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**Responsible Financial Access
Finance & Markets Global Practice**

**Diagnostic Review of
Consumer Protection and
Financial Literacy**
(Insurance, Private Pensions and Securities)

**Volume II: Comparison with Good Practices
Mozambique**

November 2015

DISCLAIMER

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ABBREVIATIONS AND ACRONYMS

| | |
|------------------------------|---|
| AML | Anti-Money Laundering |
| AMOMIF | Mozambican Association of Microfinance Institutions (Associação Moçambicana de Instituições de Microfinanças) |
| ATM | Automatic Teller Machine |
| AUM | Asset under Management |
| BAM | Mozambican Association of Banks (Associação Moçambicana de Bancos) |
| BdM | Bank of Mozambique |
| BID | Basic Information Document |
| BVM | Mozambique Stock Exchange (Bolsa de Valores de Moçambique) |
| CAMC | Center for Arbitration Mediation and Conciliation |
| CIS | Collective Investment Scheme |
| CPFL | Consumer Protection and Financial Literacy |
| CSD | Central Securities Depository |
| CSSASPS | Civil Servants and State Agents Social Protection System |
| CTA | Confederation of Business Associations (Confederação das Associações Económicas) |
| DECOM | Consumer Protection Association |
| DFID | UK Department for International Development |
| DI | Deposit Insurance |
| DIF | Deposit Insurance Fund |
| EIOPA | European Insurance and Occupational Pensions Authority |
| GIFIM | Financial Intelligence Agency (Gabinete de Informação Financeira de Moçambique) |
| GDP | Gross Domestic Product |
| GNI | Gross National Income |
| GTZ | (Former) German Development Agency |
| HR | Human Resources |
| IFC | International Finance Corporation |
| IMF | International Monetary Fund |
| Insurance Association | Association of Insurers (Associação Moçambicana de Seguradores) |
| INSS | National Institute of Social Security (Instituto Nacional de Segurança Social) |
| IOPS | International Organisation of Pension Supervisors |
| IPEME | Institute for the Promotion of Small and Medium Enterprises (Instituto de Promoção de Pequenas e Médias Empresas) |
| ISSM | Institute of Insurance Supervision of Mozambique (Instituto de Supervisão de Seguros de Moçambique) |
| KYC | Know Your Customer |
| MFI | Microfinance Institution |
| MIC | Ministry of Industry and Commerce |

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| MOE | Ministry of Education |
| MOF | Ministry of Finance |
| MOJ | Ministry of Justice |
| MOL | Ministry of Labour |
| MOPH | Ministry of Public Works |
| MOU | Memorandum of Understanding |
| MSEs | Micro and Small Enterprises |
| MSMEs | Micro, Small, and Medium Enterprises |
| MTC | Ministry of Transport and Communications |
| MTR | Real Time Gross Settlement (Metical em Tempo Real) |
| OPSG | EIOPA Occupational Pensions Stakeholder Group |
| PAYGO | State Owned Pay-as-You-Go Pension Scheme |
| POS | Point-of-Sale |
| PROCONSUMERS | Association for Consumer Study and Defence |
| SMEs | Small and Medium Enterprises |
| UNCDF | United Nations Capital Development Fund |
| USAID | US Agency for International Development |
| WB | World Bank |

I. GOOD PRACTICES: SECURITIES SECTOR

OVERVIEW OF THE SECURITIES MARKET

Introduction: General Condition of the Securities Market

The Mozambique Stock Exchange (“BMV”) opened in 1999 but is still in a very early stage of development. The market capitalization is only 7.81% of the GDP. Due to recent gas fields that have been discovered and “mega” development projects, there are expectations that it will increase in size fairly rapidly in the next several years.

Table 1: Stock market capitalization as % of GNP (end of year)

| Year | 2009 | 2010 | 2011 | 2012 | 2013 |
|-----------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| Mozambique | | | | | |
| Capitalization (USD) | | | | | |
| % of GDP | 3.32 | 3.8 | 4.97 | 7.13 | 7.81 |
| GDP (USD) | 9,674,037,707 | 9,274,448,732 | 12,547,888,400 | 14,376,457,305 | 15,318,970,100 |
| South Africa | | | | | |
| Capitalization (USD) | 704,821,878,325 | 635,349,230,978 | 522,974,990,085 | 612,308,406,964 | 941,108,000,000 |
| % of GDP | 248.0 | 174.0 | 129.5 | 160.1 | 268.4 |
| GDP (USD) | 284,183,101,100 | 365,208,432,989 | 403,894,316,555 | 382,337,636,448 | 350,630,133,297 |
| Botswana | | | | | |
| Capitalization (USD) | 4,278,000,000 | 4,075,950,000 | 4,106,891,988 | 4,587,518,585 | 4,870,400,400 |
| % of GDP | 42.3 | 29.7 | 26.7 | 31.6 | 32.9 |
| GDP (USD) | 10,106,837,293 | 13,746,712,711 | 15,365,212,953 | 14,537,486,274 | 14,784,707,345 |
| Zambia | | | | | |
| Capitalization (USD) | 5,273,000,000 | 6,302,000,000 | 9,409,000,000 | 9,399,000,000 | 10,450,564,800 |
| % of GDP | 34.4 | 31.1 | 39.6 | 37.7 | 38.9 |
| GDP (USD) | 15,328,314,220 | 20,265,396,326 | 23,731,894,786 | 24,939,543,374 | 26,820,870,559 |

Source: BMV, Boletim Cotacoes, World Bank, Johannesburg Stock Exchange, Lusaka Stock Exchange, Bank of Botswana, African Securities Exchange Association, all statistics are year end

Most listings on the BVM are debt instruments, with only 4 equity issues currently traded.

Market participants have indicated that there is a general lack of financial literacy, not only among the potential investing public, but also among the businesses and companies that would be likely candidates for using the stock market as a means of raising capital. Along with the general concern about disclosing internal business finances and activities, this lack of literacy has resulted in a limited use of the exchange. The BVM has been concentrating a lot of its efforts in the area of financial literacy in providing information to companies to encourage them to list on the exchange.

Table 2: Shares and Bonds listed on the Mozambique Stock Exchange

| Instrument | 2009 | 2010 | 2011 | 2012 | 2013 |
|------------------|------|------|------|------|------|
| Listed Equities | 2 | 2 | 2 | 3 | 4 |
| Listed Bonds | 16 | 16 | 20 | 20 | 24 |
| Commercial Paper | 0 | 0 | 3 | 6 | 6 |

Source: BVM, Boletim de Cotacoes

The retail market for securities is virtually non-existent. Several privatizations resulted in employees receiving shares – approximately 1000 each. Many of these people are hard for brokers to contact and are not active traders. The lack of financial literacy is a significant problem. Brokers and their services are only known by 7% of the population.¹ According to some industry people interviewed, some retail customers make a purchase, but they often do not understand the investment and think it is a term deposit resulting in confusion due to market fluctuations and varying dividend payouts.² The lack of investment funds, which are the most common retail securities product, has also contributed to the low retail participation.

There appears to be considerable demand for financial products resulting from the increasing development of the economy. All of the recent debt offerings have been oversubscribed indicating that there is a demand for securities products from institutional investors and some foreign investors which will likely increase in the future due to the development of the gas fields and development of the megaprojects in Mozambique. The BVM and market participants are also putting considerable effort into the development of new investment products which will be important for the future development of the economy.

¹ Enhancing Financial Capability and Inclusion in Mozambique, World Bank 2014, at 35-36.

² Nonetheless, of the small number of persons who used brokerage services, only 6% were dissatisfied with their service. *Id* at 49

| SECTION A | INVESTOR PROTECTION INSTITUTIONS |
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| <p>Good Practice A.1</p> | <p><i>Consumer Protection Regime</i></p> <p>The law should provide for clear rules on investor protection in the area of securities markets products and services, and there should be adequate institutional arrangements for the implementation and enforcement of investor protection rules.</p> <ul style="list-style-type: none"> a. There should be specific legal provisions that create an effective regime for the protection of investors in securities. b. There should be a governmental agency responsible for data collection and analysis (including complaints, disputes and inquiries) and for the oversight and enforcement of investor protection laws and regulations. |
| <p>Description</p> | <p>The laws and subsidiary regulations are drafted in general terms and provide for general obligations of financial intermediaries and investment fund managers in regards to their dealings with customers/investors. However they do not contain prescriptive, detailed rules for the interaction of these entities with their customers as contemplated by this Good Practice. Although this is not a serious concern at present, it is likely to become one as the securities market develops and retail investors are attracted into it.</p> <p><i>Paragraph (a)</i></p> <p>General consumer protection is provided for in Article 100 of the Constitution of Mozambique, as well as via the CP Law. The CP Law does not specifically mention the securities sector. However it applies to all activities concerning the production, distribution or commercialization of consumer services that require a payment. Although the CP Law contains comprehensive protections for consumers, it does not appear to have been implemented or enforced (as also noted in the 2012 CPFL Diagnostic). The consumer rights³ covered include rights (in summary) to education; information (and there are specific provisions in relation to credit contracts); a 7 day cooling off period in certain circumstances⁴; substantive fairness; clear and legible print in contracts; and rights to the protection of economic interests and the legal protection and accessible justice. Further there are prohibitions against misleading advertising and abusive clauses, and provision for the establishment of consumer arbitration centers. There is also provision for the establishment of a Consumer Institute designed to promote consumer protection policies. The Law also recognizes consumer associations and provides them with rights in relation to (amongst other things) social partner status in matters concerning consumers and to State funding. However, notwithstanding the broad scope of this law, it does not appear to have been implemented or enforced to date, though implementing regulations are being prepared and are expected to be approved early in 2015, with the establishment of the Consumer Institute to follow.</p> |

³ CP Law Article 5

⁴ CP Law Article 10

The CP Law also stipulates that state and local municipalities are responsible for developing initiatives and adopting measures directed at :

- informing consumers;
- creating municipal consumer information services;
- establishing municipal consumer councils, and
- creating various databases and digital archives on consumer rights.

More specifically, the regime for the protection of investors is governed by several primary laws and decrees that establish a general framework for investor protection. The CIFIC Law provides the basic regulation for the participants in the securities market. As of 2009, the Securities Code provides for market conduct rules applicable to the securities market and further regulation for financial intermediaries. The Cabinet of Ministers Decree No. 35/07 of 30 October *Internal Regulation of the BVM* provides for the internal structure and regulation of the stock exchange. Council of Ministers Decree No. 54/99 of 8 September *Investment Fund Decree* provides the framework for the regulation of investment funds although as of the date of this report, no funds have been created.

The primary laws and decrees are elaborated in the RAI and the CIFIC Regulation. The laws and subsidiary legislation are drafted in general terms and provide for general obligations of financial intermediaries and investment fund managers in regards to their dealings with customer/investors. However they do not contain a series of prescriptive, detailed rules for the interaction of these entities with their customers.

See also the discussion of the CP Law in Insurance Good Practice A.1.

Paragraph (b)

The regulation and supervision of investor protection in Mozambique is complex and divided between several different government and quasi-governmental entities. Article 5 of the Securities Code and Article 54 of the CIFIC Law give BdM the responsibility of supervising financial intermediaries in addition to the operation of the securities market in general. Article 5 of the CIFIC Law and Articles 26 and 27 of the Investment Funds Decree set out the responsibility of the BdM to supervise and regulate CIS, depositories and management companies. Nonetheless, the BVM carries out annual audits of the financial intermediaries who are members of the exchange. The Ministry of Finance under Article 1(A) of the CIFIC Law has the competency to oversee the securities market and to intervene in the market if there is any “disturbance”. In addition, under Article 4.1 of the Securities Code, the Ministry of Finance also retains a residual right to handle any duties specifically given to it, which includes approval for issuing certain types of securities and authorizing activities of the stock exchange. This regulatory structure is adequate at the current time due to the limited number of participants – there are only 9 banks authorized as a financial intermediary to conduct securities business and there are no investment funds. However, if there is a significant development of the securities market, this regulatory structure will prove too cumbersome to efficiently regulate the market.

BdM Notice 4/GBM/2009 provides for the creation of a complaint system at each bank and requires that all complaints and decisions be sent to the BdM. In addition,

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| | <p>there is a complaint system at the BdM to deal with issues not resolved at the level of the financial institution (<i>See</i> Section E for more details).</p> <p>It should be noted that the market for retail securities is currently quite small, with most capital markets transactions taking place between large institutions. Consequently, it is unlikely there will be many such complaints related to securities matters and the BdM has stated that there have been no complaints in the securities markets area.</p> <p>Article 7 of BdM Notice 4 provides that the BdM should make available on its website statistical data on the complaints made against credit institutions and financial companies. Although there is a section for making complaints on the website, there does not appear as of yet to be any statistics related to individual financial institutions.</p> |
| Recommendation | <p>In order to simplify regulation if the market grows significantly, the government should create a single, well-staffed, independent unit in BdM which has adequate financial and human resources and capacity. . The BVM should come under the regulation of that independent supervisor and the Central Securities Depository should be established as an independent entity separate from the BVM. In the longer term a separate independent regulator for the securities market might be considered.</p> <p>The legal structure should be elaborated and centralized in a detailed securities market law which incorporates licensing under the CIFC law and also includes provisions for collective investments. Implementing regulations could be prepared by the new securities regulator. A more centralized regulatory regime will be needed for a more robust market.</p> |

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| <p>Good Practice A.2</p> | <p>Code of Conduct for Securities Intermediaries, Investment Advisers and Collective Investment Undertakings</p> <ul style="list-style-type: none"> a. Securities intermediaries, investment advisers and CIUs should have a voluntary code of conduct. b. If such a code of conduct exists, securities intermediaries, investment advisers and CIUs should publicize the code to the general public through appropriate means. c. Securities Intermediaries, Investment Advisers and CIUs should comply with the code and an appropriate mechanism should be in place to provide incentives to comply with the code. |
| <p>Description</p> | <p>There are no voluntary, industry based Codes of Conduct as contemplated by this Good Practice. There are legislative “codes of conduct” but they are very general and vague in their requirements.</p> <p><i>Paragraph (a)</i></p> <p>There is no voluntary Code of Conduct for financial intermediaries, funds and investment fund managers but there is an ethical code in Article 5 of the Securities Code and RAI Chapter V Articles 32-41. In addition, Chapter VI of the CIFC Law contains a set of rules for good conduct. These legislative codes are mandatory for market participants, but are very general and vague in and vague in their requirements.</p> <p><i>Paragraph (b)</i></p> <p>There is no requirement that financial intermediaries, funds or investment fund managers publicize the ethical codes in the law to the general public. However, the BVM publicizes both laws on its website, while the BdM publishes only the CIFC law.</p> <p><i>Paragraph (c)</i></p> <p>Enforcing compliance with the ethical Codes incorporated the law is part of the regulatory compliance responsibilities of the BdM.</p> |
| <p>Recommendation</p> | <p>Encourage development of detailed industry codes of conduct for financial intermediaries, funds, investment fund managers and other participants in the securities industry as the market develops and gains sufficient size to support industry associations. The Codes should create and reflect a consensus in the relevant industry as to good practice and provide a basis for an enforceable disciplinary regime by the associations. A Code should be widely disseminated (including through websites) and clients of the relevant entity should be referred to them in relevant contracts and in the case of complaints. Further, the regulator should closely monitor compliance with Codes and consider enforcement action for any relevant breach of the law if there is a breach.</p> |

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| <p>Good Practice A.3</p> | <p><i>Other Institutional Arrangements</i></p> <ul style="list-style-type: none"> a. The judicial system should provide an efficient and trusted venue for the enforcement of laws and regulations on investor protection. b. The media should play an active role in promoting investor protection. c. The private sector, including voluntary investor protection organizations, industry associations and, where permitted, self-regulatory organizations should play an active role in promoting investor protection. |
| <p>Description</p> | <p>The judicial system is not used by retail financial consumers because it is not efficient for small cases, due to the fact that it is too expensive and time consuming. The media and consumer NGOs have not been active in the securities area due to the lack of a retail securities market.</p> <p><i>Paragraph (a)</i></p> <p>Section 5(1) (g) of the CP Law provides that consumers have the right to “<i>legal protection and accessible justice.</i>” Section 4(c) of the CP Law provides that the State and municipalities are responsible for ensuring that consumers have access to justice and the courts as appropriate under the circumstances of the matter at issue. However, the judicial system is not generally used by the general citizenry for small retail financial disputes. It is not considered efficient for small cases, due to cost and time delay considerations and the distance of some of the complainants to the court. There are also concerns about the expertise of the judiciary in relation to the financial sector.</p> <p>The CP Law also makes provision for the establishment of arbitration centers for consumers, although they are not yet operational (see Good Practice E.2 below for further details).</p> <p><i>Paragraph (b)</i></p> <p>The media covers consumer protection in the financial area, particularly in relation to financial literacy. This is discussed more fully below (see Section G). However, there are only a limited number of venues for such information to be distributed. Radio programs are frequently used to reach people in rural areas.</p> <p><i>Paragraph (c)</i></p> <p>There are two potentially relevant financial consumer protection associations – DECOM and PROCONSUMERS. The value of private associations is recognized in Articles 35 and 19 of the CP Law which, amongst other things, require BdM and other regulators to consult with them on consumer protection issues. However, due to the lack of a retail securities market, as well as limited resources and expertise, the associations are not very much involved in investor protection issues.</p> |

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| <p>Recommendation</p> | <p>As the demand for retail investment products and advice grows the media should pay more attention to the issue. A literacy program for journalists should be considered as the retail securities market develops.</p> <p>Consideration should be given to providing funding and capacity building support to consumer protection associations that meet specified criteria and to promoting their participation in consultations concerning the development of relevant laws, regulations and regulatory Notices. This will become especially important as the retail securities market develops.</p> <p>See also Good Practice E.2 concerning formal dispute resolution schemes.</p> |
| <p>Good Practice A.4</p> | <p><i>Licensing</i></p> <ul style="list-style-type: none"> a. All legal entities or physical persons that, for the purpose of investment in financial instruments, solicit funds from the public should be obliged to obtain a license from the supervisory authority. b. Legal entities or physical persons that give investment advice and hold customer assets should be licensed by the securities supervisory authority. c. If a jurisdiction does not require licensing for legal entities or physical persons that give only investment advice, such persons should be supervised by an industry association or self-regulatory organization and the anti-fraud provisions of the securities laws or other consumer laws should apply to the activity of such persons. |
| <p>Description</p> | <p>All significant corporate market participants in the securities sector are required to be licensed by the BdM. However, sales people that solicit funds are not required to be licensed.</p> <p><i>Paragraph (a)</i></p> <p>The basic licensing law is the CIFC Law. All credit institutions and financial companies as defined in the law must be licensed, including securities market participants, such as financial intermediaries, funds and investment fund managers (see Chapter III of the CIFC Regulation). In addition, Securities Code Articles 3(1)(d) and 153(1)(a) and RAI Article 4 provide that only a legal entity can be a financial intermediary and that it must obtain prior authorization before it acts as an intermediary.</p> <p>Article 12 of the Investment Funds Decree requires that all funds be authorized by the BdM upon application by their managing entity. Further, Article 74 of CIFC Regulations provides that all investment management entities must be licensed by the BdM. So far no fund has been created and no investment fund manager license has been granted.</p> <p>Although the BdM handles the registration of a stock exchange, it shares authority for supervision of the stock exchange with the Ministry of Finance since it is considered a public institution which falls under the Ministry of Finance. Nonetheless, the actual registration and supervision of the stock exchange is done by the BdM.</p> <p>Notwithstanding the comprehensive licensing regime for companies engaged in securities markets activities, there is no requirement that employees who interact with the public or solicit funds from the public be licensed by the BdM.</p> |

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| | <p>Paragraph (b) Financial Intermediaries can be authorized to give advice pursuant to RAI Articles 2(1) (b) and (4). The law does not provide for separate authorized entities that give only investment advice.</p> <p>Paragraph (c) Not applicable</p> |
| Recommendation | The staff of all securities intermediaries, funds and investment fund managers or other entities that solicit funds from and deal with the public regarding securities should be licensed. |
| SECTION B | DISCLOSURE AND SALES PRACTICES |
| Good Practice B.1 | <p>General Practices</p> <p>There should be disclosure principles that cover an investor’s relationship with a person offering to buy or sell securities, buying or selling securities, or providing investment advice, in all three stages of such relationship: pre-sale, point of sale, and post-sale.</p> <ul style="list-style-type: none"> a. The information available and provided to an investor should inform the investor of: <ul style="list-style-type: none"> (i) the choice of accounts, products and services; (ii) the characteristics of each type of account, product or service; (iii) the risks and consequences of purchasing each type of account, product or service; (iv) the risks and consequences of using leverage, often called margin, in purchasing or selling securities or other financial products; and (v) the specific risks of investing in derivative products, such as options and futures. b. A securities intermediary, investment adviser or CIU should be legally responsible for all statements made in marketing and sales materials related to its products. c. A natural or legal person acting as the representative or tied-agent of a securities intermediary, investment adviser or CIU should disclose to an investor whether the person is licensed to act as such a representative and who licenses the person. d. If a securities intermediary, investment adviser or CIU delegates or outsources any of its functions or activities to another legal entity or physical person, such delegation or outsourcing should be fully disclosed to the investor, including whether the person to whom such function or activity is delegated is licensed to act in such capacity and who licenses the person. |

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| <p>Description</p> | <p>The legal framework for the securities sector does not contain specific requirements for disclosures for point of sale documents, regarding risks, terms and conditions related to the sale.</p> <p>Paragraph (a)</p> <p>(i) Article 39 (f) of the RAI provides that financial intermediaries must "<i>Provide information and explanations to their customers in order for them to make a reasoned decision on the investment or transaction they wish to conduct</i>" and also provide advice about special risks. Further Article 39 (a) of the RAI provides that financial intermediaries must inform "<i>customers of the nature of the services provided, their conditions and their costs.</i>" Although these provisions do not require the financial intermediaries to disclose the terms of all of the types of accounts offered, they do require that the financial intermediary inform customers of the general nature of the services that they have available and the related risks.</p> <p>(ii) See (i) above.</p> <p>(iii) Article 39 (a) of the RAI provides that financial intermediaries must clarify to customers "<i>transactions that by their nature or conditions involve special risks, about the existence and content of such risks and the financial consequences that their eventual realization shall entail.</i>"</p> <p>(iv) Nothing specific about this Good Practice in the legal or regulatory framework.</p> <p>(v) Nothing specific about this Good Practice in the legal or regulatory framework. There are no retail derivatives instruments in Mozambique.</p> <p>Paragraph (b)</p> <p>Article 153 of the Securities Code makes it a misdemeanor to engage in misleading advertising. It also provides for sanctions for violations of the Securities Code in general, including warnings, temporary suspensions and complete suspensions of activities as well as monetary fines.</p> <p>In addition, Articles 33-36 of the Advertising Code provide for liability and sanctions for misleading advertising. Article 20 of CP Law bans misleading advertising and Article 18 provides for liability for providers of false or misleading services. Article 33 provides for sanctions for violations of the CP Law's provisions. However, the liability and sanctions articles in the law go to the business entity providing the services and do not create sanctions for individual sales people who are selling securities to the public.</p> <p>Paragraph (c)</p> <p>There is nothing in legal and regulatory framework concerning this Good Practice.</p> <p>Paragraph (d)</p> <p>There is nothing in legal and regulatory framework concerning this Good Practice.</p> |
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| <p>Recommendation</p> | <p>The legal framework should contain specific requirements for disclosures for point of sale documents regarding: risks, terms and conditions and fees, charges and commissions related to the sale. More specificity in the laws, decrees and regulations are needed to provide for uniformity and clarity in the sales activity across all financial service providers.</p> <p>Legal liability for sales materials and related selling activities needs to be more clearly set out in the applicable laws, decrees and regulations.</p> <p>The legal framework for the securities sector needs to be modified to provide for the disclosure of professional relationships resulting from outsourcing and the disclosure of the registration status of sales people at the point of sale.</p> |
| <p>Good Practice B.2</p> | <p><i>Terms and Conditions</i></p> <ul style="list-style-type: none"> a. Before commencing a relationship with an investor, a securities intermediary, investment adviser or CIU should provide the investor with a copy of its general terms and conditions, as well as any terms and conditions that apply to the particular account. b. The terms and conditions should always be in a font size and spacing that facilitates easy reading. c. The terms and conditions should disclose: <ul style="list-style-type: none"> (i) details of the general charges; (ii) the complaints procedure; (iii) information about any compensation scheme that the securities intermediary or CIU is a member of, and an outline of the action and remedies which the investor may take in the event of default by the securities intermediary or CIU; (iv) the methods of computing interest rates paid or charged; (v) any relevant non-interest charges or fees related to the product; (vi) any service charges; (vii) the details of the terms of any leverage or margin being offered to the client and how the leverage functions; (viii) any restrictions on account transfers; and (ix) the procedures for closing an account. |
| <p>Description</p> | <p>The legal regime needs to be elaborated further with more specificity regarding disclosure during account opening beyond a general obligation to inform customers of the nature of services provided, their conditions and costs.</p> <p><i>Paragraph (a)</i></p> <p>There is a general obligation in Article 39(f) of the RAI to "<i>inform customers of the nature of services provided, their conditions and costs</i>". This would not however require a financial intermediary to inform a potential customer as to the terms and conditions of his contract.</p> <p><i>Paragraph (b)</i></p> <p>There is nothing in law or regulations or decrees regarding this Good Practice.</p> <p><i>Paragraph (c)</i></p> |

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| | <p>(i)-(iv) There is nothing in the law or regulations or decrees regarding the detailed elements in this Good Practice.</p> <p>(v) Although Notice 5/GBM/2009 of the BdM requires disclosure of fees and it applies only to deposit accounts at credit institutions (i.e. it does not apply to securities accounts).</p> <p>(vi)-(ix) There is nothing in law or regulations or decrees regarding the detailed elements in this Good Practice.</p> |
| Recommendation | <p>The legal framework for the securities sector needs to be amended to require that terms and conditions and fees, charges and commissions be disclosed to clients.</p> <p>As the market for retail investors becomes more developed the need to develop the investors' trust in the market will become essential; requiring disclosures of the type proposed will be especially important at this stage.</p> |
| Good Practice B.3 | <p><i>Professional Competence</i></p> <p>Regulators should establish and administer minimum competency requirements for the sales staff of securities intermediaries, investment advisers and CIUs, and collaborate with industry associations where appropriate.</p> |
| Description | <p>There is no requirement regarding an obligation that the regulator administers a minimum competency standard or test for sales staff. In fact, RAI Art 34(2) (a) places this responsibility on a financial intermediary and requires it to train staff and ensure the competency of its staff.</p> |
| Recommendation | <p>An exam should be prepared by the regulator (BdM in the case of Mozambique) and all sales staff should be required to pass it, as well as their supervisors. In countries where there is a well-developed and respected Association of Brokers, Association of Asset Managers or authorized service providers, such as in the United States or South Africa, the regulator has delegated the testing to the Association or service provider under the oversight of the regulator. In other countries, such as Poland, the regulator has retained the authority to prepare and administer the exam itself.</p> |
| Good Practice B.4 | <p><i>Know Your Customer (KYC)</i></p> <p>Before providing a product or service to an investor, a securities intermediary, adviser or CIU should obtain, record and retain sufficient information to enable it to form a professional view of the investor's background, financial condition, investment experience and attitude toward risk in order to enable it to provide a recommendation, product or service appropriate to that investor.</p> |
| Description | <p>RAI Articles 34(2) (c) and (d) explicitly require a financial intermediary to know a customer's objects, experience and financial ability. There is no such requirement for investment fund managers.</p> |
| Recommendation | <p>The abovementioned "Know Your Customer" requirements should be extended to investment fund clients.</p> |

