to increasing the number of staff working in both units. This would free them for additional training to understand the peculiarities of the sector, and possibly free them to do some "mystery shopping" to confirm adherence to basic transparency provisions.

An out-of court mechanism to resolve complaints should be developed to make dispute resolution affordable to its clients. International experience suggests that an ombudsman scheme, if correctly implemented and involving a trusted and competent person, can be a viable option.

The NBKR and other public stakeholders involved in further developing the legal and regulatory framework for non-bank credit institutions should improve the consultation process with the associations representing the sector.

A.4. Licensing of Non-Bank Credit Institutions

Good Practice

All financial institutions that extend any type of credit to households should be registered with a financial supervisory authority.

Description

In line with the Law on Licensing, all microfinance organizations and credit unions are to be registered or licensed by the NBKR. The NBKR has the mandate to revoke the license, of which it has made repeated use over the last few years. Without the license / permit from the NBKR, these entities are not allowed to perform banking services.

The Law on MFOs also prohibits the use of "national", "state" or 'Kyrgyz" in the name of the respective organization. This protects the client from a false impression that it is a government owned or protected organization.

There are a growing number of pawnshops, which are not subject to licensing raising consumer protection concerns. According to information from stakeholders, pawnshops frequently use verbal contracts only, lack transparency in their operations and disclosure towards the client, charge high interest rates, and in some cases, use abusive enforcement practices. Given this, the Law on Licensing was amended in October 2013 to reinstate the requirement that pawnshops be licensed. However, no supervisory agency has yet been assigned, and no procedures and regulations pertaining to the licensing process have yet been drafted.

Recommendation

The current licensing scheme is not very effective, as it only sets basic requirements for licensing. Considerations might be given to introduce a staged licensing regime, with increasing size of assets, mandates further qualifications of management ('fit and proper' rules), additional reporting requirements and more elaborated manuals and policies.

A government agency in charge of licensing and monitoring the pawnshops should be assigned as soon as possible. As the NBKR is the supervisor of all other entities that conduct lending services, and has previous experience with supervising the pawnshops, it would be best suited to assume such a role.

Section B. Disclosure and Practices

B.1. Information on Customers

Good Practice

a. When making a recommendation to a consumer, a non-bank credit institution should gather, file and record sufficient information from the consumer to enable the institution to render an appropriate product or service to that consumer.

b. The extent of information the non-bank credit institution gathers regarding a consumer should:

(i) be commensurate with the nature and complexity of the product or service either being proposed to or sought by the consumer; and

(ii) enable the institution to provide a professional service to the consumer in accordance with that consumer's capacity.

Description

a. The legal and regulatory frameworks for both MFOs and credit unions provide for the gathering, filing and recording of information to assess the client's creditworthiness:

Article 35-2.3 of the Law on MFOs requires that the solvency of the borrower must be studied. This is to include an assessment of income related to economic activity and from family members, as well as an assessment of expenditure needs related to all dependents in the household. Provisions to this regard are also made in the regulation on credit risk management for MFOs[12] .

The Law on Credit Unions does not explicitly include provisions regarding information on consumers, but Article 25 of the Law on Credit Unions establishes that the credit union should have credit policies in place, that detail credit payment terms and conditions, limits of crediting and acceptable forms. The credit policies should be approved by the General Assembly, and be in line with requirements stipulated by the legislation. In 2009 (and last amended in 2012), the NBKR issued a regulation on minimum requirements for credit risk management in credit unions, which also determines minimum standards for loan documentation, and the assessment of the borrowers' creditworthiness. According to Article 5, the latter includes (i) determining whether the borrower has a responsible "attitude" toward borrowing, and including his/her previous repayment history for loans, (ii) assessment of income and cash flow to repay the loan, and (iii) evaluation of collateral, in case this is required.

[12] Article 23.5.

b. The minimum information requirements mandated for microfinance institutions are overall appropriate for assessing the borrower's solvency and establishing adequate loan sizes. However, the focus of the solvency assessment is on historic information on income and expenditure, thus only provides a static picture of the repayment capacity of the borrower. This focus on static assessments was confirmed by the review of loan files during the mission. It would be better to move at least for larger loans (investment loans in particular) towards a cash flow based assessment of the client, and determine maturity structures that are in line with the identified cash flow. The current products available in the market have almost exclusively monthly repayment rates, which do not appear adequate with the cash flow generated e.g. by farmers.

A focus on cash flow is already included in the regulation on credit risk management for credit unions.

None of the legal frameworks explicitly requires an assessment of the borrower's capacity to repay loans in foreign currency. Currently foreign currency loans are not provided by MFOs and credit unions. However, it will be important to include a provision once the first entity has received a license to issue such loans stipulating that an assessment of the solvency should factor in revenue sources in foreign income.

Recommendation

The regulation on credit risk management in MFOs should include a passage stating that, where appropriate, a cash flow assessment should be carried out to determine the repayment capacity of the borrower, and the appropriate maturity structure.

The regulatory frameworks for credit unions and MFOs should be amended in time to require an assessment of the borrowers revenue stream in foreign currency, if the loan is to be provided in a foreign currency. Foreign currency loans to borrowers, who do not have any income in the respective currency, should not be allowed. Furthermore, the financial entity should be required to discuss with the client possible risks arising from changes in the respective exchange rate.

It is recommended to assess the quality and quantity of available training for loan officers in the country. The available courses should include cash flow analysis.

B.2. Affordability
Good Practice a. When a non-bank credit institution makes a recommendation regarding a product or service to a consumer, the product or service it offers to that consumer should be in line with the need of the consumer. b. Sufficient information on the product or service should be provided to the consumer to enable him or her to select the most suitable and affordable product or service. c. When a non-bank credit institution offers a new credit product or service that significantly increases the amount of debt assumed by the consumer, the consumer's credit worthiness should be properly assessed.
Description a. As discussed above, the legal and regulatory frameworks for both credit unions and MFOs provide for an assessment of the creditworthiness of the borrower, and the determination of appropriate products to offer. b. The Law on MFOs stipulates for example in Article 35-2.2 that prior to the finalization of the credit contract, the customer should receive a full, clear and exhaustive information on credit conditions (including on the full price of the credit product) in one of the official languages used in the Kyrgyz Republic based on the client's choice. The provided data is to be unified and systematized to allow comparison of credit products. c. For MFOs, the law mandates explicitly a more in-depth assessment of the repayment capacity if immovable collateral is provided. This reflects prior experience and complaints by borrowers, who had their property taken after experiencing problems repaying. The respective provisions are included in Article 35-2.3. No such provision is included for credit unions, but the regulations are sufficient to mandate an appropriate creditworthiness assessment.
Recommendation See recommendations made under B.1

B.3. Cooling-off Period

Good Practice

a. For financial products or services with a long-term savings component, or those subject to high-pressure sales contracts, (unless explicitly waived by the consumer in writing), a non-bank credit institution should provide the consumer a cooling-off period of a reasonable number of days (at least 3-5 business days) immediately following the signing of an agreement between the institution and the consumer.

b. On his or her written notice to the non-bank credit institution during the cooling- off period, the consumer should be permitted to cancel or treat the agreement as null and void without penalty to the consumer of any kind.

Description

a. None of the microfinance institutions currently offer savings products. For loans, Article 35-2.2 mandates that the borrower should have the right to cancel the credit prior to having received the agreed upon loan amount or in the case of leasing, made the first payment for the leasing product. The timeframe for the cooling off period is limited to 3 days, which does not seem to be sufficient for consulting with a lawyer if needed.

   Credit unions: No cooling off period is foreseen for loans provided by credit unions, or for savings products. Only 12 credit unions currently have a license to offer savings products to their members, and the offered products are basic savings products. With regard to loans, the credit union members approve in the General Assembly the products and credit policies, and the Credit Committee, which is elected by the members every three years, evaluates the credit applications. The members can directly complain to their Board in case of problems. By nature, this member-based approach should sufficiently safeguard against unfair business practices, thus making the establishment of cooling off periods less critical.

b. For MFOs, the cancelation of a loan prior to disbursement is to be without any costs to the borrower. The borrower has the right of early repayment of the loan free of charge, if advised 30 days in advance.

   The legal and regulatory framework for credit unions does not include any provisions in this regard.

Recommendation

The regulation pertaining to cooling off periods for MFOs should be revised. The cooling off period could either be extended to 2 weeks in order to reduce the financial burden on the client, or a provision included that allows the client to return the loan amount within a brief period after loan disbursement without any applicable penalty (other than interest to be paid for the time the funds were held).

