A PRIVATE SECTOR REPORT OF REGULATORY FRAMEWORKS IN THE FINANCIAL SERVICES SECTOR AND THEIR IMPACT ON BUSINESSES – FOCUS AREA: BANKING SECTOR and INSURANCE SERVICES

COMESA BUSINESS COUNCIL- THE VOICE OF THE PRIVATE SECTOR IN THE REGION

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Disclaimer

This report was prepared with the financial assistance of the International Trade Centre (ITC). The views expressed herein are those of the responsible consultant, based, in part, on the outcome of dialogue between key stakeholders. Any remaining errors should not therefore be attributed to the ITC or the CBC Coordination office at the COMESA Secretariat.

LIST OF ABBREVIATION

ATM	Automatic Teller machine
BOZ	Bank of Zambia
CBC	COMESA Business Council
CBE	Central Bank of Egypt
CBK	Central Bank of Kenya
CRBs	Credit Reference Bureau
DTM	Deposit taking Micro Finance
EGP	Egyptian Pound
FSC	Financial Services Commission
IAS	International Accounting Standards
IFRS	International Financial Reporting Standard
KYC	Know Your Customer
MFC	Mortgage Finance Company
MFI	Micro Finance Institution
MCBI	Mauritius Credit Information Bureau
NPL	Non-performing Loans
PSV	Public Service Vehicle
RBZ	Reserve Bank of Zimbabwe
RePSS	Regional Payments Settlement Systems
SADC	Southern Africa Development Community

EXECUTIVE SUMMARY

This report is to assist COMESA Business Council's (CBC) in identifying the constraints affecting the banking and insurance business within the regulatory framework in the COMESA region and in drafting a position paper with regard to these constraints. The report will also assist CBC in developing approaches that will effectively facilitate business transactions within the COMESA region.

Findings

1. The regulatory framework in the banking sector is well developed in the region with some member states having very sophisticated framework; however there are some constraints that are currently being faced and these are highlighted below. Also noted are the various developments which include; the mobile banking, regional payment system and agency banking, current implementation of Basle II among other developments.

2. In the insurance sector the regulatory frame work is not fully developed however within some member states they have structured the frameworks. The sector however has its own unique constraints that affect the broader financial services sector since insurance plays a key role in facilitation of trade, investment and transport.

3. The findings of the study found the following:

a) The banking sector is facing a number of challenges which include and not limited to; low access to banking services, inadequate funding within the banks; high cost of operations which is casted down to customers; lack of sophisticated financial systems; lack of effective competition among the players; high interest rates; delays in international transfers; high premiums on conversion of local currencies; lack of clear regulation on mobile banking and lack of clear transparency guidelines in services offering among others.

b) The main challenges within the insurance sector were found to include; l; high capital requirements; lack of recognition of insurance policies issued by players from other countries; lack of mutual recognition of qualifications in the region; lack of technical skills of

emerging products like Takaful Insurance; lack of clear financial reporting structure; poor corporate governance leading to collapse of insurance companies; lack of harmonized legislation on insurance within the region.

Recommendations

Taking into account the stakeholders views a number of recommendations were made which include;

a) With regard to banking the member states to modernize the financial systems by implementing and employing international financial reporting standards, harmonize and link financial policies; unify rules and regulations and products; embrace the RePSS within the region and allow commercial banks to freely trade with each other; promote mobile banking services to reach the unbanked; promote alternative tools like credit / debit cards with support of central bank; Central banks to introduce caps on interest rates; enhancing use of CRB to mitigate NPLs; encourage technological innovations; increase sensitization on foreign exchange; Basle II implementation; reduced ledger fees and savings accounts to encourage savings; improve on transparency on products and services offering; develop a clear regulatory framework on mobile banking; Bankers Association to lead in increasing financial literacy.

b) With regard to Insurance the member states to increase strategic alliances to ensure economies of scale and scope; take advantage of frameworks put in place and agree on common issues; create mechanism of information sharing and start participating in regional risk prudently; balance compliance with performance; increased literacy on pension and life insurance; creation of data base of insured to reduce fraudulent claims; come up with micro insurance products; engage international practices to improve the skills within the sector; improve on corporate governance to promote stability within the industry.

The recommendations are detailed in the main text.

1. INTRODUCTION

The COMESA Business Council (CBC) is the representative apex body of the Private Sector in the COMESA Region. CBC, through its current constitution, ensures that the interests of the business community, including other interest groups and organs of the common market are taken into consideration at the highest level of decision making within the COMESA Authorities.

The CBC monitors the implementation of the relevant Articles of the COMESA Treaty in respect to private sector engagement and participation in influencing policy at the regional level. The CBC by virtue of its mandate as the Recognized voice of the Private sector in the COMESA Region is required to present harmonized recommendations on behalf of the private sector through the COMESA policy organ meetings. In addition, it is an expectation that the CBC facilitates a thorough consultative process and receives reports from other interested groups within the context of private sector development.

African regional integration has become a critical component for the economic development of the continent, and provides substantial potential for poverty reduction across the population of various regional groupings. Within the spirit of NEPAD's overarching vision, pro-poor economic growth must be led by the private sector, but rooted on increased regional and inter-regional trade.

In the course of the pursuit of regional integration objectives, the traditional link between policy and the regulatory framework on the one hand, and trade development and enterprise support, on the other, may together require the establishment of dedicated institutional middle fields that should include private and public service providers in order to deliver the objectives of regional integration and trade development in the medium to long term.

Unfortunately, this middle level platform is often missing or at best ineffective within the structures of regional integration arrangements. This gap is currently being addressed at the level Africa's NEPAD programme for enhancing regional integration in the continent.

NEPAD's continental approach and programmes are designed to facilitate four key outcomes:

i. Pan-African networking to help bolster the growth of regional cooperation, trade and economic development efforts in a more coherent fashion;
ii. REC Secretariats to lead regional trade, development and promotion efforts;
iii. Regional trade support networks, which should incorporate the efforts of business networks such as the COMESA Business Council (CBC), to engage in policy dialogue, as much as in promoting frameworks of trade support to benefit their trade activities;
iv. Enhanced enterprise level competitiveness in priority sectors, with special emphasis on women-owned enterprises.

At the level of COMESA specifically and following the roll-out of the COMESA's PACT II project in June 2009, it was agreed that all regional private sector apex bodies be strengthened. The programme was also designed to help build capacities to enable policy analysts from national private sector apex bodies to effectively dialogue and lobby at various levels and to prepare position papers that can propel the private sector's influence on broad trade policy issues in COMESA Member States.

In effect, the CBC, through its current terms of reference, is accordingly expected to ensure that the interests of the business community especially (including that of other interest groups and organs of the COMESA common market) are taken into consideration at policy decision making levels as structures and mechanisms are put in place to monitor the implementation of relevant Articles of the COMESA Treaty.

Additionally, the CBC is required to make recommendations to the relevant COMESA Inter-Governmental Committee and to take part in the key meetings of Technical Committees. This is besides the CBC's expected role of facilitating consultative processes and dialogue among policy makers and private sector stakeholders in order to advance the regional objective of private sector development.

The 29th COMESA Council of Ministers meeting noted the submissions of regulatory institutions within 8 member states in the key priority sectors. Of these financial services was

among the top priority sectors as submitted by 93% of the member states. CBC's focus is on the banking and insurance sectors. It has been noted that the region has substantially liberalized the banking and insurance services sectors, as witnessed by- the rise of indigenous banks exporting services to more than two countries in the region.

The challenge that arises is the facilitation of businesses to exploit regional financial services- more specifically banking and insurance regulatory systems that support movement of trade and business for SMEs in the region.

In March 2011, CBC held a consultative meeting to discuss the revival of the COMESA Bankers' Association. The meeting was attended by five Bankers' Associations, namely- Seychelles Bankers' Association, Malawi Bankers' Association, Zambia Bankers' Association, Rwanda Bankers' Association and Burundi Bankers' Association. The meeting considered the challenges faced by the association in its life cycle- 2000- 2002 and requested that clear objectives for re-establishing such an institution be re-defined, customized to the current banking environment, addressing the challenges and contributions to the competitiveness of the financial sector and significantly indicating how its existence would impact on members of the said association. The CBC was tasked with these roles as the representative Private Sector Institution.