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| <p>Good Practice B.5</p> | <p><i>Suitability</i> A securities intermediary, investment adviser or CIU should ensure that, taking into account the facts disclosed by the investor and other relevant facts about that investor of which it is aware, any recommendation, product or service offered to the investor is suitable to that investor.</p> |
| <p>Description</p> | <p>Although the law contains a suitability evaluation, it does not clearly state the actions that should be taken when an investor wants to invest in an unsuitable product.</p> <p>Article 5(2) of the Code provides that a financial intermediary in regards to the securities market should refrain “...from conducting or engaging in any transactions or actions likely to jeopardize the orderly functioning, transparency and market credibility.” In furtherance of that requirement, Article 5(3) requires a financial intermediary to “take into account on one hand, the level of knowledge, experience and professionalism of customers regarding the securities market, and on the other hand, their financial condition and reflections that they may have, depending on their degree of risk, ordered operations or services to be provided.”</p> <p>Taken together, these provisions imply that a financial intermediary should not engage in transactions for clients that are not suitable given their experience, financial condition and objectives. However, it is not explicit whether the financial intermediary should refrain from unsuitable transactions or merely advise the client as to whether the transaction is unsuitable and give the client more extensive advice and a choice as to further action.</p> <p>RAI Article 39 (d) provides that a financial intermediary must provide a client with its own objective expertise in the event that the client lacks the experience or knowledge regarding a particular transaction, particularly if the client requests it. This implies that the financial intermediary only needs to advise as to suitability, but not refrain from making the transaction.</p> |
| <p>Recommendation</p> | <p>The obligation of a financial intermediary, funds and investment fund manager to determine the suitability of a financial instrument for a client should be set out in the legal framework for the securities sector more directly, in addition to the actions that should be taken if the relevant product or service is not considered suitable for the client.</p> |

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| <p>Good Practice B.6</p> | <p><i>Sales Practices</i></p> <p>a. Legislation and regulations should contain clear rules on improper sales practices in the solicitation, sale and purchase of securities. Thus, securities intermediaries, investment advisers, CIUs and their sales representatives should:</p> <p>(i) Not use high-pressure sales tactics;</p> <p>(ii) Not engage in misrepresentations and half truths as to products being sold;</p> <p>(iii) Fully disclose the risks of investing in a financial product being sold;</p> <p>(iv) Not discount or disparage warnings or cautionary statements in written sales literature;</p> <p>(v) Not exclude or restrict, or seek to exclude or restrict, any legal liability or duty of care to an investor, except where permitted by applicable legislation.</p> <p>b. Legislation and regulations should provide sanctions for improper sales practices.</p> <p>c. The securities supervisory agency should have broad powers to investigate fraudulent schemes.</p> |
| <p>Description</p> | <p>The legal provisions related to fraud in securities transactions need to be more specific and contain stronger sanctions.</p> <p><i>Paragraph (a)</i></p> <p>Securities Code Article 4(1) provides a general obligation to act ethically. It provides that <i>“financial intermediaries shall serve their customers with the utmost diligence, loyalty, neutrality and discretion, and with absolute respect for their interests.”</i> It then lists several common fraudulent acts that a financial intermediary can commit vis-à-vis a customer, such as churning. However, it does not discuss sales tactics.</p> <p>Similarly, RAI Article 33 provides that financial intermediary's conduct should be guided by strict standards of integrity and honesty and that they should in particular: <i>“Ensure that their activities in connection with any activity carried out, are characterized by greater trustworthiness, rigor and absolute transparency of processes, refraining from adopting behaviours that affect the credibility of any market in which they operate...”</i> This section also does not discuss sales tactics and/or fraud in the marketing of securities.</p> <p>(i) There is no provision specifically dealing with high pressure sales tactics.</p> <p>(ii) Article 153 of the Securities Code makes it a misdemeanor to use false and misleading advertising. The general ethical requirements stated above would also be applicable here (<i>See Good Practice B.7 below for misrepresentations in advertising</i>).</p> <p>(iii) RAI Article 39 (a) provides that a financial intermediary must explain the risks of investing in a particular product.</p> <p>(iv) There is no specific provision regarding this Good Practice.</p> <p>(v) Article 22(1) (a) of CP Law would appear to make such an exclusion clause an abusive practice.</p> |

Paragraph (b)

Chapter IX of the CIFIC Law provides for liability and criminal sanctions for violations of the law. Article 107(k) of the CIFIC Law provides that it is a grave contravention to provide incomplete and misleading information. Section V of CIFIC Regulations provides for contraventions and sanctions for violations of the law and regulations.

Article 153(1) (a) (e) of the Securities Code makes it a misdemeanor to engage in misleading advertising in the offer or purchase of securities. In addition, Article 153(1) provides that violations of the Code and regulations issued thereunder are misdemeanors. RAI Article 41 provides that "*financial intermediaries must comply in all advertising ... with the strict principles of lawfulness, truthfulness, objectivity, adequacy, timeliness and clarity*". Consequently, the violation of RAI Article 41 is also a misdemeanor. The sanctions for these violations include warnings, temporary suspensions and complete suspensions of activities and monetary fines.

Articles 33-36 of the Advertising Code also provides for liability and sanctions for misleading advertising, including advertising for securities.

Taken together, the sanctions for these violations include warnings, temporary suspensions of activities, complete suspensions of activities and monetary fines.

Paragraph (c)

Article 72 of the CIFIC Law provides that the BdM has authority to supervise finance companies and monitor their conduct. Article 4 of the Securities Code provides that "*supervision, regulation and promotion of the securities market are carried out by the Bank of Mozambique*". This includes the supervision and regulation of financial intermediaries, funds and investment fund managers among others.

Article 74 gives the BdM the right to request information from registered entities and to inspect their premises and examine records on-site, but does not provide any details as to the means and scope of such an inspection. Similarly, the powers given in the Securities Code are to supervise and conduct inspections but there is no detail in the Code as to the specific methods, techniques and actions that the BdM can use to conduct an investigation or the scope of the investigation. Article 26 of the Fund Decree also gives the BdM the authority to supervise funds but also does not provide details as to the extent of its powers to do so.

Article 52 of the Internal Regulations of the BVM gives the Board of Directors the authority to inspect and examine the activities of financial intermediaries who are stock exchange operators that are authorized to conduct exchange transactions. Once again, there is no detail as the extent of this authority. Meetings with the market participants indicated that the BVM does not take a heavy hand in regulation and its main concern at this time is market development.

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| <p>Recommendation</p> | <p>The legal framework for the securities sector regarding fraudulent sales and purchases of securities should be strengthened to include specific types of fraud, including false and misleading written and oral statements, false financial statements, misuse of customer assets, and high pressure sales tactics, among others.</p> <p>Specifically, there could be provisions:</p> <ul style="list-style-type: none"> • defining fraud in the context of Mozambique legislation. In other jurisdictions, it commonly includes the intentional statement of a false fact to induce an investor to buy or sell securities; • prohibiting making a statement which is a half-truth i.e. that is misleading in light of all the fact; • stating that the omission to state a material fact is fraudulent; • regarding high pressure sales tactics, particularly sales contacts made by phone, fax or email (including requirements that solicitation by phone should be limited to specific hours during the day; that consumers can opt out of telephone sales by joining a national no call list and tactics such as expressing extreme urgency; the need for immediate payment; and “cherry-picked” time frames for market activity showing unrealistic profits should be prohibited); • requiring that e-mail solicitations be registered with and approved by the BdM. <p>Further, any such prohibitions should clearly apply to employees and agents of intermediaries.</p> <p>The sanctions provisions need to be strengthened if they are to provide an effective deterrent for fraudulent behavior, for example securities violations should be a felony (a mere misdemeanor for serious contraventions is not adequate).</p> <p>The authority and powers of the regulator regarding inspections and investigations need to be set out in more detail. This is currently not so important since the financial intermediaries are all banks that are subject to bank examination, but it will be important when stand-alone intermediaries and fund managers develop their operations.</p> |
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| <p>Good Practice B.7</p> | <p><i>Advertising and Sales Materials</i></p> <ul style="list-style-type: none"> a. All marketing and sales materials should be in plain language and understandable by the average investor. b. Securities intermediaries, investment advisers, CIUs and their sales representatives should ensure their advertising and sales materials and procedures do not mislead the customers. c. Securities intermediaries, investment advisers and CIUs should disclose in all advertising, including print, television and radio, the fact that they are regulated and by whom. |
| <p>Description</p> | <p>The prohibition against misleading advertising is comprehensive, but basic provisions such as the need for clear language should be included in the advertising regulatory framework.</p> <p><i>Paragraph (a)</i></p> <p>There is no general requirement in the law, regulations or decrees regarding the need for all marketing and sales materials to be in plain, understandable language. There is a special requirement for domiciliary advertising sent to the home of the recipient in section 21 of the Advertising Code, but it does not have general application.</p> <p><i>Paragraph (b)</i></p> <p>Article 153 (1) provides that violations of the Securities Code and regulations issued thereunder are misdemeanors. Specifically, Article 153(1) (a) (e) of the Securities Code makes it a misdemeanor to engage in misleading advertising in the offer or purchase of securities. In addition, RAI Article 41 provides that “<i>financial intermediaries must comply in all advertising ... with the strict principles of lawfulness, truthfulness, objectivity, adequacy, timeliness and clarity.</i>” Consequently, the violation of RAI Article 41 is also a misdemeanor. The sanctions for these violations include warnings, temporary suspensions and complete suspensions of activities and monetary fines.</p> <p>Other related laws also ban misleading advertising. Article 9 of the Advertising Code provides that advertising should not be misleading. Article 20 of the CPL also bans misleading or abusive advertising and Article 5(1)(i) provides that protection against such advertising is a consumer right.</p> <p>The Constitution Article 92 also requires that the law should prohibit misleading advertising.</p> <p><i>Paragraph (c)</i></p> <p>There is nothing in the law, regulations or decrees regarding the disclosure of regulatory status.</p> |
| <p>Recommendation</p> | <p>The legal framework for the securities sector should explicitly provide that marketing and sales material and other disclosures should be in clear and understandable language.</p> <p>The legal framework for the securities sector should also provide that sales material and representatives should disclose their regulatory status.</p> |

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| <p>Good Practice B.8</p> | <p><i>Relationships and Conflicts</i></p> <ul style="list-style-type: none"> a. A securities intermediary, investment adviser or CIU should disclose to its clients all relationships that it has which impact on the client’s account, such as banks, custodians, advisers or intermediaries which are used to maintain and manage the account. b. A securities intermediary, investment adviser or CIU should disclose all conflicts of interest that it has with the client and the manner in which the conflict is being managed. |
| <p>Description</p> | <p>The law should be amended so that conflict of interests would be better explained to clients.</p> <p><i>Paragraph (a)</i></p> <p>RAI Article 42(2) requires that a financial intermediary disclose to the BVM all relationships with third parties that might create a conflict. However this does not extend to disclosure to clients of the financial intermediary.</p> <p><i>Paragraph (b)</i></p> <p>RAI Article 42(1) provides that the financial intermediary must get consent from a client before engaging in activities that could create a conflict. This implies that the financial intermediary has disclosed potential conflicts to the client.</p> |
| <p>Recommendation</p> | <p>The legal framework for the securities sector needs to be amended to clearly state that a financial intermediary’s, funds and investment fund manager’s relationships that constitute a conflict of interest or which have an impact on the client must be disclosed by the financial intermediary, funds and investment fund manager to the client. In addition, the financial intermediary, funds and investment fund manager should disclose how the conflict is being handled before requesting permission to engage in the activity.</p> |
| <p>Good Practice B.9</p> | <p><i>Specific Disclosures by CIUs</i></p> <ul style="list-style-type: none"> • CIUs should disclose to prospective and existing investors: <ul style="list-style-type: none"> (i) the CIU’s policies with regard to frequent trading and the risks to investors from such policies; (ii) any inducements that it receives to use particular intermediaries or other financial firms, such as “soft-money” arrangements; and (iii) a fair and honest description of the performance of the CIU’s investments over several different periods of time that accurately reflect the CIU’s performance. • In addition, a CIU should provide a Key Facts Statement for each fund that it is offering to the client that succinctly explains the fund in clear language. Such document is in addition to any other disclosure documents required by law. |

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| <p>Description</p> | <p>Requirements for the use of a Key Facts Statement (KFS) for disclosure should be added to the law.</p> <p>Paragraph (a)</p> <p>There is no provision in the regulatory framework regarding the details that the CIU should disclose to prospective and existing investors.</p> <p>Paragraph (b)</p> <p>Article 23 of the Fund Decree provides that all funds must have a prospectus and all advertising must refer to the existence and means of obtaining the prospectus. There is not, however, any requirement to provide a KFS.</p> |
| <p>Recommendation</p> | <p>When an investment fund industry develops, a more detailed regulatory structure for investment funds should be put in place.</p> <p>The legal framework for the securities sector should require that a short form (one/two pages), clearly expressed KFS for investment fund products be given to an investor prior to the sale of the product.</p> |
| <p>Good Practice B.10</p> | <p><i>Specific Disclosures by Investment Advisers</i></p> <p>a. Investment advisers should disclose to prospective and existing clients:</p> <ul style="list-style-type: none"> (i) whether the investment adviser is also registered in another capacity and whether the adviser deals with the client’s account in the second registered capacity; and (ii) whether the financial instruments that the investment adviser is recommending are held in the adviser’s own inventory or the inventory of a legal or natural person related to the adviser and will be bought from or sold to its own inventory or the inventory of a related party. <p>b. An investment adviser should provide prospective and existing clients with a Key Facts Statement for each product or service that is being offered or sold to the client that succinctly explains the product or service in clear language.</p> |
| <p>Description</p> | <p>There are no independent investment advisors in Mozambique.</p> <p>The law does not provide for a separate registration as an investment advisor. Financial intermediaries can be authorized to give advice pursuant to RAI Articles 2(1)(b) and (4).</p> <p>Paragraph (a)</p> <p>Not applicable.</p> <p>Paragraph (b)</p> <p>Not applicable</p> |
| <p>Recommendation</p> | <p>No recommendation.</p> |

| SECTION C | CUSTOMER ACCOUNT HANDLING AND MAINTENANCE |
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| Good Practice C.1 | <p><i>Segregation of Funds</i></p> <p>Funds of investors should be segregated from the funds of all other market participants.</p> |
| Description | <p>The law provides for the segregation of funds in the securities sector.</p> <p>Article 7 of the Investment Fund Decree provides all investment fund assets to be held by a Depository, which can be an authorized Mozambican bank. Article 9 provides that investment fund managers and depositories must be separate entities and shall act independently of each other and in the best interests of the investors. RAI Article 17(1) provides that <i>“financial intermediaries should account separately from their own securities belonging to clients or held on their behalf...”</i> The rules of accounting shall be determined by the BdM under Article 16. The Central Depository, which is only recently established, advised the mission team that they plan to have a separate account for each customer of an investment funds and that title to their securities will be held in the customer’s name.</p> |
| Recommendation | No recommendation. |
| Good Practice C.2 | <p><i>Contract Note</i></p> <ul style="list-style-type: none"> a. Investors should receive a detailed contract note from a securities intermediary or CIU confirming and containing the characteristics of each trade executed with them, or on their behalf. b. The contract note should disclose the commission received by the securities intermediary, CIU and their sales representatives, as well as the total expense ratio (expressed as total expenses as a percentage of total assets purchased). c. In addition, the contract note should indicate the trading venue where the transaction took place and whether (i) the intermediary for the transaction acted as a broker in the trade, (ii) the intermediary or CIU acted as the counterparty to its customer in the trade, or (iii) the trade was conducted internally in the intermediary between its clients. |
| Description | <p>The legal framework for the securities sector does not contain detailed legal requirements for contract notes.</p> <p><i>Paragraph (a), (b) and (c)</i></p> <p>Article 26(1) of the Securities Code and Article 39(e) of RAI require a financial intermediary to promptly inform the client of execution of order or any difficulties in doing so, but provide no specifics as to the content of the notification.</p> |

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| <p>Recommendation</p> | <p>The legal framework for the securities sector should contain detailed legal requirements for contract notes. These requirements should include:</p> <ul style="list-style-type: none"> c. The characteristics of each trade executed; d. The commission received by a financial intermediary as well as the total expense ratio; and e. The trading venue where the transaction takes place and the role of the financial intermediary in the transaction. |
| <p>Good Practice C.3</p> | <p>Statements</p> <ul style="list-style-type: none"> a. An investor should receive periodic, streamlined statements for each account with a securities intermediary or CIU, providing the complete details of account activity in an easy-to-read format. <ul style="list-style-type: none"> (i) Timely delivery of periodic securities and CIU statements pertaining to the accounts should be made. (ii) Investors should have a means to dispute the accuracy of the transactions recorded in the statement within a stipulated period. (iii) When an investor signs up for paperless statements, such statements should also be in an easy-to-read and readily understandable format. b. If a legal or natural person who provides only investment advice to customers also holds client assets, the client statements should be prepared by and sent from the custodian for the assets and not from the investment adviser. |
| <p>Description</p> | <p>The legal framework for the securities sector does not contain detailed legal requirements for periodic statements to investors.</p> <p>Paragraph (a)</p> <p>There is no provision in the regulatory framework regarding the requirement for a statement to be sent to a client of a financial intermediary on a periodic basis, although a client can request one pursuant to Article 26(2) of the Securities Code. This is also no requirement in the Investment Funds Decree.</p> <p>Paragraph (b)</p> <p>There is no provision in the regulatory framework regarding the detailed elements in this subsection.</p> |
| <p>Recommendation</p> | <p>The legal framework for the securities sector should contain detailed legal requirements for periodic statements to be provided to investors, by mail or through the internet.</p> |

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| <p>Good Practice C.4</p> | <p><i>Prompt Payment and Transfer of Funds</i> When an investor requests the payment of funds in his or her account, or the transfer of funds and assets to another securities intermediary or CIU, the payment or transfer should be made promptly.</p> |
| <p>Description</p> | <p>The legal framework for the securities sector does not provide for prompt payments of funds on the closing or transfer of a brokerage account.</p> <p>There is nothing in law or regulations or decrees regarding the detailed elements in this Good Practice.</p> |
| <p>Recommendation</p> | <p>The legal framework for the securities sector needs to provide for prompt payments of funds on the closing or transfer of a brokerage account. This time period can vary depending on the type of transactions and market conditions, but in no event should it be more than several days after the settlement of the last transaction in the account.</p> |
| <p>Good Practice C.5</p> | <p><i>Investor Records</i></p> <p>a. A securities intermediary, investment adviser or CIU should maintain up-to-date investor records containing at least the following:</p> <ul style="list-style-type: none"> (i) a copy of all documents required for investor identification and profile; (ii) the investor’s contact details; (iii) all contract notices and periodic statements provided to the investor; (iv) details of advice, products and services provided to the investor; (v) details of all information provided to the investor in relation to the advice, products and services provided to the investor; (vi) all correspondence with the investor; (vii) all documents or applications completed or signed by the investor; (viii) copies of all original documents submitted by the investor in support of an application for the provision of advice, products or services; (ix) all other information concerning the investor which the securities intermediary or CIU is required to keep by law; (x) all other information which the securities intermediary or CIU obtains regarding the investor. <p>b. Details of individual transactions should be retained for a reasonable number of years after the date of the transaction. All other records required under a. to j. above should be retained for a reasonable number of years from the date the relationship with the investor ends. Investor records should be complete and readily accessible.</p> |

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| <p>Description</p> | <p>The legal framework for the securities sector should contain detailed legal requirements for the records to be kept by market participants.</p> <p>Paragraph (a)</p> <p>RAI Article 43(1)(e) provides that an financial intermediary has as one of its responsibilities the "<i>organizing and maintaining proper records of transactions and records kept on file for a period of five years, these records and all other documents relating to the same transactions.</i>" There is no detail as to what constitutes proper records and the records are limited to records related to transactions.</p> <p>(i)-(x) There is nothing in law or regulations or decrees regarding the detailed elements in this Good Practice.</p> <p>Paragraph (b)</p> <p>RAI Article 43 provides that records related to customer transactions must be kept for 5 years.</p> |
| <p>Recommendation</p> | <p>The legal framework for the securities sector should contain detailed legal requirements for the records to be kept by financial intermediaries, funds and investment fund managers. The record keeping system is the core of the supervisory activity and there should be uniform and comprehensive rules on records that must be maintained by financial intermediaries, funds and investment fund managers.</p> |
| <p>SECTION D</p> | <p>PRIVACY AND DATA PROTECTION</p> |
| <p>Good Practice D.1</p> | <p><i>Confidentiality and Security of Customers' Information</i></p> <p>Investors of a securities intermediary, investment adviser or CIU have a right to expect that their financial activities will remain private and not subject to unwarranted private and governmental scrutiny. The law should require that securities intermediaries, investment advisers and CIUs take sufficient steps to protect the confidentiality and security of a customer's information against any anticipated threats or hazards to the security or integrity of such information, and against unauthorized access to, or use of, customer information.</p> |
| <p>Description</p> | <p>The legal framework for the securities sector does not contain specific rules for the safekeeping of customer data.</p> <p>Data protection is included in the Constitution of the Republic of Mozambique. Article 71(4) of the Constitution provides that access to data bases containing personal data and the transfer of such data is prohibited except where provided for by law or judicial decision</p> <p>Article 6(1) of the Securities Code provides that "<i>financial intermediaries, members of their governing bodies as well as their employees, agents, committed and other persons who render services on a permanent or occasional basis, are subject to professional secrecy on all matters pertaining to transactions and services to their customers...</i>" RAI Article 43(2) repeats and reinforces this privacy requirement. Article 48 of the CIFC Law also provides for the confidentiality of customer</p> |

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| | <p>information and, Article 49, that it cannot be disclosed except by provision of law, judicial decision or consent of the customer.</p> <p>There are no technical requirements as to the actions that financial intermediaries, funds and investment fund managers should take to protect customer data, hard copy and digital, held by them.</p> |
| Recommendation | <p>The legal framework for the securities sector should contain specific rules for the safekeeping of customer data. In regards to digital data, there should be <u>inter alia</u> rules regarding the encryption of data, double authentication of website passwords, limitations on access by institutional employees and programs for virus protection. As to physical data, for example, some security techniques would be securely locked storage facilities for data, and vaults for valuable physical items, such as stocks, bonds, physical gold and other metals. In addition, the physical assets should be segregated by account in separate boxes and file drawers. This could be done in the form of a new Data Protection Law as set forth in more detail in Section D.1 of the Banking Sector Good Practices (<i>See Good Practice D.1 Banking Sector, 2012 CPFL Diagnostic</i>).</p> |
| Good Practice D.2 | <p><i>Sharing Customer's Information</i></p> <p>Securities intermediaries and CIUs should:</p> <ul style="list-style-type: none"> (i) inform an investor of third-party dealings in which they are required to share information regarding the investor's account, such as legal enquiries by a credit bureau, unless the law provides otherwise; (ii) explain how they use and share an investor's personal information; (iii) allow an investor to stop or "opt out" of certain information sharing, such as selling or sharing account or personal information to outside companies that are not affiliated with them, for the purpose of telemarketing or direct mail marketing, and inform the investor of this option. |
| Description | <p>The legal framework does not provide for the means and procedures for sharing information.</p> <p>The law specifically prohibits the sharing of information without the customers consent. Consequently, the CIFC Law and Regulation, Securities Code and RAI do not deal with possibility of or procedure for sharing information between commercial entities.</p> |
| Recommendation | <p>The legal framework should provide for the means and procedures for sharing information, particularly within financial groups such as the banks in Mozambique. If the decision is made to allow disclosure of information of a customer to a related party by the financial institution, the customer should be allowed to opt out of that sharing/disclosure.</p> |

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| | <p>can appeal to the BdM if they are unsatisfied with the finance companies treatment of their complaint.</p> <p>Paragraphs (b) and (c)</p> <p>Notice 4/GBM/2009 of the BdM requires "<i>that all Credit Institutions and Financial Corporations should have a complaint, data request and suggestions service counter for the public.</i>" Such a counter should have people specifically tasked with the purpose of handling complaints. According to industry members interviewed, these counters are plainly visible in the lobby of the headquarters building of banks. However, it's not clear if this is communicated to customers who use branch banks throughout Mozambique, or if such branch banks also have such a kiosk.</p> <p>Paragraph (d)</p> <p>The review of the complaint procedure is done as part of the annual audit of the bank by the BdM.</p> |
| <p>Recommendation</p> | <p>Financial intermediaries should establish appropriate mechanisms to ensure that all customers are aware of the complaints procedure and have access to it, in addition to the requirement in BdM Notice 4/GBM/2009 that all complaints and decisions be sent to the BdM. The BdM consumer protection function should be reorganized and the staff more fully trained in dealing with customer complaints. Further complaints statistics should be reported to BdM who should maintain a consolidated database of complaints that could help the regulator in identifying vulnerabilities as follows: (i) the medium of complaints; (ii) the institution that received the complaint; (iii) breakdown of complaints by types of institutions ,industry and province; (iv) the time taken to resolve the complaints; (v) the issues complained about; (vi) the time taken to resolve; (vi) number of complaints that were not resolved; (vii) policy changes based on complaints ; and (viii) literacy efforts directly related to analysis of complaints.</p> <p>See also Good Practices A.1 and E.1 Banking Sector, 2012 CPFL Diagnostic).</p> |
| <p>Good Practice E.2</p> | <p>Formal Dispute Settlement Mechanisms</p> <p>There should be an independent dispute resolution system for resolving disputes that investors have with their securities intermediaries, investment advisers and CIUs.</p> <ul style="list-style-type: none"> a. A system should be in place to allow investors to seek third-party recourse, such as an ombudsman or arbitration court, in the event the complaint with their securities intermediary, investment adviser or CIU is not resolved to their satisfaction in accordance with internal procedure, and it should be made known to the public. b. The independent dispute resolution system should be impartial and independent from the appointing authority and the industry. c. The decisions of the independent dispute resolution system should be binding on the securities intermediaries and CIUs. The mechanisms to ensure the enforcement of these decisions should be established and publicized. |