For credit unions, cooling off periods should be established over time.

B.4. Bundling and Tying Clauses

Good Practice

a. As much as possible, non-bank credit institutions should avoid the use of tying clauses in contracts that restrict the choice of consumers.

b. In particular, whenever a borrower is required by a non-bank credit institution to purchase any product, including an insurance policy, as a pre-condition for receiving a loan, the borrower should be free to choose the provider of the product and this information should be made known to the borrower.

c. Also, whenever a non-bank credit institution contracts with a merchant as a distribution channel for its credit contracts, no exclusionary dealings should be permitted.

Description

The legal framework in the Republic of Kyrgyz Republic prohibits the bundling of products and services.

Article 17.2. of the Law on Consumer Protection specifies that it is forbidden to condition the acquisition of certain goods (works, services) with the purchase of other goods or services. In case of violation, the customer can request full reimbursement from the seller.

Article 35-2.2.4 of the Law on MFOs prohibits that any other commercial obligations are included in a credit contract, which are being paid or collected by the microfinance institution. This does not apply to services that are needed to conclude the loan, such as fees for notary services for collateral registration. The latter have to be made transparent in the loan document.

There is no indication that MFOs and credit unions offer other non-credit services to their clients.

Recommendation

While there is no indication that bundling of products is taking place in microfinance institutions, this should be monitored over time.

B.5. Key Facts Statement

Good Practice

a. Non-bank credit institutions should have a Key Facts Statement for each type of account, loan or other products or services.

b. The Key Facts Statement should be written in plain language, summarizing in a page or two the key terms and conditions of the specific financial product or service, and allowing consumers the possibility of easily comparing products offered by different institutions.

Description

a. he legal and regulatory framework for MFOs mandates full transparency with regard to the information on key loan conditionalities13 . This includes amongst others the full price of the microcredit in absolute value, a clear separation of the individual cost components and applicable nominal and effective interest rates on an annualized basis. It also mandates that the loan documentation is to be in the national language or official language of choice by the borrower and should be written in a manner than can be understood by the borrower14 .

   In addition, the regulation on credit risk management in MFOs specifies that the borrower should receive information on the nominal interest rate, the annual effective interest rate, the de facto interest to be paid, as well as a separate loan payment schedule. The core rights and responsibilities of the client are to be referred to in a separate Annex that has to be signed by both borrower and the non bank credit institution loan official, and a separate Annex containing the repayment schedule provided. Finally, the loan document has to include a memo by the NBKR for the borrower, in which his/her rights and obligations are explained. The memo has to be signed by the borrower.

   For credit unions, Article 5 of the regulation on credit risk management mandates that the written loan agreement should include the basic terms of the loan (maturity, security and interest rate), the rights and obligations of each party, a repayment schedule as well as information on sanctions in case of breach of obligations.

b. The amount of information that has to be provided to the borrower appears overwhelming, and is not sufficiently timely to allow comparing of terms and conditions between different products and providers. While the mission understands that part of the requirements and information to be provided to the borrower serve the purpose of educating the borrower about his/her rights and obligations, and to help them understand what to look for and be aware of in a loan, the sheer size of requirements for loan documents to sign appears onerous and adds considerable costs to the loan process.

[13] Article 35-12 and 35-2.2.

[14] Article 35-2.6.

Recommendation

Instead of the numerous information and documentation requirements currently mandated, a one-page key fact statement should be introduced for both credit unions and MFOs. The key fact statement should provide information on the effective interest rate (annualized and compounded), the break-down of the individual cost components (including fees), the repayment schedule, and information on available dispute resolution mechanisms.

To allow comparison of loan products and conditionalities, a key fact statement for all available loan products should be publicly available in each branch office for each product, and include information on the loan sizes, maturities, interest rates and commissions. The information should be easily accessible and visible, and not as currently the practice in separate folders that need to be reviewed by the borrower.

B.6. Advertising and Sales Materials

Good Practice

a. Non-bank credit institutions should ensure that their advertising and sales materials and procedures do not mislead customers.

b. All advertising and sales materials should be easily readable and understandable by the general public.

c. Non-bank credit institutions should be legally responsible for all statements made in advertising and sales materials (i.e. be subject to the penalties under the law for making any false or misleading statements).

Description

a. Article 36 of the Law on MFOs prohibits false or misleading advertising of an entity's activities. In addition, Article 35-2.1 requires that MFOs provide services based on principles of honesty and transparency, and Article 35-1.3 stipulates that advertising, publication and spreading of data on interest rate should include both nominal and effective interest rates. In reality, many MFOs however prefer not to include the interest rate information in information provided on the web or post it visibly on the wall.

   There are no provisions pertaining to advertising in credit unions.

   The Law on Consumer Protection does not include provisions on advertising per se, but establishes that the seller should provide correct information to the client on the company and the product upon demand.

b. There is no requirement that the advertisements should be easily readable and understandable. However, the information in the loan document has to be clear and easily understandable in contracts of MFOs.

c. The NBKR has the right to request from the MFO to change or drop the misleading advertisement, and – if not complied with –publish a statement in mass media clarifying that the information provided is misleading. The NBKR can request the reimbursement of these costs from the MFO.

While the legal and regulatory framework is sufficient for establishing the requirement of fair advertisements it falls short in making the financial entity responsible of any monetary loss incurred by the clients due to the advertisement.

Recommendation

Provisions to call for fair and honest advertisement should be included in the legal and regulatory framework for credit unions.

The legal framework currently does not hold the financial entity accountable for damage done to borrowers due to misleading advertisement. This should be added.

Considerations should also be given to imposing sanctions on non bank credit institutions that do not adhere to proper advertisement rules. These should differentiate between first time "offenders" and frequent violators of the rules, as well as the magnitude of the misleading advertisement.

B.7. General Practices

Good Practice

Specific rules on disclosure and sales practices should be included in the non-bank credit institutions' code of conduct and monitored by the relevant supervisory authority.

Description

The legal and regulatory framework does not include any provisions for MFOs and credit unions to have codes of conducts in place.

Recommendation

As discussed under A.2, the NBKR should encourage the sector associations and the sector institutions to develop their own codes of conducts, and develop standardized documents and minimum product standards.

B.8. Disclosure of Financial Situation
Good Practice a. The relevant supervisory authority should publish annual public reports on the development, health, strength and penetration of the non-bank credit institutions, either as a special report or as part of the disclosure and accountability requirements under the law that governs these. b. Non-bank credit institutions should be required to disclose their financial information to enable the general public to form an opinion regarding the financial viability of the institution.
Description a. Article 10.4. of the Law on the NBKR mandates that it should annually publish in the mass media the main analytical data included in the annual report and concerning the situation in the financial and banking systems of the Republic. In accordance with the above passage, the NBKR provides on its webpage information on the banking and non-banking sector, which for MFOs and credit unions includes information on their loan portfolio (by sector), maturity structure, and interest rates (only nominal rates). The information is mostly provided in the form of an excel spreadsheet, which for less sophisticated users might be difficult to locate and analyze. In addition, its stability report includes sections on the development, soundness and possible risks of non-bank credit institutions. b. Since April 2013, all three types of MFOs are mandated to have their financial statements audited by an external auditor (Article 37.4 Law on MFOs). In addition, Article 22 of the Law establishes that microfinance companies should publish their financial accounts on a quarterly basis in mass media, and present the full financial accounts on an annual basis. Article 19 of the Law on Credit Unions principally requires that external audits be done for credit unions, but leaves as option to the credit unions that the Internal Audit Committee can also assume this role. The financial statements have to be presented and discussed at the General Assembly of the credit union, at which 50% of the members have to be represented. Finally, the Law on Banks and Banking Services also includes passages that pertain to non-bank credit institutions. Article 1-1 provides for audits to be carried out in accordance with the international auditing standards, and mandates that the audit report and opinion be sent to the NBKR within 10 days of finalization of the audit. It also gives the NBKR the right to accept or reject the audit opinion, and to request a re-audit if necessary. Based on feedback received, there is currently a shortage of qualified auditors who can conduct audits for microfinance institutions. Deficiencies in the audits themselves were noted, including not using the accounting rules prescribed for by the NBKR and not taking the regulatory framework for non-bank credit institutions in account.

Recommendation

The NBKR should assess the common accounting format applicable for the individual types of entities, and adapt it to the level of sophistication and size of individual entities. Considerations could also be given to include in the audit report, feedback on general business conduct and adherence to disclosure standards.

