



**Consumers' Protection in Microfinance Institutions in North Shewa  
Zone of the Amhara National Regional State: The Law and the Practice**

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### Business and Investment Law

#### Consumers' Protection in Microfinance Institutions in North Shewa Zone of the Amhara National Regional State: The Law and the Practice

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## **Statement of Declaration**

I, Yirga Dejene, declared that this thesis entitled "Consumers' Protection in Microfinance Institutions in North Shewa Zone of the Amhara National Regional State: The Law and the Practice" is my own original work. It has not been submitted for an LL.B. or LL.M. degree at this or any other university related to the scope and delimitation of my research area, and all sources of materials used have been fully acknowledged.

**Declared by:** Yirga Dejene



**Signature** \_\_\_\_\_

**Date:** September 2021

## **Statement of Certification**

This is to certify that Yirga Dejene has done this thesis entitled "Consumers' Protection in Microfinance Institutions in North Shewa Zone of the Amhara National Regional State: The Law and the Practice" under our guidance as part of the requirements for the award of the Degree of Master of Business and Investment Law by the College of Law at Debre Berhan University.

Advisor: Tegegne Zergaw (Assistant Professor, Lecturer at Bahr Dar University)

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## List of Acronyms and Abbreviations

Art.	Article
Ag	August
ACSI	Amhara Credit and Saving Institution
ANRSRLUAP	Amhara National Regional State Rural Land Use and Administration Proclamation
ANRS	Amhara National Regional State
AMFI	Aggar Microfinance Institution
CGAP	Consultative Group to Assist the Poor
CB	Commercial Bank
CEO	Chief Executive Officer
CPC	Civil Procedure Code of Ethiopia
CRB	Credit Reference Bureau
MCI	Micro Credit Institutions
EU	European Union
FCP	Financial Consumer Protection
FCPD	Financial Consumer Protection Directive
FDRE	Federal Democratic Republic of Ethiopia
FGD	Focus Group Discussion
E.C	Ethiopian Calendar
Eg	Example
et al	More than three author
HPR	House of People Representative

G.C	Gregorian Calendar
GRM	Grievance Redress Mechanisms
HMFI	Harbu Microfinance Institution
MA	Microfinance Association
MFI	Microfinance Institutions
MSEs	Micro and Small Enterprises
NGO	Non-Governmental Organization
NBE	National Bank of Ethiopia
n.d	No date of publication
n.p	No page
No.	Number
NSZ	North Shewa Zone
NSZHC	North Shewa Zone High Court
S.C	Share Company
SNNPE	Southern Nation Nationality and People of Ethiopia
P.	Page Number
Proc.	Proclamation
RBI	Reserve Bank of India
UN	United Nation
US	United States
VFMFI	Vision Fund Microfinance Institution

## **Abstract**

*Microfinance institutions (hereinafter MFIs) provide financial services to the poor. Consumers need protection from the malpractice of MFIs. The major problems in consumer protection in MFIs are unfair contractual terms, fees, and charges; unsafe debt collection practices; limitation of disclosure and awareness; unfair credit-related practices; unauthorized transactions; and erroneous interest rate calculation. The objective of the study is to appraise the law and practice of consumer protection in MFIs in Amhara National Regional State (hereinafter ANRS), with a particular reference to the North Shewa zone. To accomplish the study, mixed research methods are utilized. Both primary and secondary sources of data are used as data collection instruments. The study's major findings include: unfair contractual terms, fees, and charges; limitations on consumer supervision once they obtain loans; unsafe debt collection practices; deficiency of disclosure and awareness; weak enforcement of the CRB; use of any asset to recover debt; improper interest rate calculation; and limited MFI networking. The study found a gap in the implementation of consumer protection laws in MFIs. Besides, the existing laws have gaps and are inadequate to protect consumers in MFIs. It is concluded that unfair contractual terms, fees, and charges; unfair debt collection practices; limited supervision of consumers by MFIs; erroneous interest rate calculation; and violating key principles of MFI consumer protection lead to over-indebtedness of MFI consumers. It is recommended that consumer protection in MFIs be improved by revising adhesion contracts that include unfair contractual terms, fees, and charges; networking of MFIs; revising MFI consumer protection laws; strengthening the performance of the CRB; implementing proper regulation of MFIs' debt collection system; frequent supervision of MFI consumers; and designing MFIs' consumer protection education in a curriculum. To protect consumers in MFIs, the NBE should monitor and supervise the protection of MFIs' consumers not only through a report system, but also through a surprise inspection of institutions, and take corrective action through proper regulation. It is also suggested that the issuance of a comprehensive over-indebtedness directive, a separate consumer protection MFI directive, and revision of the MFI proclamation to incorporate the formation of an independent judge and tribunal to settle grievances of MFI consumers would enable the protection of consumers. Concisely, the implementation gaps in consumer protection in MFIs can be solved by implementing the existing laws, and redrafting laws that have a gap can solve the legal gaps.*

**Key words:** - Consumer Protection, Microfinance Institutions, Law, Practice

# CHAPTER ONE

## 1. Introduction

### 1.1. Background of the Study

Consumers can be either an individual or a group of people who purchase and use goods and services solely for personal use.<sup>1</sup> Consumer protection is the practice of safeguarding consumers of products and services from unfair business practices.<sup>2</sup> Due to discrepancies in the customer-supplier relationship because of unequal negotiating power, knowledge, and resources, consumer protection is needed.<sup>3</sup> Hence, consumer protection laws and regulations are designed to protect consumers from unfair business practices by suppliers.<sup>4</sup>

Micro financial services are provided to poor or low-income societies who have no access to mainstream banking or other financial services.<sup>5</sup> Microfinance aims to assist the poor who live in poverty. Hence, microfinance targets economically active poor people.<sup>6</sup> Microfinance encompasses micro credit (micro-loans), micro-savings, micro-insurance, and payment systems, among other things.<sup>7</sup> Literature shows that microfinance institutions are among the institutions that provide micro financial services for the poor or low-income sections of society who are

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<sup>1</sup>.Debitoor's Accounting Dictionary (n.d), p. n.p, available at <https://debitoor.com/dictionary/consumer> (This page was last accessed May 17,2021)

<sup>2</sup>.The Free Encyclopedia, Consumer Protection (n.d) page n.p, available at [https://en.wikipedia.org/wiki/Consumer\\_protection#:~:text=Such%20laws%20are%20intended%20to%20competitors%20or%20to%20mislead%20consumers](https://en.wikipedia.org/wiki/Consumer_protection#:~:text=Such%20laws%20are%20intended%20to%20competitors%20or%20to%20mislead%20consumers)( This page was last accessed May 3,2021)

<sup>3</sup>.United Nations Conference on Trade and Development, Manual on Consumer Protection (United Nations, 2016), p.2, accessible at <https://unctad.org/system/files/official-document/webditcclp2016d1.pdf> (This page was last accessed May 3,2021)

<sup>4</sup>.See supra note 2 p. n.d

<sup>5</sup>.Aytenfisu Yehualashet, Assessment of the Operational Performance of Meklit Microfinance Institution Share Company in Addis Ababa, Ethiopia: A Thesis Submitted to St. Mary's University, School of Graduate Students in Partial Fulfillment of the Requirements for the Degree of Master of Business Administration, June 2014, p. 1, look at <http://repository.smuc.edu.et/bitstream/123456789/279/1/AYTENSIFU%20YEHUALASHET.pdf> (This page was last accessed March 20,2021 )

<sup>6</sup>.Nyarondia Samson Mecha, Effect of Microfinance on Poverty Reduction: A Critical Scrutiny of Theoretical Literature (Global Institute for Research and Education, May-June,2017),p. 18 <https://www.longdom.org/articles/effect-of-microfinance-on-poverty-reduction-a-critical-scrutiny-of-theoretical-literature.pdf> (This page was last accessed May 2,2021)

<sup>7</sup>.From Wikipedia, the free encyclopedia, Microfinance (n.d), p. n.p, available at <https://en.wikipedia.org/wiki/Microfinance> (This page was last accessed on May 2,2021)

outside of the mainstream banking system and other financial institutions, particularly in developing countries.<sup>8</sup>

The emergence of the modern version of microfinance as it is known today is usually credited to Bangladesh's Mohammad Yunus, who in the 1970s started offering small loans to basket weavers in rural Bangladesh to help them with their businesses.<sup>9</sup> Today, MFIs are providing financial services to millions of the world's most impoverished citizens.<sup>10</sup> The development of MFIs in Ethiopia is a recent phenomenon; and the proclamation, which calls for the establishment of microfinance institutions, was issued in July 1996.<sup>11</sup> The history of consumer protection in MFIs is a recent phenomenon.

