

SPTF Annual Meeting 2016: Plenary Day 2 Notes

Learning from Global Regulatory Efforts in Responsible Inclusive Finance (1 June 2016)

Speakers: Alok Misra (moderator), [Centre for Financial Inclusion & Digital Finance Management Development Institute, India](#); Rosa Pasos, [CONAMI, Nicaragua](#); Luis Daniel Allain, [Superintendency of Banking, Insurance and Private Pension Fund Administrators of Peru \(SBS Peru\)](#); Allan Sicat, [MCPI, Philippines](#)

Introduction of session:

- Regulation is evolving. Before 2008, the focus was mainly on one issue: maintaining the stability of the financial sector. After the global financial crisis in 2008, regulation has been multi-dimensional, including client protection.
- This session is an extension of the one-day workshop for regulators held earlier in the week. In the workshop, it was clear regulation in all the represented countries were gradually aligning with elements of responsible finance. Two global standards were shaping this effort: the Client Protection Principles and Universal Standards for Social Performance Management.
- In this panel, we will try to go a little in depth on the four countries represented here: India, Nicaragua, Peru, and the Philippines.

Introductory remarks by Rosa Pasos, CONAMI, Nicaragua:

- CONAMI is a specialized institution for regulating microfinance institutions. It has only existed for three years, so it is relatively new. We have two different regulating institutions in Nicaragua: the superintendency takes care of banks and CONAMI takes care of microfinance. One is not under the other. CONAMI:
 - Has 34 institutions that are registered under CONAMI and 12 institutions on the pipeline to be registered.
 - Gives incentives to institutions to measure their social goals. It sets measurements of financial and social performance.
 - Works with NGOs and for-profit institutions. More than half (55%) are for-profit.
 - Has board of directors that has three members from the government, and other members from the private sector. One of the private sector members is elected by the SMEs and one is elected by the MFI.

Introductory remarks by Luis Daniel Allain, SBS Peru:

- SBS Peru regulates banks and MFIs. Our main motivation is the stability of the system. Having said so, we also have a concern about financial inclusion, which is embedded in our mission. We have diverse initiatives starting with consumer protection. Our first norm in complaint handling came in 1999, when we

- required financial institutions (FIs) to have policies and procedures to handle consumer complaints in an appropriate manner.
- Other institutions, such as cooperatives and NGOs, are not regulated by SBS. However, the National Consumer Protection Authority takes our regulation and applies it to consumer protection for all institutions. In that way, what we do affects a number of institutions.
 - We have been working toward financial inclusion:
 - Have had transparency and disclosure initiatives since 2002.
 - Strengthened our complaint regulation in 2003.
 - Started working toward financial education, as this is part of our mandate. We work with the World Bank, CGAP, Social Performance Task Force, OECD.
 - Since our goal is financial stability, we have not yet taken the leap to including social performance in our regulation. We believe this is up to the institution. But, we will require institutions to behave in a way that does not harm the consumer.

Introductory remarks by Allan Sicat, MCPI, Philippines:

- MCPI is a network of financial institutions. Institutions engaged in microfinance are regulated by three different institutions:
 - Banks are regulated by the Central Bank (the BSP)
 - NGOs are regulated by the Securities and Exchange Commission (the SEC)
 - Cooperatives are regulated by the Cooperative Development Authority
 - MCPI has been awarded by regulators as the best partner for several years running. Previously, when NGOs were submitting info to the SEC, MCPI's role was to make sure the playing field was level. BSP would ask MCPI to get information to members.

Summary of Discussion:

Question 1. Regulation requires innovative processes. Rosa, will you elaborate on your practice?

- Rosa: We just issued our Norma, or policy, of social performance management (SPM). We have a specialized policy that has the indicators and specific measurements for SPM. If an external firm audits your social performance and finds that you are compliant, you can get a certificate. With that certificate, a state bank will give you the opportunity to access two funds that have better conditions than commercial banks. It is a challenge for us right now to improve the awareness of the funds, as well as determine other mechanisms and tools that will increase the interest of MFIs in this certificate.