In 2012, the CBC General Assembly requested that under the Business and advocacy pillar, a dedicated Private sector led financial services working group be set up to advocate on behalf of the businesses in this sector. The CBC Private Sector Analysis Report on Banking and Insurance Services guided the deliberations of the Regional Public Private Dialogue held this year on 19th and 20th February 2013. The CBC Public Private Dialogue had key objective of:

i) Reviewing the current regulatory systems and their impact on business; impediments to cross border business and transactions in the region,

ii) Proposed adoption of the re-establishment of the COMESA Bankers' Association

1.1 Objective of the report

The objective of this study is therefore to help COMESA Business Council (CBC) to identify the constraints affecting businesses within the banking regulatory frameworks. The other objective is

to analyze existing data on banking and insurance regulations within the member states and assess the common elements that can be harmonized at a regional level.

The output of the study is to put together an information package on the regulatory frameworks per member state that will facilitate investor information in the region. In addition this set up Bankers association for the COMESA region and with aim of addressing various stakeholders needs and had an objective of preparing a Private

1.2 Understanding the objectives of the study

The output of the consultant will be a Draft CBC Private Sector Analysis Report that will guide the deliberations of the Regional Public Private Dialogue (RPPD) to be held this year. Draft Report will incorporate inputs of CBC Secretariat before tabling the document. RPPD will deliberate on the Draft Report and from their input the CBC Secretariat will come up with a Final Report.

From the objectives stated above, the consultant is expected to review the banking regulatory frameworks and indicate the provisions that constitute constraints affecting businesses. Constraints arise out of regulations that have been enacted by the regulator of the banks within the country. Whereas these regulations are meant to protect the banking industry and more so the customers' deposits and streamline how processes of business transactions are carried out in a systematic way, they can pose constraints to the consumers of the same services and the banks as well while looked at from a business perspective.

Secondly, the consultant is expected to propose approaches for public and private sector stakeholders on acceleration of regulatory system at both national and regional level that will effectively facilitative business transactions at regional level.

Thirdly the study will contain the existing banking and insurance data and assess common elements that can be harmonized at the regional level.

Lastly to develop an information package on regulatory framework of each state that will facilitate investors' information in the region.

1.3 Methodology used in fulfilling the above objective

Literature review of the banking regulatory framework was undertaken and existing data on insurance sector was collected per each member state selected for this study with an aim of having a good understanding of both sectors.

Field visit to the five selected countries and collecting data through meetings and discussion with various stakeholders of which participants list is annexed *(annex ii).* The stakeholders include banks, insurance companies, bankers association, microfinance institutions, ministries of trade and commerce, ministry of foreign affairs, chambers of commerce, association of exporters and association of manufactures. The collected data was analyzed and have been used to prepare findings of the study.

The selection of the five countries of study was based on stratified sampling on geographical locations- of COMESA region- hence field visits to Five Countries which represented the East, North, Island and the South of Africa where COMESA member states were drawn from.

In addition to the field visit desk research and discussions with regional banks who had a more holistic research base of the COMESA countries was carried out. Other source of information has been extracted from the business journal and financial news across the five countries. The most current information that may have not been updated in the website was researched from the financial and banking news.

1.4 Challenges faced during the study

Lack of updated information since most organizations made reference to their website with regard to the Institutions and the regulations of which most websites had not been updated.

2. REGULATORY FRAMEWORK

Within this study 5 countries out the 19 COMESA member states were selected through a stratified sampling with representation from the North, East Island and South. The findings of these 5 countries are presented below and the upcoming meeting will seek to inform more. The banking sector is divided into banking and non-banking financial sector. The banking sector purely means banks offering banking services of deposit taking plus other financial services. The other non-banking financial services are either governed by the same Central / Reserve bank act or another act depending on country.

The COMESA region banking sector is widely developed and with a number of economies having adopted the Basle Core Principles as a benchmark for assessing the quality of the supervisory systems. The Core Basle principles are a framework of minimum standard for sound supervisory and are universally applicable. These core principles relate to, objective, independence, power, transparency, cooperation, permissible activities and licensing criteria. The transfer of significant ownership, majority acquisition, capital adequacy, risk management process and assets provisions are the other principles emphasized by in the Basle principles. The principles also relate to risks which range from transfer risk, credit risk, market risk, liquidity risk, operational risk and interest rate risk. Internal control and audit, abuse of financial services, supervisory techniques, supervisory reporting, accounting disclosure, corrective and remedial powers of supervisors, consolidated supervisors and home host relationships are the rest of the principles.

2.1 The Banking Regulatory Framework

Regulatory framework for banking is established by the government of the each country and is governed by Central/Reserve Banks Act together the Banking Act. The Central Bank also supervises the compliance on the part of the banks and also it gives prudential guidelines on governance, management and control. Other subsidiary legislations are enacted from time to time beside the Act. A revision of the Acts is carried out once there is need to address certain matters related to the banking sector.

This study has considered the regulatory frame work of Kenya, Egypt, Mauritius, Zimbabwe and Zambia. The findings of the study covers the following; Number banking institutions, Regulating Acts, Minimum

capital requirements, Licensing, Corporate governance, Ownership, Exchange control, Foreign exchange and Credit reference bureaus.

In addition to the above the constraining issues arising out of the regulatory framework have been presented in a chapter below and proposals that would effectively facilitate business transactions at regional level.

2.2 The Insurance Regulatory Framework

The primary objective of insurance regulation is to correct market failures that would otherwise cause insurers to incur an excessive risk of insolvency or engage in market abuses that hurt consumers. Significant regulatory resources are employed to monitor market behaviors, compliance, and solvency. The regulatory frame work of Insurance is established by Insurance Regulatory Authority, or Insurance and Pension Authority or Financial Sector Investment Authority depending on the country. The findings of the study covers the following; Number Insurance companies, Regulating Acts, Minimum capital requirements, Licensing, Corporate governance, Ownership, Guidelines on claims management, Guideline on Products, Guideline on Money policy, Guideline on market Conduct for investigators and assessors, Guideline on domestic packages.

3. THE FINDINGS ON CONSTRAINTS AFFECTING BUSINESS WITHIN THE BANKING REGULATORY FRAMEWORK

Within the banking regulatory framework and more specific on relationship between the banks and the business community had the following issues pointed out as constraining the banking business, both to banks and its customers:

3.1 Cost of accessing funds in form of loans or the borrowing cost

The banks within the region experience high cost of lending brought about by the many procedures and processes undertaken to evaluate, approve and disburse the loans or advances to its customers. This cost is in turn felt by the consumers of these products and services as they bear the brunt of these high cost. Thus the cost of borrowing was identified as one of the major constrains to business in the five countries visited. The major cost is suffered in the risk evaluation process which requires borrowers to furnish banks with a lot of financial information for past performance inform of audited accounts, cash flow forecasts and the future revenues, provision of adequate collateral and other financial information. The constraints to consumers are inform of the collateral required to secure the loans must be within the banks requirements and in many cases many business concerns do not possess these collaterals. The cost of evaluations by the banks is loaded to the borrower; valuations fees, processing fees and disbursement cost. These costs vary from one bank to the other and are not recognized while computing the average interest rate pegged to the loan. The risk assessment is discriminatory and does not consider other factors outside the past financial information like concepts being brought forward especially for start-up and unique business concepts.

3.2 High interest rates

The interest rates charged to loans are very high and prohibitive to growing business since the rate of return on business may not fully meet the high demand on interest on loans. The spread of interest rates between lending and savings/ deposits rates is quite large with saving getting very minimum return and lending attracting very high interest. This makes saving very unattractive and borrowing even more unattractive.