Over the past several years, consensus has emerged that avoidance of over indebtedness, implementing transparent and responsible pricing, employing appropriate debt collection practices, ethical staff behavior, protecting the privacy of consumers' data, and timely and responsive mechanisms for redressing grievances as core principles of consumer protection in MFIs.<sup>12</sup> Weak consumer protection in microfinance undermines the main goal and objective of MFIs, causing consumers to fall deeper into poverty than they were before. UN Member States are required to establish or encourage financial consumer protection regulatory and enforcement policies and appropriate controls and insurance mechanisms to protect consumer assets, including deposits, fair treatment and proper disclosure, and appropriate controls to protect consumer financial data, including from fraud and abuse.<sup>13</sup> MFIs are regulated to protect the country's financial system and small depositors, to address the consequences of rapid growth and

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<sup>8</sup>.Muluken Alemayehu (MPM), Mesfin Lemma (PhD), Assessment of Factors Affecting Microfinance Institutions' Performance: The Case of Hawassa City, Vol.6 No.1 June 2014, p. 2, available at <https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/8840/Muluken%20Alemayehu%20FINAL.pdf?sequence=1&isAllowed=y> (This page was last accessed on March 20, 2021)

<sup>9</sup>.Awaworyi Churchill et al, Microcredit and Poverty Reduction in Bangladesh: Beyond Publication Bias, Does Genuine Effect Exist?, 2015, p., n.p, available at <https://www.econstor.eu/handle/10419/123722> (This page was last accessed on March 21, 2013)

<sup>10</sup>. B. Seth McNew, Regulation and Supervision of Microfinance Institutions: A Proposal for a Balanced Approach, volume 15, number 2, p.287, available at <https://core.ac.uk/download/pdf/147642146.pdf> (This page was last accessed on May 6,2021)

<sup>11</sup>.Ebisa Deribie, et al., Filling the Breach: Microfinance (Academia Publishing, January 2013), p. 11, available at <https://acemiapublishing.org/journals/jbem/pdf/2013/jan/Deribie%20et%20al.pdf>.( This page was last accessed on March 21,2021)

<sup>12</sup>.CGAP, The Client Protection Principles in Microfinance (n.d), p., n.d, available at <https://pdf4pro.com/fullscreen/the-client-protection-principles-in-microfinance-49d05a.html> (This page was last accessed on May 13, 2021)

<sup>13</sup>. General Assembly Resolution 70/186, United Nations Guidelines for Consumer Protection (United Nations, 22 December 2015), p.13, available at [https://unctad.org/system/files/official-document/ares70d186\\_en.pdf](https://unctad.org/system/files/official-document/ares70d186_en.pdf) (This page was last accessed on May 3,2021)

fast commercialization of the microfinance sector, to protect consumers and fight against abusive interest rates and to prevent fraud and financial crime.<sup>14</sup> Proper regulation serves to protect consumers' rights in MFIs. Hence, designing, implementing, monitoring, and enforcing regulatory rules are critical in MFIs to protect consumers.<sup>15</sup>

In Ethiopia, as of today, the general law governing consumer protection for trade in goods and services is Trade Competition and Consumer Protection Proclamation Number 813/2013. The concept of financial consumer protection has been accredited as a separate concern following the enactment of banking business (amendment) proclamation No. 1159/2019, insurance business (amendment) proclamation No. 1163/2019, and microfinance business (amendment) proclamation No. 1164/2019.<sup>16</sup> As of 2020, there was no specific financial consumer protection directive in Ethiopia. The directive number FCP/01/2020 was issued to protect all financial institution consumers.<sup>17</sup> This directive is an integrated consumer protection law that applies to all financial institutions' consumers. There is no single consolidated over-indebtedness prevention directive in Ethiopia to alleviate repayment crises for MFIs' consumers. It is obvious that consumers who seek financial services from MFIs require protection from financial service providers' malpractice through proper and effective implementation of laws and regulations to avoid the problem they are facing. Hence, the researcher investigates the law and practice of consumer protection in MFIs, where no previous study on the same research topic has been conducted, particularly following the endorsement of Ethiopia's new financial consumer protection directive in the study area.

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<sup>14</sup>.Anne Pouchous, The Regulation and Supervision of Microfinance: Main Issues and Progress, (The International Institute for Sustainable Development, 2012), p. 3, available at [https://www.iisd.org/system/files/publications/regulation\\_supervision\\_microfinance.pdf](https://www.iisd.org/system/files/publications/regulation_supervision_microfinance.pdf) (This page was last accessed on May 6,2021)

<sup>15</sup>.Lura Brix and Katharine, Consumer Protection Regulation in Low-Access Environments: Opportunities to Promote Responsible Finance, February 2010, p.19, see at <https://www.cgap.org/sites/default/files/CGAP-Focus-Note-Consumer-Protection-Regulation-in-Low-Access-Environments-Opportunities-to-Promote-Responsible-Finance-Feb-2010.pdf> (This page was last accessed on August 10, 2021)

<sup>16</sup>.Directive Number FCP/01/2020, Financial Consumers Protection Directive, National Bank of Ethiopia, 2020, preamble available at <file:///C:/Users/user/Downloads/FCP-01-2020.pdf> (This page was last accessed on March 28, 2021)

<sup>17</sup>.Id, preamble

## **1.2. Statement of the Problem**

Microfinance institutions offer micro-financial services for both the urban and rural poor. Consumer protection issues in microfinance are being discussed around the world, driven by public concern over high interest rates, coercive debt collection practices, lack of consumer awareness and education, and irresponsible lending leading to consumer over-indebtedness.<sup>18</sup> Consumers in MFIs need to be protected from high interest rates, unfair contractual terms, unfair fees and charges, barriers to account mobility and account closure, unfair credit-related practices, unsafe debt collection practices, unauthorized transactions, and other problems.<sup>19</sup> Microfinance institution consumers are vulnerable to such problems. The mentioned problems lead consumers of MFIs to be over-indebted. Hence, unfair contractual terms, fees, and charges; unsafe debt collection practices; improper calculation of interest rate; inadequacy of disclosure and awareness; barriers to account mobility and account closure; limitations on supervision of consumers once they obtain loans; weak enforcement of the CRB; use of any assets to recover debt; unfair credit-related practices; absence of special adjudicative tribunal; limited networking of MFIs and related themes are concerns to protect consumers in MFIs that necessitate the researcher's assessment of the laws, practices, and gaps in the area. The above issues are provided under the new FCP directive of Ethiopia. However, their implementation has not been studied in depth. It is observed that these themes are a problem, as the researcher knows from his work experience. Hence, it is intended to study the practices of consumer protection in MFIs ANRS, with particular reference to the North Shewa zone.

## **1.3. Objectives of the Study**

### **1.3.1. General Objective**

The general objective of the study is to appraise the existing laws and practices of consumers' protection in microfinance institutions (MFIs) in Amhara National Regional State with a particular reference to North Shewa zone.

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<sup>18</sup>.Kenny Kline and Santadarshan Sadhu, Consumer Protection Regulation Microfinance Needs and Initiatives in India (The Microfinance Review, Journal of the Centre for Microfinance Research, December 2011), Vol. III, No. 2, p., 4, available at <https://www.findevgateway.org/sites/default/files/publications/files/mfg-en-paper-consumer-protection-regulation-microfinance-needs-and-initiatives-in-india-oct-2011.pdf> (This page was last accessed on March 18,2021)

<sup>19</sup>.See supra at note 16, Art.5



### **1.3.2. Specific Objectives**

In particular, the study aims at addressing the following specific objectives:

- I) To assess the effectiveness of existing legal frameworks for consumer protection in MFIs in Ethiopia;
- II) To analyze the practices of consumer protection in MFIs in the Amhara National Regional State with a particular reference to North Shewa zone;
- III) To investigate the legal and implementation gaps in consumer protection in MFIs in the study area ;
- IV) To see how the government regulates MFIs in order to protect consumers in MFIs;

### **1.4. Research Questions**

#### **1.4.1. General Research Question**

- ✓ What seem the existing laws and the practices of consumers' protection in microfinance institutions (MFIs) in North Shewa of the Amhara National Regional State?