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| <p>Description</p> | <p>There is no formal external dispute resolution scheme (such as a financial services ombudsman) in Mozambique for consumers. However the BdM has authority to deal with investor complaints under Notice 4/GBM/2009, although at the time of the CPFL Review no complaints has been received, no doubt due to the small size of the retail market. Their resources to deal with such complaints are also doubtful. The CP Law provides for the establishment of consumer arbitration centers (which are intended to be free to consumers) but no action has to date been taken to establish such centers. There is also a Center for Arbitration Mediation and Conciliation (CAMC) but it is not used for consumer disputes.</p> <p>Courts are similarly not accessible to consumers: the reasons explained in the 2012 Volume II CPFL Report (Good Practice E.2 for the Banking Sector) apply equally to the securities sector.</p> <p>Paragraph (a)</p> <p>Article 18 of the CP Law provides for the creation of Arbitration Centers to handle consumer disputes. The Centers will be overseen by the Consumer Institute - which is provided for in Article 38 of the CP Law - when the Institute is established. Until that time, the CP Law will be administered by the Ministry of Industry and Trade, Markets and Agricultural Marketing Department. The implementing regulations for the law are still in discussion, but near completion for establishing the Institute. After it is created, it is expected that the Consumer Arbitration Centers will be established. However, financing will remain a problem. Article 18 provides that the Centers will be free of charge for consumers, but does not provide for a means of paying for the Centers. This funding will probably need to come from the government budget, which may limit the operation of the Centers.</p> <p>The Law on Arbitration, Conciliation and Mediation, Law No. 11/99 of 8 July (Law on Arbitration) also provides a mechanism whereby parties may voluntarily submit their disputes to an arbitral tribunal or a mediator. A Center for Arbitration Mediation and Conciliation (CAMC) was established twelve years ago to handle arbitration matters pursuant to the provisions of Article 69 of the Law on Arbitration as a private institutional arbitration center. However the CAMC is unlikely to be accessible to consumers as formal arbitration proceedings are normally used for large scale commercial disputes.</p> <p>Paragraph (b)</p> <p>The Consumer Institute is considered a public authority, so the Consumer Arbitration Centers will not necessarily be independent of the appointing authority. However this will depend on the terms of the final regulations.</p> <p>Paragraph (c)</p> <p>Article 23 of the Law on Arbitration states an arbitration award is enforceable the same as a judgment from a court, subject to review by judicial system set forth in Articles 44-48 of Law on Arbitration.</p> |
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| <p>Recommendation</p> | <p>It is suggested that Mozambique considers options for the development of an independent third party external dispute resolution scheme, which would apply to the securities sector as well as other parts of the financial sector.</p> <p>Consideration could, for example, be given to the establishment of a financial ombudsman service. The recommendations 2012 Volume II CPFL Report (<i>see</i> Good Practice E.2 Banking Section) discuss the legal foundations, possible ways to establish and fund such a service, governance and corresponding international standards.</p> <p>Another option which might be considered is the establishment of the Consumer Arbitration Centers provided for in the CP Law.</p> |
| <p>SECTION F</p> | <p>GUARANTEE SCHEMES AND INSOLVENCY</p> |
| <p>Good Practice F.1</p> | <p><i>Investor Protection</i></p> <ul style="list-style-type: none"> a. There should be clear provisions in the law to ensure that the regulatory authority can take prompt corrective action on a timely basis in the event of distress at a securities intermediary, investment adviser or CIU. b. The law on the investors’ guarantee fund, if there is one, should be clear on the funds and financial instruments that are covered under the law. c. There should be an effective mechanism in place for the pay-out of funds and transfer of financial instruments by the guarantee fund or insolvency trustee in a timely manner. d. The legal provisions on the insolvency of securities intermediaries, investment advisers and CIUs should provide for expeditious, cost-effective and equitable provisions to enable the timely payment of funds and transfer of financial instruments to investors by the insolvency trustee of a securities intermediary or CIU. |
| <p>Description</p> | <p>While there are separate, unique provisions for the insolvency of a financial institution, there are no separate provisions for the speedy payout of funds to investors.</p> <p><i>Paragraph (a)</i></p> <p>Chapter III Articles 81 et seq. of the CIFC Law give the BdM the right to take extraordinary reorganization measures with an financial intermediary and investment fund manager. Article 89 provides for liquidation in the event that the reorganization fails.</p> <p>Investment Fund Decree Article 17(3) provides that the BdM can provide for the compulsory liquidation of a fund in the event of illegality or acts of management where the interests of the investors are undermined. Article 22 also gives the BdM the authority to suspend redemptions in time of distress.</p> <p><i>Paragraph (b)</i></p> <p>There is no investors guarantee fund in Mozambique.</p> |

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| | <p>Paragraph (c)</p> <p>Article 17 of the Investment Fund Decree provides for liquidation of an investment fund and payout to unit holders. The BdM can determine the time period to do this. The liquidation of a financial intermediary will take place according to common rules of liquidation.</p> <p>Paragraph (d)</p> <p>There are no special provisions for payouts by a bankruptcy trustee during the liquidation of a financial intermediary. The efficiency will be the same as for any other commercial entity.</p> |
| Recommendation | <p>Due to the fact that the reorganization scheme for credit institutions and financial companies is different from the rules for other commercial entities, there should also be special provisions for payouts for the investors. Due to the segregated character of their assets, the fact that the assets are not part of the institution's assets for creditors and the identification of the assets by account number, payment during the course of the bankruptcy proceeding should be done quickly.</p> |
| SECTION G | CONSUMER EMPOWERMENT |
| Good Practice G.1 | <p><i>Broadly based Financial Capability Program</i></p> <ul style="list-style-type: none"> a. A broadly based program of financial education and information should be developed to increase the financial capability of the population. b. A range of organizations—including government, state agencies and non-governmental organizations—should be involved in developing and implementing the financial capability program. c. The government should appoint an institution such as the central bank or a financial regulator to lead and coordinate the development and implementation of the national financial capability program. |
| Description | <p>Paragraph (a)</p> <p>There are a number of strategic initiatives currently addressing financial education in Mozambique. The government's Financial Sector Development Strategy 2013–2022 includes activities to promote financial literacy, such as financial education campaigns to be disseminated through media and financial education material to be used in schools. It documents the government's commitment to financial inclusion as signaled by the signing of the Maya Declaration in 2012. It is understood that financial literacy will also be covered by Mozambique's Financial Inclusion Strategy which is in the process of development with the support of the World Bank's FISF Program. The FISF program includes the promotion of financial literacy among its objectives.</p> <p>At present, it is not entirely clear how the various initiatives are coordinated, nor who is responsible to lead and coordinate their implementation.</p> <p>There is no broadly based program for financial literacy specific to the securities sector. Nonetheless, the BVM is conducting a significant educational program which includes both investors and issuers of securities. They are meeting with schools and</p> |

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| | <p>universities to provide a formal education in securities markets in the hopes that it will increase investor awareness and literacy and increase the number of securities market professionals. Other organizations such as the CACM have conducted literacy programs in the past, but are not doing so at the current time.</p> <p>Paragraph (b)</p> <p>In the securities markets area, the two main actors promoting financial literacy are the BVM and BdM. Other institutions, such as the consumer protection associations are not allocating resources to it, since the securities market is not considered to be a market in which the middle class and poor consumers are active.</p> <p>Paragraph (c)</p> <p>Although there has not been a formal appointment, the BVM is clearly leading the development and implementation of financial literacy in the securities sector.</p> |
| <p>Recommendation</p> | <p>One the primary impediments to the development of the securities market, according to market participants, is the lack of awareness and financial literacy regarding the securities sector. It would benefit the capital markets in Mozambique if the government developed a broad based financial literacy initiative which included education in the securities markets.</p> <p>There should also be consultation and coordination between relevant stakeholders in developing and implementing Mozambique's Financial Inclusion Strategy, including aspects related to financial literacy.</p> |
| <p>Good Practice G.2</p> | <p><i>Using a Range of Initiatives and Channels, including the Mass Media</i></p> <ul style="list-style-type: none"> a. A range of initiatives should be undertaken to improve people's financial capability. b. This should include encouraging the mass media to provide financial education, information and guidance. |
| <p>Description</p> | <p>The range of initiatives for financial literacy in the securities sector is limited to outreach programs of the BVM. TVM is used for financial literacy in general but does not cover the securities sector at this time.</p> <p>Paragraph (a)</p> <p>The BVM uses meetings, seminars and presentations to students, labor unions, and issuers as its primary methods of improving financial capability. This is currently the main initiative in the securities sector.</p> <p>Paragraph (b)</p> <p>The BdM has used TVM as a means of providing financial education, currently in the form of a call-in show hosted by a securities expert. TVM has stated that they are currently developing more programs with the BdM, although the program that will soon start consisting of 15 daily programs will concentrate on banking issues, not securities issues. According to TVM, the BdM will finance the first program and the different subsectors of the financial sector will pay for the rest of the shows that deal with their specific subsector. Radio programs, critical to the rural areas, have already begun.</p> |
| <p>Recommendation</p> | <p>The broad based financial literacy initiative should use a wide range of channels. To a certain extent this is already done, but more effort regarding the securities market should be put into certain channels, such as TV and radio.</p> |

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| <p>Good Practice G.3</p> | <p><i>Unbiased Information for Investors</i></p> <ul style="list-style-type: none"> a. Financial regulators should provide, via the internet and printed publications, independent information on the key features, benefits and risks—and where practicable the costs— of the main types of financial products and services. b. Non-governmental organizations should be encouraged to provide consumer awareness programs to the public regarding financial products and services. |
| <p>Description</p> | <p>The primary means of communicating key features of securities products is currently through the BVMs financial literacy outreach program. Consumer activity in the financial sector is too small to warrant significant allocation of resources of the relevant NGOs.</p> <p><i>Paragraph (a)</i></p> <p>The BdM and BVM do not provide key features of the main types of securities products and services to the public on their websites. The primary means of communicating such information is currently through the BVMs financial literacy outreach program. The BdM does have a section of its website dedicated to a procedure for filing consumer complaints.</p> <p><i>Paragraph (b)</i></p> <p>Discussions with consumer protection NGOs indicate that due to limited resources they do not spend time on financial literacy for securities customers, but they do provide programs for banking and insurance.</p> |
| <p>Recommendation</p> | <p>The BdM and BVM should put more information on their websites regarding the characteristics of available investments in order to assist investors in evaluating the securities markets. Due to the small nature of the securities market at the current time, this does not appear to be important but it will be necessary in order to provide a basis for developing a strong retail investor base.</p> |
| <p>Good Practice G.4</p> | <p><i>Measuring the Impact of Financial Capability Initiatives</i></p> <ul style="list-style-type: none"> a. The financial capability of consumers should be measured through a broad-based household survey that is repeated from time to time. b. The effectiveness of key financial capability initiatives should be evaluated. |
| <p>Description</p> | <p>A recent household survey was conducted by the World Bank. No evaluation programs are currently underway.</p> <p><i>Paragraph (a)</i></p> <p>A recent survey was conducted regarding the financial capability of consumers in Mozambique. See footnote one. The main message the survey had for securities markets is that most consumers do not know or understand the markets or the roles of brokers.</p> <p><i>Paragraph (b)</i></p> <p>There is no such evaluation currently underway.</p> |
| <p>Recommendation</p> | <p>None</p> |

II. GOOD PRACTICES: INSURANCE SECTOR

OVERVIEW OF THE INSURANCE MARKET

Insurance is not very developed in Mozambique, as compared to neighbors in the region (See Table 3).

Table 3: Regional Comparison of the Insurance Sector

| | Premium in million USD | | | Insurance Penetration (premium as % of GDP) | | | Insurance Density (premium in USD per person) | | | as of |
|-------------------|------------------------|--------------------|--------------|---|--------------------|------------|---|--------------------|------------|-------------|
| | Life insurance | Non life insurance | Total | Life insurance | Non life insurance | Total | Life insurance | Non life insurance | Total | |
| South Africa | 42,523.8 | 6,812.1 | 49,335.9 | 12.5 | 2.0 | 14.5 | 805.7 | 129.1 | 934.7 | 2013 |
| Zimbabwe | 293.0 | 209.8 | 502.9 | 11.7 | 8.4 | 20.1 | 22.3 | 16.0 | 38.3 | 2013 |
| Tanzania | 27.5 | 228.7 | 256.2 | 0.1 | 0.8 | 0.9 | 0.6 | 4.8 | 5.4 | 2012 |
| Mozambique | 27.1 | 163.1 | 190.2 | 0.2 | 1.2 | 1.4 | 1.1 | 6.7 | 7.8 | 2012 |
| Malawi | 61.9 | 51.7 | 113.6 | 1.5 | 1.2 | 2.7 | 3.9 | 3.3 | 7.1 | 2012 |
| WB Africa | 673.1 | 1,621.7 | 2,300.6 | 0.4 | 0.7 | 1.1 | 18.7 | 19.9 | 38.6 | |

Source: AXCO Insurance Reports – WB Africa is made up of Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Ivory Coast data from 2011 and 2012.

Its development has not kept up with GDP growth recently (See Table 4).

Table 4: Mozambique GDP growth vs. Insurance Sector Growth

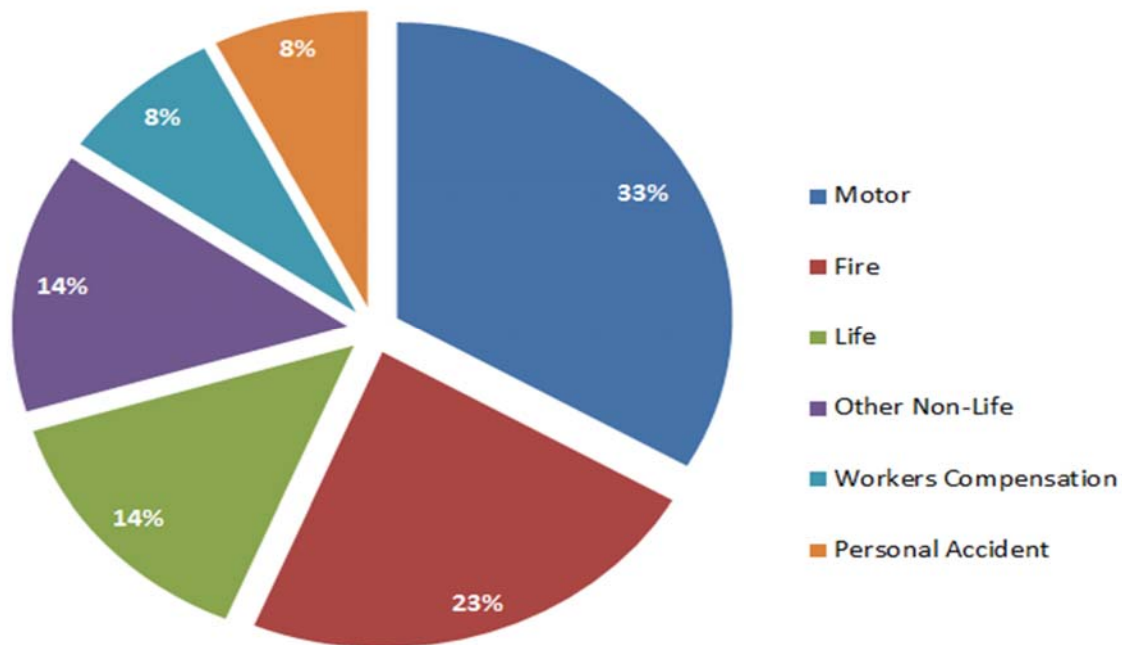
| | 2006 | | | | | Rates of Growth (percent per annum) over ... years | | | | |
|--|----------------|----------------|----------------|----------------|----------------|--|-------------|-------------|--|--|
| | 2006 | 2009 | 2010 | 2011 | 2012 | 1 | 3 | 5 | | |
| GDP growth in % (current LCU) | | | | | | 15.8 | 14.9 | 11.9 | | |
| Insurance Premium (in millions local currency) | | | | | | | | | | |
| - Life insurance | 184.4 | 322.8 | 636.0 | 734.1 | 767.3 | 4.5 | 33.5 | 26.8 | | |
| - Non life insurance | 1,335.3 | 2,450.8 | 3,308.5 | 4,058.5 | 4,614.5 | 13.7 | 23.5 | 23.0 | | |
| Total | 1,519.7 | 2,773.6 | 3,944.5 | 4,792.6 | 5,381.8 | 12.3 | 24.7 | 23.5 | | |
| Insurance Premium (in millions USD) | | | | | | 0.0 | 0.0 | 0.0 | | |
| - Life insurance | 7.3 | 11.7 | 18.7 | 25.3 | 27.1 | 7.4 | 32.2 | 24.6 | | |
| - Non life insurance | 52.6 | 89.1 | 97.4 | 139.6 | 163.1 | 16.8 | 22.3 | 20.8 | | |
| Total | 59.8 | 100.8 | 116.2 | 164.9 | 190.2 | 15.4 | 23.6 | 21.3 | | |
| Insurance Penetration (premium to GDP) | | | | | | 0.0 | 0.0 | 0.0 | | |
| - Life insurance | 0.1 | 0.1 | 0.2 | 0.2 | 0.2 | -1.5 | 17.8 | 11.6 | | |
| - Non life insurance | 0.7 | 0.9 | 1.1 | 1.1 | 1.2 | 7.2 | 9.0 | 8.2 | | |
| Total | 0.8 | 1.0 | 1.3 | 1.3 | 1.4 | 5.9 | 10.0 | 8.7 | | |
| Insurance Density (premium per capita) in local currency | | | | | | 0.0 | 0.0 | 0.0 | | |
| - Life insurance | 8.7 | 14.1 | 27.2 | 30.7 | 31.3 | 2.2 | 30.4 | 23.9 | | |
| - Non life insurance | 62.7 | 107.2 | 141.4 | 169.6 | 188.5 | 11.1 | 20.7 | 20.1 | | |
| Total | 71.4 | 121.3 | 168.6 | 200.3 | 219.8 | 9.8 | 21.9 | 20.6 | | |
| Insurance Density (premium per capita) in USD | | | | | | 0.0 | 0.0 | 0.0 | | |
| - Life insurance | 0.3 | 0.5 | 0.8 | 1.1 | 1.1 | 5.0 | 29.2 | 21.7 | | |
| - Non life insurance | 2.5 | 3.9 | 4.2 | 5.8 | 6.7 | 14.2 | 19.6 | 18.0 | | |
| Total | 2.8 | 4.4 | 5.0 | 6.9 | 7.8 | 12.8 | 20.8 | 18.5 | | |

Source: AXCO Insurance Reports and own calculations

Insurance in Mozambique is predominantly focused on commercial insurance (fire, theft, natural disasters property insurance), mandatory insurance (most notably motor third party liability and workers' compensation, which together account for 42% of all premium), and insurance required to obtain a loan. More than half of the business is transacted by brokers – the mission team were told that the largest firm accounts for a quarter of the broker market, and 95% of its business is commercial. Insurance companies make little effort to target individuals, and advertise little. This is reportedly because of the large scale required to profitably underwrite the relatively low value insurance policies held by individuals, households and small enterprises coupled with the apparently limited retail market potential for growth.

INSURANCE SECTOR

Figure 1: Portfolio composition by gross written premium in 2012



Source: presentation from ISSM in December 2013

In the last five years, five new insurance companies have entered the market; in fact, the insurance market in Mozambique is now composed of 392 operators, including 16 insurance companies, 55 insurance brokers, 4 insurance agents operating as commercial companies, 21 insurance agents operating as natural persons, 295 insurance promoters, and one reinsurance company.⁵

Insurance was a state monopoly between 1977 and 1991, and the market remains rather concentrated, as measured for example by the Herfindahl Index⁶ where high values indicate low levels of competition.⁷ For instance, in the non-life sector the four largest providers (Global Alliance, SIM, EMOSE and Hollard) control more than 85% of the market and most significantly in the life sector the same providers control more than 98% of the market, with SIM having 41% of the market shares.⁸

The legal framework makes provision for microinsurance but most interviewed insurers have no plans to engage in this segment and implementing regulations are still outstanding. However, a first micro insurance underwriter was licensed in December 2014.

⁵ ISSM, RELATÓRIO DO MERCADO DE SEGUROS REFERENTE AO EXERCÍCIO FINDO EM 31 DE DEZEMBRO DE 2013, at 10, available at http://www.issm.gov.mz/images/Legislacao/RELATORIO_ANUAL_%202013.pdf

⁶ For more on the Herfindahl Index in insurance see e.g. <https://books.google.com/books?id=24xq26jLKN4C&pg=PA1&lpg=PA1&dq=%22herfindahl+index%22+thorburn&source=bl&ots=XhrsoXSI0r&sig=N6rrktHpoPVtpM5gOj9DTawifuI&hl=en&sa=X&ei=lz6PVJKAA-jZsATsYlWDO&ved=0CCcQ6AEwAQ#v=onepage&q=%22herfindahl%20index%22%20thorburn&f=false> last visited on Dec 11, 2014

⁷ Source: AXCO Insurance Reports and own calculations

⁸ ISSM, RELATÓRIO DO MERCADO DE SEGUROS REFERENTE AO EXERCÍCIO FINDO EM 31 DE DEZEMBRO DE 2013, at 13-15, available at http://www.issm.gov.mz/images/Legislacao/RELATORIO_ANUAL_%202013.pdf

INSURANCE SECTOR

The legal and regulatory framework for insurance in Mozambique is determined by the Decreto-Lei No. 1/2010. This law created the Mozambique Insurance Supervisory Institute (Instituto de Supervisão de Seguros de Moçambique (**ISSM**)) and stipulates the legal framework for insurance in two sections (called “books”). The first section regulates insurance activity and is referred to as the Insurance Law going forward. The second section regulates insurance contracts and is referred to as Insurance Contracts Law (ICL) going forward. The Insurance Law leaves details to be specified by subsequent regulation, for example in respect of the application for an insurance license or in respect of reserve requirements. These details are specified in Decreto No. 30/2011 (Insurance Regulation). Not all aspects of insurance are conclusively regulated in Decreto No. 30/2011: for example microinsurance regulations are being prepared.

| SECTION A | CONSUMER PROTECTION INSTITUTIONS |
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| Good Practice A.1 | <p><i>Consumer Protection Regime</i></p> <p>The law should provide for clear rules on consumer protection in all matters of insurance and there should be adequate institutional arrangements for implementation and enforcement of consumer protection rules.</p> <ul style="list-style-type: none"> a. There should be specific provisions in the law, which create an effective regime for the protection of retail consumers of insurance. b. The rules should prioritize a role for the private sector, including voluntary consumer organizations and self-regulatory organizations. |
| Description | <p><i>Paragraph (a)</i></p> <p>General consumer protection is provided for in Article 100 of the Constitution of Mozambique, as well as via the CP Law. The CP Law does not specifically mention insurance. However it applies to all activities concerning the production, distribution or commercialization of consumer services that require a payment. Although the CP Law contains comprehensive protections for consumers, it does not appear to have been implemented or enforced (as also noted in the 2012 CPFL Diagnostic). The consumer rights⁹ covered include rights (in summary) to education; information (and there are specific provisions in relation to credit contracts); a 7 day cooling off period in certain circumstances¹⁰; substantive fairness; clear and legible print in contracts; and rights to the protection of economic interests and the legal protection and accessible justice. Further there are prohibitions against misleading advertising and abusive clauses, and provision for the establishment of consumer arbitration centers. There is also provision for the establishment of a Consumer Institute designed to promote consumer protection policies. The Law also recognizes consumer associations and provides them with rights in relation to (amongst other things) social partner status in matters concerning consumers and to State funding. However, notwithstanding the broad scope of this law, it does not appear to have been implemented or enforced to date, though implementing regulations are being prepared and are expected to be approved early in 2015, with the establishment of the Consumer Institute to follow.</p> <p>The CP Law also stipulates that state and local municipalities are responsible for developing initiatives and adopting measures directed at :</p> <ul style="list-style-type: none"> • informing consumers; • creating municipal consumer information services; • establishing municipal consumer councils, and • creating various databases and digital archives on consumer rights. |

⁹ CP Law Article 5

¹⁰ CP Law Article 10

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| | <p>More specifically, the protection of insurance consumers is provided for in the 2010 insurance legal framework provided for by Decreto-Lei No. 1/2010. It provides a modern supervisory regime aimed at financial stability and suitable conduct of business of insurers who will not fail on their liabilities and their intermediaries who will provide suitable advice. It is designed to provide legal certainty and fair treatment to consumers in relation to insurance contracts, with numerous articles addressing the asymmetry of information between insurance providers and clients, and stipulating the information has to be provided to customers as well as related timing and format requirements (including reminders of renewal and premium due dates). It contains rules aimed to protect the customer value of insurance products, for example by stipulating their entitlement to mathematical reserves on termination of a contract¹¹; and it regulates bundling¹², data protection¹³ and arbitration¹⁴ amongst other topics.</p> <p>In addition to the insurers licensed and supervised by ISSM, foreign companies that are not supervised by it offer health insurance in Mozambique, primarily to expatriates but potentially also to Mozambican nationals (who would have to make complaints in England for example). This may give rise to potentially detrimental regulatory arbitrage and prevents ISSM from effectively protecting consumers who buy such products.</p> <p>Paragraph (b)</p> <p>The CP Law recognizes consumer associations and cooperatives and endows them with a social partner status in consumer policy matters, so that they can appoint representatives to the corresponding consultative or cooperative bodies and represent consumers during the decision-making process. The CP Law also gives them a right to airtime on radio and television that comes with the social partner status (despite the law, no airtime seems to be available for CP unless paid for). These associations and cooperatives are non-profit legal entities and can be considered part of the private sector.</p> <p>The responsibility of state and local municipalities for the information of consumers includes support to information initiatives promoted by consumer associations and cooperatives.</p> <p>Two existing consumer associations have been identified in Mozambique:</p> <ul style="list-style-type: none"> • DECOM • PROCONSUMERS <p>Neither is widely known, impressively resourced, or equipped with insurance specific expertise. Neither has a website, for example. DECOM displays simple print material on limited financial topics, including adaptations of "The ABC of insurance" produced by GIZ in Ghana in 2008. They also claim to have accompanied one insurance claimant through a court process.</p> <p>Although the Consumer Protection Regime in Mozambique defines the role for private sector consumer organizations, the ones that exist currently are not adequately resourced so as to be able to contribute significantly to the protection of insurance consumers. That is understandable given their broad focus and given the absence of a substantial retail insurance market.</p> |
| <p>Recommendation</p> | <p>Overall, the scope of the consumer protection regime in general, and for insurance in particular, appears comprehensive. However there is an urgent and early need for implementation of the relevant laws, as well as finalization of the required regulations.</p> <p>There is also a need to consider whether the broad ranging CP Law should cover consumer protection issues relevant to the insurance sector (as opposed to insurance</p> |

¹¹ Decreto-Lei No. 1/2010 Article 155

¹² Decreto-Lei No. 1/2010 Article 119

¹³ Decreto-Lei No. 1/2010 Article 168

¹⁴ Decreto-Lei No. 1/2010 Article 169

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| | <p>sector specific laws). Similarly, it is not clear that the Consumer Institute should have responsibility for the insurance sector, in preference to ISSM.</p> <p>Although the insurance industry today is largely limited to commercial / industrial lines, with retail insurance being focused in a limited range of products, once the market for retail voluntary insurance to households and SMEs grows and diversifies, these recommendations will become more urgent.</p> <p>Additionally, ISSM should clarify the regulatory status of providers of health insurance that are not currently subject to ISSM regulation, finding a solution that protects consumers and provides a level playing field for the insurance industry.</p> |
| Good Practice A.2 | <p><i>Contracts</i></p> <p>There should be a specialized insurance contracts section in the general insurance or contracts law, or ideally a separate Insurance Contracts Act. This should specify the information exchange and disclosure requirements specific to the insurance sector, the basic rights and obligations of the insurer and the retail policyholder and allow for any asymmetries of negotiating power or access to information.</p> |
| Description | <p>The Insurance Law provides a modern regulatory regime for insurance contracts, addressing also asymmetries of negotiating power and access to information. It specifies in detail how an insurance contract comes about, and what obligations both parties have before and during the contract. Article 91 further specifies an extensive list of information that customers must receive in writing in the Portuguese language before adherence to the insurance contract, including mention of the possibility of addressing complaints to the supervisor (notwithstanding the right to legal recourse). Other Articles specify that the insurance proposal has to document that all mandatory information has been provided to the policyholder, and that the supervisor may issue further norms and guidelines in respect of the information duties¹⁵. Violation of this information duty allows the customer to rescind from the contract within 30 days of having received the policy; the same rescission right applies if the policy conditions do not correspond to the information provided before inception of the contract¹⁶.</p> <p>The information content of the insurance policy is also specified in the Insurance Contract Law, requiring "<i>clear and perfectly understandable</i>" Portuguese language of legible font for general, special and particular conditions. Minimum contents are specified both in general (including for example "<i>arbitration rules if applicable</i>") and specifically for every line of business (including stipulation of the policyholder's duties)¹⁷. Exclusions have to be highlighted in a different font, otherwise they will be considered to be unknown to the policyholder¹⁸.</p> <p>The policy has to be handed over or submitted to the policyholder within 30 days of inception of the contract¹⁹. The insurance contract is established if the insurance company remains silent during the 15 days after it received the insurance proposal (or additional information it may have requested) from the customer²⁰. This is considered as acceptance of the proposal, and the insurance contract comes into force at midnight of the day following the insurer's acceptance²¹. However, the insurance inception date has to be stated in the insurance conditions²². The insurance cover generally</p> |