The rates of interest remain high mainly because of;

- Prudential guidelines covering recognition of income from different operations, quality of assets allowable as collateral from borrowers, provisioning against poorly performing loans, overall and single-borrower exposure, a bank`s willingness to take on risk and the risk premium that it would be looking for based on its assessment of the creditworthiness of the borrower which influence lending decisions in terms of who to lend to lead to high interest rates.
- Legal and procedural constraints to the collection of debt in our economic and political environment and the difficulties of foreclosure in the case of defaults and the government`s borrowings over and above the Statutory Liquidity Reserve Requirement also keep interest rates high for the private sector
- Requirement on capital adequacy, which gives a zero weightage to credit extended
- The interest rate market`s capacity to react efficiently and quickly to changes in the SBP discount rate depends on the efficiency and effectiveness of the regulatory system, the extent of competition between financial institutions and the range of financial instruments and products on offer

3.3 Information required in opening accounts

Banks regulation on Know Your Customer (KYC) data requirements are prohibitive to some small & medium enterprises coupled with lack of proper education on part of the consumers on legal requirements and the reasoning behind KYC. This has contributed to many informal sector controlling a large part of the economy go unbanked. Local banks in each country have some leniency on the KYC requirements compared to foreign owned banks. The regulatory requirement should be clear on what alternative data requirements can be used than the current used methods.

3.4 Banks failure to disclose all the information with regard to charges

The bank’s failure to disclosure effective lending rates to borrowers, constraints the business. This is because business owners are not able to effectively evaluate the actual cost of borrowing

before taking the loan. Most of costs are hidden and vary from one bank to the other and also vary from one client to the other effectively increasing the cost of borrowing above the budgeted cost.

- ✓ The approval and assessment cost,
- ✓ Commitment fee and
- ✓ Valuation fees for collaterals
- ✓ Disbursement fees

These costs are sometimes punitively high. There are a number of unexplained bank charges that are beyond the interest rate charged and they are not disclosed.

3.5 Lack of enough funds to lend

The banking sector within the region has also suffered low capitalization with only the major banks making it to the required capital levels. The banks are do not have enough funds to lend to the business community and by virtue of this introducing very punitive screening process and unnecessary delays in approving loans and disbursing the same. The short term loans are preferred by the banks, whereas the business communities prefer the long term loans in order to have enough period of time to absorb the cost of borrowing.

The banks at large also lack enough funding to finance large contract deals like mining, explorations due to capital constrains on part of the bank and credit risk regulations.

3.6 Regional Payment and Settlement System

The regional banks have been experiencing challenges in accessing the Letters of Credit for their customers making it inconveniencing to customers who undertake international trade.

3.7 Foreign exchange

There is no clear regulation on how COMESA member states supporting the exchangeability of currencies. The devaluation of the member states currency over the other major foreign currencies does not promote good trade. There are high fluctuations which is most cases distorts

the resources budgeted for acquiring new assets or trading materials. This normally has very bad effect on imported goods and cost of doing business is increased resulting to multiple effects within the business units. The enablers of business function, electricity, transport rise with poor exchange rates hence rise in cost of good and rise in sales value effectively reducing the buying power of consumers.

3.8 Mobile banking and lack of clear regulation.

The banking sector has recently been hit by the mobile money transfer where the mobile banking has taken up a share of banking services without a clear regulation. The mobile banking or mobile money plat form operates under two regulators, telecommunication and banking/ Financial services. Some respondents complained of high cost of transactions which are not governed and lack of clear frame work on depositor's protection.

4. APPROACHES PROPOSED THAT EFFECTIVELY FACILITATE BUSINESS TRANSACTION AT REGIONAL LEVEL

Approaches for public and private sector stakeholders on acceleration of regulatory systems at the national and regional level that effectively facilitates business transactions at a regional level;

4.1 Cost of accessing funds or the borrowing cost

To facilitate growth of trade and to give consumers of services more funding to grow the business the banks can lower the cost of borrowing through establishment of clear and simple evaluation methods. The banks should employ very efficient and cost effective technology and innovation while evaluating the loans applications.

- Banks can use alternative to collateral and regulation allow use of credit derivatives where the risk of default is transferred to another party.
- Use of factoring of receivable can be regulated and assessment methods developed.
- Cash Collateral, in which cash is posted by the client to secure its collateral obligation, and Collateral Trusts, which allows clients to provide qualified investments to secure its collateral obligation. The alternative collateral can be insured for hard to place risks.
- Training of credit assessors by one body so that the system of credit evaluation and weighting given in areas of loan assessment; collateral, CRB report, capacity to pay, historical information and others remain standard. This will allow healthy competition.

4.2 High interest rates

Banks should strive to offer better saving rates of interest which in turn will encourage more deposits.

- The regulation should tie the rates of interest on lending to interest on saving with a margin of profit that is not very wide. The spread should be minimized by linking the two rates. With this the banks will have sufficient deposit to lend at lower cost.

- Borrowers should be encouraged to use more of their saving as collateral. Many business entities have fixed deposit or call deposit.

Low interest rates help households and businesses finance new spending and help support the prices of many other assets, such as stocks and houses if loans are cheaper, more people and businesses will borrow, spending helps in building the economy and in turn Banks will have more business.

4.3 Information require as per guideline on KYC

Improve on consumer education to both the banked and the unbanked with programs aimed at;

- Creating awareness and importance of using banking services, proper maintenance of records,
- Sensitization on key requirements of the banking procedures especially demystifies the KYC.
- The banks should also adopt alternative methods of obtaining the KYC information where the standard information is not possible to provide and explain why the information is important.

4.4 Cost disclosure

The banks regulatory frame work stipulates on disclosure requirements of the lending rates but is silent on other relevant cost and how they impact on the cost of borrowing. All these cost as mentioned in the constraint are added up they results to a higher interest rate than negotiated. The effective lending rates should be disclosed and Improve on disclosures with regard to effective cost of lending that normally envelops a lot of hidden charges that make borrowing cost very high. All cost relevant to a particular borrowing should be listed and marked as percentage computed and this added to the interest rate.

4.5 Lack of funds to lend

The increase in the minimum operating capital should be standardized and benchmarked with the rest of the world for it not to be punitive; In addition the capital adequacy ratios should be met and adhered to. This will provide the very much needed cash flow for lending at lower interest

since its owners funds. The increased capital should help ease the cost of extending credit by lowering interest rates. The banks should have credit rating which should be published to indicate the strength of each bank. The competition levels will be enhanced. The Basle core principles should be implemented and incorporated as part an-parcel of the regulatory framework.

4.6 Regional payment system- Transfer of funds within the region

International transfer of funds while made simple and cost effective enables the consumers and suppliers of good of services to transact with the region with ease. The availability of the RePSS within CMESA region at affordable cost can facilitate growth of business within the region. Within COMESA 19 member state only 10 members are registered, the other member states should register to foster growth of trade and to facilitate easy transfer of funds.

4.7 Foreign exchange

Within COMESA region the level of exchangeability of currency should be improved, this will help reduce losses made from exchange losses on traders. There should be ease of changing the currencies. Encourage technological development on transfer of payments across the borders with increased sensitization programs on foreign exchange operations for the unsophisticated customers.

4.8 Mobile banking

The mobile money Act and regulation should be enacted and mobile money Act enacted to improve on money transfers and transactions on mobile money platform. The mobile money platform has been successful in Kenya and has seen the informal sector together with the unbanked benefit and conduct business transactions effectively. There should be coordination and cooperation across the sectors such as telecommunications, banking and electronic commerce. Issues of trust, consumer protection, registration and transaction limits, regulatory collaboration and interoperability should be put into consideration. More harmonization and collaboration at East Africa level in regulating mobile money should be put in place so that

intraregional use of the technology can be expanded. This will boost regional economic growth. “Governments in the region need to address issues relating to telecommunications and financial regulation to ensure that mobile money services bring the desired broad benefits, especially to the poor.

5. INSURANCE INDUSTRY ISSUES

This study had an objective of collecting the existing data **on insurance regulations** within the member states and **assesses the common elements** that can be harmonized at a regional level. This report has highlighted the common elements in the insurance sector. The sector has a lot of data and this has been set aside as information package which comprise of the Governing Acts, together with the guidelines and the Industry reports.

The sectors common elements are highlighted below together with the constraints within arising out of the regulatory framework.