#### **1.4.2. Specific Research Questions**

- I) What seems the effectiveness of the existing legal frameworks for consumer protection in MFIs in Ethiopia?
- II) What are the practices of consumers' protection in MFIs in North Shewa Zone of the Amhara National Regional State?
- III) Are there legal and implementation gaps in consumers' protection in MFIs in the study area?
- IV) In order to protect consumers of MFIs, how should the government regulate MFIs?

### **1.5. Significance of the Study**

This research paper in general contributes for many benefits to academics, practitioners, and policymakers. Among other things, the study has the following specific significance:

- I) It benefits everyone in understanding the fundamental concepts of consumer protection in MFIs.

- II) It is critical to inform the relevant authorities about the legal and practical weaknesses in consumer protection in MFIs in order to devise mechanisms to resolve the gaps.
- III) It instigates concerned bodies (especially microfinance institutions) to reconsider consumers' protection practices in microfinance institutions.
- IV) It assists the government in adopting legislation that would protect consumers in microfinance institutions.
- V) It inspires researchers to conduct further studies on consumer protection in MFIs.

## **1.6. Scope and Delimitation of the Study**

The study emphasizes the protection of consumers in microfinance institutions (MFIs). The paper highlights the law, practice, gaps and explores the implementation of existing legal frameworks in consumers' protection in MFIs in the study area. The study is geographically confined to looking into the practice of consumer protection of MFIs in some selected MFIs in the North Shewa zone of the ANRS. As a result, data samples are collected from the North Shewa zone in order to assess the law and the practice of consumer protection in MFIs. The sample taking area, North Shewa zone, is located in the eastern part of the ANRS of Ethiopia. Because of the existence of MFIs and consumers in both urban and rural areas in this zone, the researcher chose a sample-taking area to be in the north Shewa zone of the ANRS. ACSI, VFMFI, AMFI, and HMFI have been established in the sampling area to provide microfinance services to the poor.

It is important to set aside time for the study. The study is primarily focused on after enforcement of the new FCP directive number FCP/01/2020. However, the data is also collected before the directive is issued, so it helps to know whether the practices before the issuance of the directive are still being implemented or not, and the laws enacted before the FCP directive are also discussed.

## **1.7. Research Methodology**

The research is conducted through utilizing procedures or techniques that help to identify, choose, process and analyze data about a research topic to accomplish the study properly and effectively. The study is conducted through a mixed research methodology that is aimed at investigating consumers' protections in MFIs.

The research is focused on evaluating the practice of consumer protection in MFIs in accordance with existing legal frameworks. In the study, a qualitative research method is predominantly employed. Because the nature of the research needs obtaining deep information from the informants and legislative and court case analysis in order to assess consumers' protection in MFIs. Nonetheless, in order to advance the study, the researcher supplements the qualitative research method with a quantitative research method in order to collect and analyze quantifiable, practical-related data. Hence, the study emphasizes non-doctrinal (empirical) research methods as well as doctrinal (desktop) research methods. The problems of consumers' protection in MFIs are described and evaluated in line with the existing legal framework within the scope and delimitation of the study area. For proper and effective implementation of the research methods chosen above, primary and secondary sources of data are collected.

### **1.7.1. Sampling Size and Techniques, and Data Collection Instruments**

#### **I. Sampling Size and Techniques**

In order to obtain generalized data that aids in answering the research questions, the purposive sampling technique is used to select the relevant participants based on participants' position, educational level, service obtaining (loan and deposit), experience, expertise, and domiciles. Consumers in selected MFIs, employers, and institutional employees are sampled. Though the delimitation of the study is within the North Shewa zone of the ANRS, the researcher does not search for each consumer and institution in the zonal area. Samples are taken from selected consumers and institutions. Samples are taken from Amhara Credit and Saving Institution, Vision Fund Microfinance Institution, Agar Microfinance Institution and Harbu Microfinance Institutions. Currently, ACSI is developing itself into Tseday Bank S.C. However, it continues to serve the poor through its microfinance program. It has microfinance consumers. Unlike other MFIs, the ACSI is the dominant one in providing financial services to the poor in the Amhara region in general and in North Shewa in particular. Accordingly, it is chosen as the study about consumer protection, which serves as a lesson for other MFIs. The data is sampled from MFIs with a high number of consumers as well as those with a low number of consumers in order to identify gaps in consumer protection. Nevertheless, the targets in the study are the consumers of MFIs.

## **II. Data Collection Instruments**

Data collection is the systematic process of preparing or gathering data that is needed to answer research questions. The primary source of data is data collected from the original sources. Among other things, questionnaires, interviews, and observations are the major types of primary sources of data. Because the nature of the research is legal research, the study relied on legislation as a source of data. In the study, the primary sources of data are collected through questionnaires, FGD, interviews, and personal observation. Questionnaires are distributed and collected personally. Interviews are conducted in person and over the phone. Questionnaires are collected from selected consumers (both rural and urban residents). This is because there may be different types of problems that both urban and rural borrowers face. The 130 questionnaires are distributed to each of the consumers of the above-mentioned MFIs, each of which had 10 main questions closely tied to consumers' rights in the MFI. The distribution of questionnaires is based on the number of consumers in MFIs and the variety of problems faced by the institutions' consumers. It was distributed to 50 ACSI consumers, 40 VFMMFI consumers, 20 AMFI consumers, and 20 HMMFI consumers. Out of the distributed questionnaires, the researcher collected 40 copies from ACSI consumers, 25 copies from VFMMFI S.C consumers, 15 copies from AMFI S.C consumers, and 14 copies from HMMFI S.C consumers. Of the distributed questionnaires, 94 copies were collected from consumers of the above-mentioned MFIs.

The researcher purposely interviews the four MFIs' concerned bodies. Since they are close to the cases, they give constructive data to realize the objectives of the study. Interviews are conducted with the legal professions such as legal officers of ACSI and VFMMFI to assess more about consumers' protection in MFIs. This is because legal officers of the institutions bring practical cases to the court when disputes arise between consumers and MFIs. The reason why it was opted to conduct interview with ACSI is because it has a larger consumer base and it is better to gain information on consumer protection. On the other hand, the VFMMFI was chosen for the interview because there are so many claims in court that the researcher conducting the study wants to know why. This phenomenon was verified by the researcher through personal observation. For example, on June 2, 2013 E.C., 18 files were opened in the North Shewa zone High Court. On the other hand, a researcher interviewed AMFI and HMMFI few employees and employers because of the small number of consumers they had, so it was important to ask for some ideas about consumer protection in the institutions. Besides, these two MFIs have operated financial activities very recently in the North Shewa zone, particularly in Debre Berhan City.

The FGD is used as a means of data collection. Consumers of the ACSI and VFMFI have been selected for the FGD because the study focuses on MFI consumer protection. Besides, consumers of MFIs are the beneficiaries; they can explain the benefits and costs of the services they receive. It has purposively selected both the urban and rural consumers of MFIs' services for the FGD. The reason is that MFIs offer micro financial services for both the rural and the urban poor, in either personal security or in-group guaranty. Furthermore, it is essential to conduct FGD with both rural and urban MFI consumers in order to address MFIs' implementation shortfalls in consumer protection. Four (4) people from urban areas and four (4) people from rural areas are selected to have a short but basic discussion with a total of eight (8) people. Of those, five (5) are from ACSI and three (3) are from VFMFI consumers. The FGD is not conducted with AMFI and HMFI consumers. Since the researcher believes that questionnaires conducted for AMFI and HMFI consumers are sufficient. Besides, regardless of the data from the questionnaires of AMFI and HMFI, interviews are conducted with the staff and management bodies of AMFI and HMFI.

In the study, the researcher reviewed secondary sources of data such as various literature, articles, court decisions, loan contracts, and pleadings to the court.

Concisely, when collecting data, the researcher used both primary and secondary sources of information, such as questionnaires, interviews, FGD, legislation, court cases or decisions, articles, various types of literature, loan contracts, pleadings and other relevant data which have direct linkage with that helped to achieve the objectives of the study and answer the study's research questions.