¹⁵ Decreto-Lei No. 1/2010 Article 93

¹⁶ Decreto-Lei No. 1/2010 Article 94

¹⁷ Decreto-Lei No. 1/2010 Article 103

¹⁸ Decreto-Lei No. 1/2010 Article 104

¹⁹ Decreto-Lei No. 1/2010 Article 106

²⁰ Decreto-Lei No. 1/2010 Article 100

²¹ Decreto-Lei No. 1/2010 Article 101

²² Decreto-Lei No. 1/2010 Article 103

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| | <p>starts only after the due premium has been paid (there are some exceptions), which is the date that the insurance contract comes into force²³.</p> <p>Article 63 of the Insurance Law requires that intermediaries comply with rules of conduct specifically established via regulatory provisions, but these provisions seem to be outstanding at the time of the CPFL Review.</p> |
| Recommendation | <p>Given the scope of the ICL, and ISSM's ability to issue subordinate regulations, norms and guidance, there is not a specific recommendation in relation to this Good Practice other than to note that the regulations contemplated by Article 63 of the Insurance Law should be developed. Comments on individual issues are in specific Good Practices below.</p> <p>Further, some aspects of the ICL may need to be re-considered for the purposes of new forms of insurance policies, for example index insurance which is being piloted in Mozambique. Some articles of the ICL may present obstacles to this particular form of insurance, for example the requirement that the insurance claims payment be equivalent in value to the damage effectively verified; the obligation of the insurer to return the unearned premium if the policyholder cancels the insurance; or the stipulation that no property insurance shall enrich the insured. The Global Index Insurance Facility has offered the regulator support in respect of the regulation and supervision of index insurance and ISSM may wish to take up this offer. There is also a need to finalize the draft microinsurance regulations. However these are not specific issues for the purposes of these Good Practices.</p> <p>For example, policy information has to be provided in Portuguese language under the Insurance Contracts Law²⁴, but large parts of the Mozambican population (especially in rural areas) don't use that language; if this can be addressed with Key Fact Statements in the vernacular languages (as proposed in Good Practice B.5), changing the ICL may not be imperative.</p> |
| Good Practice A.3 | <p><i>Codes of Conduct for Insurers</i></p> <ul style="list-style-type: none"> a. There should be a principles-based code of conduct for insurers that is devised in consultation with the insurance industry and with relevant consumer associations, and that is monitored and enforced by a statutory agency or an effective self-regulatory agency. b. If a principles-based code of conduct exists, insurers should publicize and disseminate it to the general public through appropriate means. c. The principles-based code should be augmented by voluntary codes for insurers on such matters specific to insurance products or channels. d. Every such voluntary code should likewise be publicized and disseminated. |
| Description | <p><i>Paragraphs (a) to (d)</i></p> <p>There is no industry wide code of conduct for insurers in Mozambique.</p> <p>Insurers and brokers that are part of international firms have in place internal codes of conduct covering issues such as complaints handling which are not published.</p> <p>The Insurance Association was formed in 2002 but has been inactive until a few years ago. Only 8 of the current 14 insurers are members of the Association (but these 8 represent more than 90% of gross written premium²⁵). The goals of the Association</p> |

²³ Decreto-Lei No. 1/2010 Article 128

²⁴ Decreto-Lei No. 1/2010 Articles 93 and 103

²⁵ Source: presentation of the association from 5th December 2013

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| | <p>include to negotiate and conclude collective agreements on behalf of members and to undertake any other initiatives that are of interest to members or to insurance in general. These goals might be relied on to develop an industry code of conduct, but it is understood there are no immediate plans to do so. This may be due to the very small size of the retail insurance market.</p> |
| <p>Recommendation</p> | <p>The development and agreement of, and adherence to, a code of conduct for the insurance industry should be encouraged. Although such codes cannot be considered to be a substitute for well framed laws, they can represent a consensus in the industry as to good practice and provide a mechanism for the industry to police itself and, importantly, build consumer confidence in the industry. This is especially important in a country such as Mozambique with low levels of financial inclusion. A code of conduct could be particularly useful for the insurance industry in that it could be used to indicate that insurers are interested in retail consumers beyond mandatory bundled insurance, and are equipped to serve them with high standards of quality.²⁶ However, to be effective, it would be important that all insurers operating in Mozambique agree to be bound by the Code, compliance is supervised and enforced, and consumers are made aware of their rights under the Code through an effective public awareness campaign. Further, ISSM should closely monitor compliance with Codes and consider enforcement action for any relevant breach of the law if there is a breach.</p> |
| <p>Good Practice A.4</p> | <p><i>Other Institutional Arrangements</i></p> <ul style="list-style-type: none"> a. Prudential supervision and consumer protection can be placed in separate agencies or lodged in a single institution, but allocation of resources between prudential supervision and consumer protection should be adequate to enable the effective implementation of consumer protection rules. b. The judicial system should provide credibility to the enforcement of the rules on financial consumer protection. c. The media and consumer associations should play an active role in promoting consumer protection in the area of insurance. |
| <p>Description</p> | <p><i>Paragraph (a)</i></p> <p>According to the ICL, ISSM can intervene in dispute resolution between insurers and their customers²⁷. That is the only explicit mention of ISSM's role in relation to consumer protection (which is probably implicit function of every insurance supervisor). ISSM does not have a separate division or clearly allocated resources for consumer protection. There is no staff trained specifically for consumer protection, and the few (less than 10 per year) complaints are handled on an ad-hoc basis by varying staff without standard operating procedures. Given the low number of cases, ISSM has not found it necessary so far to single out individuals in charge primarily of complaints handling and to allocate specific budgets to this task.</p> <p>While checking compliance of insurers' advertising with the corresponding regulations is also a responsibility of ISSM²⁸, there does not seem to be a clearly established process of how to achieve that, and interventions so far have been triggered when staff saw questionable TV advertising.</p> <p><i>Paragraph (b)</i></p> <p>Section 5(1) (g) of the CP Law provides that consumers have the right to "<i>legal protection and accessible justice</i>". Section 4(c) of the CP Law provides that the State and municipalities are responsible for ensuring that consumers have access to justice</p> |

²⁶ Examples of such codes of conduct can be seen here, http://www.gia.org.sg/pdfs/code_of_practice.pdf.

²⁷ Decreto-Lei No. 1/2010 Article 91

²⁸ Decreto No. 30/2011 Article 88

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| | <p>and the courts as appropriate under the circumstances of the matter at issue. However, the judicial system is not generally used by the general citizenry for small retail financial disputes. It is not considered efficient for small cases, due to cost and time delay considerations and the distance of some of the complainants to the court. These conclusions are consistent with the findings of the 2012 CPFL Diagnostic.²⁹</p> <p>The CP Law also makes provision for the establishment of arbitration centers for consumers, although they are not yet operational (see Good Practice E.2 below for further details).</p> <p>Paragraph (c)</p> <p>The CP Law makes provision for media and consumer associations to play an active role in promoting consumer protection not excluding insurance. Article 9 of the CP Law states that "<i>Public radio and television networks shall reserve airtime under the terms to be defined by the law, for promoting consumer rights and interests.</i>" Article 35 states that "<i>Consumer associations are entitled to the following rights: ... b) Airtime on radio and television under the same terms as associations that have social partner status</i>". So far, however, this is not widely practiced, particularly for insurance services, and no airtime is likely to be made available (either on radio or on TV) unless paid for, and no budgets are known to have been allocated.</p> <p>There are two potentially relevant financial consumer protection associations – DECOM and PROCONSUMERS. The value of private associations is recognized in Articles 35 and 19 of the CP Law which, amongst other things, require BdM and other regulators to consult with them on consumer protection issues. However, due to the lack of a retail insurance market, as well as limited resources and expertise, the associations are not very much involved in investor protection issues.</p> <p>As with many aspects of consumer protection in the insurance sector, the situation today is characterized by the general absence of consumers of voluntary retail insurance. It is understandable that there has been no sense of urgency to strengthen consumer protection for insurance. Nevertheless, ISSM is developing a module on insurance capacity building to be delivered to journalists to contribute to conducive media coverage.</p> |
| Recommendation | <p>The capacity of ISSM should be strengthened so that it can effectively monitor and enforce any law requiring standards of business conduct to be met by insurers and their intermediaries in their dealings with consumers. Consideration might be given, for example, to establishing a new financial consumer protection unit within ISSM in charge of monitoring, supervising and enforcing consumer protection provisions as well as the handling of complaints. The unit should be separate from prudential supervision in order to ensure that adequate attention is given to market conduct issues.</p> <p>At a minimum, it is recommended that ISSM strengthen the capacity of relevant staff to supervise compliance with the consumer protection laws that exist. A clear focus on consumer protection is also likely to increase consumer confidence in the industry and strengthen the effectiveness of the various initiatives ISSM is developing in respect of insurance awareness and literacy (for example, the plans to establish consumer outreach "balcões" i.e. counters).</p> <p>Consideration should also be given to providing funding and capacity building support to consumer protection associations that meet specified criteria and to promoting their participation in consultations concerning the development of relevant laws, regulations and regulatory Notices. This will become especially important as the retail securities market develops.</p> |

²⁹ MOZAMBIQUE Diagnostic Review of Consumer Protection and Financial Literacy (Volume II Comparison with Good Practices December 2012)

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| | See also Good Practice E.2 concerning formal dispute resolution schemes. |
| Good Practice A.5 | <i>Bundling and Tying Clauses</i> Whenever an insurer contracts with a merchant or credit grantor (including banks and leasing companies) as a distribution channel for its contracts, no bundling (including enforcing adhesion to what is legally a single contract), tying or other exclusionary dealings should take place without the consumer being advised and able to opt out |
| Description | <p>While it is common practice that consumers are required to procure credit – related insurance if they want to avail a loan, Article 119 of the ICL appears to be to the effect that the policy holder has a choice of insurer and they should be informed of that right. However this could be made clearer.³⁰ The insurers interviewed advised that they inform customers of that right, but acknowledge that they have group insurance arrangements in place and it is usually more convenient for the customer to accept coverage under such a policy. This credit – related insurance and mandatory car insurance, constitutes the bulk of households’ retail insurance to date.</p> <p>Article 149 of ICL requires that the group insurance policy holder informs the insured persons about the coverage and their rights and obligations in case of claim; the insurance contract may, however, specify that this insurance is provided by the insurer, who in any case has to provide all the information necessary to ensure a proper understanding of the insurance upon request of the insured. It is not however clear if the scope of information to be provided to people insured under a group insurance contract is the same as that to be provided to policyholders like individuals who insure themselves on their own account.</p> <p>No figures are available to provide detail of what insurance covers - in addition to the usual life insurance -are demanded from lenders.</p> |
| Recommendation | <p>Formal standards of practice in relation to the bundling of credit and insurance products should be established. At a minimum, in the short term, there should be requirements to clearly inform the prospective policy holder of the key terms, exclusions and premiums for the insurance policy and related commission before the policy is taken up. This should be in addition to obligations to give the consumer a choice of insurer and to prohibit any requirement to take out insurance with a particular insurer.</p> <p>Further, in the longer term, consideration should be given to whether there should be prohibition on insurance forcing practices. The ‘insurance forcing’ prohibition could apply to a requirement to acquire insurance as a condition of providing a banking service (such as a loan). However there could be an exception to such a prohibition in certain cases – for example, where the requirement is for insurance over mortgaged property or where insurance is required by law. It is also acknowledged that careful consideration will need to be given as to the extent to which such a prohibition may limit access to credit.</p> <p>Further, where there is a tied insurance contract, credit providers should be required to give a proportionate refund of the applicable premium if the consumer pays out a loan early. It is further recommended to introduce a requirement for disclosure of insurance commissions and premiums, as well as other key terms of the policy. Finally, there should be a requirement for at least three insurers on the list presented to the consumer when there is a tying and bundling situation. In the mid-term, ISSM together with relevant industry associations, should investigate the level of bundling and tying</p> |

³⁰ Our understanding of Article 119 Paragraph 1 of Decreto-Lei No. 1/2010 is that when an insurance contract is established to secure a loan, the borrower can instead take another insurance contract with another insurance company; the lender cannot object as long as the cover remains the same. The wording seems ambiguous, since it refers to the policyholder (“*tomador do seguro*”), which in case of group insurance policies (that are often used to secure loans) could mean the lender. But as the lender is referred to as “*credor*”, it may be assumed that this paragraph does not consider the lender to also be the policyholder. The assessment of a Portuguese language legal expert might clarify.

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| | <p>practices and should establish formal standards of practice in this regard. It is suggested that ISSM documents how consumers are informed of their right to choose other insurance than the one arranged by the lender, and if there are unjustified and unfair obstacles to exercise that choice. It should also investigate what information is provided to customers at what time, and assess if that is consistent with ISSM's understanding of the ICL and fair treatment to customers. To be most insightful, this exercise should go beyond consultation with insurance companies and intermediaries (especially banks) and also include mystery shopping.</p> <p>Further, ISSM should monitor the quality of all insurance required to be taken out by consumers, especially insurance required to obtain credit (but also auto insurance – it is very encouraging that ISSM is already doing that).³¹ Key performance indicators to be monitored include claims ratio, commission ratio, claims rejection ratio and claims turnaround time. Establishing a baseline for such indicators will allow to assess the current client value of these insurances, and decide on target levels and ways to achieve them.</p> |
| SECTION B | DISCLOSURE & SALES PRACTICES |
| Good Practice B.1 | <p><i>Sales Practices</i></p> <ol style="list-style-type: none"> a. Insurers should be held responsible for product-related information provided to consumers by their agents (i.e. those intermediaries acting for the insurer). b. Consumers should be informed whether the intermediary selling them an insurance contract (known as a policy) is acting for them or for the insurer (i.e. in the latter case the intermediary has an agency agreement with the insurer). c. If the intermediary is a broker (i.e. acting on behalf of the consumer) then the consumer should be advised at the time of initial contact with the intermediary if a commission will be paid to the intermediary by the underwriting insurer. The consumer should have the right to require disclosure of the commission and other costs paid to an intermediary for long-term savings contracts. The consumer should always be advised of the amount of any commission and other expenses paid on any single premium investment contract. d. An intermediary should be prohibited from identically filling brokering and agency roles for a given general class of insurance (i.e. life and disability, health, general insurance, credit insurance). e. When a bank is the intermediary, the sales process should ensure that the consumer understands at all times that he or she is not purchasing a bank product or a product guaranteed by the bank. f. Sanctions, including meaningful fines and, in the case of intermediaries, loss of license, should apply for breach of any of the above provisions. |
| Description | <p><i>Paragraph (a)</i></p> <p>The responsibility of insurers – or brokers – for any acts of insurance agents or promoters in the course of insurance intermediation is established in Article 64 of the Insurance Law.³²</p> |

³¹ See <http://www.sapo.pt/noticias/supervisor-estranha-reducao-de-custos-das-547db67a3688788c32396014> last visited on Dec 11, 2014

³² Decreto-Lei No. 1/2010 Article 64 Paragraph 1: “pelos actos praticados por agentes e promotores no exercicio da mediação responde civilmente a respectiva seguradora our corretor, sem prejuizo do direito de regresso”

Further, Article 64 also requires professional liability insurance for all brokers and agents authorized to collect premiums. But the wording seems ambiguous as to whether the required insurance covers wrongdoings only in respect of premium collection, or also in respect of matters such as the product information provided to consumers. The 2011 Insurance Regulation requires that intermediaries need to be authorized by an insurer, and have the necessary professional liability insurance,³³ in order to conclude contracts in the name of, and on behalf of, the insurer.³⁴ The exact scope of cover of the mandatory liability insurance for intermediaries is not specified, so it is possible that some intermediaries have public liability insurance³⁵ instead unlikely to cover negligence, misrepresentation, miss-selling, bad faith and inaccurate advice. The specification provided by the Insurance Regulation³⁶ addresses primarily the level of cover in relation to the expected annual premium collection, implying that the primary purpose of this insurance was meant to address premium misappropriations. Apart from the fact that the required cover levels seem low, conflicts of interest can result from that fact that insurance companies cover premium amounts embezzled by insurance intermediaries.

The ICL requires the insurance proposal to document that the mandatory information has been provided to the customer (ISSM may issue further norms and guidelines in respect of information duties). Violation of this information duty allows the customer to rescind from the contract within 30 days of having received the policy; the same rescission right applies if the policy conditions do not correspond to the information provided before inception of the contract.

Paragraph (b)

There are no clear regulatory requirements for such a disclosure.

Paragraph (c)

The Insurance Regulation requires brokers to disclose commissions upon request of the client (and prohibits charging any additional administrative or other fees).³⁷ It is understood that retail customers rarely ask for commission details even when they chose a broker instead of another type of intermediary.

Paragraph (d)

There is no express provision to this effect. However all intermediaries have to be licensed by ISSM (except for microinsurance intermediaries that are not brokers, agents or promoters: they simply have to be advised to ISSM) and it may be that ISSM could introduce procedures to detect if a person was acting as both an agent and a broker.

Paragraph (e)

There is no express provision to this effect. However insurance agents acting for banks have to be registered by ISSM and the name of the insurer has to be advised in writing. However it is not clear if this information needs to be provided to every person insured under a group contract, or only to the policyholder of such a group contract, i.e. the bank. In any event the express requirements of this Good Practice do not appear to be satisfied.

³³ "Responsabilidade Civil Profissional"

³⁴ Decreto No. 30/2011 Article 94

³⁵ "Responsabilidade Civil Geral"

³⁶ Decreto No. 30/2011 Article 101

³⁷ Decreto No. 30/2011 Article 111

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| | <p>Paragraph (f)</p> <p>There are no clearly defined provisions that would allow ISSM to penalize infractions. An intermediary's license may be withdrawn when the relevant qualifying criteria no longer apply, but not in other circumstances.</p> |
| Recommendation | <p>The sales practices covered by this Good Practice should clearly be provided for by the insurance laws. This could be done through the intermediary rules of conduct provided for by Article 63 of the Insurance Law.</p> <p>Further, consideration should be given to the potential confusion for consumers created by the current variety of intermediaries - brokers, corporate agents, individual agents, promoters, and going forward microinsurance intermediaries. This range of titles (and possibly responsibilities) makes it difficult for emerging insurance customers to know whether the intermediary selling them an insurance is acting for them or for the insurer. It is recommended that ISSM discusses with the insurance industry the reason for having so many different types of intermediaries, and if intermediation could be required to be simplified to brokers and agents. There should, in any event, be active enforcement of any requirement that only licensed brokers can use the term "broker"³⁸. While this discussion is ongoing, ISSM should explain the differences between the various types of intermediaries more thoroughly, in its "ABC of insurance contracts" and other suitable media.</p> <p>To strengthen consumers' protection against misleading product-related information and against the risk of premium mishandling, ISSM should also clarify the scope of the required mandatory professional liability insurance for insurance intermediaries.</p> |
| Good Practice B.2 | <p>Advertising and Sales Materials</p> <ol style="list-style-type: none"> a. Insurers should ensure their advertising and sales materials and procedures do not mislead customers. Regulatory limits should be placed on investment returns used in life insurance value projections. b. Insurers should be legally responsible for all statements made in marketing and sales materials they produce related to their products. c. All marketing and sales materials should be easily readable and understandable by the general public. |
| Description | <p>Paragraph (a)</p> <p>Various legal provisions deal with misleading advertising and sales material. The Constitution of Mozambique prohibits "<i>all forms of hidden, indirect and misleading advertising.</i>"³⁹</p> <p>The Civil Code stipulates indemnification for damages caused by negligence or the intention to harm of those who have a legal duty to advise or inform.⁴⁰ The Advertising Code, in summary, defines misleading advertising as the rendering of any information that leads – or is liable to lead –_its receivers into error or that may prejudice a competitor.⁴¹ The competent authority - the Ministry of Trade and Industry - can order cautionary measures of cessation, suspension or prohibition of misleading advertising, irrespective of the proof of a loss or real prejudice⁴². The CP Law bans all misleading or abusive advertising, which it defines as "<i>any kind of information or communication bearing advertising characteristics, which is totally or partially false, or that for any</i></p> |

³⁸ Article 60 (3) of Decree- Law No.1 / 2010 seems to contain such a requirement, although the translation is awkward

³⁹ The Constitution Article 92

⁴⁰ Civil Code Article 485

⁴¹ Decreto 65/04 Article 9

⁴² Decreto 65/04 Article 39

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| | <p><i>other reason even by omission, might lead consumers to error with respect to the nature, characteristics, quality, quantity, attributes, origin, price and any other data about the products and services". The same law adds that advertisements are misleading when they fail to provide the essential data about a product or service, or when they indicate qualities that the product does not have⁴³.</i></p> <p>The Insurance Regulation empowers ISSM to issue norms relating to consumer protection in advertising, and to check compliance with these norms, ordering if necessary the suspension or immediate publication of an adequate rectification⁴⁴. But so far, no such norms have been issued, and there is no process for ISSM to systematically review insurance advertising before it is launched. Insurers don't advertise much in Mozambique so far, and those who do rely on the corresponding agency to check compliance with the relevant laws. Insurers that are part of multinational groups often have group wide internal codes of conduct to protect their brand, including rules for communication and advertising.</p> <p>The volume of long term life insurance with asset accumulation is small so far, and value projections in use could not be obtained. The 2011 Regulation requires that the technical interest rate used to calculate actuarial reserve for life insurance (which may not be lower than the surrender value at any time) be prudently established, but no more specific guidance is provided.</p> <p>As insurance is bought rather than sold, spending on advertising makes limited business sense for insurers. That is expected to change as competition increases with the advent of new entrants, but so far their market shares grow slowly. The little advertising observed to date – mostly banners and billboards – is easily readable and understandable by the general public.</p> <p>Paragraph (b)</p> <p>There does not seem to be legal certainty in respect of insurers' responsibility for statements made in marketing and sales materials related to their products.</p> <p>The Advertising Code states that under the general law, advertisers, advertising agents and advertising media share civil liability for the prejudice caused to third parties as a result of the dissemination of unlawful advertising messages⁴⁵. It does not define unlawful advertising other than saying that use of advertising productions without authorizations of the holders of the respective rights is unlawful.</p> <p>Paragraph (c)</p> <p>While the ICL requires that both the insurance policy⁴⁶ and the information that has to be provided to the customer before issuance of the policy⁴⁷ have to be clearly understandable, there is no provision for similar clarity of other marketing and sales materials under the insurance regulatory framework.</p> |
| <p>Recommendation</p> | <p>While various legal provisions ban misleading advertising, there are no clear norms for the clarity and understandability of insurance communication material, which – given the complex nature of insurance – requires more attention than in other lines of retail business that the lawmakers may have had in mind. This should be a particular focus by ISSM, both in its supervisory approach and in any norms ISSM may wish to issue concerning the advertising of insurers.</p> <p>ISSM should also consider inspecting any advertising by insurance companies before it is launched to the public, so that any concerns can be addressed before they reach consumers. However it is appreciated that this may be difficult given ISSM's limited</p> |

⁴³ Law 22/2009 Article 20

⁴⁴ Decreto No. 30/2011 Article 88

⁴⁵ Decreto 65/04 Article 33

⁴⁶ Decreto-Lei No. 1/2010 Article 103

⁴⁷ Decreto-Lei No. 1/2010 Article 93

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| | <p>resources. At a minimum, ISSM should actively monitor advertising by insurers on an ongoing basis.</p> <p>ISSM should also consider issuing norms and guidance concerning projections, especially when long term life insurance with asset accumulation develops more significantly.</p> |
| Good Practice B.3 | <p><i>Understanding Customers' Needs</i></p> <p>The sales intermediary or officer should be required to obtain sufficient information about the consumer to ensure an appropriate product is offered. Formal –fact finds should be specified for long-term savings and investment products and they should be retained and be available for inspection for a reasonable number of years.</p> |
| Description | <p>The Insurance Regulation requires all intermediaries to present to the policyholder “<i>the type or kind of contract that in their view is best suited to their particular case</i>”⁴⁸. However there is no guidance on how this should be done or documented; formal fact finding is not mentioned.</p> <p>The Insurance Law does not require that all insurance is sold through licensed insurance intermediaries; in fact, it allows customers to forgo intermediation⁴⁹, and interviews with insurers revealed that customers do come into insurance company branches to buy insurance. There is no indication in the legal framework of whether the requirements for intermediaries – for example to propose appropriate products – also apply in this case.</p> <p>The interviewed insurers generally assess their prospective customers’ needs, but with the primary objective to avoid “bad customers” and to detect possible under-insurance and cross selling opportunity. One example given was that when a client asks for business interruption insurance but not for fire insurance, that omission is pointed out. There are very few long term savings or investment insurance products in Mozambique.</p> |
| Recommendation | <p>For the requirement to offer the appropriate product to customers to be truly effective and enforceable, additional guidance is recommended, including for cases where customers forgo intermediation. ISSM should issue norms about the degree of fact finding and establish procedures to inspect compliance with them. In view of ISSM’s intention to contribute to the development of the insurance market, it may want to systematically analyze the results of retail clients’ fact findings, as they are likely to shed light on what insurance consumers need and want – even if such insurance is not available today, such as long term life insurance with asset accumulation. Insights like these will guide diversification of insurance product supply.</p> <p>As the retail market for voluntary insurance develops, and especially as microinsurance develops, ISSM should monitor the appropriateness of insurance offered to emerging customers. It should assess products submitted for registration – including the corresponding processes such as distribution and customer service – in respect of customer needs, it should analyze complaints to see if they reflect mismatch of product and need, and it should consider to eventually conduct investigations among policyholders for more insights on how well insurance products consider and match their needs – both those that are generally available on the market and those that were offered to them by insurance intermediaries. Suitably qualified and resourced consumer protection agencies can be valuable allies for this task. Depending on the findings, norms and guidance may be issued to mandate product suitability assessments.</p> |

⁴⁸ Decreto No. 30/2011 Article 98

⁴⁹ Decreto-Lei No. 1/2010 Article 59

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| Good Practice B.4 | <p><i>Cooling-off Period</i></p> <p>There should be a reasonable cooling-off period associated with any traditional investment or long-term life savings contract, after the policy information is delivered, to deal with possible high pressure selling and mis-selling.</p> |
| Description | <p>The CP Law provides a general 7 day cooling off period in cases of lacking, insufficient, illegible, or ambiguous information that may compromise the proper usage of the services⁵⁰. The same cooling off period applies whenever services are provided outside of a commercial establishment, via correspondence or similar means⁵¹. This does not address insurance specifically, and it is unclear what “<i>contracting services outside of a commercial establishment</i>” means for insurance purchases.</p> <p>The legal and regulatory framework for insurance does not contemplate any cooling off period. There are few long-term life savings contracts, and little sales of voluntary insurance to individuals. The ICL does allow both parties to revoke the insurance contract by mutual consent at any time, upon which unearned premium shall be returned to the policyholder – unless otherwise specified. It is not clear what happens if the insurer does not consent. ISSM’s “ABC” states that insurance contracts can also be cancelled by either party having a “just cause”, and interviewed insurers say they agree to consumers’ request to end a contract “if there are good reasons”.</p> |
| Recommendation | <p>To comply with this Good Practice, ISSM should issue a regulation to provide for a cooling off period for at least long term insurance products. Long-term life savings contracts may be absent in the retail market today, but will one day constitute a pillar of financial stability to the Mozambican economy and its households.</p> <p>ISSM should also clarify the conditions under which insured can revoke or cancel an insurance contract even without the consent of the insurer, what the difference between “<i>revogação</i>” and “<i>resolução</i>” is, and what rights the insurer has – or should have – to unilaterally end insurance contracts. ISSM should assess if the consequences of premature contract termination to consumers are fair, for example in respect of premium refunds, or if additional norms and guidance are required. This should ideally be addressed before microinsurance starts to grow, because microinsurance customers will be more exposed to make insurance purchases without proper understanding, and given the substantial volumes required for microinsurance to be sustainable, sales pressure can be expected to increase.</p> |