- ***THE FINDINGS ON CONSTRAINTS AFFECTING BUSINESS WITHIN THE BANKING REGULATORY FRAMEWORK***

Within the banking regulatory framework and more specific on relationship between the banks and the business community had the following issues pointed out as constraining the banking business, both to banks and its customers:

The major constrains within the regulatory framework of the insurance industry noted were;

5.1 Cost of insurance

The cost of buying insurance cover/ policy was found to be not within the reach of many and most insurance products do not meet the needs of the mass. The most common insurance policy bought is motor insurance which is based on a percentage of the value of vehicle insured. The motor policy is divide into 3rd party and comprehensive with 3rd party having the lion share of the covers. The other common being medical which in most cases has been treated as deposit for medical treatment since a big percentage of the cover end up being utilized especially outpatient covers. The other policies are considered expensive with most consumers preferring self-insurance or just taking risk.

5.2 Insolvencies and Avoidance of claims

The insurance companies find very loophole in the policy document to avoid genuine claims and this has eroded the confidence in the market. The claims and legal department in insurance companies have been used to deny rights of claimants. This however has been brought about by numerous fraudulent claims

filed by PSV and medical cases. There is high level of recklessness in the PSV sector leading to so many claims that have pushed the cost of operations of the insurance business to high level. This has also led to some insurance companies not to offer the PSV insurance based on returns in that particular sector.

5.3 Lack of good education on values of insurance.

There exist a big number of potential consumers who lack good education on the value of insurance. The percentage reached by insurance is minimum compared to the potential clients. Products sold by the insurance companies are by choice safe for motor vehicle and a few other statutory requirements. In the five countries the following are the compulsory insurance covers.

5.4 Price undercutting among players

There are price wars in the sector of insurance with many players trying to undercut each other to increase market share and with the price under cutting a lot of information is not disclosed to the consumers of the insurance

5.5 Failure or lack of recognition of insurance policies issued across borders

The region has not established a mechanism and regulation of recognizing the motor insurance across the border and users have to buy additional insurance while crossing the borders.

5.6 Tax regime

Within the region there is common tax regime and in a few countries there are tax incentives with regard to insurance whereas in some countries there are good tax incentives on insurance. Lack of the support by the government and high cost brought about by tax regimes has made insurance unattractive. The insurance companies have been unable to market the products due to the increased cost of their insurance products.

6. APPROACHES PROPOSED THAT EFFECTIVELY FACILITATE BUSINESS TRANSACTION AT REGIONAL LEVEL

Approaches for public and private sector stakeholders on acceleration of regulatory systems at the national and regional level that effectively facilitates business transactions at a regional level;

6.1 Cost of Insurance

The region should compare product prices and come up with a good formula for setting prices to make them affordable to consumers. More awareness should be created and package of benefits that are real marketed. Products of insurance can be sold alongside other financial services by Insurance companies using available channels. For instance insurance product sold to golfers can be marketed through the clubs by negotiating for inclusion in the subscription fees which is payable annually. Another avenue should be through the Sacco's and investment groups. More innovative ways can be developed and marketed and this should tap in the unreached market.

6.2 Insolvencies and avoidance of claims

The regulating authorities should be strengthened through support of the governments to give them more power on supervision of the insurance companies. In addition regulating authorities will come up with innovative mechanism and assessment tools that would be used to enhance supervision. The region should also work on the new regulation of capital increment and harmonize this. There should be a bench mark which should be set that would put the big companies in the same level playing field. Uniform capital levels for insurance companies in the region would mean attractive products in the market and sufficient flow of funds to pay all legitimate claims. Other measures that would be proposed include;

- Maintaining extensive insurance databases and a computer network that are assessable to regulatory authority and insurance companies as well as the insurance association;
- Analyzing and informing regulators as to the financial condition of insurance companies;
- Coordinating examinations and regulatory actions with respect to financially weakened companies;
- Establishing and certifying national compliance with minimum financial regulation standards through the Financial Regulations Standards and Accreditation Program;

- Valuing securities held by insurers;
- Developing uniform statutory financial statements and accounting rules for insurers;
- Developing model laws and coordinating regulatory policy on significant insurance issues; and
- Conducting research and providing information on insurance and its regulation to regulators, insurance associations to ensure innovations and growth.

6.3 Educating the consumers and the Insurance agents

Develop a mutual recognition agreement (MRA) for certification of qualification in the region to assist the movement of professionals. Consider issues of mobility and movement of persons. The insurance colleges and training institutions in the region should have common research and analyze the existing products. In addition, they should consider having a harmonized curriculum that would facilitate cross border trade. Issues of risk management and updating of information should be prioritized.

Involve regional colleges when making changes in the industry so that the new issues can be included in the curriculum before the operationalization of the requirements such as is the case in Kenya where the Insurance Regulatory Authority now requires all insurance firms to have a risk manager.

There is need for enhancing capacity building and public awareness campaigns in the region, especially involving opinion leaders in the member states.

Increase in supervision by the regulatory authority on claims payments. This will ensure that no insurance company carries forward huge claims over a long period.

6.4 Competition

The regulating authorities should come up with policies on quality standard which should be used to benchmark the quality of the insurance products. The competition commission and regulating authorities should be strengthened to come up with specific governance policies on price competition and allow fair trade practices. Set prices of the products to avoid undercutting.

6.5 Recognition of insurance policies across boarders

The region should review the common issues and adopt them and harmonize the regulatory framework and should take advantage of the frameworks that have been put in place to agree on common regulations regarding:

- ✓ Third party limits of liabilities
- ✓ Treatment of policies issued in different countries.

7. STAKEHOLDER COMMENTS ON THE FINDINGS OF THE SURVEY

Following the presentation of the draft report for consideration at the Private Sector Dialogue meeting held in 19th and 20th February 2013 in Nairobi, stakeholders had the opportunity to provide comments on the findings of the study. Among the comments raised, the stakeholders in attendance raised the following thoughts, issues and opinions:

- The private sector stakeholders in attendance proposed that their final position proposals should be discussed with CBC at another forum before adoption due to the various numbers of approaches that should be adopted. It was noted that the banking sector is well developed in some countries and in other countries they are lagging behind and therefore some approaches may not work for all and the need fr further consultation should be made.

- The stakeholders noted that the deliberations of the private sector through CBC will be taken through the technical policy organ committee meetings related to financial sector to ensure that business interests are heard and considered by policy formulators and decision makers in the region.

- The stakeholders noted that concerted efforts are being made to strengthen the banking system and as a result non-performing loans which is one of the constraints faced by the banks has significantly reduced among other constraints.

- The stakeholders noted that there are various obstacles to the Regional Financial Integration which include;

  - Wide divergence in COMESA member states and less sophisticated systems.
  - Lack of effective enforcements mechanisms at regional level
  - Slow pace of achievements of macro-economic convergence.

- The stakeholders noted that WTO – GATS recognizes the role of governments, allowing domestic regulations and prudential measures. However measures regarding minimum capital adequacy requirements, management controls, disclosure and reporting obligations, transfer of ownership, asset quality among others are not scheduled. It was also noted that 12 member states of COMESA have made commitments to liberalize the banking and insurance

sector in COMESA. The first phase of negotiations that cover financial services sector expected to be finalized with April 2013.

- The stakeholders also pointed out that approaches to the challenges may not be one size fits for the region given that some regulatory issues like mobile banking is very young and the model of growth in a country like Kenya may not necessarily apply in other countries.
- The stakeholders who included the bankers associations indicated the need for the issues being discussed be disseminated first to other members before any logical conclusions can be made siting that they are members representatives and not the players at large.
- It was noted that the represented countries in the stakeholders meeting were all at high level of implementing the Basle II on issues of raising the minimum capital however the stages of implementation are varying due to different economic situations. It was also noted that there is no harmonized levels of minimum capital.
- On the Insurance the private sector policy position should recognize that most economies within the member state have only had insurance regulation for less than 10 years with Mauritius being the oldest economy in regulated insurance for only 12 years. The developments of any policy should take consideration of these facts.
- The stakeholders also noted that the regulatory framework on insurance is also not very developed like banking and therefore there is no major source of reference. The sector has had a difficult start which is now being strengthened with a number of insurance companies going under in the last 5 years.
- Unlike the banking sector which is more elaborate the insurance sector the stakeholders noted requires a lot of support from the government of each country to develop structures of governance and strengthening of the insurance authorities.
- With regard to constraint out of banking regulatory framework the stakeholders noted that the common constraints affecting the banking as a business ultimately affect the consumers of services. There was acknowledgement that, borrowing cost, challenge of cross boarder transfers (letters of credits), high interest rates, rigorous KYC, foreign exchange regulations, mobile banking, disclosure requirements and the role of CRB.