### **1.7.2. Data Analyzing Techniques**

The data gathered from both primary and secondary sources is analyzed by using mostly thematic analysis or segments analysis, which involves putting ideas, research results of interviews, FGDs, or open-ended questionnaires into themes or segments to derive common findings. The researcher also analyzed the collected data through close-ended questionnaires using statistical methods such as percentages. To validate the data/verify the commonalities or divergences of the idea, the researcher used grounding analysis techniques or compared one piece of data collected using one technique with the other. The researcher began by discussing the data gathered from questionnaires, FGD, interviews, and personal observation. After that, the researcher summarized the main findings. Based on the major findings, the law and the practices

are analyzed. The legal and implementation issues highlighted in the statement of the problem are thoroughly discussed. The researcher put the legal and implementation gaps on the table for clear understanding after analyzing the law and practices based on the findings.

### **1.7.3. Ethical Consideration**

In doing the research, the researcher gave due attention to ethical values to those who gave data. In conducting the research, the researcher respects the consent and dignity of the research participants, protects their privacy, ensures confidentiality of the research data, avoids conflict of interest; avoids misleading questions, etc. to make the study proper and effective.

### **1.8. Limitation of the Study**

Though the researcher utilized his utmost effort to diminish its risky impact on the outcome of the study, he encountered the following constraint while conducting the study.

Firstly, above all, the security of our country, Ethiopia, is a major obstacle to doing the study. The researcher has been receiving consistent support via telephone and email from the ex-advisor on developing the proposal. However, due to security concerns, the researcher could not contact the ex-advisor via phone or email address due to security worries in our country, Ethiopia. To mitigate this limitation, Debre Berhan University assigned Mr. Tegegne Zergaw due to the current security situation in our country, and the researcher attempted to complete the study with the guidance of my appointed advisor.

Secondly, it was challenging for certain institutions to provide data to the researcher. One of the reasons was our country's current security scenario. They were informed, however, that the data was confidential and that their names would not appear in the research paper.

Thirdly, the researcher organized the study while he was at the office doing my regular burdensome office tasks at the NSZ high court. The researcher faced a shortage of time to make the study perfect. Thus, the researcher tries to study day and night to mitigate time shortages.

### **1.9. The Structural Organization of the Study**

The research paper has five chapters.

**CHAPTER ONE** is about introductory remarks to the study. The background of the study, the statement of the problem, the objectives of the study, the research questions of the study, the

significances of the study, the scope and delimitation of the study, the methodology of the study, the limitations of the study, and the organization of the study are described in this chapter.

**IN CHAPTER TWO**, literature reviews are discussed in detail. This chapter is mainly focused on conceptual themes or issues through assessing literature. In this chapter, the concepts of MFIs and consumer protection are discussed. The evolution of MFIs and consumer protection, the objectives and principles of MFIs and consumer protection, the international legal and regulatory frameworks for consumer protection in MFIs, and countries' experiences are assessed.

**CHAPTER THREE** is about to look at Ethiopia's legal and regulatory framework for consumer protection in MFIs. The general overview of consumer protection in Ethiopia is evaluated in this chapter. The FDRE constitution, the licensing and supervision of microfinance proclamation No. 40/1996, the microfinance business proclamation number 626/2009, the microfinance business (amendment) proclamation No. 1164/2019, and the financial consumer protection directive number FCP/01/2020 are all examined in depth. Because the FCPD number FCP/01/2020 is a new phenomenon in Ethiopia, basic issues that are addressed in the directive are discussed. Furthermore, the regulatory frameworks for consumer protection in Ethiopia's MFIs are examined through investigating directives issued by the national bank of Ethiopia.

**IN CHAPTER FOUR**, the data collected from the concerned bodies is discussed and analyzed in line with the existing legal frameworks for consumer protection MFIs. Here, the law and practice are scrutinized deeply to propose possible recommendations. Besides, both gaps in the law and in practices are discussed.

**CHAPTER FIVE** is about the conclusions and recommendations of the study.

### **1.10. Dissemination of the Study**

The final thesis will be disseminated to selective MFIs, which have gaps in consumer protection and to Debre Berhan University College of law, either in hard copy if it is possible or in soft copy through email address.

## CHAPTER TWO

### 1. Review of Related Literature

#### 2.1 Introduction

This chapter briefly presents the basic conceptual framework of the study that enables us to assess the law and the practice of consumer protection in microfinance institutions (MFIs) in the scope and delimitation area of the study through assessing the literature. From an international perspective, in this chapter, the basic concepts and themes of consumer protection in MFIs are discussed.

#### 2.2. Conceptual Frameworks of the Study

##### 2.2.1. Microfinance Institution (MFI)

It is clear that exploring consumer protection laws and practices in MFIs requires addressing fundamental philosophies about microfinance institutions (MFIs). Although there have been many research studies and literature written about microfinance, there is still no globally agreed definition of it.<sup>20</sup> The concept of microfinance is defined differently according to the objective of the scheme, the type of offered products, and from the perspective of microfinance users.<sup>21</sup> Literally, microfinance is defined as the provision of loans and other financial services to low-income consumers who do not have access to banks and other financial service providers. Microfinance is a tool for poor people's empowerment. Some scholars have used microfinance and micro credit interchangeably. However, microfinance, on the other hand, differs from micro credit in that micro credit provides small loans to consumers, whereas microfinance covers additional financial services such as micro saving, micro insurance, money transfer, and so on. Over the years, micro credits have been offered to poor people to help themselves and their families. However, in the current world, micro credits offer other services. Today, since micro

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<sup>20</sup>.Alsi Yuksel Mermod, Microfinance, encyclopedia of corporate social responsibility (n.d), 2013, p., n.p, available at [https://link.springer.com/referenceworkentry/10.1007%2F978-3-642-28036-8\\_85#toc](https://link.springer.com/referenceworkentry/10.1007%2F978-3-642-28036-8_85#toc)(This page was last accessed on March 23,2021)

<sup>21</sup>.Sayed Samer Ali Al-Shami et al., Conceptual Framework: The Role of Microfinance in the Wellbeing of the Poor People: Case Studies from Malaysia and Yemen ( Canadian Center of Science and Education,2013), p., 230-231, available at <https://www.researchgate.net/publication/277688711> (This page was last accessed on April 25,2021)



credit is offered along with other services, the term micro credit has been replaced by the term microfinance.<sup>22</sup>

Microfinance has emerged as a low-income women and men's economic development approach, and the word refers to the provision of financial services to low-income consumers, including the self-employed.<sup>23</sup> Microfinance is essentially the financing of poor societies. Microfinance is defined by the Asian Development Bank as the provision of a comprehensive range of financial services to poor and low-income households and their micro enterprises, including deposits, loans, money transfers, and insurance.<sup>24</sup> Microfinance is generally called banking for the non-bank user.<sup>25</sup> Microfinance targets low-income populations who are excluded from conventional banks and other financial service providers. Microfinance can also be defined as an attempt to provide financial services to households and micro-enterprises that are excluded from traditional commercial banking services.<sup>26</sup> Thus, microfinance service providers provide financial services such as micro credits, micro savings, micro-insurance, payment services, money transfers, training, and education, and so on to low income consumers.

The MFI is the name given to the organization that provides microfinance services. MFI may provide loans to a group of people who are jointly and severally liable for the payment of the debt. MFIs are financial institutions that are dedicated to assisting primarily impoverished households and small businesses with obtaining financial services.<sup>27</sup> MFIs are institutions that

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<sup>22</sup>.Vange Mariet Ocasio, Essays on the Role of Microfinance Institutions in Financial Deepening, Economic Growth and Development, In partial fulfillment of the requirements for the degree of Doctor of Philosophy (Colorado State University, 2012), p. 3, available at [https://mountainscholar.org/bitstream/handle/10217/71574/Ocasio\\_colostate\\_0053A\\_11526.pdf?sequence=1](https://mountainscholar.org/bitstream/handle/10217/71574/Ocasio_colostate_0053A_11526.pdf?sequence=1) (This page was last accessed on April 24,2021)

<sup>23</sup>.Joanna Ledgerwood, Sustainable Banking with the Poor: An Institutional and Financial Perspective (*The World Bank, Washington D.C.*,1999), p. 1, available at <https://openknowledge.worldbank.org/bitstream/handle/10986/12383/18771.pdf>, (This page last accessed on March 23,2021)