Question 2: Luis, you were talking in the workshop about the approval of loan contracts to see they are transparent, as well as about complaints mechanisms. Can you elaborate?

- **Contract templates:** The contract templates for certain credit, housing loans, consumer loans or credit cards have to be pre-approved by the SBS to check that

there are no clauses that are abusive to clients. Anytime a financial institution wants to change its contract template, it has to submit it to the SBS before giving to clients. We check to make sure there are no clauses that are harmful.

- **Complaints process:** Regulation requires institutions to put policies in place to handle complaints: ways to handle complaints, points of contact, and monitoring. All this information has to be open to the SBS. As part of our on-site visits, we check if they are compliant with their own policies for complaints, and if these policies and procedures are in line with regulation. They also have to how report complaints statistics, including how long it takes to solve complaints. This helps us have early detection of possible misconduct to clients.

Question 3: Allan, would you please share any innovative practices in Philippines?

- BSP is an advocate for client protection and has standardized it. This is generally aligned with the Client Protection Principles, but there is the added work on financial education. In the Philippines, there is a strong need of consumer financial education.

Question 4: In the regulator workshop earlier this week, we talked about which dimensions of the Universal Standards for SPM are most appropriate for regulators. I assumed that regulators would want to leave Dimension 1 (Define and monitor social goals) and Dimension 2 (Ensure board, management and employee commitment to social goals) to institutions. However, regulators said that Dimension 1 and 2 were very important to regulators. How do you look at these issues as regulators?

- Rosa: The law has a big chapter on governance. It has various standards, and it includes a lot regarding management and sustainability. It also highlights the importance of the board in social goals. However, these are incentivized, rather than penalized. If you do not comply with client protection, you are penalized. But if you are not meeting the other aspects of the Universal Standards for SPM, you are not penalized. CONAMI's purpose is promoting as well as regulating, so we have a system of incentives to get the SPM certificate.
- Allan: I agree with Rosa on incentives. We have a new law (November 2015) that indicates that there should be an accreditation process for microfinance NGOs. To be accredited, it should adhere to financial, social and governance standards. The Universal Standards for SPM are listed in that law. The incentive for accreditation is 2% value-added tax, as opposed to the typical 12%.
- Luis: While we care about social standards, this is not part of our main mission. Our main goal is stability. That doesn't mean we have not championed social goals with other institutions in Peru. Part of the National Financial Inclusion Strategy includes social performance. We also have many different institutions – the Ministry of Finance, Ministry of Education, Ministry of Agriculture, SBS, National Consumer Protection Authority that are somehow involved in financial and social inclusion. But the SBS is for the stability of the system.

Question 5: Monitoring can be quite a challenge for regulators. There has to be a balance between depth and cost of regulation. How do you monitor that institutions are compliant?

- Rosa: We do on-site and off-site supervision:
 - On-site visits once a year.
 - Off-site work: We ask for a monthly report on feedback and client complaints. Every month, we also see the rate of compliance on each of the standards. For client protection measurement, Nicaragua has compliance of 74%. For us, that is high because the policy is so new. It is a challenge for institutions that do not have the resources or the personnel to comply with these policies. The policies state that you have to have a specialized person explaining contract clauses, the interest rate, and every condition to the client. Not all institutions have the personnel or training that is needed by us to comply with these policies. Compliance has a lot to do with an MFI's budget.
- Rosa: The law also establishes that every MFI has to have an internal auditor. When they registered, most MFIs did not have this.
 - The audit covers consumer protection. Right now, internal auditors are asking us to train them in SPM so they can pursue a certificate.
 - Even though it is an internal person, the internal auditor is like an extension of CONAMI in terms of reporting and monitoring. CONAMI has the power to say whether an internal auditor is doing a good job and can dismiss an auditor.
- Allan: The BSP conducts off-site surveys. Regulated institutions are required to submit documents to verify they are aligned with BSP policies on consumer protection. Starting this year, there will be on-site visits for verification. There will be a rating of 1-4 with 4 being strongest. If an institution gets 1 rating, there will be immediate and close supervisor attention. Banks will have to suspend new products and submit an action plan. This is where a network like MCPI can enter to help those with a poor rating through workshops, technical assistance.
- Luis: Since 2014, we also started integrating risk framework tools to assess the level of risk and strength of supervision in financial institutions. Part of this framework requires checking policies coming from the board. We check to see if general management complies with policies, if they're applied, if there are internal controls and auditing.
- Luis: We had a mandate to do on-site supervision at least once a year. There are now institutions that we don't go visit on-site because all the off-site supervision and information is enough. And then some institutions require a visit every year. We have a client protection team as part of the team that goes on-site. We have had sanctions for non-compliance of consumer protection rules for 10 years.