As the requirement to have the accounts audited was only recently introduced, a special effort should be undertaken to train and certify professional external auditors.

The NBKR should consider putting in place a requirement to use auditors from a list of pre-qualified auditors held at the NBKR.

Finally, considerations could be given to mandating credit unions to have their financial statements posted visibly for their members.

Section C. Customer Account Handling and Maintenance

C.1. Statements

Good Practice

a. Unless a non-bank credit institution receives a customer's prior signed authorization to the contrary, the non-bank credit institution should issue, and provide the customer with, a monthly statement regarding every account the non-bank credit institution operates for the customer.

b. Each such statement should: (i) set out all transactions concerning the account during the period covered by the statement; and (ii) provide details of the interest rate(s) applied to the account during the period covered by the statement.

c. Each credit card statement should set out the minimum payment required and the total interest cost that will accrue, if the cardholder makes only the required minimum payment.

d. Each mortgage or other loan account statement should clearly indicate the amount paid during the period covered by the statement, the total outstanding amount still owing, the allocation of payment to the principal and interest and, if applicable, the up-to-date accrual of taxes paid.

e. A non-bank credit institution should notify a customer of long periods of inactivity of any account of the customer and provide reasonable final notice in writing to the customer if the funds are to be transferred to the government.

f. When a customer signs up for paperless statements, such statements should be in an easy-to-read and readily understandable format.

Description

a and b. The legal and regulatory framework does not include a mandatory requirement for providing the client with monthly statements on the deposit account balances. None of the microfinance companies has yet received a license for taking deposits, so at this stage such a provision is not yet needed.

There is also no explicit requirement for providing the client with a regular statement on loan repayments and remaining balances. The borrower receives the full repayment schedule upon signing of the loan. The repayment schedule is to include information on principles and interest due for each payment. In case of a change in repayment schedule, the borrower is entitled according to Article 26 of the regulation on credit risk management to receive a new payment schedule.

For credit unions, Article 22 of the Law on Credit Unions mandates that each member is to be provided with a share book, in which all increases and withdrawals of shares are recorded together with the date of transaction. The share book is also to record dividend payments.

Currently, 12 credit unions are licensed to offer deposit services to their client, and the value of deposits held by these entities currently ranges around USD 1mln. There is no explicit regulation on deposit accounts in the Law on Credit Unions. These activities are covered in the Law on Banks and Banking Activity whose provisions on deposits apply to any financial institution licensed to take deposits. The Law on Banks and Banking Activity also does not include any provisions that stipulate the provision of regular statements on deposit accounts.

This will likely be addressed in the near future. The draft Banking Code provides for the establishment of procedures for handling bank accounts by the NBKR. These would apply to all persons/entities providing banking services, thus also be applicable to microfinance companies and credit unions, which are licensed to take deposits.

c. Not applicable. None of the microfinance organizations and credit unions are authorized to offer their clients/members credit cards.

d. Not applicable. The information is provided as part of the repayment schedule included in the loan document.

e. Not applicable. There is no requirement that funds are to be transferred back to the government in case of non-activity.

f. Not applicable. No provisions on paperless statements are included in the legal and regulatory framework. As the microfinance organizations and credit unions frequently cater to clients in remote rural areas, where internet connectivity is not yet reliable.

Recommendation

The regulations should be amended to mandate a written confirmation to the borrower/treasurer of the group loan of any payments made. In case of early repayments of the full or partial amount, a new payment schedule should be provided to the borrower.

With regard to savings, the NBKR needs to put in place procedures for the handling of accounts for banks and providers of banking services, to make sure that the client has up-to date information on his/her balance.

C.2. Notification of Changes in Interest Rates and Non-Interest Charges

Good Practice

a. A customer of a non-bank credit institution should be notified in writing by the non-bank credit institution of any change in:

(i) the interest rate to be paid or charged on any account of the customer as soon as possible; and

(ii) a non-interest charge on any account of the customer a reasonable period in advance of the effective date of the change.

b. If the revised terms are not acceptable to the customer, he or she should have the right to exit the contract without penalty, provided such right is exercised within a reasonable period.

The non-bank credit institution should inform the customer of the foregoing right whenever a notice of change under paragraph a. is made by the institution.

Description

a and b. The Law on MFOs states in Article 35-2.13 that the MFO cannot change or add unilaterally any credit conditions, if it goes against the rights and obligations of the borrower. The written consent of the borrower is required.

A similar provision is also provided in the draft Banking Code under Article 10.9, which stipulates that persons providing banking services shall not have the right on a unilateral basis to make amendments or additions to the terms of a loan agreement, if doing so would infringe upon the rights and/or increase the responsibilities of the borrower.

More generally, the Regulation on Pricing Policy as well as the draft Banking Code include specific requirements for the financial entity to make any changes in their interest rates publicly available. The Regulation on Pricing Policy for example requires in Article 7.10 timely informing customers about the conditions of provision of banking services and subsequent amendments and additions to the current interest rates and rates of the financial entity.

For credit unions, Article 16 of the Law on Credit Unions specifies that the Board should prepare proposals on the credit, interest, loan and investment policy in line with the established principles and norms established. The proposals are to be approved by the General Assembly (Article 14.2). Furthermore, the dividend on savings shares is declared annually by the General Assembly.

c. Not applicable

Recommendation

It is recommended to post interest rates and their changes on the wall in each branch to strengthen the existing disclosure regime. As is at the moment, there is no minimum requirement as to what "making publicly available" is to include.

C.3. Customer Records

Good Practice

a. A non-bank credit institution should maintain up-to-date records in respect of each customer of the non-bank credit institution that contain the following:

(i) a copy of all documents required to identify the customer and provide the customer's profile;

(ii) the customer's address, telephone number and all other customer contact details;

(iii) any information or document in connection with the customer that has been prepared in compliance with any statute, regulation or code of conduct;

(iv) details of all products and services provided by the non-bank credit institution to the customer;

(v) a copy of all correspondence from the customer to the non-bank credit institution and vice-versa and details of any other information provided to the customer in relation to any product or service offered or provided to the customer;

(vi) all documents and applications of the non-bank credit institution completed, signed and submitted to the non-bank credit institution by the customer;

(vii) a copy of all original documents submitted by the customer in support of an application by the customer for the provision of a product or service by the non-bank credit institution; and

(viii) any other relevant information concerning the customer.

A law or regulation should provide the minimum permissible period for retaining all such records and, throughout this period, the customer should be provided ready free access to all such records.

Description

a. For lending, the documentation requirements listed under (i)-(viii) are all stipulated by the respective regulations on credit risk management for credit unions and MFIs. With regard to deposit accounts, the NBKR resolution 41/12 and the regulation on minimum requirements of internal controls in MFOs and credit unions covered the documentation requirements for depositors

b. Article 4.2 of the regulation on internal controls in MFIs and credit unions (in order to counter the financing of terrorism and legalization of proceeds from crime) requires that all documents and records relating to customer identification and establishment of beneficial owner must be kept for at least five years. There is no provision that the customer has access to these records for verification.

The Law on Data Protection provides that the consumer has to give consent to the sharing of data, and also has a right to access, request correction of errors, and block or have data deleted. There is however no enforcement agency specified by law.

Recommendation

None.

C.4. Credit Cards

Good Practice

a. There should be clear rules on the issuance of credit cards and related customer disclosure requirements.

b. Non-bank credit institutions, as credit card issuers, should ensure that personalized disclosure requirements are made in all credit card offers, including fees and charges (including finance charges), credit limit, penalty interest rates and method of calculating the minimum monthly payment.

c. Non-bank credit institutions should not be permitted to impose charges or fees on pre-approved credit cards that have not been accepted by the customer.

d. Consumers should be given personalized minimum payment warnings on each monthly statement and the total interest costs that will accrue if the cardholder makes only the requested minimum payment.

e. Among other things, the rules should also:

   (i) restrict or impose conditions on the issuance and marketing of credit cards to young adults (below age of 21) who have no independent means of income;

   (ii) require reasonable notice of changes in fees and interest rates increase;

   (iii) prevent the application of new higher penalty interest rates to the entire existing balance, including past purchases made at a lower interest rate;

   (iv) limit fees that can be imposed, such as those charged when consumers exceed their credit limits;

   (v) prohibit a practice called ―double-cycle billing‖ by which card issuers charge interest over two billing cycles rather than one;

   (vi) prevent credit card issuers from allocating monthly payments in ways that maximize interest charges to consumers; and

   (vii) limit up-front fees charged on sub-prime credit cards issued to individuals with bad credit.

f. There should be clear rules on error resolution, reporting of unauthorized transactions and of stolen cards, with the ensuing liability of the customer being made clear to the customer prior to his or her acceptance of the credit card.

g. Non-bank credit institutions and issuers should conduct consumer awareness programs on the misuse of credit cards, credit card over-indebtedness and prevention of fraud.