<sup>24</sup> D.M.N.S.W. Dissanayake, The Determinant of Microfinance Profitability: Evidence from Sri Lanka Microfinance institutions, *Kelaniya Journal of Management* –volume: 01, number: 01, p. 50, available at <http://repository.kln.ac.lk/bitstream/handle/123456789/13527/50.pdf?sequence=1&isAllowed=y>(This page was last accessed on March 25, 2021)

<sup>25</sup>.Padma Narayan Bhamidipati, A study on the Aspects of consumer protection in Microfinance, January 2017, p.,46, available at [file:///C:/Users/user/Downloads/v4-i11-a007%20\(4\).pdf](file:///C:/Users/user/Downloads/v4-i11-a007%20(4).pdf) ( This page was last accessed on March 21, 2021)

<sup>26</sup>.Thorsten Beck, Microfinance-A Critical Literature Survey (Independent Evaluation Group, The World Bank Group, 1818 H St., NW, Washington DC , 2015), p. 3, available at <https://openknowledge.worldbank.org/bitstream/handle/10986/23546/Microfinance000a10literature0survey.pdf> (This page was last accessed on April 25,2021)

<sup>27</sup>.Daneil C.Hardy et al, Microfinance Institution and Public Policy, IMF Working Paper, September 2002, p. 4, available at <file:///C:/Users/user/Desktop/final%20thesis/wp02159.pdf> (This page was last accessed on March 22, 2013)

offer microfinance services to the poor and small enterprises who do not meet the criteria for the mainstream banking system. In MFIs, loans are small amounts with a short duration of repayment. Micro credits help people living in extreme poverty. M. Venkataramanaiah and C. Mangala Gowri noticed that MFIs should be aware of a very fundamental truth that they are not for profit making but for serving the poor.<sup>28</sup> MFIs have their own key characteristics. It is difficult to assess consumer protection in MFIs without understanding the chief features of MFIs.

Table: -1.1 Differences between Microfinance Institutions and Conventional Banks

Parameters	Financial Institutions	
	Microfinance institutions	Conventional banks
Target groups	Lend to low-income or poor people.	Lend to upper or middle income people or entities
Collateral for loans	may not take security, collateral free, or loans given without security	Require the borrower to pledge collateral/loans given with security.
Loan tenure	Short term	Long term
Services	Both financial and non-financial or social components	It provides financial services.
Repayment rates	Very high repayment rates	Low repayment rates
Cost and risks	Higher operational costs and risks	Lower operational costs and risks
Accessibility	Easily accessible	Complex and difficult
Amount of loans	Small or microloans	High or macro loans

Source: The researcher developed the table by reading different literature

### 2.2.2. Consumer protection

There is confusion about the concepts of "consumer," "customer, and "client." In some literature, these concepts are used interchangeably. Nonetheless, there is a bit of a difference between these concepts. A consumer is a person or a group who intends to order or use purchased goods, products, or services primarily for personal, social, family, or household purposes, rather than for

<sup>28</sup>.Venkataramanaiah and C.Mangala Gowri, A Review of Ethiopian Microfinance Institutions and their Role in Poverty Reduction: A Case Study on Amhara Credit and Saving Institution (ACSI), p.1, available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1739465](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1739465) (This page was last accessed on March 22,2021)

entrepreneurial or commercial purposes.<sup>29</sup> Thus, in a literal way, a consumer is a person or group who buys products or services from suppliers for personal use or ownership rather than resale. A customer is a person who purchases something or engages in some form of exchange transaction so that a customer can be a consumer, but a consumer does not necessarily need to be a customer.<sup>30</sup> Assume Mr. Aschenaki goes to the market and buys bananas. If he eats bananas, he is both a customer and consumer. However, if Mr. Aschenaki buys bananas and he gives the banana to his daughter who eats it, the daughter is the consumer and the buyer (Mr. Aschenaki) is the customer. In other words, if Mr. Aschenaki buys bananas, he himself does not eat the bananas, and he gives the bananas to his daughter, who also does not eat them, the buyer (Aschenaki) is the customer, but nobody is a consumer, although one product is sold. Hence, one can understand that the concepts of consumer and customer have a difference, though people use both words interchangeably. A client is a person or a business that pays for personalized or highly professional services like legal advice, graphic design, and real estate consultation.<sup>31</sup> As per this definition, attorneys have clients, not customers.

As consumers are the backbone of any business, they need prudential protection from unfair practices by businesses or vendors. Consumer protection refers to safeguarding consumers' interests and rights. Consumer protection, in a broader sense, refers to the laws and regulations that ensure fair interaction between service providers and consumers.<sup>32</sup> This definition emphasizes service providers rather than product providers. Consumer protection pertains to the means necessary to safeguard the interests of consumers and empower them to be aware of their rights and make prudent and educated decisions about products and services to be acquired or availed of.<sup>33</sup> In order to maximize profits, sellers go to great lengths, which can also end up being

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<sup>29</sup>.Sheetal Kapoor ,Consumer and the Market, (University of Delhi, July ,2020), page 3, look at [file:///C:/Users/user/Downloads/10\\_consumer\\_and\\_market.pdf](file:///C:/Users/user/Downloads/10_consumer_and_market.pdf) ( Last accessed on August 16,2021)

<sup>30</sup>.S Data, Customer vs. Consumer-A Different Perspectives (Rawal Institute of Management, Faridabad, India, September 2016), International Journal on Management and Social Science Vol.4 Issue-09, p.109, available at [https://www.academia.edu/35994514/Customer\\_vs\\_Consumer\\_A\\_Different\\_Perspective](https://www.academia.edu/35994514/Customer_vs_Consumer_A_Different_Perspective) (This page was last accessed on August 16,2021)

<sup>31</sup>.Ana Khlystova, Client vs. Customer: What is the Difference? (n.d), p. n.p, available at [https://helpcrunch.com/blog/client-vs-customer/#%20Customer\\_definition](https://helpcrunch.com/blog/client-vs-customer/#%20Customer_definition) (This page was last accessed on August 16,2021)

<sup>32</sup>.Oya Pinar Ardic et al, Consumer Protection Laws and Regulations in Deposit and Loan Services: A cross-Country Analysis with a New Data Set, (The World Bank: Financial and Private Sector Development Consultative Group to Assist the Poor, January 2011), p.2, <https://www.cgap.org/sites/default/files/CGAP-Consumer-Protection-Laws-and-Regulations-in-Deposit-and-Loan-Services-Jan-2011.pdf> (This page was last accessed on March 25,2021)

<sup>33</sup>.Microfinance Consumer Protection Guidebook (n.d), October 2007, p. iii, available at <https://docplayer.net/17984129-Microfinance-consumer-protection-guidebook.html> (This page was last accessed on March 25,2021)

unethical and subsequently harmful.<sup>34</sup> Thus, consumers in any business area need protection from unjust and unethical practices of businesses or vendors.

Consumer protection was not a concern in the early stages of microfinance growth since the industry was tiny. Microfinance consumer protection is now widely accepted in both developed and developing nations. The Consultative Group to Assist the Poor connotes that consumer protection encompasses all the means necessary to safeguard the interests of consumers (in the case of micro credit, usually poor borrowers in developing countries) and empower them to know their rights and make wise, educated decisions.<sup>35</sup> Consumer protection pertains to measures that promote the rights of consumers, enable them to make informed choices, and protect them from unprincipled acts that deny them the true value and optimum benefits of microfinance services such as credit, deposits/savings, insurance, and remittances and transfers.<sup>36</sup> Consumer protection is necessary to safeguard the interests of consumers of microfinance services from adverse effects brought about by undesirable practices of micro financial service providers.<sup>37</sup> Microfinance institutions expect to provide financial services to clients through the avoidance of undesirable practices. Undesirable practices can happen at any stage of a transaction.<sup>38</sup> Undesirable practices that happen at any stage of transactions in microfinance institutions directly or indirectly affect consumers. In MFIs, low-income societies may grant credits in small amounts without collateral for a short duration of loan repayment.