⁵⁰ CP Law Article 10

⁵¹ CP Law Articles 11 and 21

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| Good Practice B.5 | <p><i>Key Facts Statement</i></p> <p>A Key Facts Statement should be attached to all sales and contractual documents, disclosing the key factors of the insurance product or service in large print.</p> |
| Description | <p>There is no provision for a Key Fact Statement to be given to prospective insurance consumers under the current legal and regulatory framework in Mozambique. The ICL specifies what information has to be given to consumers at the “pre-contractual phase”, emphasizing understandability. However there is no common template prescribed for used by all insurers that would help consumers to compare products and encourage competition between suppliers.</p> |
| Recommendation | <p>To complement, standardize and make comparable the information required to be disclosed to customers before contracting insurance, the development of standard easy to understand Key Fact Statements should be required for commonly held types of insurance products (e.g. motor vehicle insurance). The required form should be developed by ISSM in cooperation with the industry through the insurance association and engaging other stakeholders such as consumer protection agencies.</p> <p>One idea that might be considered is that ISSM could call for a competition where all insurers independently develop their version and ISSM or another accepted jury chooses the winner whose template is then used for the whole market. Suitable communication of this process could be the first of an Annual Award for Insurance Excellence to be publicly given by ISSM to an insurer for outstanding customer orientation; this could attract attention of potential retail insurance customers to the industry and increase their trust and familiarity with ISSM and its consumer protection role.</p> <p>With a view to the future development of microinsurance, the Key Facts Statement (to be provided to customers before insurance inception) should be available not only in Portuguese but also in local languages as needed, and be provided not only in paper version but also in an electronic version provided the customer consents and the Key Facts Statement is provided in a form that the customer can keep.</p> |
| Good Practice B.6 | <p><i>Professional Competence</i></p> <p>a. Sales personnel and intermediaries selling and advising on insurance contracts should have sufficient qualifications, depending on the complexities of the products they sell.</p> <p>b. Educational requirements for intermediaries selling long-term savings and investment insurance products should be specified, or at least approved, by the regulator or supervisor.</p> |
| Description | <p><i>Paragraph (a)</i></p> <p>Insurance intermediation can only be exercised by those registered with ISSM pursuant to the 2011 regulations. Brokers need to have at least one manager or administrator who has been registered as an individual insurance agent for at least 5 years or who has proven professional experience in technical and commercial insurance for the same period of time. Individual agents have to receive basic insurance training from the insurer who proposes them to be registered by ISSM, and ISSM may test the applicants unless they can prove 5 years of professional insurance experience. There is no standard syllabus of what the basic insurance training needs to cover, nor has ISSM test been elaborated yet. Corporate agents, on the other hand, only need to have at least one full time employee with insurance knowledge. Insurance promoters also need to receive insurance training from the insurers they shall work for, and the content of that training is to be defined by ISSM; it is unclear whether it has been defined already. Microinsurance can also be distributed by intermediaries</p> |

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| | <p>that are not brokers, agents or promoters; the (micro) insurer has to provide them with technical training to confer the necessary capacity for the exercise of their activity, and inform ISSM of who they are and what line of business they were trained in.</p> <p>Paragraph (b)</p> <p>There are few long-term savings and investment insurance products in Mozambique, but little is known about their distribution. Specific educational requirements for intermediaries of such products have not been found.</p> |
| Recommendation | <p>If not yet done, ISSM should develop and disseminate the standard syllabus of what the basic insurance training needs to cover, as well as the test it plans to use to assess suitable competencies of intermediary candidates; ideally, this should be done in cooperation with the insurance industry (<i>see</i> also the recommendation for Good Practice B.1).</p> <p>ISSM should also inspect the training contents and formats used by insurers, and develop a procedure to assess the capacities of intermediaries achieved by the mandatory training, to see whether the different qualification requirements are justified and whether they may or not compromise the quality of advice and service given to consumers.</p> |
| Good Practice B.7 | <p>Regulatory Status Disclosure</p> <p>a. In all of its advertising, whether by print, television, radio or otherwise, an insurer should disclose: (i) that it is regulated, and (ii) the name and address of the regulator.</p> <p>b. All insurance intermediaries should be licensed and proof of licensing should be readily available to the general public, including through the internet.</p> |
| Description | <p>Paragraph (a)</p> <p>Regulatory Status Disclosure is not a requirement for insurers in Mozambique today, and it is not practiced.</p> <p>Paragraph (b)</p> <p>With the exception of microinsurance (which has not started), all insurance intermediaries have to be licensed in Mozambique. ISSM website⁵² lists the licensed brokers and corporate agents. Insurance promoters have to present to clients the identification document issued by the insurer containing the promoter's registration number. Other ways for the general public to obtain proof of an intermediary's license status are not known.</p> |
| Recommendation | <p>Require all insurers and intermediaries to disclose the fact that they are regulated and by whom (e.g. in sales materials and on the Internet).</p> <p>ISSM may also want to also publish the names of individual agents and insurance promoters on its website eventually.⁵³</p> |

⁵² Available at <http://www.issm.gov.mz/index.php/en/>

⁵³ It is understood that these names have now been published and is updated as and when required: see www.issm.gov.mz

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| Good Practice B.8 | <p><i>Disclosure of Financial Situation</i></p> <ul style="list-style-type: none"> a. The regulator or supervisor should publish annual public reports on the development, health, strength and penetration of the insurance sector either as a special report or as part of the disclosure and accountability requirements under the law governing it. b. Insurers should be required to disclose their financial information to enable the general public to form an opinion with regards to the financial viability of the institution. c. If credible claims paying ability ratings are not available, the regulator or supervisor should periodically publish sufficient information on each insurer for an informed commentator or intermediary to form a view of the insurer's relative financial strength. |
| Description | <p><i>Paragraphs (a) – (c)</i></p> <p>ISSM published one annual report on the development and status of the insurance sector in 2012 on its website, where it also published quarterly reports for Q1 and Q2/2014 (however they have now been removed from the website).⁵⁴ While the annual report provides consolidated figures on premium, assets, liabilities and other key figures for the industry (and a comparison with other markets in the region), it provides no company-specific information beyond their respective market shares in life and non-life insurance. The quarterly reports provide more detailed information for every insurer, including claims payments and reinsurance cessions, although no information is provided on the insurers' relative financial strength.</p> <p>There is no legal requirement for ISSM to publish information allowing the public to assess each insurer's relative financial strength. It only has to publish in national newspaper actions taken in relation to an insurer's insufficiency of financial guarantees if they might affect the rights of third parties.</p> <p>Every insurance company, however, has to publish a range of information in national newspapers, including profit and loss accounts and balance sheets as well as the auditor's opinion.</p> <p>A possible impediment to ISSM publishing quarterly reports (or a summary) is Article 135 of Decreto No. 30/2011 which is to the effect that ISSM's staff may not communicate any confidential information received in the line of work to any person or authority, except in summary or aggregate and in such a way that insurers and intermediaries cannot be individually identified. This provision should be clarified with a view to allowing ISSM to provide more information and transparency.</p> |

⁵⁴ <http://www.issm.gov.mz/index.php/en/>

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| Recommendation | <p>ISSM should publish its annual reports on a timely basis and also consider publication of quarterly reports of insurers. Article 135 of Decreto No. 30/2011 should be clarified with a view to allowing ISSM to provide more information and transparency.</p> <p>While not urgent for today's market, it is recommended that ISSM consider, in consultation with the insurance industry and other stakeholders such as consumer protection agencies, how to measure, monitor and publish information about every insurer's financial viability, so that customers will be supported in making well informed purchase decisions once the retail market for voluntary insurance develops. Interesting examples are provided by Brazil⁵⁵, Peru⁵⁶ and Colombia⁵⁷.</p> <p>But other information is just as important for consumers to make well informed choices, for example regarding claims rejection rates, claims ratios, claims turnaround time, and commission ratio (see recommendation to Good Practice A.5).</p> |
| SECTION C | CUSTOMER ACCOUNT HANDLING AND MAINTENANCE |
| Good Practice C.1 | <p><i>Customer Account Handling</i></p> <ol style="list-style-type: none"> a. Customers should receive periodic statements of the value of their policy in the case of insurance savings and investment contracts. For traditional savings contracts, this should be provided at least yearly, however more frequent statements should be produced for investment-linked contracts. b. Customers should have a means to dispute the accuracy of the transactions recorded in the statement within a stipulated period. c. Insurers should be required to disclose the cash value of a traditional savings or investment contract upon demand and within a reasonable time. In addition, a table showing projected cash values should be provided at the time of delivery of the initial contract and at the time of any subsequent adjustments. d. Customers should be provided with renewal notices a reasonable number of days before the renewal date for non-life policies. If an insurer does not wish to renew a contract it should also provide a reasonable notice period. e. Claims should not be deniable or adjustable if non-disclosure is discovered at the time of the claim but is immaterial to the proximate cause of the claim. In such cases, the claim may be adjusted for any premium shortfall or inability to recover reinsurance. f. Insurers should have the right to cancel a policy at any time (other than after a claim has occurred – see above) if material non-disclosure can be established. |
| Description | <p><i>Paragraph (a)</i></p> <p>The ICL requires that policyholders of life insurance receive annual statements about their entitlement to profit sharing. For certain types of life insurance such as unit linked contracts, customers also have to be informed of changes to the surrender values when they no longer correspond to initial projections, but the law does not specify</p> |

⁵⁵ <http://www.susep.gov.br/menu/estatisticas-do-mercado/boletins-estatisticos> last visited Jan 13, 2015

⁵⁶ <http://www.sbs.gob.pe/app/stats/EstadisticaBoletinEstadistico.asp?p=25#> last visited Jan 13, 2015

⁵⁷ <https://www.superfinanciera.gov.co/jsp/loader.jsf?Servicio=Publicaciones&ITipo=publicaciones&Funcion=loadContenidoPublicacion&id=61137#> Información periódica last visited Jan 13, 2015

how frequently this needs to be done. Insurance companies who do not comply with this will be held "responsible for losses"⁵⁸.

Paragraph (b)

There is no provision in the law for contestability or customer disputes concerning these statements.

Paragraph (c)

For life insurance, insurers are required to provide, prior to inception, projections of surrender values (including surrender penalties), assumptions used for projections of contracts with variable sums such as unit linked insurance, guaranteed minimum yields including disclosure of guaranteed interest rates and duration of such guarantees⁵⁹. It has to be documented that the policyholder took notice of this information. The policy conditions also have to contain information about guarantees and projected cash values⁶⁰. Furthermore, the law requires that insurers have to provide policyholders with all additional information that they require and that proves necessary for the effective understanding of the contract⁶¹.

The ICL also requires that guaranteed minimum interest rates, surrender values and surrender penalties are provided as appropriate before a life insurance contract can begin, but it does not provide guidance on how these values can be calculated.

Paragraph (d)

The ICL stipulates that, unless otherwise agreed, insurance contracts have a duration of one year⁶², and that insurance contracts with duration of one year are automatically renewed by subsequent one year periods⁶³, subject to the payment of the corresponding premium (this has to be explained in the insurance policy). It also requires insurers to remind customers of due premium payments at least 30 days in advance⁶⁴. If an insurer cannot prove this reminder has been sent in time, the provider cannot contest subsequent claims on the basis of non-payment of claims. There is no obligation to provide other renewal notices beyond what is described in Paragraphs (a) to (c).

Paragraph (e)

If non-disclosure due to negligence is detected, the insurance company has to propose a corresponding contract alteration to the policyholder, or prove that the risk would not have been accepted if full disclosure had been made. If a claim occurs before the policyholder has accepted the amended contract, the claims payment is reduced in the same proportion that the premium paid falls short of the premium that would have been charged under full disclosure (unless the insurer proves that the risk would not have been accepted if full disclosure had been made)⁶⁵. Intentional initial non-disclosure voids the insurance contract⁶⁶, but the law does not specify what happens if immaterial non-disclosure is discovered after a claim.

Paragraph (f)

Article 96 of the ICL allows insurers to declare an insurance contract void if the policyholder has deliberately violated his duties of disclosure; the insurer is entitled to keep the premium in these cases. The law does not differentiate if the non-disclosure is material or not to the insured risk.

⁵⁸ Decreto-Lei No. 1/2010 Article 232

⁵⁹ Decreto-Lei No. 1/2010 Article 231

⁶⁰ Decreto-Lei No. 1/2010 Article 235

⁶¹ Decreto-Lei No. 1/2010 Article 233

⁶² Decreto-Lei No. 1/2010 Article 115

⁶³ Decreto-Lei No. 1/2010 Article 116

⁶⁴ Decreto-Lei No. 1/2010 Article 129

⁶⁵ Decreto-Lei No. 1/2010 Article 97

⁶⁶ Decreto-Lei No. 1/2010 Article 96

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| Recommendation | <p>ISSM should work towards further specification of non-disclosure rules in the law or through subordinate norms or guidance. For example, non-disclosure of immaterial facts should be addressed more specifically than in Article 95 of the ICL (which prevents the insurer to contest cover based on missing, imprecise or contradictory answers to underwriting questions unless they reflect bad faith).</p> <p>ISSM should also provide clarification of how prospective insurance customers have to be informed of their duty to disclose all relevant information and of the consequences if they fail to comply, for example by requiring suitable standard wording to be used by all insurers.</p> <p>Guidance should be provided in respect of possibilities customers have to dispute the accuracy of their periodic policy statements (for example concerning surrender values). Further clarification is also required for the automatic renewability of annual contracts and for customers' ability to unilaterally cancel multi-year contracts.</p> |
| SECTION D | PRIVACY & DATA PROTECTION |
| Good Practice D.1 | <p><i>Confidentiality and Security of Customers' Information</i></p> <p>Customers have a right to expect that their financial transactions are kept confidential. Insurers should protect the confidentiality and security of personal data, against any anticipated threats, or hazards to the security or integrity of such information, and against unauthorized access.</p> |
| Description | <p>The ICL mandates that insurers (including all their agencies, personnel and intermediaries) observe the confidentiality of any information it has received in relation to an insurance contract, before, during and after the duration of the contract and also if the contract does not materialize. It is very clear about this⁶⁷, and insurers interviewed were in no doubt about their obligations. In addition, the confidentiality of customer data is often also addressed in the international codes of conduct of insurers or brokers belonging to multinational groups, and audited through group-wide internal mechanisms. The Insurance Regulation further requires that all intermediaries observe professional confidentiality, in relation to third parties, concerning any information disclosed to them in their function as insurance intermediaries⁶⁸. However, there is no general data protection law in Mozambique that would clearly define liability for misuse of personal data.</p> |
| Recommendation | <p>While the regulation concerning confidentiality of insurance customer data is good, and it should be left primarily to internal and external auditors to assess the mechanisms put in place by every insurer and intermediary to protect customer information, ISSM should also review them during on-site inspections. That is consistent with ISSM's role as supervisor, and the corresponding expertise and procedures should be developed. If such inspection (or any other source of information) casts doubts upon the efficacy of data protection, ISSM has to intervene.</p> <p>When Mozambique enacts a Personal Data Protection Law (see recommendation in Good Practice D.1 Banking Sector, CPFL Diagnostic 2012 Comparison with Good Practices), the particularities of insurance should be taken into consideration with due consultations with the industry, ISSM and consumer protection agencies.</p> |

⁶⁷ Decreto-Lei No. 1/2010 Article 168

⁶⁸ Decreto No. 30/2011 Article 98

| SECTION E | DISPUTE RESOLUTION MECHANISMS |
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| Good Practice E.1 | <p><i>Internal Dispute Settlement</i></p> <ul style="list-style-type: none"> a. Insurers should provide an internal avenue for claim and dispute resolution to policyholders. b. Insurers should designate employees to handle retail policyholder complaints. c. Insurers should inform their customers of the internal procedures on dispute resolution. d. The regulator or supervisor should investigate whether insurers comply with their internal procedures regarding consumer protection. |
| Description | <p><i>Paragraph (a)</i></p> <p>The ICL requires that insurers inform prospective clients of avenues to make complaints, but the wording is rather unspecific. One possible translation of "<i>apreciação das reclamações feitas no âmbito do contrato</i>" is "<i>consideration of complaints filed under the contract</i>", and this interpretation is supported by the second half of the sentence which translates without ambiguity as "<i>including reference to the possible intervention of the insurance supervisor</i>"⁶⁹. The policy conditions furthermore have to mention the applicable law, arbitration conditions and the competent forum to settle any disputes⁷⁰. There is no requirement that insurers provide an internal avenue for claim and dispute resolution. In practice, however, insurance companies follow their internal procedures for complaints handling, which are not documented in writing in most cases and not disclosed to customers.</p> <p>Given that the numbers of complains have been low and the nature of complaints often harmless (examples discussed include delays in transacting applications or issuing documents), ISSM has not yet investigated insurers' CP procedures and the adherence to them.</p> <p><i>Paragraph (b)</i></p> <p>Insurers don't usually rely on particular employees designated to handle retail policyholder complaints, as the number of complaints has been too low to motivate greater specialization. The majority of complaints is said to relate to administrative aspects like delays in transacting applications or issuing documents, which are handled by the corresponding department within the insurer.</p> <p>Brokers and agents constitute the first line of recourse to address differences of opinion. Customers have to be informed that they can direct their complaints to ISSM, but they rarely do.</p> <p><i>Paragraph (c)</i></p> <p>Insurers currently do not inform their customers of the internal procedures on dispute resolution. As brokers and agents constitute the first line of recourse to address differences of opinion, customers generally turn to them first.</p> |

⁶⁹ Decreto-Lei No. 1/2010 Article 91

⁷⁰ Decreto-Lei No. 1/2010 Articles 103, 193 for property insurance and 235 for life insurance

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| | <p>Paragraph (d)</p> <p>It is unknown whether ISSM has already developed procedures and standards to investigate whether insurers comply with their internal procedures regarding consumer protection. Since the law and regulations so far do not require insurers to provide an internal avenue for claim and dispute resolution, designate employees to handle complaints or inform their customers of the internal procedures on dispute resolution, ISSM currently does not have a regulatory basis to enforce this.</p> |
| <p>Recommendation</p> | <p>For Mozambique to comply with this Good Practice, ISSM should implement a suitable regulation requiring insurers to provide an internal avenue for claim and dispute resolution, designate employees to handle complaints, and inform their customers of the internal procedures on dispute resolution. Once implemented, ISSM should supervise its effectiveness and develop procedures and standards to monitor its compliance.</p> <p>A good first step would be for ISSM to become familiar with every insurer's internal procedures regarding consumer protection, and start supervising compliance with them. This could lead to the emergence of country specific best practices to take into consideration when drafting and discussing the corresponding regulation, and such an approach may find better support from the industry.</p> <p>Meanwhile, ISSM may want to investigate the reasons for the low number of complaints, by compiling appropriate statistics with data to be provided by the insurers, and by discussing with insurers and brokers but also contacting customers who had disputes. The findings should be put into a report suited to inform both the industry and the public, and disseminated accordingly. If it finds that there are few reasons for disputes because for example the ICL pre-empts many sources of conflict or because insurers in Mozambique have high standards of customer orientation, disseminating that finding will contribute to the public's trust in the industry. If, on the other hand, weaknesses are found, they should be addressed – this proactive approach will also grow the public's confidence in ISSM.</p> <p>Furthermore, ISSM should start collecting meaningful complaints statistics (by cause, by outcome etc.) on a regular basis⁷¹. It should develop a procedure to analyze them and monitor progress towards the desired benchmarks, and establish procedures to disseminate with the industry and eventually with the public.</p> <p>In the longer term ISSM should who should maintain a consolidated database of complaints that could help the regulator in identifying vulnerabilities as follows: (i) the medium of complaints; (ii) the institution that received the complaint; (iii) breakdown of complaints by types of institutions ,industry and province; (iv) the time taken to resolve the complaints; (v) the issues complained about; (vi) the time taken to resolve; (vi) number of complaints that were not resolved; (vii) policy changes based on complaints ; and (viii) literacy efforts directly related to analysis of complaints.</p> <p>In any case, clear information about available complaints handling procedures should be included in the Key Facts Statement (see Good Practice B.5).</p> |

⁷¹ Examples of how other countries compile and publish such information can be seen here

<https://www.superfinanciera.gov.co/jsp/loader.jsf?!Servicio=Publicaciones&ITipo=publicaciones&IFuncion=loadContenidoPublicacion&id=11130> and here http://www.sbs.gob.pe/0/modulos/jer/jer_interna.aspx?are=0&pfl=1&jer=1419 (both last visited Dec 15th 2014)

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| Good Practice E.2 | <p><i>Formal Dispute Settlement Mechanisms</i></p> <ol style="list-style-type: none"> a. A system should be in place that allows consumers to seek affordable and efficient third-party recourse, which could be an ombudsman or tribunal, in the event the complaint with the insurer cannot be resolved to the consumer’s satisfaction in accordance with internal procedures. b. The role of an ombudsman or equivalent institution <i>vis-à-vis</i> consumer disputes should be made known to the public. c. The ombudsman or equivalent institution should be impartial and act independently from the appointing authority and the industry. d. The decisions of the ombudsman or equivalent institution should be binding upon the insurers. The mechanisms to ensure the enforcement of these decisions should be established and publicized. |
| Description | <p><i>Paragraphs (a) – (d)</i></p> <p>There is no financial services ombudsman in Mozambique today. Insurance policy conditions inform customers (in varying degrees of detail in respect of composition, duration and incontestability for example) that arbitration can be used to resolve grievances. Customers are also in theory able to approach consumer protection agencies or ISSM for support; however this rarely happens. No more than 10 customers per year have addressed their complaints to ISSM directly. The number of cases that have been taken to the courts is similarly limited; the reasons explained in the 2012 Volume II CPFL Report (Good Practice E.2 for the Banking Sector) apply equally to insurance customers.</p> <p>The CP Law provides for the establishment of consumer arbitration centers (which are intended to be free to consumers) but no action has to date been taken to establish such centers. There is also a Center for Arbitration Mediation and Conciliation (CAMC) but it is not used for consumer disputes. See Securities Sector Good Practice E.2 for further details.</p> |
| Recommendation | <p>In the shorter term, it is recommended that there be established within ISSM dedicated resources for considering consumer complaints and that ISSM analyze and publish complaints statistics. Relevant staff should be appropriately trained and of a number which is built up over time as the market for insurance and private pensions develops. ISSM could provide further guidance on dispute resolution mechanisms, obliging financial institutions to proactively inform consumers of the right to complain and how to proceed in the case of a dispute, particularly if retail market develops.</p> <p>ISSM should also require the entities they supervise to report complaints statistics to ISSM, who should in turn analyze the statistics for systemic issues (as well as checking compliance with regulatory requirements).</p> <p>In the longer term, it is suggested that Mozambique considers options for the development of an independent third party external dispute resolution scheme, which would apply to all parts of the financial sector.</p> <p>Consideration could, for example, be given to the establishment of a financial ombudsman service. The recommendations 2012 Volume II CPFL Report (<i>see</i> Good Practice E.2 Banking Section) discuss the legal foundations, possible ways to establish and fund such a service, governance and corresponding international standards.</p> <p>Another option which might be considered is the establishment of the Consumer Arbitration Centers provided for in the CP Law.</p> <p>Examples from other jurisdictions should be shared and discussed with stakeholders in Mozambique. In some countries such as Estonia, it was the insurance association</p> |

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| | who set up a mediator service for dispute resolution. South Africa, where separate ombuds-services have been set up for short term ⁷² and long term insurance ⁷³ , and for pensions ⁷⁴ , provide good examples from a neighboring country. Once a preferred model finds consensus, a road map to implementation can be determined and executed. |
| SECTION F | GUARANTEE SCHEMES AND INSOLVENCY |
| Good Practice F.1 | <p><i>Guarantee Schemes and Insolvency</i></p> <ul style="list-style-type: none"> a. With the exception of schemes covering mandatory insurance (and possibly long-term insurance), insolvency guarantee schemes are not to be encouraged for insurance because of the opaque nature of the industry and the scope for moral hazard. Strong governance and prudential supervision are better alternatives. b. Nominal defendant arrangements should be in place for mandatory insurances such as motor third party liability insurance to cover situations where there is no insured guilty party. c. Assets covering life insurance mathematical reserves and investment contract policy liabilities should be segregated or at the very least earmarked, and long-term policyholders should have preferential access to such assets in the event of a winding-up. |
| Description | <p><i>Paragraph (a)</i></p> <p>There are no insolvency guarantee schemes for insurance in Mozambique. Liquidation of insurance companies follows the general procedures for commercial companies specified in the Commercial Code except for specific stipulations of the insurance law, which protects the assets covering technical reserves from any third party creditors, and any "legislation that regulates insurance activity, especially at the level of financial guarantees and protection of interests of policyholders, the insured and the insurance creditors in general". No such legislation has been issued beyond Decreto-Lei No. 1/2010 and Decreto No. 30/2011 in respect of orderly resolution of insurance companies. The regulatory framework specifies methods for the calculation of life insurance mathematical reserves and requires that they are certified by an actuary.</p> <p><i>Paragraph (b)</i></p> <p>There are no nominal defendant arrangements for mandatory insurances to cover situations where there is no insured guilty party. While this is not a pressing issue for mandatory workers' compensation insurance and sportsmen insurance which are easier to enforce, it is an issue for motor third party liability insurance because it is estimated that only half of all vehicles in circulation actually have this insurance. Furthermore, car insurance is often the "face" of a country's insurance industry, because it is the most prevalent type of insurance among individuals and households, and even those who don't have cars often form their opinion of the insurance industry's reliability based on others' experience with this line of business.</p> <p><i>Paragraph (c)</i></p> <p>Article 26 (3) to (5) of Decreto-Lei No. 1/2010 provided for the segregation of assets as follows:</p> <p>"3. <i>The assets representative of the technical provisions constitute a special patrimony that guarantees specially the credits arising from contracts or insurance</i></p> |

⁷² <http://www.osti.co.za/>

⁷³ <http://www.ombud.co.za/>

⁷⁴ <http://www.pfa.org.za/>

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| | <p><i>operations, which cannot be detached or seized, except for the payment of those same credits.</i></p> <p>4. <i>The assets referred-to in the previous paragraph must, in no circumstance, be given to third parties as guarantees, regardless of the legal form to be conferred to such a guarantee.</i></p> <p>5. <i>In case of liquidation, the criteria referred-to in paragraph 3 enjoy preferential claims in relation to movable and immovable assets which represent technical provisions, and are ranked in the first place' .</i></p> <p>These provisions would seem to apply to both new life insurers and to existing composite insurers.</p> |
| Recommendation | <p>Because of the importance that motor insurance has for the image and reputation of the insurance industry among the general public, and because accidents with uninsured or unidentifiable motorists can have disastrous consequences for individuals of all social segments, it is recommended that Mozambique considers the establishment of a guarantee fund to cover such injuries and deaths. At the same time, greater effort would be justified to enforce 100% coverage of mandatory motor third party liability insurance.</p> |
| SECTION G | CONSUMER EMPOWERMENT |
| Good Practice G.1 | <p><i>Broadly based Financial Capability Program</i></p> <ol style="list-style-type: none"> a. A broadly based program of financial education and information should be developed to increase the financial capability of the population. b. A range of organizations—including government, state agencies and non-governmental organizations—should be involved in developing and implementing the financial capability program. c. The government should appoint an institution such as the central bank or a financial regulator to lead and coordinate the development and implementation of the national financial capability program. |
| Description | <p><i>Paragraphs (a) to (c)</i></p> <p>There are a number of strategic initiatives currently addressing financial education in Mozambique. The government's Financial Sector Development Strategy 2013–2022 includes activities to promote financial literacy, such as financial education campaigns to be disseminated through media and financial education material to be used in schools. It documents the government's commitment to financial inclusion as signaled by the signing of the Maya Declaration in 2012. It is understood that financial literacy will also be covered by Mozambique's Financial Inclusion Strategy which is in the process of development with the support of the World Bank's FISF Program. The FISF program includes the promotion of financial literacy among its objectives.</p> <p>ISSM also has a new Financial Literacy Strategy for Insurers 2014-2018 which, in addition to providing for print material and seminars, also includes capacity building for journalists and collaboration with schools in the development of insurance teaching material. It recognizes the need to coordinate with a considerable number of stakeholders as well as the need for corresponding resources. It also acknowledges the potential to include suitable insurance related teachings in school curricula, so that young adults become familiar not only with insurance as a financial service that can be of value to them, but also as a potential employer. This will be important as (micro) insurance grows into new socioeconomic segments of population that will need to be serviced by more insurance staff, ideally with a similar background.</p> |