Description

Currently not applicable. Neither MFOs nor credit unions are authorized to issue cards to their clients/members.

Recommendation

None.

C.5. Debt Recovery

Good Practice

a. All non-bank credit institutions, agents of a non-bank credit institutions and third parties should be prohibited from employing any abusive debt collection practice against any customer of the non-bank credit institution, including the use of any false statement, any unfair practice or the giving of false credit information to others.

b. The type of debt that can be collected on behalf of a non-bank credit institution, the person who can collect any such debt and the manner in which that debt can be collected should be indicated to the customer of the non-bank credit institution when the credit agreement giving rise to the debt is entered into between the non-bank credit institution and the customer.

c. A debt collector should not contact any third party about a non-bank credit institution customer's debt without informing that party of the debt collector's right to do so; and (ii) the type of information that the debt collector is seeking.

d. Where sale or transfer of debt without borrower consent is allowed by law, the borrower should be:

   (i) notified of the sale or transfer within a reasonable number of days;

   (ii) informed that the borrower remains obligated on the debt; and

   (iii) provided with information as to where to make payment, as well as the purchaser's or transferee's contact information.

Description

a. The legal and regulatory framework for both MFOs and credit unions does not include any information regarding what constitutes abusive debt collection practices.

b. As part of the loan documentation, MFOs and credit unions are required to provide the borrower with written information on risks associated with, as well as measures and sanctions to be taken in the case of default by the borrower[15].

[15] See Article 5.2.5. of regulation on credit risk management for credit unions and for MFOs Art 35-2.9 of the Law on MFOs, as well as Article 25 b and 32 of the regulation on credit risk management.

There are some provisions on working with overdue loans in the regulation on credit risk management for credit unions. Article 7 details that the borrower should be made aware of the overdue payments, and that efforts should be made by the credit union to work out an action plan with the borrower and inform him of possible consequences of non-payment. The Loan officers have to regularly report back to the Credit Committee with proposals for further actions.

Some of the visited financial entities described that they are temporarily taking the collateral to their books in case of non-payment by the borrower, and develop a new payment schedule with the borrower. This is not foreseen in the legal framework, but could be e.g. specified in the loan contract.

c. There is no specific article or regulation in the legal and regulatory framework for both MFOs and credit unions that do cover this. However, the Law on Banking Secrecy stipulates that any information, which has been entrusted or disclosed to a bank or financial entities within the business relationship between a bank and a client cannot be passed on to third parties. Exceptions are only provided for information to the NBKR, and authorized agencies for anti-money laundering and anti-terrorist financing, as well as agencies providing auditing, juridical, bookkeeping and other representative services for a financial entity.

d. Article 10.2.11 of the draft Banking Code also requires that the borrower should be granted preferential right to redeem the pledged property under the terms of the agreement. Furthermore, Article 10.2.12 stipulates that all residential real estate serving as collateral shall be sold exclusively through public auction. This prevents unfair sales practices used by some entities that simply foreclosed and sold off the pledged property.

Recommendation

The legal and regulatory framework has to be amended to include provisions on enforcement. This at a minimum should include (i) provisions on what constitute abusive enforcement practices, (ii) provisions pertaining to the provision of information on a borrower's debt to third parties, as well as (iii) requirements to notify the borrower sufficiently in advance of enforcing collateral.

Section D. Privacy and Data Protection

D.1. Confidentiality and Security of Customers' Information

Good Practice

a. The financial transactions of any customer of a non-bank credit institution should be kept confidential by the institution.

b. The law should require non-bank credit institutions to ensure that they protect the confidentiality and security of personal data of their customers against any anticipated threats or hazards to the security or integrity of such information, and against unauthorized access.

Description

a. Provisions on privacy and data protection are included in the Law on Banking Secrecy, as well as the laws on the individual entities (Law on the NBKR, Law on Bank and Banking Services, Law on MFOs and the Law on Credit Unions).

   The Law on the NBKR mandates in Article 6 that "operation-specific information received from banks and other financial institutions licensed by the NBKR shall not be disclosed without the consent of the institutions concerned, except for the cases provided for in the legislation of the Kyrgyz Republic." Furthermore, Article 49 prohibits employees of the NBKR to "disclose confidential information on the activities of the NBKR or any other information which is made known to them in the course of discharging their duties with exception for the cases envisaged by the legislation".

   The Law on Banking Secrecy binds all relevant stakeholders, including banks, financial institutions, agents, which include supervisors, government agencies involved in AML and auditors to keep the information confidential that they have received on a client of a financial entity, and on the entity itself. This also includes the circulation of information between banks, if this is for the purpose of protecting their activity, credit recovery and other investments.

b. A financial entity may disclose in the court the information about a client[16] , constituting the banking secrecy, in cases and limits, required for protection of its rights and legal interests as well as for settling arguments between a bank and a client. On application of a bank or its client, the court session may be closed.

Recommendation

It would be recommended to introduce minimum standards of keeping information on clients safe.

[16] Article 8.

D.2. Credit Reporting

Good Practice

a. Credit reporting should be subject to appropriate oversight, with sufficient enforcement authority.

b. The credit reporting system should have accurate, timely and sufficient data. The system should also maintain rigorous standards of security and reliability.

c. The overall legal and regulatory framework for the credit reporting system should be: (i) clear, predictable, non-discriminatory, proportionate and supportive of consumer rights; and (ii) supported by effective judicial or extrajudicial dispute resolution mechanisms.

d. Proportionate and supportive consumer rights should include the right of the consumer

(i) to consent to information-sharing based upon the knowledge of the institution's information-sharing practices;

(ii) to access his or her credit report free of charge (at least once a year), subject to proper identification;

(iii) to know about adverse action in credit decisions or less-than-optimal conditions/prices due to credit report information;

(iv) to be informed about all inquiries within a period of time, such as six months;

(v) to correct factually incorrect information or to have it deleted and to mark (flag) information that is in dispute;

(vi) to reasonable retention periods of credit history; and

(vii) to have information kept confidential and with sufficient security measures in place to prevent unauthorized access, misuse of data, or loss or destruction of data.

The credit registers, regulator and associations of non-bank credit institutions should undertake campaigns to inform and educate the public on the rights of consumers in the above respects, as well as the consequences of a negative personal credit history.

Description

There is currently only one credit bureau operational in the country - the Credit Bureau Ishenim. Being established in the form of a non-profit organization, it currently has over 100 members, including credit unions and MFOs. Its database includes 1.5 million entries, equivalent to 46 percent of the economically active population.

There are also advanced considerations in the NBKR to establish a Credit Registry.

a. No dedicated legal framework for credit bureaus is currently in place. Provisions and regulations affecting credit reporting are included in the Law on the National Bank of Kyrgyz Republic, the Law of the Kyrgyz Republic on Bank Secrecy, Resolution of the Board of Governors at the NBKR issued in 2004. In addition other more general laws apply including the Law on Access to Information and the Law on Personal Data, 2008. None of these frameworks specify an oversight mechanism for credit bureaus.

A draft Law on Credit Bureaus was presented to Parliament, but eventually got rejected as the draft law amongst other issues did not estabish who would be in charge of overseeing activities related to Credit Bureaus.

b. The credit bureau currently maintains individual contracts with the respective member institutions detailing the data and information to be shared on a voluntary basis. There is no uniform provision in the applicable laws and regulations that clearly define the credit reporting activity, obligations of the parties (e.g. service and data providers, users and government agencies holding relevant information), data collection, storage and distribution, and the consumer protection and oversight framework.

c. The current legal framework is fragmented, and does not clearly provide for dispute resolution.

d. According to the Law on Data Protection, the client has to give consent to the sharing of information by the financial entity. Without the consent, the financial institution cannot report the received information to the credit bureau.

The Credit Bureau Ishenim give the clients unlimited rights to check their credit report. However, the clients have to personally come to the office of the credit bureau to check their reports on the available monitors, and if they require a print out have to pay KGS 50 (~1USD). There is currently no internet access available to check the credit history online. In 2013, there were 900 people actively visiting the credit bureau, and for 2014 the head of the credit bureau suggests that currently around 30 people have come to the office daily to check their records.