## **2.3. Evolution of MFIs and Consumer Protection**

### **2.3.1. Evolution of MFIs**

Internationally, micro financing is not a recent phenomenon. Informal savings and credit groups have operated for centuries across the developing world.<sup>39</sup> There was no formal savings and

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<sup>34</sup>.Sonika Sekhar, The Concept of and Need for Consumer Protection (n.d), 2018, p. n.p, available at <https://lawtimesjournal.in/the-concept-of-and-need-for-consumer-protection/> (This page was last accessed on June 9, 2021)

<sup>35</sup>.CGAP, Protecting Microfinance Borrowers, Focus Note, No.27 (n.d), May 2005, p. n.p <https://www.cgap.org/sites/default/files/CGAP-Focus-Note-Protecting-Microfinance-Borrowers-May-2005.pdf> (This page was last accessed on March 25,2021)

<sup>36</sup>.See supra at note 33 p.1

<sup>37</sup>.Ibid

<sup>38</sup>.Id, p.2

<sup>39</sup>.Novotel Lame, Definition and Evolution of Microfinance, Fiji National Microfinance Workshop Medium Term Strategy for Financial Inclusion in Fiji (n.d) 4-5, November, 2009, p. n.p, available at <http://www.pfip.org/wp-content/uploads/2009/11/Definition-and-Evolution-of-Microfinance.pdf> (This page was last accessed March 25,2021)

credit in developing countries in ancient times. In the medieval period, pawnshops were created as an alternative means of lending.

*To combat usury, an Italian monk established the first official shop in 1462, and Pope Leon X authorized a pawnshop to charge interest to cover its operational costs in 1515. Jonathan Swift established the Irish Loan Fund System in the 1700s, which offers small loans to needy farmers with no collateral. It lent money to 20% of all Irish households each year at its peak. Friedrich Wilhelm Raiffeisen and his allies in Germany developed the financial cooperative concept in the 1800s. The cooperative movement grew rapidly in Germany and other European countries, North America, and finally developing countries, beginning in 1865. In the early 1900s, financial cooperatives began to appear in parts of rural Latin America. From 1950-1970, efforts to expand access to agricultural credit used state-owned development finance institutions, or farmers' cooperatives, to channel concessional loans and on-lend to customers at below-market interest rates. These development banks lose most or all of their capital because their subsidized lending rates cannot cover their costs, including the cost of massive defaults. In the early 1970s, micro credit was born because of experimental programs that made small loans to groups of poor women to invest in micro-businesses. Early pioneers include Grameen Bank in Bangladesh; ACCION International, which started out in Latin America; and the Self-Employed Women's Association Bank in India. In the 1980s, micro credit programs throughout the world improved on their original methodologies. Micro lenders, such as Bank Rakyat Indonesia, defy conventional wisdom about financing the poor. Cost-recovery interest rates and high repayments permit them to achieve long-term sustainability and reach large numbers of consumers. In the early 1990s, the term "micro credit" was beginning to be replaced by "microfinance" which includes not only credit, but also savings and other services, such as insurance and money transfers.*<sup>40</sup>

From the above indent paragraph, one can infer that the 1970s were the birth year of micro credit. Poor-focused MFIs arose in Bangladesh under the leadership of Professor Muhammad Yunus, who is regarded as the founder of modern MFIs that assist low-income people. The Grameen Bank in Bangladesh serves as MFI to help the poor. Currently, in some countries,

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<sup>40</sup>.Brigit Helms, Access For All: Building Inclusive Financial Systems (The International Bank for Reconstruction and Development/The World Bank/Washington,2006), page 3, available at <https://openknowledge.worldbank.org/bitstream/handle/10986/6973/350310REV0Access0for0All01OFFICIAL0USE1.pdf;sequence=1> ( This page was accessed March 25,2021)

banks and other commercial actors are entering microfinance, and increasing emphasis is placed on building entire financial systems that work for the poor.<sup>41</sup>

### **2.3.2. The Evolution of Consumer Protection**

The theme of consumer protection is not a recent phenomenon. The issue of consumer protection in general was practiced before the beginning of MFIs. In history, the concept of consumer protection is as old as human civilization.<sup>42</sup> Consumer protection has its deep roots in the rich soil of Indian civilization, which dates back to 3200 B.C.<sup>43</sup> India, which goes back to 3200 B.C., was one of the first nations to adopt consumer protection. The Old Testament and the Code of Hammurabi both reference consumer protection, but primarily from a commercial standpoint.<sup>44</sup> Though the concept of consumer protection is as old as human civilization, legally, John Fitzgerald Kennedy, the 35th President of the United States, first introduced the concept on March 15, 1962, in his speech to Congress.<sup>45</sup> The John Fitzgerald Kennedy speech stressed protecting the consumer's interests by concentrating on the four basic rights of the consumer, namely: the right to safety, the right to be informed, the right to be heard, and the right to choose.<sup>46</sup> During the middle and late twentieth centuries, many consumer protection laws were passed by many different national legislatures around the world, including the United Kingdom, India, and some African countries.<sup>47</sup> Thus, because of the consumer movement that developed in the United States and Europe throughout the early twentieth century, formal consumer protection acts were first enacted in the western world. As micro financing develops gradually, the issues of consumer protection in these financial sectors have become the concern of every country that has

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<sup>41</sup>.Ibid

<sup>42</sup>.Dr M Rajanikanth, A Study on the Evolution of the Consumer Protection Act in India – CPA1986, Volume 6, Issue 4, April 2017, p. 133, available at <file:///C:/Users/user/Downloads/IJAEM-2017-04-24-35.pdf> . (This page was last accessed on August 8, 2021).

<sup>43</sup>.Dr. A. Rajendra Prasad, Historical Evolution of Consumer Protection and Law in India, Journal of Texas Consumer Law, p. 132, available at [http://www.jtexconsumerlaw.com/v11n3/jccl\\_india.pdf](http://www.jtexconsumerlaw.com/v11n3/jccl_india.pdf)(This page was last accessed on June 8,2021).

<sup>44</sup>.Antonella Corradi, International Law and Consumer Protection: The History of Consumer Protection (Ministry of Cultural Activities and Heritage of Italy, February 2015) p. n.p, available at [https://www.nyulawglobal.org/globalex/International\\_Law\\_Consumer\\_Protection.html](https://www.nyulawglobal.org/globalex/International_Law_Consumer_Protection.html) (This page was last accessed on August 25,2021)

<sup>45</sup>.Sonika Sekhar, The History of Consumer Protection (n.d) November 19, 2018, p. n.p, available at <https://lawtimesjournal.in/the-history-of-consumer-protection/> (This page was last accessed on August 9, 2021).

<sup>46</sup>.Ibid

<sup>47</sup>.Mulugeta Bekele, Consumer Protection Practices in Financial Institutions: The Case of Selected Private Commercial Banks, A Thesis Submitted to St. Mary's University in Partial Fulfillment of the Requirements for the Award of the Degree of Master of Business Administration at Sent Mary University, p. n.p., available at <http://repository.smuc.edu.et/bitstream/123456789/1736/1/MULUGETA%20BEKELE.pdf> (This page was last accessed on June 8,2021)

established MFIs. In the development of MFIs, the issue of consumer protection has become a serious issue to save the poor from the malpractice of the institutions.

## **2.4. Objectives and key principles of MFIs**

### **2.4.1. Objectives**

Overall, one could say that the main idea behind microfinance is poverty alleviation.<sup>48</sup> One of the main objectives of business is to protect the interests of consumers. The prime objective of MFIs is to provide financial services to poor people who have no access to commercial banks and other financial services to alleviate poverty.

*The goal of MFIs as development organizations is to service the financial needs of un-served or under-served markets as a means of meeting development objectives. These development objectives generally include reducing poverty, empowering women or other disadvantaged groups, creating employment, helping existing businesses grow or diversify their activities, and encouraging the development of new businesses. In a World Bank study of lending for small and micro enterprise projects, three objectives are most frequently cited: creating employment and income opportunities through the creation and expansion of micro enterprises; increasing the productivity and incomes of vulnerable groups, especially women and the poor; and reducing rural families' dependence on drought-prone crops through diversification of their income-generating activities.*<sup>49</sup>

From the indent paragraph, one can understand that providing access to funds to poor or low-income households and protecting them against risks is considered an objective of micro financing.

### **2.4.2. Principles**

Low-income societies need an inclusive range of financial services from MFIs. The Consultative Group to Assist the Poor provides key principles of microfinance.