- It was noted that comprehensive study on insurance regulation and best practice should be undertaken by insurance specialist and this would inform the harmonization of the regulatory framework within the region.

- The stakeholders noted that most of recommendations will require further consideration and level of implementation on phases be developed in a comprehensive time table by the CBC secretariat.

- The stakeholders also noted that with COMESA member state there are two other trading blocs, EAC and SADC, therefore a balance should be struck between soundness and innovation.

❖ **BROAD AND SPECIFIC RECOMMENDATIONS ON CONSTRAINTS WITHIN THE BANKING AND INSURANCE REGULATORY FRAMEWORK- POSITIONS FROM PRIVATE SECTOR.**

Based on the dialogue of the stakeholders and contributions made during the meeting specific recommendations on various constraints were made;

7.1 The Comesa Regional Payment and Settlement System and Its Impact On Business In The Region

The Regional payments and Settlement systems presents a solution to the challenges faced by local banks on transfer of funds. RePSS allows any commercial bank within the region to trade directly with each other, at par with one another. 10 out of the 19 member states are signatories to the system and the Bank of Mauritius has maintained the 10 accounts. The system however only allows transaction through two currencies Euro and US Dollar for now. It was recommended that;

- ✓ Bank regulators in the COMESA region should agreed to support the usage of this system by channeling through Central banks whereby the central banks will maintain corresponding accounts within the central bank systems across borders.
- ✓ Each Central bank to maintain two accounts; Euro and USD, and manage the movement of the cash within the system.
- ✓ Further the banks should take initiative of making traders aware of the Repss system of channeling of their finances for quicker and more affordable cross border transactions.

- ✓ While many commercial banks noted that the system will eat on commercial banks revenue stream the tool was noted to be highly competitive if well positioned for use by the commercial banks to service their clientele in the SME sector.
- ✓ The banking industry has further recommended that the system should grow to service other instruments other than Letters of credit, such as payment of insurance premiums and remittances.

7.2 Challenges faced by the banking sector within the COMESA region.

The stakeholders noted that there are a number of challenges faced by the banks among them being poor reach to the unbanked, increased threshold of capital and distinction of foreign and local banks, high interest rates, low lending and non performing loans. It was recommended that;

- ✓ Banks should collaborate with each other to reach out to the unbanked and to support movement of cash. In addition as an industry banks should promote alternative tools through promoting debit/ credit cards, which is supported by Central bank.
- ✓ National Bankers Associations should take an example from BAZ, which has collaborated with the banks to find incentives to support their participation in the overall agenda, as opposed to looking for Quicker RoI.
- ✓ Mobile banking and mobile money services should be promoted as a competitive and lucrative business between banks and telecommunications;
- ✓ Issues of low lending; this has been a challenge, due to the issue of high interest rates. Central Banks should introduce a cap on the interest rates as this will support access to finance for SMEs.
- ✓ On the Low levels of savings in the economy, banks should offer appropriate products which would compel customers to sell- specific on good interest rates.
- ✓ Non-Performing Loans; Introduction of a Credit Reference Bureaus to look at good credit and bad credit referencing which limits clientele access to finance.

7.3 Foreign Exchange regulations- how flexible are they in facilitating cross border trade and transactions?

The stake holders noted that there are challenges of difference in the regulatory approach. Some countries have strict control mechanism and this provides a challenge in cross border trade. Inflated prices and high premiums charged while converting local currencies within COMESA. There is absence of exchange rates between member states. There are also delays in payments of home currencies sent internationally and this can take up to five business days. The stake holders made the following recommendations.

- ✓ Harmonization in regulatory approaches in different jurisdictions should be underatken;

- ✓ Establishment of relationships with financial regulators and industry to support sound systems to support cross border trade;
- ✓ Encourage technological innovations; increase access to information and held in the development of new delivery systems and facilitating cross border payments.
- ✓ Increased sensitization programs on foreign exchange operations especially for unsophisticated customers(informal traders)

7.4 Customer Related challenges ie; - High Interest Rate

It was noted that interest rate spread between saving and lending rates is very high and savings deposits rates in many cases reflect negative return. Within the region the factors that affect the interest rates vary and therefore no common solution can fit all members states. It was noted that the small players in the market require to build up savings base as a source of funding. The banks within the region are working hard to grow the savings but the interest rates have been a big challenge. The stake holders made the following recommendations.

- ✓ *Removal of ledger fees from savings accounts, to avoid the issue of incurring costs on savings.*
- ✓ *Base II Implementation with regard to raising additional capital however allow sufficient time for buildup the required capital.*
- ✓ *There should be negotiations special rates for the key grouping of persons, to resolve the issue of issue of exclusion of SMEs and the like from the savings culture, due to the focus on the segmented market. Associations should propose special rates for the key groupings of persons – looking at the inclusion of SMEs. This will encourage the savings culture in these groupings.*
- ✓ *On Offer Letters, there is a need to request for transparency on the loan provided and the effective borrowing cost for clarity for the borrower. Communication needs to be increased for transparency.*
- ✓ *Reduce Liquidity Reserve Requirement to improve on the cash flows of the banks*
- ✓ *For smaller banks, they continue to allow the wholesale banking deposits;*

7.5 Mobile banking ; The Kenyan Experience;

The mobile banking is an innovation that happened over time and regulation issues are currently being opened up for discussion. There are some challenges in terms of retrieving the cash transactions once money has been transferred. It was noted that in Kenya where mobile banking is more than the number of all banks branches combined with ATMS serving more than 6 million customers in Kenya about 15.3% of the population. It was also noted that mobile banking has also provided a means to establish credit worthiness of individuals through the payments and transactions histories collected in the data base. The stake holders provided the following recommendations;

- ✓ A clear regulatory framework needs to be set up to manage the mobile banking systems in the region to support or protect the customers.
- ✓ There is need to establish a more enabling environment for sharing credit information systems. More work needs to be done to implement recently passed regulations and establish licensed and functioning credit reference bureaus before any dedicated attention can be given to alternative data sources.
- ✓ More development of sophisticated system is required to reduce or eliminate the challenge of losing funds since recovering funds is very difficult once they are sent.

7.6 Bank Transparency; How effective is it as a tool for facilitating customers?

Banks transparency is part of market conduct regulation and core principle and essential component and it is one of the pillars of Basle II. Market discipline however can only work if customers have access to timely and reliable information that enables them asses' banks activities and the risks inherent in those activities. Banks are guided minimum disclosure guideline which has an objective of encouraging banks to provide customers with information they require in relation to the banks condition and performance. The stale holders recommended that;

- ✓ *Offer Letters; Request for transparency on the loan provided and the effective borrowing cost for clarity for the borrower. Communication needs to be increased for transparency.*

- ✓ *Bankers Associations should take it upon themselves to increase financial awareness and literacy on the information of borrowing costs.*

7.7 Insurance Financial Services- COMESA Report

The stakeholders noted that barriers to cross border trade insurance include but not limited to; lack of harmonized legislation on insurance in the region, high capital requirements, empowerment protection laws relating to locals, culture of doing business and language barriers. In addition lack of recognition of insurance policies issues by players in other countries, inadequate information exchange among regulators and lack of mutual recognition of qualifications within the region.

Other challenges related to the sector include; lack of government policy on insurance in many countries, lack of funds for the authority, lack of simple basic products like micro insurance, poor corporate governance, lack of kills and adequate technical expertise especially on emerging markets trends like Takaful insurance, collapse of insurance companies and poor and inaccurate submission of information insurers. he stakeholders made the following recommendation

- ✓ *Increased collaboration and co-operation amongst players and regulators in the region*
- ✓ *There is need for strategic alliances and approaches to ensure economies of scale and scope, and increase the availability of facilities to raise penetration levels*
- ✓ *Consider devolving of ownership of insurance companies to ensure transparency and create employment opportunities*
- ✓ *Take advantage of the frameworks that have been put in place to agree on common regulations*
- ✓ *Come up with mechanisms of information sharing for them to start participating in regional risk prudently.*

7.8 Challenges faced by insurance providers and how they can be addressed within the regulatory framework.

It was noted that none of the members of COMESA was a member of International Association of Insurance Supervisors (IAIS) due to high cost of membership. It was noted that all Insurer are affected by decision made by IAIS whether a country is a member or not. Secondly it was noted

that there is disruptive impact of new technology on delivery channels whereby there is need to provide regulation of cross border trade insurance services provided over internet.