In case of corrections, the client has to first check in writing with the financial entity and can then request correction of the information with the credit bureau.

e. The credit bureau has already undertaken some compaigns in mass media to inform the population of the working and purpose of a credit bureau. However, the majority of the population apparently still does not have a solid understanding what a credit bureau does, and what their rights are.

Recommendation

An entity in charge of oversight of the credit bureau infrastructure in the country should be determined, and appropriate laws and regulations put in place.

Procedures for handling of consumer complaints should be developed and clearly communicated to the client.

The access to information should be facilitated. Having to come personally is likely prohibitive for most of the clients of microfinance organizations and credit unions, as the majority lives in rural areas.

Financial education measures developed by the government and stakeholders should include information on credit reporting. It would be useful to include the Credit Bureau in the working groups that were established to design and implement a financial education strategy in the country.

Section E. Dispute Resolution Mechanism

E.1. Internal Complaints Procedure

Good Practice

Complaint resolution procedures should be included in the non-bank credit institutions' code of conduct and monitored by the supervisory authority.

Description

The legal and regulatory framework for MFOs and credit unions does not foresee Codes of Conducts per se.

There exist several provisions on internal complaint procedures for MFOs. The Law on MFOs requires in Article 35-2.12 that customers must be informed on complaint consideration procedures and who to contact in the MFO in case of requests, complaints and other considerations. However, the regulation on credit risk management for MFOs stipulates in Article 29 that the MFI and the clients are obliged to sign in the loan agreement that the client has the right to record their comments and suggestions in the book of complaints and suggestions of customers, which should be numbered, bound and certified by the Executive Body. The regulation does not refer to any other complaint procedures or requirements that internal procedures for complaint handling and resolution be developed in MFOs.

For credit unions, a number of measures pertaining to dispute resolution are provided in the Law on Credit Unions. Overall, however, the rights are dispersed and like for MFOs, there is no specific requirement to have internal complaint mechanisms in place which is clearly communicated to the members. The separate provisions include: In case of expulsion of a member, Article 13.1 mandates that the members is notified 30 days in advance and has the right to make a statement on his/her behalf at the meeting of the Credit Union Board. The member can also comment and approve on a number of policies of the Credit Union during the annual meeting (Article 14.3), and can share any observations with the Board. In case a Steering Committee is established[17], for credit unions with over 100 members, the Steering Committee is authorized to review member complaints on the activities of the Board, the Audit and the Credit Committees. Finally, the member, whose loan application has been rejected, can appeal the decision of the Credit Committee at the Board or the General Assembly[18].

[17] Article 16.

[18] Article 17.3.

Recommendation

The legal framework should clearly mandate that each financial entity should have internal complaint procedures in place, and that the client should receive information on whom to contact and steps involved for dispute resolutions. This information should be part of the factsheet discussed under good practice B.5, and the procedures should not involve any additional cost for the client and be easy to understand. The processes for internal dispute resolutions should be documented and timeframes established.

The financial entity should be required to centrally collect statistics on received complaints, and management of the financial entity should be required to assess the provided information in regular intervals to determine whether changes in internal policies are required.

Information on the received complaints should be compiled and regularly reported to the NBKR.

E.2. Formal Dispute Settlement Mechanisms

Good Practice

a. A system should be in place that allows consumers to seek affordable and efficient third-party recourse, such as an ombudsman, in the event the complaint with the non-bank credit institution is not resolved to the consumer's satisfaction in accordance with internal procedures.

b. The role of an ombudsman or equivalent institution in dealing with consumer disputes should be made known to the public.

c. The ombudsman or equivalent institution should be impartial and act independently from the appointing authority, the industry and the parties to the dispute.

d. The decisions of the ombudsman or equivalent institution should be binding upon non-bank credit institutions. The mechanisms to ensure the enforcement of these decisions should be established and publicized.

Description

a. So far, there exists no financial ombudsman or any institution performing similar functions in the Kyrgyz Republic. The NBKR has a system in place which receives information on complaints from clients of non-bank credit institutions. This is not a formal mandate of the NBKR, but much rather carried out as part of its overall oversight function over the sector. Clients can also launch a complaint with the Anti-Monopoly Agency, which so far has not received any complaints on financial services.

b. Not applicable.

c. Not applicable

d. Not applicable

Recommendation

The working group considering the question of the establishment of a banking or financial services ombudsman should move forward with its work, concentrating initially on the question of what role it would be beneficial for the ombudsman's office to play and allowing more specific questions of structure, funding and details of authority to be resolved on that basis. If an ombudsman is not found to be acceptable, other models that could be considered include a dispute resolution board with participation of both consumer representatives and representatives of the industry, or other configurations. Mechanisms should be in place requiring reporting and communication between the ombudsman or other institution for dispute resolution and the other bodies that play important roles in the banking sphere (NBKR, consumer organizations, the banks union) to ensure that information on complaints and problems is shared and that action can be taken by those bodies on a broader scale if required.

Section F. Consumer Empowerment

F.1. Broadly based Financial Capability Program

Good Practice

a. A broadly based program of financial education and information should be developed to increase the financial capability of the population.

b. A range of organizations–including government, state agencies and non-governmental organizations–should be involved in developing and implementing the financial capability program.

c. The government should appoint an institution such as the central bank or a financial regulator to lead and coordinate the development and implementation of the national financial capability program.

Description

See Annex A.

Recommendation

See Annex A.

F.2. Using a Range of Initiatives and Channels, including the Mass Media
Good Practice a. A range of initiatives should be undertaken by the relevant authority to improve the financial capability of the population, and especially from low-income communities. b. The mass media should be encouraged by the relevant authority to provide financial education, information and guidance to the public, including on non-bank credit institutions and the products and services they offer. c. The government should provide appropriate incentives and encourage collaboration between governmental agencies, the supervisory authority for non-bank credit institutions, the associations of non-bank credit institutions and consumer associations in the provision of financial education, information and guidance to consumers.
Description See Annex A.
Recommendation See Annex A.

F.3. Unbiased Information for Consumers
Good Practice a. Consumers, especially the most vulnerable, should have access to sufficient resources to enable them to understand financial products and services available to them. b. Supervisory authorities and consumer associations should provide, via the internet and printed publications, independent information on the key features, benefits and risks – and, where practicable, the costs – of the main types of financial products and services, including those offered by non-bank credit institutions. c. The relevant authority should adopt policies that encourage non-government organizations to provide consumer awareness programs to the public regarding financial products and services, including those offered by non-bank credit institutions.
Description See Annex A.
Recommendation See Annex A.

F.4. Consulting Consumers and the Financial Services Industry
Good Practice The relevant authority should consult consumer associations and associations of non-bank credit institutions to help the authority develop financial capability programs that meet the needs and expectations of financial consumers, especially those served by non-bank credit institutions.
Description See Annex A.
Recommendation See Annex A.

F.5. Measuring the Impact of Financial Literacy Initiatives
Good Practice a. Policymakers, industry and consumer advocates should understand the financial capability of various market segments, particularly those most vulnerable to abuse. b. The financial capability of consumers should be measured, amongst other things, by broadly based household surveys that are repeated from time to time. c. The effectiveness of key financial capability initiatives should be evaluated by the relevant authority from time to time.
Description See Annex A.
Recommendation See Annex A.

Annex A: Financial Education

Findings

Available empirical evidence from the Kyrgyz Republic suggests low financial capability levels, even though comprehensive, nationally representative, and precise evidence is scarce. In 2013 a financial literacy survey was conducted in the Kyrgyz Republic by the International Finance Corporation (IFC) with the objective to assess people's financial literacy levels and to obtain information on their financial behaviors. Due to its rather small sample size and mode of interviewing the reliability and precision of the survey results as well as the depth and complexity of the covered topics is limited. However, the survey presents some interesting findings on people's financial awareness. According to this survey, for instance, 60 percent of the respondents lack awareness and understanding of the term 'effective interest rate'. Much less, only around 10 percent of the survey participants were familiar with the term 'compound interest'. Similarly, a financial literacy study conducted by the UNDP in 2013 revealed low overall levels of financial capability.

A few financial capability enhancing activities in the Kyrgyz Republic undertaken by public or private institutions exist, but they are largely uncoordinated and untargeted. The NBKR conducted several financial education campaigns through the medias – newspapers and TV. Despite news articles and press-releases, there is a weekly broadcast "The National Bank Informs" at "Birinchi Radio" Station in Kyrgyz and Russian languages, and a TV program with the same name is broadcasted on a monthly basis by "ElTR" channel.