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<sup>48</sup>Jasmina Devinck et al, Sources of finance, Objectives and Activities of Microfinance Organizations (n.d), 2012–2013, p. 3 it is available at [https://libstore.ugent.be/fulltxt/RUG01/002/062/396/RUG01-002062396\\_2013\\_0001\\_AC.pdf](https://libstore.ugent.be/fulltxt/RUG01/002/062/396/RUG01-002062396_2013_0001_AC.pdf) (This page was last accessed on August 18,2021)

<sup>49</sup>.See supra note 23, p. 34

- *The poor need a variety of financial services, not just loans, but microfinance institutions provide money transfer, saving, and insurance services to low-income societies.*
- *Financial sustainability is necessary to reach significant numbers of poor people.*
- *Microfinance is about building permanent local financial institutions that serve the poor.*
- *Micro credit is not always the answer.*
- *Interest rate ceilings can damage poor people's access to financial services.*
- *The government's role is as an enabler, not as a direct provider of financial services.*
- *Donor subsidies should complement, not compete with private sector capital.*
- *The lack of institutional and human capacity is the key constraint.*
- *Moreover, the importance of financial and outreach transparency are the key principles of microfinance.*<sup>50</sup>

Microfinance financial service providers are obliged to respect the key principles of MFIs. The principles of MFIs are directly linked with consumers' protection.

## **2.5. Principles and Objectives of Consumer Protection in MFIs**

### **2.5.1. Principles**

The consumers' protection principles promote ways for microfinance providers to take practical steps to treat consumers fairly and respectfully while avoiding practices that might harm them.<sup>51</sup> Consumer protection principles designate the minimum protection of microfinance consumers that is expected from providers of financial services to low-income people. These minimum standards of consumer protection principles enable the protection of microfinance consumers through appropriate laws, policies, and practices. Financial service providers to low-income societies should be required to implement universally accepted consumer protection principles. Microfinance is built on the principle of consumer protection. At the international level, consensus has emerged on the core principles of microfinance consumer protection. As Padma

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<sup>50</sup>.CGAP, Key Principles of Microfinance, p. n.p, available at , <https://www.cgap.org/sites/default/files/CGAP-Consensus-Guidelines-Key-Principles-of-Microfinance-Jan-2004.pdf> (This page was last accessed on March 23,2021)

<sup>51</sup>.Sarah Forster et al., Implementation of the Client Protection Principles: A Technical Guide for Investors (Washington DC, Consultative Group to Assist the Poor, 2010), p. 3, available at <https://www.cgap.org/sites/default/files/CGAP-Technical-Guide-Implementing-the-Client-Protection-Principles-A-Technical-Guide-for-Investors-Jan-2011.pdf> (This page was last accessed on March 26,2021)



Narayan Bhamidipati argued, in order to attain consumer protection, both MFIs and consumers must concentrate on some important parameters, like avoidance of over-indebtedness, transparent pricing, ethical staff behavior, complaint handling and recourse, disclosure, fair treatment, and appropriate collection practices.<sup>52</sup> The consultative group to assist the poor formulates fundamental consumer protection principles for MFIs. Hence, the basic consumer protection principles in micro financing will be discussed below.

### **2.5.1.1. Avoiding over indebtedness**

Currently, the theme of over-indebtedness is one of the challenges in developing countries, including Ethiopia. Preventing consumers' over-indebtedness is one of the core pillars of consumer protection of MFIs to the poor. Low-income societies are more likely to be over-indebted. Consumers' over-indebtedness is expected to be given due attention by MFIs. The loan approval process necessitates an assessment of the borrower's repayment capability as well as the loan's affordability. Providers will take reasonable steps to ensure that credit will be extended only if borrowers have demonstrated an adequate ability to repay and loans will not put borrowers at significant risk of over-indebtedness.<sup>53</sup> Over indebtedness means the impossibility of repaying all debts fully and on time.<sup>54</sup> Over indebtedness is a serious problem for MFIs' consumers. As literature shows, over-indebtedness happens in cases when poor micro borrowers take loans and are unable to repay them, and when MFIs supply or provide more loans than borrowers are unable to repay. MFIs must be careful in all phases with regard to their consumers' ability to repay their loans without becoming over indebted. Erin Stephen argued that poor decision-making at the point of credit, the imposition of objectively onerous credit terms, and poverty are the causes of excessive indebtedness.<sup>55</sup>

Jessica Schicks said that MFIs might be able to reduce over-indebtedness by reducing credit to poorer borrowers, lending small amounts or choosing not to lend to the poorest borrowers.<sup>56</sup> In

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<sup>52</sup>.See supra at note 25, p. 48

<sup>53</sup>.See supra at note 53, p. 3

<sup>54</sup>.Oliver J. Haas, Over-indebtedness in Germany (the International Labor Office, Geneva, Switzerland, 2006), p. 3, see [https://www.ilo.org/wcmsp5/groups/public/---edemp/documents/publication/wcms\\_117963.pdf](https://www.ilo.org/wcmsp5/groups/public/---edemp/documents/publication/wcms_117963.pdf) (This page was last accessed on March 26,2021)

<sup>55</sup>.Erin Stephen, Protecting Vulnerable Consumers From Over Indebtedness, Faculty of Law, Victoria University of Wellington, p.15, available at <https://core.ac.uk/download/pdf/41340357.pdf> (This page was last accessed on March 26,2021)

<sup>56</sup>.Jessica Schicks, Over-Indebtedness in Microfinance – An Empirical Analysis of Related Factors on the Borrower Level (Centre Emile Bernheim, Research Institute in Management Sciences, Solvay Brussels School, Economics and Management, 2012), p. 23, see <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.882.979&rep=rep1&type=pdf> (This page was last accessed on March 26,2021)

the paper, he indicates that improving borrowers' financial literacy can reduce their risk of over-indebtedness.<sup>57</sup> Consumer over-indebtedness has two dimensions: (i) poor borrowers take credit and are unable to repay it, and (ii) lenders supply more credit than borrowers' ability to repay due to market competition.<sup>58</sup> As research indicates, in analyzing the repayment behaviors of 531 urban micro-borrowers in Ghana from a consumer protection perspective, it found that 30 percent of the consumers were over-indebted for various reasons, namely: low return on loan investments, use of loans for non-productive purposes, lack of assets, and adverse shocks to borrowers' financial situation.<sup>59</sup> Personal and institutional factors will cause over-indebtedness of microfinance consumers. Personal and institutional factors will cause over-indebtedness of microfinance consumers. Personal factors such as financial literacy and multiple borrowing among microfinance customers contribute to over-indebtedness.<sup>60</sup> Unprincipled acts of microfinance institutions cause consumers to be over-indebted. At the institutional level, internal inefficiencies, unethical operations, MFI malpractices, and commercialization of microfinance (high-interest rates) are key drivers of consumers' over-indebtedness.<sup>61</sup> As studies on the prevention of over-indebtedness indicate, financial services provide a requirement to set internal systems and implement the established systems to prevent over-indebtedness of their consumers. Consumer over-indebtedness is a serious risk in microfinance that must be addressed, and microfinance service providers must exercise sufficient caution throughout the credit process to ensure that consumers' ability to repay without becoming over-indebted. As a result, MFIs must adhere to strict lending policies in order to avoid over-indebtedness.

### **2.5.1.2. Transparent and Responsible Pricing**

Much literature considers transparent and responsible pricing as a core principle of consumer protection in MFIs. Financial service providers ought to be designed with mechanisms to undertake their activities in a disclosure and transparency manner. Mossy Lukuvi said that the existence of information asymmetry between consumers and financial service providers gives the latter the upper hand in dealings and results in an inequality of bargaining powers, and the legal regime should provide mechanisms to make sure that service providers provide adequate, honest,

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<sup>57</sup>.Id, p.,25

<sup>58</sup>.Abdulai Adams and Devi Datt Tewari, Client Protection and Microfinance and Microfinance Regulation: Lessons from Africa (n.d), 2021, p., 4, available at <file:///C:/Users/user/Downloads/18363-client-protection-and-microfinance-regulation-lessons-from-africa.pdf>, (This page was last accessed on March 27,2021)