It was further noted that the WTO definitions of modes of supply, the word border is increasingly irrelevant. This can only be resolved with multi-pronged regulation in insurance, IT authorities and consumer protection agencies. The stakeholders made the following recommendations;

- ✓ *Industry should note that regulation is a dynamic process that changes as the sector grows and according to the competitiveness of the sector.*
- ✓ *Insurance industry in COMESA should link up with IAIS*
- ✓ *There should be structured exchanges among COMESA members on insurance services*
- ✓ *Insurance industry should note the need to balance compliance & performance*

7.9 The Insurance Regulatory Framework in the region;

The stake holders made other recommendations based on the report of the findings which include;

- ✓ *There should be increased literacy on life and pension insurance to industry and regulators at the national level.*
- ✓ *The banking industry should be more selective on the insurance requested on loaning facilities, it for this reason that profiling for credit worthiness should also be adopted.*
- ✓ *There is no proper standard charge for medical insurances. This brings a challenge in some countries of fraudulent claims. The industry should invest in a database for cross sharing of information amongst insurers.*
- ✓ *The industry should consider looking at a regulatory framework for mobile insurance services.*
- ✓ *Because of the complexity of insurance services, there is a need to sensitize customers and also customize the product in simple terms for various target audiences. The industry has proposed putting together micro- insurance products.*
- ✓ *The penetration of insurance services is very low citing Zambia as 4%, Zimbabwe as less than 3 due to the lack of information. There is need to accelerate the penetration. There is*

need for COMESA to look at employment of international best practices that can be implemented at the national level.

- ✓ *In response to the issues of technical capacity in the insurance sector, there is need to engage international practices to improve the skills of the sector.*
- ✓ *The industry has also recommended to have a dedicated insurance association at the regional level, to focus on advocacy and capacity building of the needs of the industry in the COMESA Region.*

8. INFORMATION PACKAGE ON REGULATORY FRAMEWORK OF THE FIVE COUNTRIES OF STUDY

i. Kenya

a) institutions

The banking sector in Kenya is regulated by Central Bank of Kenya. As at 31st December 2011, the sector comprised of 44 banking institutions (43 commercial banks and 1 mortgage finance company - MFC), 4 representative offices of foreign banks, 6 Deposit-Taking Microfinance Institutions (DTMs), 118 Forex Bureaus and 2 Credit Reference Bureaus (CRBs).

Out of the 44 banking institutions, 31 locally owned and 13 are foreign owned banks. Out of the locally 31 locally owned 3 are with public shareholding and 28 privately owned while. The foreign owned financial institutions comprise of 9 locally incorporated foreign banks and 4 branches of foreign incorporated banks. All the 6 DTMs and 118 forex bureaus are privately owned.

b) Regulating Acts and guidelines

The sector is governed by the following Acts:

- Banking Act,
- Microfinance Act and the
- National Payments System Act.

In addition to this there are a number of prudential guidelines that govern the sector and these are;

- Risk management guideline,
- prudential guidelines,
- Micro Finance DTM regulations,
- Guideline on appointment of third party agents by DTMs,
- Forex Bureau Guidelines,
- Forex Bureau Guidelines penalties regulations and Foreign Exchange guidelines.

c) Minimum share capital

Banks and Mortgage Finance Companies	Kshs 1.0 billion
Financial Institutions	Kshs 200 million

The deadline to meet the minimum share capital was 31st December 2012 and 85% of the 43 banks have met the requirement.

The minimum capital ratios according to the new prudential guidelines effective January 2013 are:

- Core capital of not less than 8% of total risk weighted assets plus risk weighted off-balance sheet items
- Total capital of not less 12% of its total risk weighted assets plus risk weighted off-balance sheet items
- Minimum capital adequacy ratios of 8% and 12%,
- Institutions are required to hold a capital conservation buffer of 2.5% over and above these minimum ratios to enable the institutions withstand future periods of stress.
- This brings the minimum core capital to risk weighted assets and total capital to risk weighted assets requirements to 10.5% and 14.5%, respectively.
- Maintain a statutory minimum of twenty per cent (20%) of all its deposit liabilities, matured and short term liabilities in liquid assets.

d) Corporate Governance

- All institutions licensed under the Banking Act, to have at least five directors.
- The board must have an appropriate number of directors that are commensurate with the complexity, the size, the scope and operations of the Institution.
- The board should be composed of both Executive and Non-Executive Directors with the Chief Executive being one of the board members.
- The non-executive directors should not be less than three-fifths of the directors in order to enhance accountability in the decision–making process.

- No person shall be permitted to hold the position of a director in more than two institutions licensed under the Banking Act unless the said institutions are associates, subsidiaries or holding companies. This rule shall not apply to government bodies represented in institutions' boards by virtue of their position as shareholders.
- The chair of the board must be a non-executive director. The institution should appraise CBK when the chair vacates office within 7 days after his / her departure and the reasons for the exit should be disclosed.

e) Disclosures

The disclosure requirement for the banking industry at minimum should comprise of the following broad categories of information in clear terms and appropriate detail to help achieve a satisfactory level of bank transparency. These are;

- Financial performance,
- Fnancial position (including capital, solvency and liquidity),
- Risk management strategies and practices;
- Risk exposures including credit risk,
- Market risk,
- Liquidity risk, and
- Operational,
- Legal and other risks,
- Aggregate exposure to related parties and transactions with related parties,
- All material entities in the group structure, accounting policies, and basic business, management and corporate governance information.

The scope and content of information provided and the level of disaggregation and detail should be commensurate with the size and nature of a bank's operations.

f) Foreign exchange

- The overall foreign exchange risk exposure as measured using spot mid-rates and short hand method shall not exceed 10% of the institution's core capital.

- The foreign exchange risk exposure in any single currency, irrespective of short or long position, will be determined by the individual institution provided it remains within the overall exposure limit of 10% of its core capital.

g) The exchange control

- There is no exchange control applicable to Kenya at present and foreign currencies are freely transferrable. Companies are free to repatriate funds on condition they have paid relevant taxes.

h) Bank licensing

- The licensing of the bank is carried out by Central bank.
- The time taken upon completion of the application documents the Central Bank of Kenya is within ninety (90) days upon receipt of a complete application to determine the application.
- The application fees are Kshs 150,000 which is not refundable.

i) Ownership

- Share-holding of an institution has been restricted to a maximum of 25% to any one person other than, another institution, the government of Kenya, or the Government of a foreign sovereign state, a state corporation within the meaning of the State Corporations Act, or a foreign company, which is licensed to carry on the business of an institution in its country of incorporation.

j) Credit reference bureaus

There are two credit reference bureaus in Kenya and that have been licensed by the central bank under the banking regulation of 2008 and they share credit history and behavior to the lenders.

k) Miscellaneous

This covers the restriction of increase of bank charges, where the banks have to seek minister's approval. There is limit on interest recovered form a defaulted loan which is set to a maximum of 100% of the principal owing when the loan becomes default.

ii. Egypt

a) Banking institutions

The banking sector in Egypt is governed by the Central Bank of Egypt (CBE). By 31st December 2012 the sector comprised of 62 banks (28 commercial banks, 31 business and investment banks and 3 specialized banks). They are further classified to 4 public sectors, 24 private & joint venture 20 are foreign branches and 11 are private and joint venture and 3 specialized banks. The classification is according to ownership. All specialized banks are state owned and are assigned the task of providing long term finance for real estate, agricultural and industrial development.

b) Regulating Acts and guidelines

The sector is governed by law no 88 of year 2003. This law includes

- Central bank Law
- Banking Sector Law
- The Money Law

Other laws that affect the banking Sector include;

- Law of Joint Stock Company
- Law of Limited Partnership
- Law of Limited Liability Company
- Trade Law pertaining to transactions with customers

In addition to this there are a number of prudential guidelines that govern the sector and these are;

c) Minimum share capital

Banks and Mortgage Finance Companies	- EGP 500,000,000
Foreign branches	- EGP 8,275,000 (US $50,000,000)

With Islamic banking setting in there are amendments to the regulations with an aim at increasing the market share of Islamic banks to 35 percent in five years, compared with 4 percent now, the Cairo-based newspaper cited Gouda as saying. The law under discussion also stipulates raising the minimum capital for banks to 2 billion Egyptian pounds ($331 million) from 500 million pounds.