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| | <p>At present, it is not entirely clear how the various initiatives are coordinated, nor who is responsible to lead and coordinate their implementation.</p> <p>It is encouraging, however, that informal risk pooling and sharing mechanisms are familiar to many more Mozambican than those who use insurance today, and so they will understand the basics of insurance if properly framed.</p> |
| Recommendation | <p>There should be consultation and coordination between relevant stakeholders in developing and implementing Mozambique's Financial Inclusion Strategy, including aspects related to financial literacy, and also in relation to the implementation of the ISSM Financial Literacy Strategy.</p> <p>Mozambique's commitment to financial inclusion – including the increase of financial capability – is most encouraging, and reflects the fact that the 2015 Global Policy Forum of the Alliance for Financial Inclusion will be hosted in this country. The diversity of initiatives by various stakeholders and the availability of donor funding is also promising. To achieve the best results, coordination between all stakeholders should start as soon as possible.</p> <p>Ideally, any initiative for financial literacy / capability should coordinate with any initiative to systematically develop microinsurance. Mozambique put in place regulation for microinsurance, contained in the Insurance Law and Insurance Regulation to be complemented by upcoming notifications; but that is only a necessary condition, and not in itself sufficient to develop a market for inclusive insurance. That usually needs coordinated effort, and insurance awareness and capability plays a key role.</p> |
| Good Practice G.2 | <p><i>Unbiased Information for Consumers</i></p> <ol style="list-style-type: none"> a. Consumers, especially the most vulnerable, should have access to sufficient resources to enable them to understand financial products and services available to them. b. Financial regulators should provide, via the internet and printed publications, independent information on the key features, benefits and risks—and where practicable the costs—of the main types of financial products and services. c. Non-governmental organizations should be encouraged to provide consumer awareness programs to the public regarding financial products and services. |
| Description | <p><i>Paragraph (a)</i></p> <p>Consumers – especially emerging customers outside of the social segments currently served by insurance – today do not have access to all the information that would help them make well informed decisions. On the one hand, the insurance sector in Mozambique is focused on commercial customers who often have considerable expertise for the purchase of their specific insurance programs. On the other hand, customers are served by agents and brokers expected (and required by law) to provide consumers with the information they need. However little voluntary insurance is purchased by individuals so far. Hence investment in helping the general public better understand insurance has not been a priority, apart from the compliance with mandatory car insurance.</p> <p><i>Paragraph (b)</i></p> <p>Being a new institution, ISSM has only just started to provide customers with information via their website that is available since December 2014. The website provides basic educational material on insurance in general and on mandatory motor third party liability insurance (Q&As and glossaries). It also lists all licensed insurers, pension funds, brokers and corporate agents, provides some key figures on the market and on every insurer, and information about ISSM. But the information displayed so far only shows the relative sizes and market shares of the various insurers, and offers</p> |

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| | <p>no further performance indicators related to financial stability, operational efficiency and service quality, which could help proactive insurance clients choose between insurers.</p> <p>Paragraph (c)</p> <p>With support of the German Development Agency GTZ, the AMOMIF produced the “ABC of insurance” (and similar brochures on savings and on investments) following the template developed by GTZ for Ghana and the Philippines in 2009, but adapting it to Mozambique. These basic brochures in short and longer versions are available in the offices of AMOMIF and of the consumer protection association DECOM. They constitute an encouraging example of consumer awareness initiative, but must have been produced before 2010 when GTZ renamed to GiZ. Instead of ISSM, for example, the brochures mention the Comissão Nacional de Seguros, ISSM’s predecessor.</p> <p>Public radio and television networks are required by the CP Law to reserve airtime (under terms yet to be defined by law) for promoting consumer rights and interests⁷⁵.</p> |
| <p>Recommendation</p> | <p>If Mozambique wants insurance to be used not only by industry and corporations but also by households beyond mandatory car insurance and loan-related insurance, trustworthy and useful information to help prospective customers develop trust in the industry, develop competence with insurance concepts, and make well informed decisions will be of paramount importance. It will be even more important if Mozambique wants to see microinsurance thrive and serve clients whose financial literacy in general is lower, and often also their familiarity with formal services. It is most encouraging to see that ISSM has established itself as a reputed and well-resourced center of competence in insurance, and that ISSM has a clear strategy of insurance education that include outreach to consumers via helplines and physical presence.</p> <p>The above efforts can and should be supported by creating ongoing transparency about the insurers’ products and performance. ISSM should consider the examples of other countries like Peru who publish premiums for e.g. mandatory car insurance online⁷⁶ as well as the number of complaints by insurer⁷⁷. (Peru is also an excellent example of insurance education provided by the supervisor⁷⁸.) Other examples of supervisors that publish performance indicators such as claims ratios and complaints for every insurer are Brazil⁷⁹ and Colombia⁸⁰.</p> <p>In more developed markets, the availability of detailed information about insurers’ products and service indicators is considered to be necessary for intermediaries to comply with their mandate to provide best advice to customers, and if such data is not provided by supervisors, it is provided by private entities. (If such data is provided by supervisors⁸¹, private entities sometimes provide greater degree of detail).⁸² Shedding light on insurers’ products and performance not only increases the understanding and confidence of consumers – and their trust in ISSM who would provide such data – but it also provides a natural benchmarking where insurance companies who perform poorly on some relevant indicator are strongly motivated to improve. It is often not welcome by the industry initially, and ISSM deserves every support to convince Mozambican insurers, collect and analyze the necessary information, and make it</p> |

⁷⁵ CP Law Article 9

⁷⁶ See http://www.sbs.gob.pe/download/TipoTasa/files/00099_1_15.htm last visited Dec 15th 2014

⁷⁷ See http://www.sbs.gob.pe/0/modulos/jer/jer_interna.aspx?are=0&pfl=1&jer=1419 last visited Dec 15th 2014

⁷⁸ See http://www.sbs.gob.pe/0/home_educacion.aspx last visited Dec 15th 2014

⁷⁹ See http://www2.susep.gov.br/menuestatistica/SES/resp_premiosesinistros.aspx last visited Dec 15th 2014

⁸⁰ See https://www.superfinanciera.gov.co/jsp/loader.jsf?IServicio=Publicaciones&ITipo=publicaciones&IFuncion=loadContenidoPublicacion&id=1113_0 last visited Dec 15th 2014

⁸¹ For Germany for example see

http://www.bafin.de/SharedDocs/Downloads/DE/Statistik/Erstversicherer/dl_st_13_erstvu_lv_va.pdf?__blob=publicationFile&v=2 last visited Dec 15th 2014

⁸² For Germany for example see <http://www.morgenundmorgen.com/en/> and <https://www.test.de/Autoversicherung-Guenstige-Tarife-fuer-Ihr-Fahrzeug-1575560-0/#> last visited Dec 15th 2014

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| | available to the public in suitable ways. Information published on the supervisor's website is an excellent start, but depending on the access that the different socioeconomic populations have to internet and mass media in the country, other means to share vital information need to be explored as well. |
| Good Practice G.3 | <p><i>Measuring the Impact of Financial Capability Initiatives</i></p> <ul style="list-style-type: none"> a. Policymakers, industry and advocates should understand the financial capability of various market segments, particularly those most vulnerable to abuse. b. The financial capability of consumers should be measured through a broad-based household survey that is repeated from time to time. c. The effectiveness of key financial capability initiatives should be evaluated. |
| Description | <p><i>Paragraph (a)</i></p> <p>The 2014 World Bank report on Financial Capability and Inclusion⁸³ documents the findings of a thorough survey among over 3,000 adults representative of the country's financially active population. It provides a wealth of insights and numerous recommendations, and confirms the findings of the FinScope Mozambique 2009 Survey Report⁸⁴. FinScope interviewed a representative cross-section of more than 5,000 adult Mozambicans comprehensively about their financial behavior, familiarity with financial terminology, and use of financial services, resulting in detailed insights into Mozambiqueans' awareness and use of formal insurance as well as informal insurance-like services such as funeral mutual assistance funds. Among other findings, the report shows that more than half of the interviewed had never heard of insurance. The research has been updated in 2014 and the FinMark Trust has announced the launch of the results of FinScope Mozambique Consumer Survey 2014 (the date is to be confirmed).</p> <p><i>Paragraph (b)</i></p> <p>The only broad-based household survey on financial capability of consumers that is repeated from time to time is the FinScope survey. It does not, however, follow the same panel of households. And its frequency may be outside the control of the Government of Mozambique, considering also that the cost of such surveys and their evaluation is considerable.</p> <p><i>Paragraph (c)</i></p> <p>No assessment of the effectiveness of insurance capability initiatives has been conducted so far. Such initiatives are resource-intensive and impact assessments from other countries tell a cautionary tale⁸⁵ about effectiveness, so monitoring and evaluation are important. Although there is an increasing body of documented experience from other countries' microinsurance development that can guide Mozambique in respect of emerging customers (micro or otherwise), caution is required when attempting to transfer lessons on financial and insurance capabilities – and the impact of initiatives to strengthen them – from one country to another.</p> |

⁸³ Enhancing Financial Capability and Inclusion in Mozambique - A Demand-Side Assessment (August 2014)

⁸⁴ FinScope Mozambique Survey 2009 – Survey Report (August 2009)

⁸⁵ See for example http://www.ilo.org/public/english/employment/mifacility/download/brnote3_en.pdf, <http://www.microinsurancefacility.org/emerging-insights/ei92> and <http://www.cnseq.org.br/cnseq/microseguro/projeto-estou-seguro/>

last visited Dec 15th 2014

INSURANCE SECTOR

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| Recommendation | <p>Ideally regular household financial capability surveys would be held to monitor progress in financial literacy levels.</p> <p>ISSM should also develop a framework to assess the impact of insurance capability initiatives, in close coordination with BdM. While cooperating on the overall effort, ISSM should be responsible for the insurance aspects of financial capability, initiatives, and their impact evaluation.</p> <p>To include also the private sector initiatives, the Banking Sector Good Practice in the 2012 CPFL Review recommends establishing a common website where government authorities, consumer organizations and industry associations could upload their financial education materials for consumers and discuss the effectiveness of various approaches⁸⁶.</p> |
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⁸⁶ MOZAMBIQUE Diagnostic Review of Consumer Protection and Financial Literacy (Volume I Key Findings and Recommendations December 2012)

III. GOOD PRACTICES: PRIVATE PENSIONS SECTOR

OVERVIEW OF THE PRIVATE PENSIONS MARKET

Over and above basic social protection, mandatory pension coverage in Mozambique is limited to the small number of formal sector workers, with private, supplementary schemes just starting to develop.

Pensions are provided only to formal sector workers, mainly through the public sector and Bank of Mozambique pension schemes and through the mandatory social security scheme for private workers managed by INSS. A small number of employers offer supplementary, occupational pension schemes for their staff, and open pension funds run by external providers are starting to develop. Basic social protection also exists for the most vulnerable elderly, through the proxy means tested, Programa de Subsido Social Basico (PSSB), a social pension providing between USD10-USD18 a month to approximately 400,000 households.

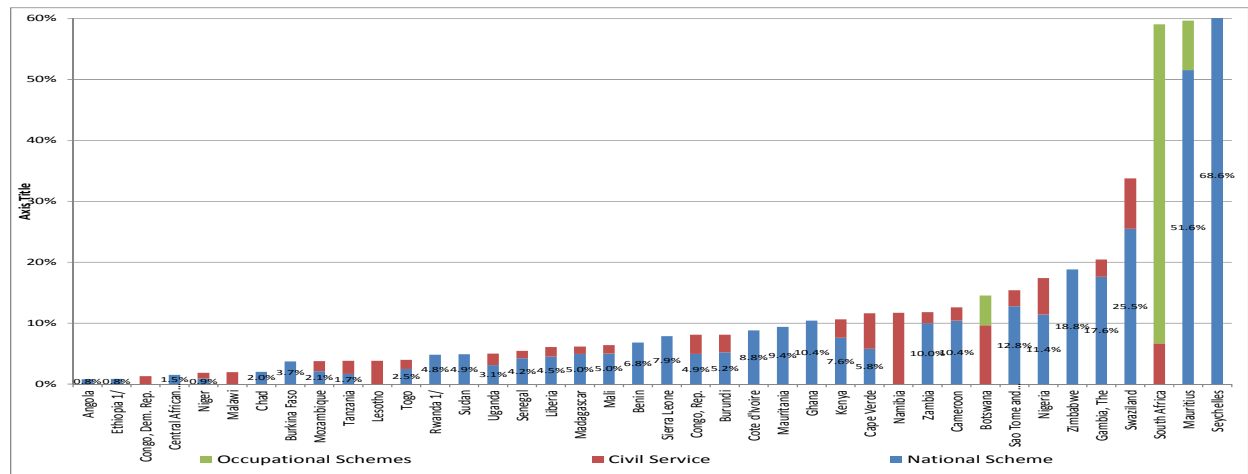
Table 5: Pension System in Mozambique*

| | Nature of Scheme | Coverage | Assets USD mln |
|--|----------------------------|---------------------------------|--------------------------|
| Civil Servants and State Agents Social Protection System,(CSSASPS) | Public sector - mandatory | 380,000 | N/A – currently unfunded |
| Bank Mozambique Pension Scheme | Public sector - mandatory | 1,500 | 300 |
| INSS | Private sector – mandatory | 1.24 mln** | 400 |
| Occupational Pension Schemes (open and closed) | Private sector – voluntary | 20,000 | 150 |
| Total | | 1.64 million (7% population) | 850 (5% GDP) |

*World Bank estimates as of November 2014

**INSS total registered participants (active and retirees). In practice, contributions are only being received for 400,000 members and pensions paid to around 50,000.

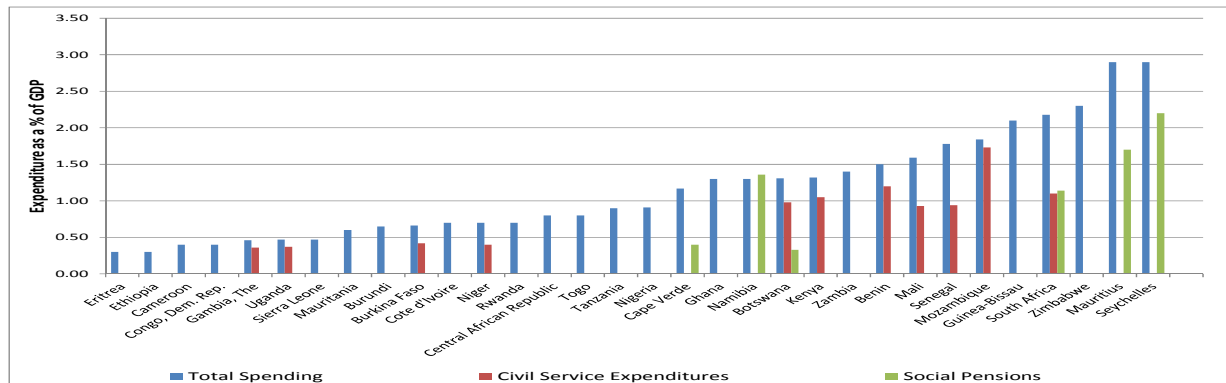
Figure 2: Pension Coverage of Labour Force



Sources: World Bank Pensions Database, ILO.

The public sector scheme (CSSASPS) is currently managed directly by the Ministry of Finance, with an independent, contributory, pension fund due to be established in 2015. The scheme covers 250,000 active public sector workers (central and local government, teachers, police, military etc.) and 130,000 pensioners and other beneficiaries (90,000 from the military). It is a defined benefit (DB) scheme, with generous benefits⁸⁷ providing 100% replacement rate after 35 years of service. Parametric reforms will be needed to maintain the stability of the fund over the long-term.⁸⁸ The new scheme will be managed by the recently established Institute. In addition to employees contributing 7% of salaries to the scheme (which covers current benefits payments), the government, as employer, will also start to contribute a similar amount to the scheme. The fund will build surpluses in the initial years of operation, and the management of these assets will need careful governance and oversight given it will quickly grow to be one of the largest funds in the country. Whether existing workers or only new hires will join the scheme is yet to be established (and the potential impact on the government budget needs to be assessed).⁸⁹

Figure 3: Pension spending (% GDP – late 2000s)



Source: World Bank database.

The Bank of Mozambique pension fund is one of the largest in the country, but remains outside the new pension regulations. The Bank of Mozambique scheme for central bank employees has only 1500 members but large assets (USD 300 million), which are mainly invested in bank deposits. Though under the supervision of ISSM, this fund is not subject to investment and other regulations. The fund was cash flow negative at the time of the CPFL Review mission (receiving 92 million MT in contributions whilst paying out 400 million MT, with the difference covered by ‘special contribution’ from the Central Bank employer).

The INSS also requires parametric reforms to maintain financial stability over the long-term and needs to continue to address the issue of non-payment of contributions, particularly as coverage is extended to self-employed groups. The INSS is meant to cover all formal sector workers (estimated at 1.5 million out of total labor force of 10 million). However only 1.2 million individuals were registered as of September 2014. In practice, contributions are only being paid on behalf of 400,000 members, with pensions paid to 56,000 individuals. INSS management team confirmed that they have stepped up the campaign to enforce contribution payment by employers (through visiting offices and

⁸⁷ Parameters, including the accrual rate of 2.87%, pensions based on final salary and indexed to wages, are generous by regional and international comparisons.

⁸⁸ An actuarial assessment of the fund was carried out in 2011 by the ILO. This estimated that a long-run contribution rate of 20.9% is needed to maintain the financial security of the fund.

⁸⁹ Administrative upgrades to move from manual to electronic records, and a through data cleaning exercise are needed before migrating data to the new scheme. This should help with issues around delayed payments of benefits (which can take up to 6 months to be received) and ‘ghost’ pensioners in the system.

threatening fines) – including the remittance of withheld individual contributions paid by employees but not transferred to the fund by their employers. Though not a direct consumer protection issue, this is a key aspect of member protection within the INSS scheme. Coverage is being extended to select groups of self-employed workers (i.e. those organized via associations such as traders, lawyers etc.), with an eventual roll out of the scheme to informal sector groups being considered. Service to members is being improved through the roll out of digital registrations, allowing for on-line account information and the faster benefit processing and payments – which should also help to reduce the high cost level of the fund.⁹⁰ The current contribution rate to the INSS is not high (7% - 4% employer, 3% employees). As with the civil service pension scheme, parametric reform is required to ensure the long-term viability of the fund.⁹¹ Benefit levels have dropped following the parametric changes introduced in 2008, though the high level of minimum pension (based on the highest sector minimum wage) introduces distortions.⁹² The investment portfolio of the fund is being restructured due to the high level of exposure to short-term bank deposits.⁹³

The small but growing voluntary occupational pension sector is supervised by ISSM. The Pension Regulations (25/2009) requires all funds and service providers to be licensed and follow fairly comprehensive operating procedures. There are currently 5 registered private pension funds, 2 of which are also insurance companies.⁹⁴ Around a dozen large employers (such as railway, commodities, airport operator and banks) offer supplementary, occupational pensions to their employees. Some of these are managed in-house (a few are yet to register with ISSM), with two external management entities (Global Alliance and Mocambique Previdente) also managing some closed funds on behalf of employers. Global Alliance also offers an umbrella fund which several smaller employers have joined, with Mocambique Previdente due to launch a similar product in 2015. Pension funds are not sold on a retail basis directly to individuals. As funds are established by employers and there is no individual choice of provider or investment portfolio, members of pension funds are not strictly 'consumers'. However, protection is still required for members of private pension funds, and it is in this context which the diagnostic is conducted.

⁹⁰ 23% contributions are currently spent on administration costs.

⁹¹ The ILO also conducted an actuarial review of the INSS in 2011. This projects that the fund will become cash flow negative in 2023 with asset depletion estimated in 2035. The breakeven contribution rate was estimated by the ILO to be 11.9%.

⁹² Benefits are based on the final 16 years' salary (rising to 20 years by 2017), with a 2.5% accrual rate with full pension after 20 years of contributions. The retirement age is 55 for women and 60 for men.

⁹³ These have been reduced from 78% to 61% of the portfolio from June to September 2014, with a target level of 50%.

10% off-shore investment is allowed, but has yet to be instituted in practice by the funds as additional approvals from the central Bank are required and are proving cumbersome.

⁹⁴ ISSM, RELATÓRIO DO MERCADO DE SEGUROS REFERENTE AO EXERCÍCIO FINDO EM 31 DE DEZEMBRO DE 2013, at 39, *available at* http://www.issm.gov.mz/images/Legislacao/RELATORIO_ANUAL_%202013.pdf

| SECTION A | CONSUMER PROTECTION INSTITUTIONS |
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| <p>Good Practice A.1</p> | <p><i>Consumer Protection Regime</i></p> <p>The law should recognize and provide for clear rules on consumer protection in the area of private pensions and there should be adequate supporting institutional arrangements:</p> <ul style="list-style-type: none"> a. There should be specific provisions in the law, which create an effective regime for the protection of consumers who deal directly with pension management companies and members/ affiliates of occupational plans. b. There should be a general consumer protection agency or a specialized agency, responsible for the implementation, oversight and enforcement of pension consumer protection, as well as data collection and analysis (including inquiries, complaints and disputes). c. The law should provide, or at least not prohibit, a role for the private sector, including voluntary consumer organizations and self-regulatory organizations, in respect of consumer protection regarding private pensions. |
| <p>Description</p> | <p><i>Paragraph (a)</i></p> <p>General consumer protection is provided for in Article 100 of the Constitution of Mozambique, as well as via the CP Law. The consumer rights covered in the CP Law include rights (in summary) to education, information (and there are specific provisions in relation to credit contracts), a 7 day cooling off period, substantive fairness, clear and legible print in contracts and rights to the protection of economic interests and the legal protection and accessible justice. Further there are prohibitions against misleading advertising and abusive clauses and provision for the establishment of consumer arbitration centers. There is also provision for the establishment of a Consumer Institute designed to promote consumer protection policies.</p> <p>The Law also recognizes consumer associations and provides them with rights in relation to (amongst other things) social partner status in matters concerning consumers and to State funding. This legal oversight also extends to the pensions sector - though in practice has not been tested as this is a new and developing market.⁹⁵ However, notwithstanding the broad scope of this law, it does not appear to have been implemented or enforced to date (as also noted in the 2012 CPFL Diagnostic). However implementing regulations are being prepared and are expected to be approved early in 2015, with the establishment of the Consumer Institute to follow. The Advertising Code also provides general protection to</p> |

⁹⁵ Pension schemes in Mozambique are currently arranged on an occupational basis. Membership of in-house schemes (run by the sponsoring company) is covered under employment contracts (outlining benefit conditions etc.). Where schemes are managed externally, the contact is between the sponsoring employer and the pension fund management entity. In these cases the members are not strictly consumers. However, the scope of the CP Law (Article 3) extends to 'collective persons' and 'bodies, suppliers and providers of good services and rights'. They would therefore receive protection under the Law. If a retail market for pensions develops in future (as allowed for in the Pensions Regulations) protection would also be directly provided to individual purchasers of pension products.

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| | <p>consumers, noting that advertisements must be based on the principle of respecting consumers' rights (Article 4).</p> <p>The Pension Regulations provide the main legal protection for members of pension funds. The Regulations oblige all pension funds, as well as their managing entities, to register with the supervising entity (Article 19). In addition, Article 37 requires that the fund management entity acts in the exclusive interest of the affiliates, pension members and beneficiaries.⁹⁶ This is reiterated in Article 38 on conflicts of interest, and Article 60 on the internal audit function (which should check that the management of pension fund activities is effected in the best interest of pension fund members and beneficiaries). Article 8 gives the supervisor responsibility for ensuring that pension fund managing entities not only comply with legal and regulatory provisions, but also "avoid or eliminate any irregularities which may prejudice the interest of pension fund members and beneficiaries", and can restrict or suspend them if they do not.</p> <p>The pension sector in Mozambique is regulated and supervised by ISSM.⁹⁷ The Insurance Law explicitly gives ISSM supervisory authority over not only supplementary pension funds but also the mandatory INSS fund and the staff fund run by the Bank of Mozambique workers. Article 7 of the Pensions Regulations gives the supervisor powers over pension funds and their managing entities.⁹⁸</p> <p>Protection for members of pension funds is also provided by the governing body of the fund which looks after members interests. In Mozambique, the governing body takes the form of a Supervisory Committee, which must be established by all funds under the Article 52 of the Pension Regulations.⁹⁹ Article 53 requires that one-third of the representatives must be chosen by the members of the fund (nominated by unions or elected by members). However, the Pension Regulations do not prescribe any suitability or knowledge requirements for the members of the governing body, as is normally required and is considered good practice internationally – as outlined in the <i>OECD Guidelines for Pension Fund Governance</i>¹⁰⁰:</p> <p><i>4. Suitability</i></p> <p><i>Membership in the governing body should be subject to minimum suitability (or non-suitability) standards in order to ensure a high level of integrity, competence, experience and professionalism in the governance of the pension fund. The governing body should collectively have the necessary skills and knowledge to oversee all the functions performed by a pension fund, and to monitor those delegates and advisors to who such functions have been delegated. It should also seek to enhance its knowledge, where relevant, via appropriate training. Any criteria that may disqualify an individual from appointment to the governing body should be clearly laid out in the regulation.</i></p> |
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⁹⁶ There is no trust law or general application of fiduciary duty in Mozambique, though the introduction of such an Act has been discussed.

⁹⁷ The preamble of Decreto-Law No. 1/2010 establishes the supervisory body ISSM under the Ministry of Finance.

⁹⁸ ISSM is mainly funded via industry levies, the majority coming from the insurance sector, with the pension fund managing entities required to pay an annual fee of 30,000 MT to the regulator.

⁹⁹ Including all open pension funds with more than 50 individual members.

¹⁰⁰ See <http://www.oecd.org/daf/fin/private-pensions/34799965.pdf>

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| | <p>Training requirements for pension fund supervisory boards are becoming good practice in many countries. For example on on-line training, known as the Trustee Toolkit, has been developed by the UK Pension Regulator.¹⁰¹ Alternatively, in countries such as Ireland, the regulator authorizes external training providers.</p> <p>It is too early a stage in the industry’s development to tell how well these supervisory committees are operating in practice. International experience suggests that the governance of DC funds operated by commercial, financial institutions is always challenging.¹⁰² The supplementary pension fund industry in Mozambique is small, new and developing. Given the industry structure is market-driven, the regulator will need to watch for challenges around fees and governance which have been an issue in similar situations internationally. As the pension market is new and small, fees are currently high (ranging from Assets under Management (AUM) charge of around 1.5% to 5%, the top end being well above international averages and even some regional peers). These should decline as the market grows and matures. However, competition has proven not to work as well for pensions as for other financial sector markets, with fees staying stubbornly high as pension fund members lack knowledge and are generally disengaged. Regulators in other countries have been forced to intervene when this is the case.¹⁰³</p> <p>Paragraph (b)</p> <p>The Insurance Law required that ISSM be created, with Ministerial Decree 29/2012 approving its statutes. Whilst ISSM is clearly respected by the pension industry and the developments of the previous few years are recognized, further staff resources and capacity building are clearly needed as at the time of the CPFL Review mission there were only 2 staff focused on supervision of the pensions sector and the legal and regulatory framework had not been implemented in full, which itself indicates a lack of supervisory resources. For example, in addition to some supplementary funds which are still operating without a license, the fund portfolios of some supplementary schemes not in line with the asset class restrictions set out in the Investment Regulations (261/ 2009).¹⁰⁴ Further, whilst fledgling off-site supervision has commenced in that reports are being received from pension funds, standardized reporting format has not yet been established, and information on the industry is yet to be published in a transparent fashion. Further there is no separate department overseeing market conduct / consumer protection for either insurance or pensions.</p> <p>Paragraph (c)</p> <p>See Insurance Good Practice A.1.</p> |
| <p>Recommendation</p> | <p>Supervisory capacity within ISSM needs to be built to ensure full protection for pension fund members.</p> |

¹⁰¹ See <https://trusteetoolkit.thepensionsregulator.gov.uk/arena/index.cfm>

¹⁰² See Fiona Stewart and Juan Yermo, *Pension Fund Governance: Challenges and Potential Solutions*, OECD Working Papers on Insurance and Private Pensions, No. 18 (OECD, 2008).