Question 6: The capacity of a central bank is often tested. There are international initiatives that have audit tools – such as Client Protection Certification and the SPI4. Do you see these as supporting regulation?

- Rosa: Our policy says your SPM audit is done by an external firm, and the firm has to be certified by us. We have rules for which firms can register to do audits.
- Luis: SBS has a strong set of policies for on-site and off-site supervision. We welcome any document or audit that gives us more information to evaluate, but we rely on our own solution.

Question 7: What are the gaps you see in your regulation? Anything that still needs to be addressed?

- Allan: Previously, we did not have a function to address over-indebtedness. Now we have a microfinance credit bureau with the seven largest MFIs in the country collecting negative and positive information. We also have a law that requires all engaged in credit to provide information to a credit bureau in the Philippines.
- Rosa: Cooperatives represent a gap. CONAMI does not regulate cooperatives, which are in the process of organizing themselves. Our law establishes that you have to report to credit bureau, but cooperatives do not. That affects the whole sector in terms of over-indebtedness.
- Rosa: Also, every policy that we have issued has been discussed with the MFIs. No policy has been issued without consulting them. Right now, the issue of disclosure of information is being profoundly discussed because they feel a little constrained on this issue. We're trying to improve this issue with them.
- Rosa: Additionally, MFIs are concerned about the cost of supervision. They say they have to put higher cost to the clients because of what we require of them.
- Luis: We share the concern with cooperatives. SBS does not supervise them.
- Luis: We are trying to figure out how better to regulate issues of digital finance. We have regulation on transparency and disclosure, but we are still discussing how to deal with fees and what are appropriate fees in digital finance.
- Luis: Another discussion is the role of banking agents, They are covered in regulation, but without strict rules on how agents give fair treatment to clients. We want to set minimum requirements on what agents have to do.

Question 8: Who arbitrates when clients lose a case? If clients don't win a case with the institution, is there a risk the central bank will be flooded with complaints of clients?

- Rosa: There's a system for that. First, the client comes to institution, if the institution does not give them a response in a certain period of time, the client can come to CONAMI. CONAMI works with the institution to get the client a response in a certain period of time. It is important to educate the clients because then the feedback will be much better for us. We are putting a lot of effort on this right now.
- Luis: There are denouncements and complaints. A complaint for us is when the client wants to solve a personal problem or wants to be given something in return for an abuse they believe they have suffered. A denouncement is when anyone suspects a misconduct in the institution. We do not respond to complaints. Clients can go to institution, to the association of banks or to the National Consumer Protection Authority. If we receive a denouncement, we do

not solve the problem of the person doing the denouncement, but we go to the institution and check for misconduct.

Question 9: CONAMI initially prevented clients from contacting them directly. Why did you opt to take complaints from clients directly?

- Rosa: Our law is new. The MFIs are not really ready to comply with all the policies and the law itself. We have been flexible with the MFI. If they have not met all the things they have to do, we let them present a plan for implementation. Many times, the MFI does not have specialized people for complaints so we decided to help them.

Question 10: For networks, what are the elements that are essential for having a good relationship with regulators in the country?

- Allan: Keeping lines open for people in the BSP. It goes both ways. We need the BSP to level the playing field. Microfinance and financial inclusion is one of the key programs of the central bank, and it is very fortunate that the governor of the BSP is very supportive of microfinance. We take that opportunity and consult him from time to time on microfinance. It is important for networks to have financial and social performance information it can give to central banks.