The minimum capital ratios are;

- The liquidity ratio for local currencies - 20%
- The liquidity ratio for foreign currencies - 25%
- General banking risk no more than 1.25% of the risk weighted asset
- Subordinated loans should not exceed 50 % of primary capital.
- foreign currency liabilities to foreign currency maximum limit of 105 %
- open position for a single currency 10% of bank capital
- for all currencies combined became limits of 20% of bank capital
- With open position in several currencies, the 20 percent limit represents a cap on the single currency exposure limit.

d) Corporate governance

- Each banking institution shall have a minimum of five directors. The board shall maintain a majority of nonexecutive directors such that no individual or group of individuals or interests can dominate its decision making.

e) Disclosures

The banks are mandated to prepare quarterly statements on their financial position and profit/loss account and to publish these in widely circulated newspapers. The end-of-year statement would include detailed information while the statements of the preceding three quarters would be brief.

f) Exchange control

Egypt's foreign currency exchange regulations are now governed by the Banking Law as stipulated in the Currency Regulations Section. There is currently no significant currency control

in force and hence individuals are free to transfer foreign currency outside Egypt, provided such transfers are effected through banks licensed in Egypt. The Banking Law replaced, among others, the Foreign Exchange Law 38 of 1994, and currently regulates all foreign exchange operations as well as other aspects of banking in Egypt. The Banking Law grants all natural persons and legal entities the absolute freedom to maintain foreign currency and conclude transactions in foreign currency, including the transfer of such currencies from and into Egypt, provided that such transactions are executed through banks or other entities authorized to deal in foreign currency, as listed under the Executive Regulations of the Banking Law.

g) Bank licensing

CBE has not issued any new banking licenses since There are regulatory barriers to entry of banks which weakens competition in the banking industry. The CBE is apparently reluctant to license new domestic banks as it regards the number of existing ones large enough for establishing a competitive market. Licensed banks are also entitled as a general rule to carry out certain activities regulated by the Capital Market Law and the Custody and Depository Law, provided they obtain the approval of the CBE and the Egyptian Financial Supervisory Authority, including the underwriting of securities and custodian activities.

h) Ownership

The banking Law permits foreigners to own up to 100% of an Egyptian bank's shares however no natural or legal person is allowed to own more than (10%) of the issued capital of any bank, or any percentage leading to actual control over the bank, except after the approval of the Board of Directors of the Central Bank, according to the regulations prescribed in the Executive Regulations of this Law.

i) Credit reference bureaus

j) Under the Executive Regulations of the Banking Law, banks are required to share all finance and credit facilities granted to their clients through an online registration system linked with the central database at CBE for all loans exceeding one million EGP extended to companies.

iii. Mauritius

a) Banking institutions

The banking sector in Mauritius is governed by the Bank of Mauritius. The Banking sector in Mauritius comprise of 21 commercial banks 8 Non-banking Deposit taking Institutions (DTI), 6 Foreign exchange dealers and 10 money changers.

Regulating Acts and guidelines

The sector is governed by the following Acts:

- Banking Act of 2004
- Finance Act 2004
- Finance Services Act 2007

Besides the Bank of Mauritius, as the lead regulator for banking business, the Financial Services Commission (FSC) is the body responsible for licensing, regulating, monitoring and supervising all non-bank financial activities including the stock exchange, the depository and settlement system, market intermediaries, collective investment schemes, insurance companies and the global business sector.

The guidelines include;

- Guidance on Anti Money Laundering
- Guideline on Islamic banking
- Guideline on credit risk
- Guideline on Eligible capital
- Guideline on Internet banking
- Guideline on Segmental reporting
- Guideline on application of Basle II
- Guideline on Corporate Governance
- Guideline on Foreign Exchange
- Guideline on capital adequacy
- Guideline on related parties
- Guideline on public disclosure

b) Minimum share capital

Banks and Mortgage Finance Companies - Rs 200m

The minimum capital ratios according to the Banking Act are;

As at March 2011, banks in Mauritius had a

- Regulatory capital to risk-weighted assets of 17.2%,
- A regulatory Tier 1 capital to risk-weighted assets of 14.6%
- Non-performing loans net of provisions to capital of 8.2%.
- Non-performing loans to total gross loans stood at 2.8%,
- Banks had returns on assets of 1.4%, a return on equity of 19.3%,
- Interest margin to gross income ratio of 70.0%.
- Tier 1 core capital should not be less than 50 per cent of total capital funds.
- Tier 2 supplementary capital will be limited to a maximum of 100 per cent of Tier 1 core capital for the purpose of compliance with the norm.
- The amount of subordinated debt included in Tier 2 capital will be limited to a maximum of 50 per cent of Tier 1 core capital.
- General provisions and/or general loan loss reserves held against unidentified and unforeseen losses will be included in Tier 2 capital subject to an amount not exceeding 1.25 % of total weighted risk assets.
- Only 75 per cent of the amount of reserves arising from the revaluation of tangible fixed assets will be eligible for inclusion in Tier 2 capital.
- Credit exposure to any single customer shall not exceed 25 per cent of the bank's capital base
- Credit exposure to any group of closely-related customers shall not exceed 40 % of the bank's capital base
- Aggregate large credit exposures to all customers and groups of closely-related customers shall not exceed 800 % of the bank's capital base.

c) Corporate Governance

- The Banking Act 2004 requires that the board of financial institutions incorporated in Mauritius comprise at least 5 natural persons
- 40 per cent independent directors.
- Service period for the board members limited to aggregate period of six years.

- The chairperson of the board of a financial institution shall be an independent director.
- Banks encouraged having independent director as chairperson of the board.
- every 3 years a Fit and Proper review of executive directors

d) Disclosures

- Quarterly financial reports on its financial condition and performance.
- The quarterly reports prepared in accordance with IAS 34, Interim Financial Reporting.
- The quarterly reports should be released within 45 days of the end of the quarter.
- The quarterly report should have revenue growth, cost control, credit quality, liquidity and capital management.
- The quarterly reports may also contain forecast to the future.

e) The exchange control

There is no exchange control in Mauritius, allowing free repatriation of funds.

f) Bank licensing

- Applicant notified within 30 days of the receipt of an application in writing whether or not the application is complete.

- Determination to the applicant under subsection (1), within 60 working days of receipt of a complete application under section 5(4),
- The processing fee is Rs.90, 000 and a fixed fee of Rs.1000, 000.

g) Ownership

Every financial institution shall disclose the shareholders holding directly or indirectly 10 per cent or more of its shareholding.

h) Credit reference bureaus

The banking sector in Mauritius is served by Mauritius Credit Information Bureau. The Bureau has A cut-off limit of Rs100,000. for individuals either singly or jointly and Rs500,000.- for

other account holders is applicable for the reporting of credit facilities to the MCIB. Any credit information below that limit will not be reported to the MCIB.

i) Bank charges

Every bank shall at all times display, in a conspicuous place in the public part of its principal place of business and in each branch or office of the bank, the rates of the fees or charges in respect of services provided by the bank.

iv. Zimbabwe

a) Banking institutions

The banking sector in Zimbabwe is governed by the Reserve Bank of Zimbabwe (RBZ). The banking sector of Zimbabwe comprise of 19 commercial banks, 3 merchants banks and 4 building societies.

b) Regulating Acts and guidelines

- Reserve Bank of Zimbabwe Act
- Banking Act
- Bank Use Promotion & Suppression of Money Laundering Act
- Building Societies Act
- Collective Investment Scheme Act
- Exchange Control Act
- Money Lending and Rates of Interest Act
- National Payment Systems Act
- People Own Savings Act

