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Executive Summary: Development of Microfinance Regulation in Nicaragua

The Nicaraguan Microfinance Law was conceived with the participation of multiple stakeholders in the Nicaraguan microfinance sector, including the MFIs and ASOMIF, the national network. The sector, and particularly the leadership of ASOMIF, advocated for the inclusion of Social Performance Management (SPM) in the law, during a period of two years. Starting in 2009 with the No Payment crisis in Nicaragua, the national network began a series of discussions with the government, which later resulted in passage of Law 769, the Law on Microfinance, in 2011. By this point, ASOMIF had been developing a SPM program for several years with the support of CRS' Programa Misión, which provided technical assistance to many institutions in the region on this topic. Members of ASOMIF's board of directors and the Executive Director participated in several of SPTF's annual meetings, staying abreast of the latest developments in the industry. The Universal Standards were officially launched at the SPTF meeting in Panama in 2013, which was sponsored by REDCAMIF, the regional network to which the Nicaraguan network belongs. The participation of the national microfinance network in these events and programs for more than five years built the capacity of the network's staff to be able to effectively advocate with national regulators on the topic of SPM.

Since its inception, the Nicaraguan law was thought of not only as a regulatory law, but also as a law for the promotion of the microfinance industry, and Social Performance Management was explicitly included from the beginning. Hence the name of Law 769 is the "Law for the Promotion and Regulation of Microfinance." And, as the name suggests, promotion precedes regulation, so much so, that the National Microfinance Commission (CONAMI for its initials in Spanish) has the following as its mission statement: "Regulation, promotion, and projection of the microfinance industry with the purpose of strengthening its solvency, development, and social performance." From CONAMI's point of view, SPM is inherent to microfinance and its regulation.

Regarding Social Performance, Law 769 considers three essential aspects: 1) client protection, 2) poverty reduction, and 3) gender equality; (the order does not imply the level of importance of each topic). The law also says that CONAMI will develop a certification system to evaluate the level of implementation of social performance by the MFIs it regulates, and describes the benefits that those institutions will receive that achieve certification under this system. Benefits include concessional loans and technical assistance from the Nicaraguan Government as well as other benefits, which the state may specify in the future.

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CONAMI's board of directors and executive management underwent a training process that included workshops given by Programa Misión, training from the Smart Campaign, and participation in the SPTF annual meeting in Panama. CONAMI's board of directors is purposefully comprised of representatives of different sectors and several have a social profile due to their experience in the non-profit and civil society sectors. Notably, CONAMI's board of directors also has members linked to the microfinance sector, and even one who served as a consultant for Programa Misión, so there are members of CONAMI's leadership who have a solid background in social performance.

In order to implement the certification process for the MFIs under its supervision, CONAMI needed to draft regulation. Therefore, at the end of 2014, with financing from the Inter-American Development Bank (IDB), CONAMI contracted Tomás Rodríguez, an independent consultant based in Nicaragua with ample experience in SPM and the Central American microfinance sector as well as deep experience with the national and regional networks. The consultant drafted the guidance, or norms, for how to implement CONAMI's regulation on Social Performance Management.

The 4 phases of creating regulatory norms

Creating the norms took ten months and consisted of four phases:

- 1) Literature Review – Systematization of the main initiatives and organizations linked to Social Performance, including SPTF, CERISE, Smart Campaign, the MIX, the Imp-Act Consortium, and MFTransparency etc.
- 2) Evaluation of current practice – Social assessment of five microfinance institutions with different characteristics such as type of mission, size, geography etc., using a simplified version of the SPI4 social audit tool. This was done with the purpose of understanding the current state of SPM in Nicaragua and to determine what type of social information the Nicaraguan MFIs were already collecting.
- 3) Drafting the norms – The process of writing the guidelines for implementing the proposed regulation on Social Performance Management in Nicaragua.
- 4) Discussion and revision of the norms – Mr. Rodríguez facilitated a consultative process with all the regulated MFIs through e-mail and two workshops – one to discuss the indicators that would be used in the certification process and another to discuss the norms with the MFIs' internal auditors.

The regulation in Law 769 is comprised of the following general sections:

- a) Background and legal basis for the law.
- b) A glossary of terms.
- c) Requirements for the accreditation of auditors who could certify the MFIs.
- d) Indicators to be evaluated.
- e) Certification process for the MFIs.
- f) Benefits that certified MFIs will obtain.

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The regulation explicitly incorporates the Universal Standards for Social Performance Management (the Universal Standards) as the framework for the law. The reasons why the Universal Standards were taken into account in this way include:

- CONAMI recognizes the validity of the Universal Standards as the best practices in the microfinance industry.
- The Nicaraguan Government desires to be in agreement with the global trends in the microfinance industry.
- CONAMI wishes to avoid duplication of efforts by the MFIs when reporting social performance to their different stakeholders.

The regulation includes five of the six dimensions of the Universal Standards; Dimension 6 “Balancing social and financial performance,” was left out because it was considered difficult to measure and because there is less consensus among the MFIs regarding some of the proposed indicators for that section.

The great majority of the essential practices that comprise the Universal Standards and the indicators contained in the SPI4 social audit tool are explicitly included in the regulation, many times verbatim. Some additional indicators are included as well, which pertain to the existing Nicaraguan law, and which facilitate the verifiability of the MFIs’ practices.

The Nicaraguan regulation not only includes the process indicators selected from the Universal Standards, but it also proposes outcomes indicators, which were taken from different sources, such as the social goals of the MFIs that were evaluated, indicator measurement systems developed by Programa Misión, indicators from the Certification Seals on gender, poverty, and rural development created jointly by REDCAMIF, FOROLAC, and Programa Misión, and other international initiatives, such as Women’s World Banking’s Gender Performance Indicators. Outcomes indicators are proposed because specific outcomes in the areas of poverty reduction, gender equality, and client protection need to be measured in accordance with CONAMI’s priorities.

Currently, the proposed regulation and norms are in the process of being approved by CONAMI’s board of directors; the regulation and guidelines are expected to take effect in March 2016.