Private financial institutions and industry associations, in particular in the non-banking financial sector have also been active in initiating financial capability programs. Examples of these are posters with the golden rules to obtain a credit which have been developed by the MFO association or the array of programs offered by FINCA; In the last 3 years, several programs, completed and ongoing, have been developed and implemented; from conducting trainings and seminars to a wide array of individuals and target groups, to a radio program presented in 2 languages (Russian and Kyrgyz), to periodic training for students and rural dwellers. Commercial banks, on the other hand, appear to have no financial education initiatives outside of materials handed to clients to explain their products and services as well as credit counselling sessions when issues arise with loans.

Important steps have recently been taken which are geared towards increasing coordination between various stakeholders, including public and private institutions. (i) In 2013, a grant agreement has been signed between NBKR and the Alliance for Financial Inclusion on the project "Financial Literacy to Support Financial Accessibility". Under this project a financial education strategy is to be developed by the end of the year. (ii) By Resolution of the Kyrgyz Government No. 259-r dated 24/06/2013, a high policy-level Inter-Agency Working Group has been established in the Kyrgyz Republic for the development and implementation of a national strategy.[19] At the same time, to support the Inter-Agency Working Group, (iii) an expert working group has been established under the Coordination Council for Microfinance Development (CCMD) which is tasked with the drafting of

[19] The high policy-level interagency working group is chaired by the vice prime minister. Members of the group include the Deputy Chairman of NBRK, the Deputy Ministers of Finance, Economy, and Education and Science in the Kyrgyz Republic, the Deputy Chairman of the State Service for Regulation and Supervision of the Financial Market of the Kyrgyz Republic, as well as the Executive Management of MFI and banks associations.

the national strategy.[20] In addition to these efforts, (iv) another working group has been established under the banking association.

Findings of four focus group discussions with financially active adults suggest a number of priority areas for the national strategy. These results can by no means be interpreted as being nationally representative (see Box 1). They are, however, indicative of pressing areas which deserve policy attention. According to the analysis of the focus group discussions, participants show strengths in performing simple financial calculations, but struggle to understand basic financial concepts such as compound and simple interest or the purpose of insurance products. Other major findings are that participants appear to master the task of managing their day-to-day finances, but they struggle with setting funds aside for unexpected and old age expenses. The results further suggest that consumers do not widely report complaints or other conflicts with financial providers.

Box 1. Focus group methodology

Four focus groups discussions have been conducted (10 participants each) by the firm M-Vector with the view of gaining quick insights on the topics of discussion. Due to the non-random selection procedure and the limited number of participants the results of the focus group discussions cannot be extrapolated to the overall population, they may be indicative, however, for the most pressuring needs for policy action.

The focus group discussions conducted utilize a qualitative methodology that seeks to delineate knowledge, attitudes, motivations, skills, and behaviors of the participants with respect to managing their finances. In particular the assessment methodology has been designed to enable rich and detailed discussions about participants' knowledge, attitudes, skills and behaviors related to day-to-day money managing, planning for the future, choosing and using financial products and services, as well as their experiences and levels of satisfaction with different type of financial service providers. In addition, respondents were also asked to participate in a short financial literacy quiz at the end of the discussions to assess their basic numeracy skills and awareness of financial concepts.

To provide a basis for comparative analysis across different segments, a sample of two communities within the country has been selected. In selecting the data collection sites, the main criterion was the disaggregation of rural and urban areas. In order to get an indication of financial capability levels among urban residents, two focus group discussions were held in Bishkek, which is not only the biggest city but also the financial center of the country. In order to factor in the view of rural populations an ordinary village in the South of the country, called "Communism village' was selected. The major occupancies of this village's residents are crop and animal farming, which are typical for rural dwellers all over the country. According to the local authorities the portion of people who leave this community to migrate to another country for labor purposes is quite substantial.

In addition to these geographical considerations, participants within each of these communities were selected according to certain criteria that are expected to correlate with different levels of financial capability. Within each community, one focus group was conducted with adults aged 18 or more and one focus group with migrant workers who left the Kyrgyz Republic and came back home on a temporary basis. Additionally, in each of the 4 focus there were participants of both genders and of different age.

The participants for the focus groups were recruited by using a random walk selection method and by applying a brief filter survey during the recruitment. With a view of covering different districts of the selected data collection sites, recruiters operated in districts assigned beforehand. Moreover, suitable participants were identified through a short screening questionnaire. Only adults who met the aforementioned criteria were invited to participate in the focus group discussions.

[20] The financial literacy working group under the CCMD comprises experts from four government agencies, four industry associations, and four multilateral and bilateral donor organizations.

The focus groups discussions reveal certain subgroups of the population to be specifically targeted with financial capability enhancing programs (see Box 2). As shown in Figure 3 and 4, a wide gap seems to exist between the financial awareness levels of rural and urban dwellers as well as low and high income segments. Similarly, Kyrgyz participants who migrated for labor purposes to other countries, answered on average less financial literacy related questions correctly than those who did not migrate to another country. Compared to non-migrants, migrant participants also appear to be more challenged with managing and monitoring their higher incomes and expenses.

Box 2. Findings of focus group discussions

According to the analysis of the focus group discussions, participants were able to answer on average 2.7 out of 7 financial literacy related quiz questions which cover basic calculus and financial concepts such as interest rates, inflation, compound interest, the main purpose of insurance products, and deposit insurance awareness. As can be seen in Figure 1, around 2 out of 5 participants were able to correctly answer 2 financial literacy questions. A similar portion of the participants achieved a score between 3 and 5 questions, whereas only 3 percent of the participant was able to provide correct responses to 6 and no one answered all 7 questions correctly.

A deeper exploration into the type of correctly answered financial literacy questions reveals that participants show strengths in performing simple financial calculations but struggle to understand basic financial concepts (see Figure 2). While around 90 percent of the participants were able to perform simple divisions, much less, around 50 percent demonstrate understanding of the concept of inflation, and only 15 percent understand simple interest of the main purpose of insurance products. The largest knowledge gap is found in the area of deposit insurance awareness. Only 10 percent are aware of the maximum amount covered by the Deposit Insurance Agency in case a bank goes bankrupt.

Vulnerable groups who struggle the most in understanding basic financial concepts are more likely to live in a rural habitat, to be a low income earner, and to be a migrant. As shown in Figure 3, rural residents answered on average 1.9 financial literacy quiz questions correctly as compared to their urban counterpart group who answered 3.5 questions correctly. Likewise, while those who live on low incomes answered 2.5 questions correctly, high income earners demonstrate a better understanding of basic financial concepts by answering 5 questions correctly. The survey results also suggest an awareness gap between permanent residents and people who migrated for labor purposes to other countries.