¹⁰³ See IOPS ‘*Managing and Supervising Defined Contribution Pension Plans*’, IOPS Working Papers on Effective Pension Supervision No. 12 (IOPS, 2010). <http://www.iopsweb.org/principlesandguidelines/46126017.pdf>

¹⁰⁴ One managing entity confirmed that some of their client funds still have more than 35% of their assets held in bank deposits. The Investment Regulations apply only to supplementary pension schemes, and not to the Bank of Mozambique pension fund or the INSS, which is governed by a separate statute.

PRIVATE PENSIONS SECTOR

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| | <p>At a minimum, ISSM staff focusing on pensions should be increased and should attend specialist training courses on pension supervision. In this regard it is noted that ISSM is a member of four international organizations, namely: ASEL (1998), CISNA (1999), AIAS and IOPS (both since 2014). Membership of such organizations is to be encouraged in order for staff to gain experience and knowledge from their international peers.</p> <p>ISSM should establish a standardized reporting format and start to publish industry data in a clear and timely fashion, in order to allow all stakeholders and fund members to gain a clear picture of the pension industry as it develops. This includes the on-line publication of pension industry data (e.g. number of schemes, members, assets, average/range rates of return, average/range of fees charged etc.) on the newly launched website.</p> <p>ISSM should also begin to focus on regulatory implementation. The authority needs to ensure that all funds are licensed. The few funds which continue to operate without authorization should be forced to register, to join an umbrella fund or to close. At a minimum, the regulator should agree a timetable with these funds for compliance. The investment regulations established under Ministerial Diploma 261 /2009 also need to be enforced, at a minimum agreeing a timeframe with non-compliant funds to bring their portfolios in line with asset class restrictions.</p> <p>ISSM should issue additional guidance on pension fund governance via appropriate guidelines or circulars. This should including minimum standards for trustees. Over the longer-term, ISSM should consider providing or supporting training for members of the supervisory committees, particularly those appointed by members.</p> |
| <p>Good Practice A.2</p> | <p><i>Other Institutional Arrangements</i></p> <ul style="list-style-type: none"> a. The judicial system should provide credibility to the enforcement of the rules on pension consumer protection. b. The media and consumer associations should play an active role in promoting pension consumer protection. |
| <p>Description</p> | <p><i>Paragraph (a)</i></p> <p>The CP Law requires that consumers have access to justice and the courts under appropriate conditions. This would also apply to pension related cases. In addition, the Pensions Regulations allow for the supervisory authority "<i>recourse to competent judicial entities</i>" (Article 8). As this is a new sector, legal protection through the courts has not been tested in practice. Unless the system has changes substantially in the last two years, the findings of the Banking Sector Good Practices in the 2012 CPFL Review¹⁰⁵ suggests that the judicial system is not practical or accessible for retail consumers because of the costs and delays of the procedure, and the lack of expertise of judges.</p> <p><i>Paragraph (b)</i></p> <p>The CP Law provides for the media and consumer associations to play an active role in promoting consumer protection.</p> |

¹⁰⁵ MOZAMBIQUE Diagnostic Review of Consumer Protection and Financial Literacy (Volume II Comparison with Good Practices December 2012) <http://responsiblefinance.worldbank.org/diagnostic-reviews>

PRIVATE PENSIONS SECTOR

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| | <p>Article 9 of the states that “<i>Public radio and television networks shall reserve airtime under the terms to be defined by the law, for promoting consumer rights and interests.</i>” Article 35 states that “<i>Consumer associations are entitled to the following rights: ... b) Airtime on radio and television under the same terms as associations that have social partner status</i>”. The BdM has used TVM as a means of providing financial education, but the focus has been on banking issues and a call-in show hosted by a securities expert. To date there has not been any focus on the private pensions sector. The reality is that no airtime is likely to be made available (either on radio or on TV) unless paid for, and no budgets are known to have been allocated.</p> <p>The CP Law recognizes consumer associations and cooperatives and endows them with a social partner status in consumer policy matters, so that they can appoint representatives to the corresponding consultative or cooperative bodies and represent consumers during the decision-making process. The CP Law also gives them a right to airtime on radio and television that comes with the social partner status (despite the law, no airtime seems to be available for CP unless paid for). These associations and cooperatives are non-profit legal entities and can be considered part of the private sector.</p> <p>The responsibility of state and local municipalities for the information of consumers includes support to information initiatives promoted by consumer associations and cooperatives.</p> <p>Two existing consumer associations have been identified in Mozambique:</p> <ul style="list-style-type: none"> • DECOM • PROCONSUMERS <p>Neither is widely known, impressively resourced, or equipped with pensions’ specific expertise. This is understandable given their broad focus and given the absence of a substantial private pensions market.</p> |
| Recommendation | <p>Training for the media on pension issues could be provided by ISSM and a partnership with key financial journalists built. Further capacity building support for consumer associations in relation to pensions issues should also be considered.</p> |

| SECTION B | DISCLOSURE AND SALES PRACTICES |
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| Good Practice B.1 | <p>General Practices</p> <ul style="list-style-type: none"> a. The information available and provided to the consumer should clearly inform the consumer of the choice of accounts, products and services, as well as the risks associated with each of the options or choices. b. Employers should be responsible for ensuring that new plan members are made fully aware of their rights and obligations under any occupational pension arrangements. c. Employers should be required to vest benefits with employees relatively quickly so as to avoid undesirable personnel practices (such as terminating employment just as employer contributions are about to vest). d. Employers should be obliged to ensure that contributions are properly collected, accounted for and passed on to the pension fund’s managers. |
| Description | <p>Paragraph (a)</p> <p>The CP Law (Article 10) gives consumers the right to clear, objective and adequate information.</p> <p>The Pension Regulations provide comprehensive guidance on the information which is required to be provided to individual pension fund members on joining a fund (Article 27). This includes benefit conditions, transfer and termination information, fees etc. Individuals are also required in writing to confirm their agreement with the fund management regulations. In addition, Article 64 outlines that, in order to ensure a better understanding of the characteristics of the fund by members before they join, the supervisor may require that the relevant information in the management agreement (relating to the risks inherent to membership and of the applicable tax regime etc.) is made available by way of an informative prospectus. No pension funds are currently sold to individuals on a retail basis, and no existing pension products offer any investment choice.</p> <p>Paragraph (b)</p> <p>Article 61 of the Pensions Regulations initially requires the managing entity to provide information to members joining a closed, occupational pension plan. However, Article 61(4) allows for this responsibility to be transferred to the sponsoring employer ('affiliate') or the supervisory committee of the fund by prior agreement between the managing entity and sponsoring employer or union establishing the fund.</p> <p>The information which is required to be provided on joining an open occupational fund¹⁰⁶ is fairly comprehensive, including the characteristic principles of the fund’s financing plan, the conditions on which benefits shall become due, transfer rights, risks of the plan, investment policy, management regulations, and fees (Article 26).</p> |

¹⁰⁶ This would apply to the 'umbrella' funds which small employers can join.

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| | <p>External pension fund managing entities confirmed that they provide this standard plan information to members when they join a pension fund. It was not possible to verify the information provided by in-house managed funds.</p> <p>Paragraph (c)</p> <p>The Pensions Regulations do not cover vesting. In practice, an external management entity confirmed that the general custom with their clients is that employee contributions vest immediately. However, employer contributions in some cases do not vest at all. International good practice is for employer contributions to also vest within a reasonable time frame (normally within 5 years). The OECD Guidelines on The Protection of Rights of Members and Beneficiaries of Pension Plans state that:¹⁰⁷ <i>Accrued benefits should vest immediately or after a period of employment with the employer sponsoring the plan that is reasonable in light of average employee tenure.</i></p> <p>Paragraph (d)</p> <p>The Pension Regulations (Article 36) state that it is the responsibility of the pension fund managing entity to collect the expected contributions. The fund managing entities confirmed that contribution collection is not a problem with the supplementary, occupational plans which they manage, which are up to date not only with these supplementary contributions but also their mandatory payments to the INSS (indeed they have to be in order to launch a supplementary scheme). However, contribution collection is an issue with the mandatory INSS fund – where contributions are only being received for 400,000 of the total 1.2 million registered members (with only around 50,000 out of 100,000 firms in compliance). Not only are employers not paying the contributions due, but some are also not remitting the contributions to the fund which they take from employees' salaries. This an important issue for the protection of pension fund members, and ISSM, as supervisors of mandatory scheme, should support the INSS in their efforts to improve contribution collection. As is the case in other countries, such as Hong Kong, Israel, Kenya, Peru and Turkey, amongst others, pension fund managers should send a warning to the employee (and preferably to the authorities) if contributions do not arrive properly.¹⁰⁸</p> |
| Recommendation | <p>ISSM should include checks on information provision in their supervisory oversight. If a retail market develops in future ISSM may wish to reexamine the legal information requirements and issue further guidance as appropriate.</p> <p>ISSM should issue a guidance note confirming that employee contributions should vest immediately and that employer contributions should vest within a reasonable time frame (maximum 5 years).</p> <p>ISSM should support the INSS in their compliance efforts.</p> |

¹⁰⁷ See <http://www.oecd.org/daf/fin/private-pensions/34018295.pdf>

¹⁰⁸ See Ambrogio Rinaldi and Elisabetta Giacomel, 'Information to Members of DC Pension Plans: Conceptual Framework and International Trends', IOPS Working Papers on Effective Pension Supervision No.5 (IOPS, 2008).

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| Good Practice B.2 | <p><i>Advertising and Sales Materials</i></p> <ul style="list-style-type: none"> a. Pension management companies should ensure their advertising and sales materials and procedures do not mislead the customers. b. All marketing and sales materials of pension management companies should be easily readable and understandable by the average public. c. The pension management company should be legally responsible for all statements made in marketing and sales materials related to its products, and for all statements made by any person acting as an agent for the company. |
| Description | <p><i>Paragraph (a)</i></p> <p>There are multiple controls on advertising. The Constitution (Article 92) requires all advertising to be regulated and misleading examples prohibited, whilst the CP Law (Article 4) outlines truthful advertising as a consumer right. The full Advertising Code also applies. This states that: "<i>Advertising is governed by the principles of lawfulness, identifiability, veracity and respect for the rights of consumers.</i>" (Article 4). For further details see Insurance Good Practice B.2.</p> <p>The Pension Regulations state that the advertising of pension products is explicitly covered by these general advertising laws (Article 66). Specific requirements are also made, including that:</p> <p><i>"The publication of future results, based on estimates of the managing entity, is prohibited, unless a statement that the results are a simulation is printed in characters which stand out from all other typographical characters."</i> (Article 66.2) In addition: "<i>Public documents, and supporting publications relating to open pension funds, must clearly indicate that the value of the participation units held varies, in accordance with the development of the value of the assets which make up the pension fund equity, specifying also the existence of a guarantee relating to the payment of minimum income.</i>" (Article 66.3)</p> <p>Insurance Regulation (Article 88) empowers ISSM to issue norms relating to consumer protection in advertising, and to check compliance with these norms, ordering if necessary the suspension or immediate publication of an adequate rectification. The Pension Regulations (Article 51) allows marketing of pensions by insurance brokers, and these powers are therefore presumed to apply to the pension sector. But so far, no such norms have been issued, and there is no process for ISSM to systematically review pension or insurance advertising before it is launched (though little has so far been issued due to the lack of a retail market for either insurance or pensions).. The Insurance Regulation requires brokers to disclose commission upon request of the client (and prohibits charging any additional administrative or other fees). Insurers that are part of multinational groups often have group wide internal codes of conduct to protect their brand, including rules for communication and advertising.</p> <p>In practice, pension products in Mozambique are currently 'sold' by pension management entities to employers, and are not advertised directly to the public via retail marketing. These legal protections have therefore yet to be tested.</p> |

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| | <p>Industry codes of conduct are also useful tools for regulating advertising standards, and supervisory authorities may explicitly request pension administrators to come up with such a code of conduct (for instance, in Mexico).¹⁰⁹ Examples of good practice in the sales and marketing of pension products include the guidance prepared by the European Commission amongst others.¹¹⁰</p> <p>Paragraph (b)</p> <p>The general legal requirements which apply to pensions require advertising to be clear and truthful. In addition, Article 66 of the Pension Regulations specifically requires any simulation or estimates of future results to be presented in a different form of typographical character.</p> <p>Paragraph (c)</p> <p>Article 51 of the Pensions Act explains that the ‘marketing entities’ for pension products are either the pension fund managing entities or authorized insurance brokers and credit institutions, and that these are covered by their respective legislation. The responsibility of insurers – or brokers – for any acts of insurance agents or promoters in the course of insurance intermediation is established in ICL – which is the Second Book of the Insurance Law.</p> <p>ICL requires the insurance proposal to document that the mandatory information has been provided to the customer (ISSM may issue further norms and guidelines in respect of information duties). Violation of this information duty allows the customer to rescind from the contract within 30 days of having received the policy; the same rescission right applies if the policy conditions do not correspond to the information provided before inception of the contract.</p> |
| <p>Recommendation</p> | <p>ISSM should include checks on marketing in their supervisory oversight. If a retail market develops in future ISSM may wish to reexamine the legal information requirements and issue further guidance as appropriate.</p> |

¹⁰⁹ *Principles on Financial Consumer Protection*, G20/OECD Task Force on Financial Consumer Protection, Principles 4 item 482 (OECD, 2013).

¹¹⁰For examples of international experience, see IOPS ‘*Supervision of Pension Intermediaries*’, IOPS Working Papers on Effective Pension Supervision No. 17 (IOPS, 2012).

<http://www.oecd.org/site/iops/WpNo17Web.pdf>

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| Good Practice B.3 | <p><i>Key Facts Statement</i></p> <p>A Key Facts Statement disclosing the key factors of the pension scheme and its services should be presented by the pension management company before the consumer signs a contract.</p> |
| Description | <p>Article 61 of the Pension Regulations outlines the initial information to be provided to the members of a pension fund – including the basic benefits, rights, risks and nature of the scheme. For individual members of open funds, an ‘information prospectus’ with the relevant information from the regulations and membership agreement of the fund may be provided by the managing entity to ensure better understanding of the fund (Article 64). The Act also allows for “<i>the duties to provide information...may be increased, if it becomes necessary to ensure better and effective comprehension of the characteristics of the fund..</i>”</p> <p>Much work on these documents in relation to the pension sector has been undertaken by the European Insurance and Occupational Pensions Authority (EIOPA). For example, a statement of the EIOPA Occupational Pensions Stakeholder Group (OPSG) includes a recommendation for a Basic Information Document (BID). This would include: the name of the pension scheme; the nature and main features of the pension scheme; a brief indication of whether loss of capital is possible; indication of the consequences of an early exit; risk and reward profile of the pension scheme; contributions to be paid by the member and all costs and charges; past performance of the pension scheme; and not legally binding projections of possible retirement benefits. Such a BID could then form the first layer in a multilayer disclosure approach.¹¹¹</p> |
| Recommendation | <p>ISSM should study international examples of Key Fact Statements for pension products, develop a form of statements suitable for use in Mozambique and require pension fund management entities and plan sponsors to provide such information to occupation fund members. ISSM could use Article 64 of the Pension Law to require a Key Facts Statement as the retail market develops.</p> |
| Good Practice B.4 | <p><i>Special Disclosures</i></p> <ul style="list-style-type: none"> a. Pension management companies should disclose information relating to the products they offer, including investment options, risk and benefits, fees and charges, any restrictions or penalties on transfer, fraud protection over accounts, and fee on closure of account. b. Customers should be notified of any planned change in fees or charges a reasonable period in advance of the effective date of the change. c. Pension management companies should inform consumers upfront of the nature of any guarantee arrangements covering their pension products. d. Customers should be informed upfront regarding the time, manner and process of disputing information on statements and in respect of transactions. e. Customers should be informed in writing, at the time of sale or when joining an occupational plan, of the options available to them if they decide to change employer, move or retire. |

¹¹¹ For details see the following EIOPA papers: *Risks Related to DC Pension Plan Members* (2011), *Risk Mitigation Mechanisms for DC Related Risks*, (2011), *Report on Pre-Enrolment Information to Pension Plan Members*, (2011), *Good Practices on Information Provision for DC Schemes*, (2013).

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| <p>Description</p> | <p>Paragraph (a)</p> <p>Articles 26 and 27 of the Pension Regulations state that specified information (including on benefits, fees, transfers and fund closures) must be included in the membership agreement for collective funds and in the individual agreement of membership for retail funds. Articles 61 and 63 reiterate these requirements as part of the initial information which must be provided to members. The external management entities the mission team met confirmed that this information is provided to fund members. In-house managed funds are also understood to provide such information, but the mission meetings were unable to verify this fact.</p> <p>Paragraph (b)</p> <p>Article 29 of the Pensions Act states that individuals must be informed of an increase in commissions, a substantial change in the investment policy or a change in fund manager, and be given the option to switch to another fund free of charge. Article 62 (3) reiterates the requirement to provide this information on major changes to the fund, including that the information has to be provided within 45 days (presumably of the date of effect of the change). Article 63 also explicitly requires the information to be provided to those already in retirement who are receiving benefits from the fund (within 30 days of the change). These legal requirements have yet to be tested in practice.</p> <p>Paragraph (c)</p> <p>Article 25 of the Pensions Regulations requires disclosure of minimum guaranteed income, the duration of the guarantee and an explanation of how the investment policy shall meet this objective (if the managing entity assumes the investment risk). Such products are not currently offered (almost all funds are defined contribution in nature).</p> <p>Paragraph (d)</p> <p>Dispute resolution is not covered in the Pension Regulations. See section E for comments and recommendations.</p> <p>Paragraph (e)</p> <p>Details on the portability of benefits are required to be provided on joining an occupational fund under Article 61 of the Pensions Act. The external management entities met by the mission team confirmed that this information is provided to fund members. In-house managed funds are understood to provide such information, but the mission meetings were unable to verify.</p> |
| <p>Recommendation</p> | <p>ISSM should check information provision as part of the supervisory oversight process. See Section E on dispute mechanisms.</p> |

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| Good Practice B.5 | <p><i>Professional Competence</i></p> <ul style="list-style-type: none"> a. Marketing personnel, officers selling and approving transactions, and agents, should have sufficient qualifications and competence, depending on the complexities of the products they sell. b. The law should require agents to be licensed, or at least be authorized to operate, by the regulator or supervisor. c. Personnel departments with responsibility for occupational arrangements should have at least one suitably qualified individual who can explain the plan to members and deal with third-party providers such as asset management companies. |
| Description | <p><i>Paragraph (a)</i></p> <p>Article 51 of the Pension Regulations allows the marketing of pension products only by pension managing entities, authorized insurance brokers and credit institutions. The legal framework for these sectors requires qualifications and competence from these agents. Insurance intermediation can only be exercised by those registered with ISSM pursuant to the Insurance Regulations. Brokers need to have at least one manager or administrator who has been registered as an individual insurance agent for at least 5 years or who has proven professional experience in technical and commercial insurance for the same period of time. Individual agents have to receive basic insurance training from the insurer who proposes them for registration by ISSM, and ISSM may test the applicants unless they can prove 5 years of professional insurance experience. There is no standard syllabus of what the basic insurance training needs to cover, nor has ISSM test been elaborated yet (Articles 116-119). Corporate agents, on the other hand, only need to have at least one full time employee with insurance knowledge (Article 120). An insurance promoter also needs to receive insurance training from the relevant insurer, and the content of that training is to be defined by ISSM; it is unclear whether it has been defined already.</p> <p>In practice, pensions are not sold by insurance brokers as a retail product. There is currently no capacity in terms of independent financial advisors in Mozambique, though the external pension providers recognize this will need to be built as a retail market for financial products develops. External pension providers currently use consultants to develop relationships with existing and potential corporate sponsors of occupational pension plans. These consultants have international training and background (for example some come from the South African parent groups of these companies). Local capacity is being built but will take time.</p> <p>Pension intermediaries are controlled in a number of countries (Australia, Bulgaria, Hong Kong, Namibia and the Netherlands among others). Standard fit and proper criteria apply to pension intermediaries in most IOPS member jurisdictions. Qualifications required may be academic (Costa Rica, Hong Kong, Serbia, Slovakia, Thailand and Turkey among others) and/or issued by the industry (for instance, Austria, Mexico or the Netherlands). Many jurisdictions maintain on-going training requirements (such as Costa Rica, Hong Kong, India, Mexico, Nigeria, Peru, Slovakia and Turkey). In Hong Kong, Pakistan, Spain, or Turkey, and in many Latin American countries (Brazil, Chile, Costa Rica, Peru) pension fund providers themselves sell the product – and in such cases, requirements apply to internal staff. At the other</p> |

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| | <p>extreme, in countries such as Korea, Jamaica or Romania, only agents are involved (pension providers do not handle distribution directly). Most countries allow both internal staff and agents.¹¹²</p> <p>Paragraph (b)</p> <p>As above.</p> <p>Paragraph (c)</p> <p>The Pension Regulations do not impose any requirement on human resources representatives from firms sponsoring occupational funds. In practice, the managing entities interviewed advised that they work with human resources representatives from their client firms to ensure they are suitably knowledgeable on pension issues and the plan details. In-house funds also have dedicated staff responsible for the fund.</p> |
| Recommendation | <p>ISSM should check the qualifications and information provided by pension consultants employed by the external managing entities as part of their on-going supervisory oversight.</p> <p>ISSM may wish to introduce training requirements for human resources staff responsible for pension issues.</p> |
| Good Practice B.6 | <p><i>Know Your Customer</i></p> <p>The sales officer should examine important characteristics of any potential customer, such as age, employment prospects and financial position, and be aware of the customer's risk appetite and his or her long-term objectives for retirement, and recommend relevant financial products accordingly.</p> |
| Description | <p>The Pension Regulations do not specifically cover KYC rules. As all funds are currently managed on a group/ occupational basis and have not been sold to individuals, the KYC tests are not currently required in Mozambique.</p> <p>International research on how to apply such a test to pensions has been undertaken by IOPS. For example, consumers in many countries (Australia, Colombia, Costa Rica, Israel, Mexico and Thailand among others) are notified if providers lack sufficient information, and/or the sales may not go ahead in such instances (the latter is the case in Hong Kong, India or Pakistan). Many jurisdictions require that the consumer's circumstances and the advice given be put in writing and retained (Australia and Hong Kong among others). These suitability checks may be supervised, in cases on the basis of complaints and compliance testing (for instance in Colombia, Israel and Slovakia).¹¹³</p> |

¹¹² For details see IOPS, ' *Supervision of Pension Intermediaries* ', IOPS Working Papers on Effective Pension Supervision No. 17 (IOPS,2012) <http://www.iopsweb.org/WpNo17Web.pdf>

¹¹³ Ibid

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| Recommendation | ISSM should study international experience in KYC rules applying to pensions, and could introduce regulations and/ or provide guidance should a retail market develop in future. ¹¹⁴ |
| Good Practice B.7 | <p><i>Disclosure of Financial Situation</i></p> <ul style="list-style-type: none"> a. The regulator or supervisor should publish annual public reports on the development, health and strength of the pensions industry either as a special report or as part of its disclosure and accountability requirements under the law that governs these. b. All pension management companies should disclose information regarding their financial position and profit performance. c. Actuarial reports on funding levels should be required annually for defined benefit plans and members and affiliates should be advised of the condition of the plan in a short and clear written report. d. Investment reports for defined contribution plans should at least match best practice mutual fund reporting. |
| Description | <p><i>Paragraph (a)</i></p> <p>ISSM does not have up to date statistics for the pension funds (available data is still as of the time of registration of the funds), and centralized statistics on the industry are not yet available on the authority's website.</p> <p>If the retail selling of pension products becomes more common in future, ISSM could consider becoming a central source of comparative information between administrators (e.g. providing a table of returns earned by different providers' funds and costs charged on a standardized basis) – as is increasing international practice in countries such as Australia, Bulgaria, Hong Kong, Chile, Israel, Jamaica, Mexico or Turkey. As IOPS Working Paper No. 15 states: ¹¹⁵</p> <p><i>“The fact that information comes directly from the supervisor may contribute to maintaining public confidence in the functioning of the pension system - a goal which has risen in prominence following the global financial and economic crisis of recent years.”</i></p> <p>Article 89 of the Pension Regulations requires the regulator to publish any supervisory decisions, which could be a useful tool in terms of direction and dissuasion in future.</p> <p><i>Paragraph (b)</i></p> <p>Article 43 of the Pension Regulations requires pension management companies to publish annual reports during their first 3 corporate tax years. It is not clear that this is an on-going requirement after this date. However, in practice, the audited annual reports over several years are published on the more established pension fund management company's website.¹¹⁶</p> |

¹¹⁴ IOPS (2012) outlines that, in terms of what client information is required to be collected in order to establish suitability of product or advice, age is standard in virtually all countries which have such suitability requirements. Risk appetite and income are requested in many case, investment experience, family situation and tax position and net worth being less common.