In addition to this there are a number of prudential guidelines that govern the sector and these are;

- Guideline on minimum Disclosure Requirements for Financial Institutions Guideline on Consolidated Supervision Policy Framework
- Guideline on Accreditation of Credit Rating Agencies,
- Guideline on Risk Based Supervision Policy Framework
- Guideline on Risk Management

- Guideline on minimum Internal Audit Standards in Banking Institutions Guideline on corporate Governance
- Guideline on Addendum Corporate Governance
- Guideline on Board and Director Evaluation Framework

c) Minimum share capital

Commercial banks	US $ 100 million
Merchant banks	US $ 100 million
Building societies	US $ 80 million
Finance houses	US $ 60 million
Discount houses	US $ 60 million
MFI	US $ 5 million

The minimum capital ratios according to the guidelines are:

- Minimum capital adequacy ratios Tier 1 5% Tier 2 10% and Leverage 6%

d) Corporate Governance

- Each banking institution shall have a minimum of five directors. The board shall maintain a majority of nonexecutive directors such that no individual or group of individuals or interests can dominate its decision making.
- Banking institution must ensure that it appoints executive directors who constitute not more than two-fifths of the total membership of the board.
- Independent directors must be in the majority of the remaining three-fifths in such composition of the board.
- No person shall be appointed, or hold office, as a director of a banking institution if (a) he is a director of more than seven other companies registered in Zimbabwe

e) Disclosures

- The disclosure areas should include financial statements, policies, procedures, risk management systems and corporate governance arrangements.
- Banks required to report on a half-yearly (interim) and year-end basis on its financial position in at least two widely circulated national newspapers not later than 60 days after the end of the interim period and audited results not later than 90 days after year end.
- Reports should include both group-wide consolidated financial statements as well as the financial statements for the banking entities on a stand-alone basis.
- No financial statements shall be published without the Reserve Bank's prior written approval.
- A certificate on the integrity and soundness of its Information and Communication Technology systems (ICT), issued by a competent auditing firm should accompany the financial statements.

f) Foreign exchange

The Reserve Bank of Zimbabwe has shifted a significant amount of responsibility onto "Authorized Dealers" which are local commercial and merchant banks licensed by exchange control to deal in foreign currency. Buying and selling of foreign currency using international cross rates is limited to Authorized Dealers and licensed Bureau de Change.

g) The exchange control

The Zimbabwe Dollar is no longer in use and it is permitted to use multiple foreign currencies in Zimbabwe. The United States Dollar is the primary currency in use in Zimbabwe followed by the South African Rand and to a lesser extent the Botswana Pula. Exchange controls are administered by the Reserve Bank of Zimbabwe through several statutory instruments and directives.

h) Bank licensing

The period between the Registrar's receipt of an application in terms of and all documents and information submitted in support of it, and the date on which he notifies the applicant of his

decision or proposed decision in terms of subsection (3) or (5), as the case may be, shall not exceed six months unless the applicant consents to an extension of the period.

i) Ownership

- An individual or group of closely related individuals should not own/control more than 25% of the voting shares of the proposed institution.
- Financial entities may own up to 100%.
- Non-financial entities can own up to 10%.
- Significant or principal shareholders (5% or more) are subjected to the fit-and-proper person assessment.

j) Credit reference bureaus

There is no Credit Reference Bureau in Zimbabwe however Reserve Bank of Zimbabwe has commended Government's plans to establish a Credit Reference Bureau as the spectra of default on payments increases.

v. Zambia

a) Banking institutions

The banking sector in Zambia is governed by the Bank of Zambia. The banking sector in Zambia comprises of; 18 commercial banks, 8 leasing companies, 4 building Societies, 33 Micro Finance, 1 Development Bank, 1 Credit Reference Bureau and 56 Forex Bureaus.

b) Regulating Acts and guidelines

The banking sector in Zambia is governed by the

- Banking and the Financial Services Act,
- Bank of Zambia Act (BOZ Act),
- Prohibition & prevention of Money Laundering Act,

In addition to this there are a number of prudential guidelines that govern the sector and these are;

- Corporate Governance Guideline
- Guideline on application of IFRS
- Risk management Guideline
- Licensing Guideline
- Anti-money Laundering Guideline
- Statutory instruments which comprise of various guidelines

c) Minimum share capital

The minimum capital requirement for commercial bank's has been increased from US$2.5 million for all banks to US$20 million for local banks and a US$100 million for foreign banks.

d) Corporate Governance

An institution's board shall have a majority of non-executive directors and shall include directors who meet the criterion of 'independent non-executive' directors so as to safeguard the stakeholders' interests. The Board of directors shall consist of not less than 5 members

The chairperson of every institution shall be an independent non-executive director. No director of an institution shall simultaneously hold the roles of board chairperson and chief executive (or equivalent).

A director on the board shall not be a member on more than six (6) boards of other companies. Independent non-executive directors shall not be considered independent after serving on the board for a period of ten (10) years.

e) Disclosures

The banks are required to publish the financial statement after close of each year; balance sheet, profit and loss account, a cash flow statement, a statement of changes in the shareholders' a capital adequacy computation. The Directors' report containing, common enterprise and related party transactions, risk management, processes and practices during the year, directors' interests disclosed, the existence of prohibited borrowings or lending's; and internal control measures

f) The exchange control

Exchange control regulations have been removed, and prices and interest rates have been deregulated. After tax profit, dividends and capital may be repatriated up to 100 percent without restrictions.

g) Bank licensing

The banks are licensed under the Banking & Finance Services Act and A non-refundable application fee of K9, 000,000 payable at the time of making the application; and upon grant of a licence, an annual licence fee of K 4,500,000 payable at the beginning of each year.

Upon receipt of a complete application, the Bank of Zambia shall, within 180 days, review the application and determine whether a license should be granted to the applicant or not.

h) Ownership

The ownership structure of banks in Zambia is controlled under the Bank and Financial Services Act.

- An individual or group of closely related individuals should not own/control more than 25% of the voting shares of the proposed institution.
- A trust shall not own directly or indirectly any shares of a bank or financial institution.
- No corporate restructure will be permitted if the other company is not a bank.

i) Credit reference bureaus

There is one licensed credit reference bureau whose mandate and responsibilities has been set in accordance with credit reference guideline. \

8.1 Common Elements on Insurance

Within the five countries that the study focused on in the insurance Industry the following were found to be the common elements.

- Minimum Capital requirement has been raised to strengthen the core capital and improve the cash flows of the Insurance companies. The number of insolvent companies has been rising with each country having a few of the companies having to wide up. (Number of Insurance companies that have wound up per country needed).

- In the 5 countries this study has focused on the re are set of new regulations aiming to bring sanity into the market. A number of insurance companies have been closed down due to inability to pay claims and lack of adequate capital to operate. The regulatory authorities have been forced to separate the life and no life insurance business by separating the licenses. With exception of Egypt where the Insurance sector is divided into two where personal insurance is licensed separately and the property and liability licensed on its own the other have either life (long term and non-life (short term).

- The sector offers very similar products however the pricing and processing of claims is what bring sin the difference. The other legislations affecting the same sector like security issues rad use and policing generally play major role in reducing the cost of insurance. Claims especially on the PSV (public service vehicles), medical and other personal injury claims tops the list with a number of them being considered fraudulent.

- The sector has been marred with issues of corporate Governance and the bar has been raised and the regulation in all the 5 countries has been passed to have the ownership of the Insurance companies transferred from a few controlling interests. This gives the management independence and compliance with regulation is enhanced.

  The management of the Insurance companies has also been affected by the new regulations requiring that the board of directors be made up as follows;

- The regulating authority of the insurance companies have been amended to separate the life and nonlife insurance business (long term and short term products) to eliminate loss due to claims which affects the long term business.

- To enhance good governance and to reduce the sectors risks of control by one individual or a group of individuals the ownership has been reduced to maximum of 25% of the shareholding with no more than 25% voting rights.

- The reporting of the performance and presentation of the financial statements has also been enhanced to include more disclosures in the financial statements.