Figure 1: Distribution of correct FL quiz answers

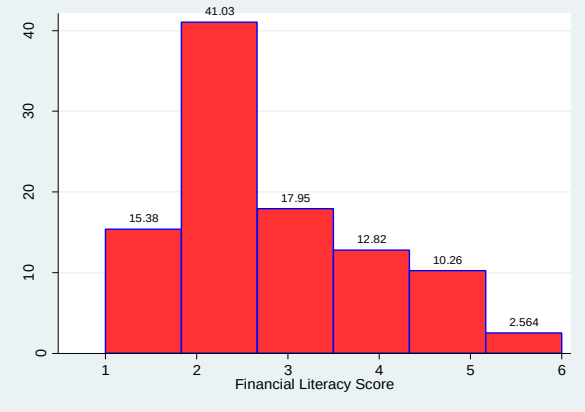


Figure 2: FL quiz overview

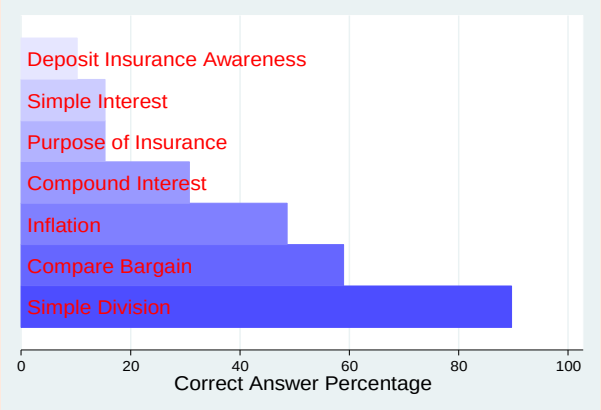


Figure 3: Correct FL quiz answers urban vs. rural

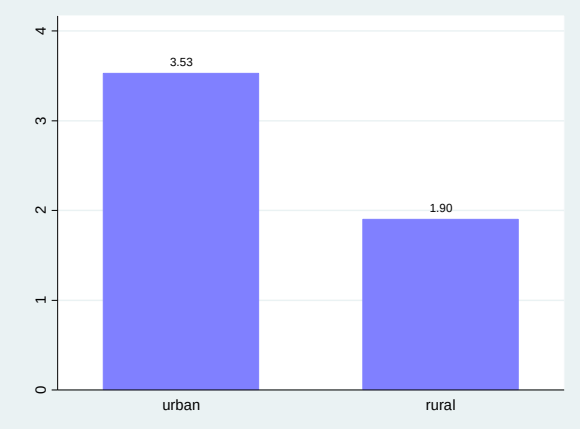
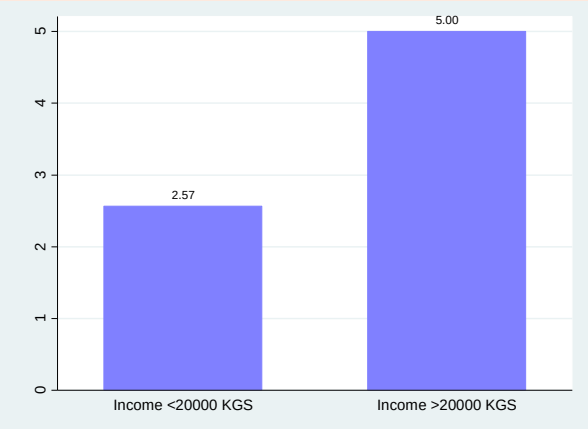


Figure 4: Correct FL quiz answers by income



Another major finding is that participants appear to be very skilled in managing their day-to-day finances and in prioritizing their spending on essentials. All participants stated that they primarily spend their money on regular expenses while using the funds left, if any, for other purposes. For instance, a middle-aged woman from Bishkek stated: "First of all, we allocate money for utilities. If an electricity bill is not paid in the first three days, power supply would be cut off – so we have to pay it. Second we buy food. However, if we have some food left, we can spend less."

Compared to permanent residents, for migrant participants it appeared to be more difficult to cope with budgeting and living within their means. The inability to budget properly forced the migrant participants to borrow money from their colleagues, housemates or employers.

An area the majority of participants seemed to struggle with is setting funds aside for unexpected and old age expenses. Only 8 out of 40 participants stated that they put money aside for particular needs or unforeseen expenses. Mainly urban dwellers were inclined to make savings, due to the regularity of their income streams, unlike rural residents whose incomes were most of the times seasonal, tied to the harvest.

The focus group results further suggest that consumers do not widely report complaints or other conflicts with providers of financial services. None of the participants said that he or she ever experienced a conflict with a financial service provider. Although participants heard of fraud such as pyramid schemes, they personally, or their family members did not face such violations.

Rigorous assessments of the assessments of financial capability enhancing initiatives have been scarce so far. International experience shows that increasing the number of financial capability enhancing programs does not always lead to desired outcomes in terms of improved financial capability levels among the targeted populations. It is therefore crucial to identify programs which are most effective and should receive wide support.

Recommendations

The development of the envisaged financial education strategy requires extensive coordination between different working groups and a wide consultation process including relevant stakeholders from the public, private and non-profit sector. To ensure ownership and provide focus and momentum in the process of developing the national strategy, extensive coordination and communication is needed between the interagency working group chaired by the vice prime minister and the expert group established under the CCMD which is tasked with the actual drafting of the

concept and a subsequent national financial education strategy. Furthermore, to avoid overlaps and duplications, better coordination is needed between the expert group under the CCMD and the financial literacy working group established by the banking association. It is recommended to conduct monthly coordination meetings between the technical level working groups as well as quarterly briefing meetings with the high-level Inter-Agency Working Group.

Consider extending membership of the CCMD financial literacy expert group to a broader range of stakeholders. The expert group under the CCMD needs to comprise a wide range of stakeholders to ensure wider consensus building about the importance of financial education, knowledge exchange, and most importantly to secure overall support and funding of the development and implementation of the strategy. There are, however, a plethora of other stakeholders from public, private and non-profit sectors which could provide additional insights to the working group (e.g. the deposit insurance fund, the credit bureau, the antimonopoly agency, etc.). A consultation with a wider range of stakeholders would also be helpful to mitigate the risk that scarce resources are inefficiently allocated or certain needs in the population remain unaddressed.

Commercial banks can play an essential role in supporting the development and implementation of the strategy. The role of commercial banks in enhancing financial capability, not only of their current but also their potential future clients, needs to be further promoted. Sharing of national and international practices and examples of successful financial education programs with bank executives may help to encourage banks in Kyrgyz Republic to become more active in supporting or delivering financial capability enhancing programs.

It is recommended that the strategy and subsequent programs give special emphasis to migrants, rural and low income populations. Given that total remittances transfers (both inflows and outflows) account for 42% of the GDP and that migrants demonstrate weaknesses in the area of understanding of financial concepts as well as managing their day-to-day finances and planning ahead, a potential target group of the financial education strategy could be migrants and their families. Simple actions such as providing guidance on budgeting, record-keeping and financial planning can help migrant workers and their families gaining control over their financial lives and making realistic plans for the future. Moreover, the results of the focus group discussions suggest the need to extend financial capability enhancing programs to rural and low income segments of the population.

To validate the focus group results and create a baseline against which the impact of financial capability enhancing initiatives can be measured, it is recommended to conduct a comprehensive and nationally representative financial capability survey. This financial capability survey should cover awareness and understanding of basic financial concepts and products. Since knowledge does not always translate into proper action, it should also capture attitudes, such as impulsiveness, farsightedness and action orientation as well as behaviors related to day-to-day money management, planning for unexpected and old age expenses, choosing and using financial products and using information and advice. In order to get a better understanding if people in the Kyrgyz Republic benefit from the financial products they use, it is further recommended to measure their reported incidences of conflicts with financial service providers and their levels of satisfaction with different types of financial products they used.

Representative, reliable, and precise survey results which effectively inform policy objectives require careful consideration to be given to the questionnaire design, the sampling methodology, the mode of interviewing, and data analysis and interpretation. In particular, careful consideration should be given to the size of the sample of individuals to be interviewed, the use of standard probability sampling methods, the design and customization of the questionnaire, the training of supervisors/enumerators in administering the survey, the conduct of a small pilot survey, the use of face-to-face interviews, the monitoring of the fieldwork, and the proper analysis and interpretation of the collected data.

In addition to the financial capability survey, the design of financial education programs should be informed by the results of rigorous impact assessments of similar programs in other countries. Even though the impact of financial education programs is context dependent and may vary within and between countries, relying on previous experience is expected to increase the effectiveness of newly designed programs. For instance, recent research shows that financial education works best, when delivered to adults during teachable moments[21].

Financial capability enhancing initiatives should be tested initially on a small scale and only be rolled out upon rigorous evaluation of their positive impacts. International experience shows that increasing the number of financial capability enhancing programs does not always lead to desired outcomes in terms of enhanced financial capability levels among the targeted populations. It is therefore crucial to identify programs which are most effective. When properly done, a Randomized Control Trial (RCT) is the best possible methodology for identifying the causal impact of a financial education initiative.[22] Only those programs which prove to be most effective should receive wide support.

[21] Teachable moments are times in people's lives when they are more likely to be receptive to new information.

[22] In this method, similar to a clinical trial, participants are randomly assigned to treatment and control groups, whereby the treatment group receives the financial capability intervention and the control group does not. The control group forms then the basis of comparison against which the change in outcomes of the treatment group can be assessed.