¹¹⁵ For further details and international examples (including links to individual country websites) see IOPS 'Comparative Information Provided by Pension Supervisory Authorities', IOPS Working Papers on Effective Pension Supervision No. 15 (IOPS, 2011) <http://www.oecd.org/site/iops/principlesandguidelines/49354396.pdf>

¹¹⁶ www.ga.co.mz

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| | <p>Paragraph (c)</p> <p>Article 65 of the Pension Regulations requires the managing entity to present the supervisory entity with annual report and accounts certified by an external auditor for the fund by 31st May in each year (relating to period up to 31st December of the previous year). Article 56 of the Regulations requires that DB) funds appoint an actuary who must report annually and tell the supervisor of violations or substantial financial concerns regarding the fund. Articles 57, 60 and 62 require that all funds appoint an external and internal auditor and produce an annual report on the financial situation of the fund. Article 77 requires a full actuarial evaluation every 3 years (including a recommendation on the level of contributions needed to meet benefits). Articles 80-83 deal with recovery plans and treatment of surpluses resulting from these actuarial reviews.</p> <p>Article 54 requires that the managing entity shall provide the supervisory committee with a copy of the annual report and accounts of the pension fund and the actuary and auditors reports. Article 62 requires that the managing entity inform members of the financial situation of the fund on an annual basis, with Article 63 requiring that the report and annual accounts be provided to already retired beneficiaries of the fund on request.</p> <p>The external pension management companies met by the mission team confirmed that such information is provided regularly to their clients. Financial information (unit prices and returns) on the open, umbrella fund managed by the more established fund manager is available on their website.¹¹⁷</p> <p>Paragraph (d)</p> <p>Article 64 of the Pension Regulations requires that individuals must be told the annual rate of return generated by the fund. The managing entity of the open, umbrella fund provides detailed pricing and performance information for the fund on their website.¹¹⁸ The information provided by in-house managed funds to their members could not be verified.</p> |
| <p>Recommendation</p> | <p>ISSM should improve its record collection and publish information on the pension sector (including number and nature of funds, membership and asset data and performance and fee information) at least annually, both on its website and in an annual report format.</p> <p>ISSM should check the provision of information to members of closed pension funds as part of its supervisory oversight.</p> |

¹¹⁷ www.qa.co.mz

¹¹⁸ See www.qa.co.mz

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| Good Practice B.8 | <p><i>Contracts</i></p> <p>There should be consistent contracts or membership forms for pension products and the contents of a contract should be read by the customer or explained to the customer before it is signed.</p> |
| Description | <p>Article 22 of the Pension Regulations requires closed pension funds to be established by a written, published agreement signed by the management entity and the sponsoring firm. The fund is then managed pursuant to an agreement signed between the two entities. A similar agreement is required between the managing entity and each sponsoring employer which is a member of an open pension fund. The external management entities met by the mission team confirmed that contracts, including service level agreements, are signed with all clients. As these are negotiated contacts between the sponsoring employer and the provider, the contract terms will differ between clients (e.g. lower fees can be negotiated by larger clients, some of the funds managed will be DB in nature, some DC etc.).</p> <p>Regarding individual pension fund membership, the agreement is concluded between the contributing member and the managing entity of the fund. Details of what should be included in these contracts are laid out in the Pension Law (Article 25). Individuals would be joining a pooled fund with standardized benefit etc. Article 27 (4) requires that "<i>individuals confirm, in writing, their agreement with the fund management regulations.</i>" As no retail products have been sold, actual practice in this regard has not been tested.</p> |
| Recommendation | <p>Further regulation and /or guidance on the retail selling of pension products in accordance with this Good Practice may be required from ISSM if a direct market for pension products develops and issues subsequently arise.</p> |
| Good Practice B.9 | <p><i>Cooling-off Period</i></p> <p>There should be a reasonable cooling-off period associated with any individual pension product.</p> |
| Description | <p>Article 30 of the Pension Regulations applies an individual contributor to cancel a pension fund membership within 30 days of joining. As pensions are not currently sold as retail products, this has not been tested in practice.</p> |
| Recommendation | <p>No recommendation.</p> |

| SECTION C | CUSTOMER ACCOUNT HANDLING AND MAINTENANCE |
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| Good Practice C.1 | <p><i>Statements</i></p> <ul style="list-style-type: none"> a. Members and affiliates of a defined contribution pension plan should not be locked into a specified investment profile (and shares in their employer in particular) for more than a short period (e.g. one week) after providing notification of a desire to switch investment profiles. b. Customers or occupational plan members should receive a regular streamlined statement of their account that provides the complete details of account activity (including investment performance on a standardized basis) in an easy-to-read format, making reconciliation easy. c. Customers should have a means to dispute the accuracy of any transaction recorded in the statement within a reasonable, stipulated period. d. When customers sign up for paperless statements, such statements should be in an easy-to-read and readily understandable format. |
| Description | <p><i>Paragraph (a)</i></p> <p>Pension funds in Mozambique currently do not offer any investment choice for individual members.</p> <p><i>Paragraph (b)</i></p> <p>Articles 62 and 64 of the Pension Regulations require information to be sent to pension fund members annually covering their accumulated rights and the financial status of the fund. Article 64 also allows the supervisory entity to increase information requirements as deemed necessary for the better understanding of the fund. The external pension providers confirmed that such information is provided to fund members.</p> <p>The OECD Guidelines on the Protection of Rights of Members and Beneficiaries in Occupational Pension Plans outline International good practice around disclosure of information to members of DC pension funds as follows:¹¹⁹</p> <p><i>4.4 “Timely, individualized benefit statement should be provided to each plan member (and to beneficiaries where relevant). The information included on the benefit statement and the frequency of its delivery will depend on the type of pension plan. The information included should enable the plan member to identify current benefit accruals or account balances and the extent to which the accruals or account balances are vested. For pension plans with individual accounts, the information should include the date and value of contributions made to the account, investment performance and earnings and/or losses. For member-directed accounts, a record of all transactions (purchases and sales) occurring in the member’s account during the relevant reporting period should be provided. This information and other similarly personal data should be maintained and delivered in a manner that takes full account of its confidential nature.”</i></p> |

¹¹⁹ OECD, ‘Guidelines for the Protection of Rights of Members and Beneficiaries in Occupational Pension Plans’, (OECD, 2003)

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| | <p>Information provision by in-house managed funds could not be verified.</p> <p>Paragraph (c)</p> <p>The Pension Regulations do not have any specific requirements regarding dispute mechanisms. In practice, the HR departments of sponsoring employers have staff assigned to answer pension related queries. In addition the external management companies have nominated client relationship managers.</p> <p>See Section E for information and recommendations on dispute mechanisms.</p> <p>Paragraph (d)</p> <p>The pension fund management companies confirmed that information on members' accounts is currently only available on paper. However, they have plans to roll out on-line information services as the size of the market grows. This is in line with international good practice. For example, Australia, Ireland, Italy, Mexico, Spain and the UK, among others, require simple and understandable information provision, emphasize simple language and recommend the use of graphs. Modular approaches are also used (Australia) with simple introductory materials available on the web page with links to documents for interested members.¹²⁰</p> |
| Recommendation | ISSM should check the annual information provided to pension fund members and provide guidance on content and format if required. |
| SECTION D | PRIVACY AND DATA PROTECTION |
| Good Practice D.1 | <p><i>Confidentiality and Security of Customers' Information</i></p> <ul style="list-style-type: none"> a. The financial activities of any customer of a pension management company should be kept confidential and protected from unwarranted private and governmental scrutiny. b. The law should require pension management companies to ensure that they protect the confidentiality and security of personal information of their customers against any anticipated threats or hazards to the security or integrity of such information, and against unauthorized access to, or use of, customer information that could result in substantial harm or inconvenience to any customer. |
| Description | <p>Paragraph (a)</p> <p>Data protection is included in the Constitution of the Republic of Mozambique. Article 71(4) of the Constitution provides that access to data bases containing personal data and the transfer of such data is prohibited except where provided for by law or judicial decision.</p> <p>Article 54 of the Pension Regulations imposes a duty of confidentiality on members of the pension fund supervisory committees. The Insurance Regulation also demands that all intermediaries observe professional confidentiality, in relation to third parties, concerning any information disclosed to them in their function as</p> |

¹²⁰ This is also recommended in the OECD, 'Guidelines for the Protection of Rights of Members and Beneficiaries in Occupational Pension Plans'

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| | <p>insurance intermediaries. It should be noted that there is no data protection law in Mozambique which would back up these requirements.¹²¹</p> <p>The pension fund management companies met by the mission team confirmed that confidentiality clauses form part of the service level agreements which they sign with their clients. Personal information of members of in-house managed, occupational pension funds are also likely to be protected by general employment law and the terms of relevant contracts. However, as the pensions market is new in Mozambique, issues around confidentiality of data have not been tested in practice, but generally this is not a problem in most pension systems internationally, unlike the position in relation to other financial products.</p> <p>Paragraph (b)</p> <p>The Pension Regulations do not specify requirements regarding the confidentiality and security of pension fund members' personal information. In practice, the pension fund managing entities met by the mission team advised that the administrative systems which they use in Mozambique are based on platforms which they use in other countries. Back office functions are based in South Africa, and conform to international standards applied in this more developed pensions markets. No problems with data security have been reported so far in the new Mozambique market.</p> |
| <p>Recommendation</p> | <p>As data confidentiality and security is one area of consumer protection missing from the Pensions Act, ISSM could issue guidance on the topic in future as the market develops.</p> <p>When Mozambique enacts a Personal Data Protection Law (see recommendation in Good Practice D.1 Banking Sector, CPFL Diagnostic 2012 Comparison with Good Practices), the particularities of private pensions products and related fund management issues should be taken into consideration with due consultations with the industry, ISSM and consumer protection agencies.</p> |

¹²¹ The 2012 CPFL review notes that According to the CIPC Law, all credit institutions and finance companies must ensure that they protect the confidentiality and security of the personal data of their customers. However, there is no data protection law that would clearly define liability for misuse of personal data.

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| Good Practice D.2 | <p><i>Sharing Customer's Information</i></p> <ol style="list-style-type: none"> a. Pension management companies should inform the consumer of third-party dealings for which the pension management company intends to share information regarding the consumer's account. b. Pension management companies should explain to customers how they use and share customers' personal information. c. Pension management companies should be prohibited from selling (or sharing) account or personal information to (or with) any outside company not affiliated with the pension management company for the purpose of telemarketing or direct mail marketing. d. The law should allow a customer to stop or –opt out of the sharing by the pension management company of certain information regarding the customer, and the pension management company should inform its customers of their opt-out right. e. The law should prohibit the disclosure of information of customers by third parties. |
| Description | <p><i>Paragraph (a)</i></p> <p>Though the Pensions Regulations are silent on this topic, the pension fund management companies met by the mission team advised that confidentiality clauses are part of their service level agreements with clients, and that information is not shared with third parties.</p> <p><i>Paragraph (b)</i></p> <p>See above.</p> <p><i>Paragraph (c)</i></p> <p>See above.</p> <p><i>Paragraph (d)</i></p> <p>See above.</p> <p><i>Paragraph (e)</i></p> <p>See above</p> |
| Recommendation | See Good Practices D1. |

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| Good Practice D.3 | <p><i>Permitted Disclosures</i></p> <ul style="list-style-type: none"> a. The law should state specific procedures and exceptions concerning the release of customer financial records to government authorities. b. The law should provide for penalties for breach of confidentiality laws. |
| Description | <p><i>Paragraph (a)</i> The Pension Regulations do not cover issues of confidentiality.</p> <p><i>Paragraph (b)</i> The Pension Regulations do not cover issues of confidentiality.</p> |
| Recommendation | See Good Practices D1. |
| SECTION E | DISPUTE RESOLUTION MECHANISMS |
| Good Practice E.1 | <p><i>Internal Dispute Settlement</i></p> <ul style="list-style-type: none"> a. An internal avenue for claim and dispute resolution practices within the pension management company should be required by the supervisory agency. b. Pension management companies should provide designated employees available to consumers for inquiries and complaints. c. The pension management company should inform its customers of the internal procedures on dispute resolution. d. The regulator or supervisor should investigate whether pension management companies comply with their internal procedures regarding dispute resolution. |
| Description | <p><i>Paragraph (a)</i></p> <p>Although the Pension Regulations do not explicitly require pension management entities to establish an internal dispute resolution process,¹²² managers met by the mission team advised that in practice they have such processes. As pension schemes in Mozambique currently operate on an occupational rather than a retail basis, the external providers handle disputes with client firms sponsoring the pension schemes which the entities manage, rather than retail clients. Individual members of pension plans are likely to first raise any issues with the HR representatives responsible for their staff pension plan, followed by the member representatives on the Supervisory Committees and could also raise issues directly with the supervisory authority (as outlined in the Insurance Act 1/2010 which established ISSM). None of these mechanisms have been tested in practice given the recent development of the pension industry.</p> |

¹²² This contrasts with the ICL which requires that insurers inform prospective clients of avenues to make complaints. Policy conditions furthermore have to mention the terms for appeals, arbitration, and the selection of tribunal for judicial settlement of disputes.

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| | <p>Paragraph (b)</p> <p>Although not explicitly required by regulation, the external pension fund management entities have established internal complaints handling processes, with designated client managers responsible for the firms sponsoring the pension plan acting as the designated employee in case of queries and disputes. For in-house managed funds, a HR representative is normally in charge of pension issues and there are member nominated representatives on the Supervisory Committees. The Pension Regulations do not make it clear that these representatives need to be made known to the members of the fund.</p> <p>Paragraph (c)</p> <p>The pension fund management companies met by the mission team confirmed that they have internal dispute mechanisms and inform customers (i.e. the firm sponsoring the plans) of these via service level agreements. No retail market exists so they do not have mechanisms for dealing with complaints of individual plan members.</p> <p>Paragraph (d)</p> <p>Given that ISSM is yet to fully instigate their inspection processes, these procedures have not been established.</p> |
| Recommendation | <p>Pension scheme members should be given information regarding complaints / dispute mechanisms on joining the scheme, and should be informed as to who are their main HR contact and their representatives on the supervisory committees. This information should also be clearly disclosed in any on-line interaction points with members and in their regular statements and should be kept up to date. These obligations should be made clear by ISSM via appropriate guidelines or circulars. When next amended, the Pension Law should also include these requirements.</p> <p>Internal dispute mechanisms should be checked as part of supervisory oversight and guidance issued by ISSM if any issues are found.</p> |
| Good Practice E.2 | <p>Formal Dispute Settlement Mechanisms</p> <p>A system should be in place that allows consumers to seek third-party recourse in the event they cannot resolve a pensions-related issue with their employer or a pension management company.</p> |
| Description | <p>There is no formal external dispute resolution scheme (such as a financial services ombudsman) in Mozambique for consumers. The CP Law provides for the establishment of consumer arbitration centers (which are intended to be free to consumers) but no action has to date been taken to establish such centers.</p> <p>There are no specific requirements regarding either internal or external dispute resolution within the Pension Regulations. The external pension providers confirmed that, should a dispute not be settled internally, a case would be transferred to CAMC, which organizes arbitrations, and ultimately to the courts. No cases have arisen in practice. No individual consumer arbitration process is currently required for pensions and these are not sold as retail products.</p> |

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| | <p>The Pensions Regulations do allow for an appeal against a supervisory decision to be challenged in the courts (Article 97). In practice, no disputes have arisen due to the recent development of the industry.</p> |
| <p>Recommendation</p> | <p>In the shorter term, it is recommended that there be established within ISSM dedicated resources for considering consumer complaints and that ISSM analyze and publish complaints statistics (see Insurance Good Practice E.1 for details). Relevant staff should be appropriately trained and of a number which is built up over time as the market for insurance and private pensions develops.</p> <p>ISSM could provide further guidance on dispute resolution mechanisms, obliging financial institutions to proactively inform consumers of the right to complain and how to proceed in the case of a dispute, particularly if retail market develops.</p> <p>ISSM should also require the entities they supervise to report complaints statistics to ISSM, who should in turn analyze the statistics for systemic issues (as well as checking compliance with regulatory requirements).</p> <p>In the longer term, it is suggested that Mozambique considers options for the development of an independent third party external dispute resolution scheme, which would apply to all parts of the financial sector.</p> <p>Consideration could, for example, be given to the establishment of a financial ombudsman service. The recommendations 2012 Volume II CPFL Report (<i>see</i> Good Practice E.2 Banking Section) discuss the legal foundations, possible ways to establish and fund such a service, governance and corresponding international standards.</p> <p>Another option which might be considered is the establishment of the Consumer Arbitration Centers provided for in the CP Law.</p> <p>Examples from other jurisdictions should be shared and discussed with stakeholders in Mozambique. In some countries such as Estonia, it was the insurance association who set up a mediator service for dispute resolution. South Africa, where separate ombuds-services have been set up for short term¹²³ and long term insurance¹²⁴, and for pensions¹²⁵, provide good examples from a neighboring country. Once a preferred model finds consensus, a road map to implementation can be determined and executed.</p> |

¹²³ <http://www.osti.co.za/>

¹²⁴ <http://www.ombud.co.za/>

¹²⁵ <http://www.pfa.org.za/>

| SECTION F | GUARANTEE SCHEMES AND SAFETY PROVISIONS |
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| Good Practice F.1 | <p><i>Guarantee Schemes and Safety Provisions</i></p> <p>Guarantee and compensation schemes are less common in the pensions sector than in banking and insurance. There are more likely to be fiduciary duties and custodian arrangements to ensure the safety of assets.</p> <ul style="list-style-type: none"> a. There needs to be a basic requirement in the law to the effect that pension management companies should seek to safeguard pension fund assets. b. There should also be adequate depository or custodian arrangements in place to ensure that assets are safeguarded. |
| Description | <p><i>Paragraph (a)</i></p> <p>Articles 58/59 of the Pension Regulations outline requirements for internal risk management. Article 67 requires that “<i>pension funds must be managed in observance of prudent methods and criteria which assure the existence of the cash flow necessary for the punctual payment of benefits</i>”. Articles 70, 71 and 75 require managing entities take into account the liquidity, diversification, and liabilities of the fund when devising the asset portfolio. Article 74 requires an investment policy (in writing) reviewed every 3 years. Articles 76-84 outline prudential regulations regarding the solvency of DB pension plans.¹²⁶</p> <p>Given there are so few DB funds in Mozambique a guarantee fund would not be feasible or recommended.¹²⁷</p> <p><i>Paragraph (b)</i></p> <p>The Pensions Regulations (Article 46) require that all pension funds must use a depository. Articles 47 and 48 lays out the requirements for these. This is in line with the <i>OECD Guidelines on Pension Fund Governance</i>.¹²⁸</p> <p><i>8. Custodian</i></p> <p><i>“Custody of the pension fund assets may be carried out by the pension entity, the financial institution that manages the pension fund, or by an independent custodian. If an independent custodian is appointed by the governing body to hold the pension fund assets and to ensure their safekeeping, the pension fund assets should be legally separated from those of the custodian. The custodian should not be able to absolve itself of its responsibility by entrusting to a third party all or some of the assets in its safekeeping”</i></p> |

¹²⁶ Adequate prudential regulations are an important part of consumer protection. The details of the regulation and the practical applications have not been considered in this review – noting that only a few DB funds exist. These have been under funded in the past but those now managed by external managers are being brought into line with regulations. Some of the outstanding, unlicensed funds may not yet meet these standards, and the regulator will have to discuss funding plans with them as they come under the regulatory umbrella. Numbers are limited and it is not thought to be a major issue, as faced in other countries in the region on the establishment of a regulatory framework.

¹²⁷ For a discussion on the international practice relating to these funds see Fiona Stewart, ‘Benefit Security Pension Fund Guarantee Schemes’, OECD Working Papers on Insurance and Private Pensions No. 5 (OECD, 2007) <http://www.oecd.org/docserver/download/514s5xktk0vc.pdf?expires=1407274460&id=id&accname=quest&checksum=9A84D8872554A2B829436AAD15351704>

¹²⁸ See <http://www.oecd.org/daf/fin/private-pensions/34799965.pdf>

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| | The external fund management entities confirmed the use of a custodian. It could not be confirmed if this is the case for all in-house funds. |
| Recommendation | ISSM should include checks on pension funds risk management systems in their supervisory oversight. In future, guidance could be issued if these are found to be less than adequate. |
| SECTION G | CONSUMER EMPOWERMENT |
| Good Practice G.1 | <p><i>Using a Range of Initiatives and Channels, including the Mass Media</i></p> <ul style="list-style-type: none"> a. A range of initiatives should be undertaken to improve people's financial capability. b. The mass media should be encouraged by the relevant authority to provide financial education, information and guidance to the public, including on the private pensions sector. c. The government should provide appropriate incentives and encourage collaboration between governmental agencies, the supervisory authority for private pensions, the private pension industry and consumer associations in the provision of financial education, information and guidance to consumers, particularly on the private pensions sector. |
| Description | <p><i>Paragraph (a)</i></p> <p>There are a number of strategic initiatives currently addressing financial education in Mozambique. The government's Financial Sector Development Strategy 2013–2022 includes activities to promote financial literacy, such as financial education campaigns to be disseminated through media and financial education material to be used in schools. It documents the government's commitment to financial inclusion as signaled by the signing of the Maya Declaration in 2012. It is understood that financial literacy will also be covered by Mozambique's Financial Inclusion Strategy which is in the process of development with the support of the World Bank's FISF Program. The FISF program includes the promotion of financial literacy among its objectives.</p> <p>ISSM also has a new Financial Literacy Strategy 2014-2018 which, in addition to providing for print material and seminars, also includes capacity building for journalists and collaboration with schools in the development of insurance teaching material. It recognizes the need to coordinate with a considerable number of stakeholders as well as the need for corresponding resources. It also acknowledges the potential to include suitable insurance related teachings in school curricula, so that young adults become familiar not only with insurance as a financial service that can be of value to them, but also as a potential employer. This will be important as (micro) insurance grows into new socioeconomic segments of population that will need to be serviced by more insurance staff, ideally with a similar background.</p> <p>At present, it is not entirely clear how the various initiatives are coordinated, nor who is responsible to lead and coordinate their implementation.</p> <p>Given the recent development of the pension market in Mozambique, both the regulator and industry providers confirmed that knowledge and awareness of pension</p> |

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| | <p>and retirement issues is low.¹²⁹ The population is still young, and most of the people still rely on family and community support in old age.¹³⁰ Formal sector workers in the private sector have been covered by the previously generous, INSS mandatory pension scheme – with the need for voluntary additional pension savings only just beginning to be realized following parametric reforms to the mandatory scheme in 2007. For example, the Ministry of Labour as part of their general education programs for workers explains the need for individuals to take responsibility for themselves after they stop work as well as relying on the state.</p> <p>Paragraph (b)</p> <p>Given the recent development of the pension industry, the media has yet to focus on the issue of pensions.</p> <p>Paragraph (c)</p> <p>ISSM recently launched an Insurance Literacy Education Strategy 2014-2018, but has yet to initiate any education on pensions. Consumer groups and industry providers do not currently undertaken financial education programs in this sector. This is understandable given their limited resources and the recent development of the sector, which currently only covers only a limited number of higher end consumers.</p> |
| <p>Recommendation</p> | <p>There should be consultation and coordination between relevant stakeholders in developing and implementing Mozambique’s Financial Inclusion Strategy, including aspects related to financial literacy, and also in relation to the implementation of the ISSM Financial Literacy Strategy.</p> <p>A campaign on financial education and awareness in relation to pensions should be developed, led by ISSM. As noted in the 2012 CPFL review, coordination between stakeholders should be improved through the Steering Committee for the Financial Sector Development Strategy, potentially through a Financial Education Task Force. For media training see Good Practice A.2.</p> |

¹²⁹ The Household Capability Survey conducted by the World Bank team in 2012 confirmed that sophisticated products such as private pensions are hardly used at all in Mozambique.

¹³⁰ Social protection for the most vulnerable elderly is provided through the cash transfer PSSB system.

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| Good Practice G.2 | <p><i>Unbiased Information for Consumers</i></p> <p>a. Financial regulators and consumer associations should provide, via the internet and printed publications, independent information on the key features, benefits and risks –and where practicable the costs- of the main types of financial products and services, including private pensions.</p> <p>b. The relevant authority should adopt policies that encourage non-government organizations to provide consumer awareness programs to the public in the area of pensions.</p> |
| Description | <p><i>Paragraph (a)</i></p> <p>Being a new institution, ISSM has only just started to provide customers with information via their website that is available since December 2014¹³¹. The website provides basic educational material on insurance in general and on mandatory motor third party liability insurance (Q&As and glossaries). It also lists all licensed insurers, pension funds, brokers and corporate agents, provides some key figures on the market and on every insurer, and information about ISSM. The information on pensions is more limited than for insurance.</p> <p><i>Paragraph (b)</i></p> <p>Given the recent development of the sector, NGOs are not yet active on pension topics.</p> |
| Recommendation | For industry information see B7. |
| Good Practice G.3 | <p><i>Consulting Consumers and the Financial Services Industry</i></p> <p>The relevant authority should consult consumer associations and the private pension industry to help the authority develop financial capability programs that meet the needs and expectations of financial consumers, especially pension fund members and affiliates.</p> |
| Description | <p>The mission team were advised that pension providers undertake training and awareness for their clients on pension issues. For example, training for HR departments, which are the main points of contact for the pension managing entities with the client plan sponsors, is undertaken (the provider of the current umbrella fund organizes roadshows around regions to explain to clients about the fund and how it is managed). In an example of an international good practice introduced from South Africa, one provider requires all pension fund members who are shortly to retire to undertake a two week training on personal finance (unless the Supervisory Committee of the fund deem this not to be necessary), particularly if the individuals are about to receive a lump sum payment. The management entities confirmed that they are planning to roll out on-line access for account information. Once established this could also be used as a platform for greater education and awareness efforts.</p> <p>There are no financial planning institutions/ financial advisors in Mozambique. All estate planning (for example) is done via attorneys and personal advice is not</p> |

¹³¹ See www.issm.gov.mz

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| | <p>provided before or after retirement. This capacity will need to be developed in the country.</p> <p>As well as general campaigns, particular groups also need training on pension issues. In an occupational pension system such as Mozambique, it is important that HR officers at sponsoring companies understand pensions as they are the first point of call for members with questions and problems. In addition, the pension fund 'trustees', or members of the supervisory committees in the Mozambique case, need training to be able to fulfil their role as protectors of the fund members' interests.</p> <p>Training is particularly required for the representatives on these boards elected by the fund members themselves as they often do not have knowledge in finance issues generally and rarely in pensions in particular. The external pension managing entities in Mozambique do provide such training for the human resources representatives of their client firms, however, no training is currently provided to members of the supervisory committees.</p> |
| <p>Recommendation</p> | <p>ISSM should collaborate with the key players in the pension industry to develop knowledge and awareness on the topic.</p> <p>The consumer association could be invited to attend any training and awareness events on pensions organized by the regulator, and future collaboration with the association could be build (bearing in mind their limited resources and other priorities).</p> <p>See Good Practice A.1 on trustee training.</p> <p>See Good Practice B.5 on HR training.</p> |

ANNEX: LAW AND REGULATIONS USED

NOTE: The following table contains a list of the principal laws, regulations, codes and guidelines considered for the purposes of the CPFL Review.

| Legal Instrument | Abbreviation |
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| Decree No. 65/2004 of 31, December Advertising Code | Advertising Code |
| Law No. 15/99, Law on Credit Institutions and Finance Companies | CIFC Law |
| Decree No. 11/2001, Regulations on the Law of Credit Institutions and Financial Companies | CIFC Regulation |
| Constitution of the Republic of Mozambique | Constitution |
| Law No. 22/2009, Consumer Protection Act | CP Law |
| Decree No. 14/2009, Regulations and General Regulations of Officials and Agents of the State | EFGRAE |
| Decree Law No. 1/2010, (Section 1) Approves the Insurance Legal Regime | Insurance Law |
| Decree-Law No. 1/2010 (Section 2) Insurance Contract Law | ICL |
| Decree No. 30/2011, Regulation of Conditions of Access to and Exercise of Insurance Activity and its Intermediary Activities | Insurance Regulations |
| Decree No. 54/99, August Investment Funds | Investment Funds Decree |
| Diploma Ministerial No. 261/2009, Rules and General Principles of Investment Policy | Investment Regulations |
| Decree No. 29/2012, Approves the Organic Statute of the Insurance Supervisory Institute of Mozambique | ISSM Statute |
| Law No. 11/99 of 8 July, Law on Arbitration, Mediation and Conciliation | Law on Arbitration |
| Decree No. 25/2009, Regulations on the Establishment and Management of Pension Funds as a Form of Complementary Social Security | Pension Regulation |
| Ministerial Diploma No. 10/99, Regulation of Intermediation Activity | RAI |
| Bank of Mozambique Notice 4/GBM/2009 | Rules on Complaint Procedures |
| Bank of Mozambique Notice 5/GBM/2009 | Rules on Fee Disclosure |
| Decree-Law No. 4/2009, Securities Market Code | Securities Code |
| Ministerial Decree No. 261/2009, Sets the accounting standards of the management of pension funds | Ministerial Decree No. 261/2009 |
| Ministerial Decree No. 222/2010, Approves the plan of Accounts applicable entities empowered to exercise insurance activity as well as to fund managers of pension funds. | |
| Decree No. 62/2009, Approves the Regulations of the General status of officials and agents of the State as designated by REGFAE | |
| Law No. 4/2007, Legal Framework of Social Protection | |
| Decree No. 53/2007, Approves the Mandatory Social Security Regulation | |