Overview of Financial Education Activities

Initiative	Lead and stakeholders	Target Group	Description	Status
General FL education initiatives	NBKR	KGZ Population	This is a series of educational projects to enhance financial literacy of the population, as well as to provide details on specific operations of the central bank. According to the program, special activities, which include workshops, trainings, round tables, meetings with the NBKR's management, shall be conducted regularly, as well as include lectures and discussions with journalists on topical economic and financial subjects. Also there is a weekly broadcast "The National Bank Informs" at "Birinchi Radio" Station in Kyrgyz and Russian languages, and a TV program with the same name is broadcast on a monthly basis by "ElTR" channel. Each issue covers topical subjects	Planned
Financial literacy to support financial accessibility project	NBKR and AFI		Activities include: • To conduct a study on demand and supply in the sphere of financial literacy. For this purpose the project budget envisaged hiring a local company capable to conduct such a study. • To develop the National Concept for enhancement of financial literacy of the on enhancement of KR population. A local consultant is expected to be engaged to implement this project component. • To conduct 'training of trainers' activities. The project envisages the engagement of a training company (for T-o-T) and the	Planned

			selection of a local company operating in the area of financial literacy enhancement (for further involvement).	
Seminar on protection of consumer rights and financial literacy	NBKR and World Bank	NBKR Officials and members of the interagency working group	Assistance with the development of the national program for the enhancement of financial literacy	Completed
Workshop on enhancing financial literacy	NBKR and UNDP	NBKR Officials and members of the interagency working group	Workshop	Completed
Financial institutions education campaign	NBKR, MFO and the ICCO	MFOs	Organized and conduct joint trainings on financial literacy and training of in-house trainers for customers of small and medium-size micro-financing organizations. Topics aimed at managing a household's budget (income, expenditures), credit debt management, understanding of interest and interest rates, assessment of own solvency and planning of debt payments. Financial pyramid info, family budget (management and planning methods), savings and the Borrower's Golden Rules. Also engaged several micro-financing organizations, such as "Agrocredit Plus", "Ak-Shoola", "Arysh Kench", ABN Credit Unions, "Kopilka", several NGOs, including the TES-Center.	Completed
Credit and savings campaign	The German Development Bank (KfW) in cooperation with the Agency for Community Development and	KGZ Population	Implement a training program in 38 rayons of the country on such issues as obtaining credits and savings for rural population	Ongoing

	Investment of the Kyrgyz Republic (ARIS)			
General awareness and trust campaigns	Banking union	Children, youth, teachers parents, women, rural population, poor and trade union reps	Will be prepared and held: - Seminars and workshops; - Handouts - Special events on the topic of financial literacy - Specialized websites on financial literacy These activities will increase awareness of the activities and trust. To acquire basic skills for avoiding the risks associated with the activities of scammers and unscrupulous players of credit and finance	Under development
Financial Education Work	AMFI	Beginning Entrepreneurs	It has developed TV animated ads, posters with the golden rules to obtain a credit, as well as the guidelines on financial literacy for entrepreneurs-beginners.	Completed
Various financial education initiatives	Large MFCs (e.g. Molbulak, Companion, Salym, etc)	Clients and Employees	Training of trainer programs, individual client training program on loan basics, interest rate calculations, repayment structure, etc.	Ongoing
Project: Enhancement of FL in KGZ - FL Training programs	CJSC Micro-Credit Company FINCA, under the guidance by the Secretariat of the Steering Council on Implementation of the Micro-Financing Strategy	Entire population/not specified	Launched a project on basics of financial literacy to educate not only its active borrower, but the population in general. Financial literacy fundamentals: aimed at developing the understanding of how it is important to be able to manage financial resources, keep records for household purposes, understand the need for savings, to correctly choose financial instruments available in banks and micro-financing organizations, and for active and potential borrowers to be aware of the responsibility when obtaining a	Completed

			loan. Initiatives: developed a special training, hand-outs in the state and official languages, trained corporate trainers. The training is conducted in both languages for free. Over-lending risks, financial pyramid schemes and how they operate, Radio programs-program "Saramjalduu Akcha" in the Kyrgyz language is broadcast every Tuesday at 12:30 and is re-broadcast at the same time but on Thursdays by "Sanjyra" radio (107.4 FM). The program "Literate Money" is broadcast by "Echo of Moscow – Bishkek" radio (103.3 FM) each Tuesday at 8:30 am and re-broadcast at the same time on Thursdays.	
Financial Literacy programs	CJSC "MCC FINCCA"	KGZ Population	Plans to conduct 300 trainings covering up to 6,000-7,000 people among local population, as well as students	Planned
General financial literacy trainings	CJSC "MCC FINCCA"	KGZ Population	Trainings on financial literacy are through 26 branch offices on a continuous basis. In 2012 the company conducted 116 trainings in all regions of the KR, covering 112 settlements and 2,642 people; 35 corporate trainers have been trained. In 2013, 140 trainings in 129 populated areas throughout Kyrgyzstan; 52 corporate trainers have been trained. Financial literacy trainings have been attended by 2,953 people.	Ongoing
Newspaper campaigns	CJSC "MCC FINCCA"	KGZ Population	Materials on financial instruments through mass media. Initiative: long-term weekly publications are issued in the Kyrgyz language in the printed version of the "De-Facto" newspaper and in a separate rubric of the "Vechernyi Bishkek" newspaper web-site in the Russian language. From time to time articles aimed at financial literacy enlightenment are published in other newspapers: "The Financier",	Ongoing

			"Slovo Kyrgyzstana".	
Higher education course introduction campaigns	CJSC "MCC FINCCA"	Students	Agreement with Kyrgyz-Russian Slavonic University, university teachers to develop the course - "Personal Finance Management" for students based on materials on financial literacy;introduce a course of lectures on the subject of "Financial Literacy" in other universities of the republic; launch a project to enhance financial literacy of journalists writing economic articles. A special contest among journalists for the best economic article/program in printed, electronic mass media, as well as on TV and radio is expected to be conducted.	Planned
Corporate financial literacy program	CJSC "MCC FINCCA" and regional print media	KGZ Population	The advertising and information newspaper "Karakolka" is FINCA's partner under the corporate "Financial Literacy" project. The newspaper is published in Karakol and distributed throughout Issyk-Kul oblast. It will publish materials on key concepts in the financial sphere, the culture of savings, the use of new payment systems, etc.	Ongoing
Public campaigns	CJSC "MCC FINCCA" and regional print media	KGZ Population	The newspaper plans to publish about 50 materials to build up financial literacy in Kyrgyz and Russian languages. The "Karakolka" newspaper's circulation is 5,000 copies each week. A similar cooperation is expected with printed media in Chui and Naryn oblasts. Intend to provide advice on money management, deposits and loans. Materials published, brochures, articles and distributed to people on borrowers rights, jointly with AMFI give	Planned

			out printed material, videos on stages of obtaining a loan	
Project: increased awareness of borrowers on the problem of excess borrowing	EBRD and Oiko credit through grant to CJSC "MCC FINCCA"	KGZ Population	Financial literacy fundamentals training. Developed training and content based on NBKR requirements.	Completed
Financial Education for the poor	The Swiss government through the policy development institute	All rural municipalities KR	Involvement of citizens in the budget process and improving services in rural areas. Long scale project (provided training for investment skills, financial planning).	Ongoing
Public broadcast initiative	IRG (International Resources Group) implemented by NGO "Club Private Investors",	Students, young professionals, mid-level employees, beginners and experienced investors, top managers.	Preparation and broadcasting of 10 short public service announcements, brochures on financial literacy in Kyrgyz and Russian languages.	Not clear (but previously scheduled to start 2013)
Various initiatives	Policy development institute	KGZ Population	General financial literacy including various activities on financial literacy, including special training courses (for journalists, trainers), round tables, contest, publications	Ongoing
Media and NGO initiative	CIPE (Center for international private enterprise) through the Press club	KGZ Population	Studying the experience of Kazakhstan in the implementation of the state program to improve financial literacy / study tour for representatives of media and NGOs	Completed

Public financial literacy campaign	CIPE through the development Policy Institute, Public service for financial market supervision KR, Private Investors Club, Press Club KSE)	KGZ Population	Recognizing the need for a comprehensive program to improve public financial literacy / International Conference, 11 countries / state system of education, business, NGOs, media	Completed
Conferences on the media's role in improving financial literacy, Journalists Economic Forum	CIPE through the development Policy Institute	Central Asia journalists	International Conferences on the role of the media in improving financial literacy achievement of social stability and sustainable development of the, 10 countries / media, business associations, financial sector, development of recommendations and agreements in the field of Economic Journalism and mass increase opportunities, providing access to journalists from Central Asia to expert sources of information on the web, etc.	Completed
Training of trainers and master class.	Policy development institute through professional financial advisor (Moscow) and the University of Finance, Ministry of Finance	All market participants	• Training of trainers "How to organize business financial consulting?" • Workshop "Why professional financial market participants unscrupulous financial advisers?"	Completed
Media training	Soros Foundation and partners (press club, UCA)	Journalists and other media participants	Training journalists on financial literacy topics amongst others. About 100 training days, about 1,000 participants, more than 700 articles from 80 authors.	Completed

Source: NBKR, Microfinance Council, MFOs (2013)