<sup>59</sup>.Ibid

<sup>60</sup>.Ibid

<sup>61</sup>.Ibid

understandable, and correct information about financial service providers' financial products and services.<sup>62</sup> Financial service providers should be required to explain the key terms and conditions orally to the consumer on request, or where necessary, based on the customer's circumstances prior to the signing of the agreement.<sup>63</sup> Financial product pricing, terms, and conditions (including interest rates, insurance premiums, all fees, minimum balances, penalties, related products, third-party fees, and so on) will be transparent and adequately disclosed in a form that consumers can understand.<sup>64</sup> The pricing, terms, and conditions of providing loans must be transparent and responsible. Transparent pricing refers to the pricing, terms, and conditions of financial products that will be adequately disclosed to consumers in a clear manner that allows both accurate understanding of prices and comparison of different products.<sup>65</sup> The pricing, terms, and conditions of financial services have to be revealed in a system understandable to consumers. On the other hand, responsible pricing acknowledges that pricing, terms, and conditions will be set in a way that is affordable for consumers while allowing financial institutions to be sustainable.<sup>66</sup> Responsible pricing is vital, not only for consumers but also for MFIs. It is evident that the lack of transparent and responsible pricing affects both consumers and MFIs. Unless every price is transparent and responsible, the objective of micro financing will not be achieved. MFIs must communicate in a clear and sufficient manner with their consumers so that consumers can make decisions about the service that is provided by the former. The legal framework has to provide a requirement to ensure that information provided to financial consumers is accurate, clear, timely, and non-misleading, and contravention of such a requirement should be punishable under the law by either heavy fines or imprisonment.<sup>67</sup> Transparent and responsible pricing, terms, and conditions must be fully and clearly disclosed, as

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<sup>62</sup>.Mossy Lukuvi, Consumer Protection in Microfinance Service in Mainland, Tanzania, A Dissertation Submitted in Partial Fulfillment of the Requirements for the Award of the Degree of Master of Laws (Commercial Law) by Mzumbe University, 2019, p., 29, see [http://scholar.mzumbe.ac.tz/bitstream/handle/11192/3179/LLM-CL\\_Lukuvi%2c%20M.\\_2019.144.pdf?sequence=1](http://scholar.mzumbe.ac.tz/bitstream/handle/11192/3179/LLM-CL_Lukuvi%2c%20M._2019.144.pdf?sequence=1) (This page was last accessed on August 26,2021)

<sup>63</sup>. Id., p. 30

<sup>64</sup>.CGAP, Center for Financial Inclusion: Action International, The Client Principles in Microfinance (n.d), p., n.p., accessible at [https://ec.europa.eu/europeaid/documents/microfinance-e-booklet/pdf-documents-fr/client-principles\\_en.pdf](https://ec.europa.eu/europeaid/documents/microfinance-e-booklet/pdf-documents-fr/client-principles_en.pdf) (This page was last accessed on March 27,2021)

<sup>65</sup>.mftransparency.org, Overview of MF Transparency and the Transparent Pricing Initiative, March 2011, p., [https://microfinancecouncil.org/wp-content/uploads/2012/01/Session-2-MFTransparency\\_Philippines.pdf](https://microfinancecouncil.org/wp-content/uploads/2012/01/Session-2-MFTransparency_Philippines.pdf), (This page was last accessed on August 18,2021)

<sup>66</sup>.The Smart Campaign, Client Protection Principles – Guidance by Principle (n.d), September 2011, p.,16,see [https://responsiblefinanceforum.org/wp-content/uploads/2014/05/Principles\\_Guidance\\_Draft\\_Final.pdf](https://responsiblefinanceforum.org/wp-content/uploads/2014/05/Principles_Guidance_Draft_Final.pdf), (This page was last accessed on August 18,2021)

<sup>67</sup>. See supra note 56, p., 30-31

well as reasonably priced for the consumer. Through financial education and consumer protection awareness campaigns, consumers must be adequately informed about the unique features of the services availed by the institutions in order to make informed decisions. Concisely, micro financial service providers should provide customers with clear, adequate, and timely information in a way and language that they understand, allowing them to make educated decisions.

### **2.5.1.3. Appropriate Debt Collection Practices**

It is another consumer protection principle in microfinance. Collection practices refer to the method in which a microfinance institution collects loan payments from customers.<sup>68</sup> A collection procedure is a detailed statement of steps to be taken regarding when and how the past- due amounts of a debt are to be collected.<sup>69</sup> Each company has their own collection procedure, with information such as due dates, grace periods, penalties, date of repossession, date of turnover of delinquent accounts to the collection agency, among others.<sup>70</sup> Debt collection practices of providers will not be abusive or coercive.<sup>71</sup> A debt collection process should be established and clearly disclosed that does not deprive customers of basic survival capacity.<sup>72</sup> Consumers in MFIs need to be aware of the procedures for debt collection. Setting and implementing an appropriate debt collection system is essential to prevent consumers from coercive debt collection by financial service providers. As literature indicates, consumers lack a clear awareness of illegal debt-collection tactics, which prompts certain financial service providers to utilize unethical debt-collection measures such as asset seizure or publicly humiliating the borrower. MFIs must be aware that the coercive loan collection process was not only abusive and unethical, but also forced some consumers to migrate from their homes, thus the need to regulate the microfinance sector.<sup>73</sup> Measures to safeguard consumers from inappropriate collection methods may be included in regulations. This regulation can identify specific appropriate or inappropriate collection methods, dictate specifics of collection such as

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<sup>68</sup>.See supra note 17, p.4

<sup>69</sup>.Munyua Cyrus Mwangi, Effect of Loan Collection Procedures and Loan Default in Kirinyaga County Microfinance Institutions (Global Journal Inc. USA, 2016), p. 37, available at [https://globaljournals.org/GJMBR\\_Volume16/5-Effect-of-Loan-Collection.pdf](https://globaljournals.org/GJMBR_Volume16/5-Effect-of-Loan-Collection.pdf), (This page was last accessed on August 18,2021)

<sup>70</sup>.Ibid

<sup>71</sup>.See supra note 56, p.30-31

<sup>72</sup>.See supra note 51, p.27

<sup>73</sup>.See supra at note 62, p. n.p

location or timing, or set a system in place that allows customers to identify incidents of inappropriate behavior by loan officers in order to curb these incidents.<sup>74</sup>

#### **2.5.1.4. Ethical Staff Behavior**

Microfinance service providers should treat their consumers fairly and respectfully. Staff of financial service providers will comply with high ethical standards in their interaction with microfinance consumers, and such providers will ensure that adequate safeguards are in place to detect and correct corruption or mistreatment of consumers.<sup>75</sup> Microfinance service providers must correct abusive treatment of consumers in every phase or at any stage of service provision, particularly in the conclusion of loan contracts, sale of loans, and collection of loans. It is evident that the consumers in MFIs are low-income people. Aggressive and abusive treatment is prohibited because of the low socio-economic status of these societies. Concisely, at all phases of their interaction with financial service providers, the legal framework should establish a mechanism to ensure that all customers are treated equitably, honestly, and fairly.

#### **2.5.1.5. Consumer Data Privacy**

Privacy of consumer information is another core principle of microfinance service providers. The privacy of individual consumer data will be respected in accordance with the laws and regulations of individual jurisdictions, and such data can't be used for other purposes without the express permission of the consumer (while recognizing that providers of financial services can play an important role in helping consumers achieve the benefits of establishing credit histories).<sup>76</sup> It should be stated very clearly in the law that financial service providers should keep their customers' data confidential except under certain circumstances permissible by the law, or where the customer has consented to their disclosure.<sup>77</sup> Microfinance service providers must protect the private information of their consumers unless the law provides otherwise and consumers consent.

#### **2.5.1.6. Mechanisms for Redress of Grievances**

It is one of the pivotal principles of consumer protection in microfinance institutions. 'A Grievance Redress Mechanism (GRM) is a method for collecting, resolving, and responding to consumer questions and complaints, as well as using consumer feedback to improve products

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<sup>74</sup>.See supra note 18, p.5

<sup>75</sup>.See Supra note 51, p.3

<sup>76</sup>.Id p. 4

<sup>77</sup>.See supra note 61, p.31

and operations. It is also known as a complaint resolution mechanism, recourse or redress mechanism, or mediation.<sup>78</sup> Dissatisfaction is inevitable among microfinance service providers' consumers. Providers will have in place timely and responsive mechanisms for complaints and problem resolution for their consumers.<sup>79</sup> Microfinance service providers should resolve dissatisfied consumers' complaints quickly and effectively. The complaint resolution mechanism in microfinance service providers should be easy for consumers to use. As literature shows, the existence of well-functioning grievance redress mechanisms that are easier, faster, and more affordable than seeking redress through the court system is recognized as a fundamental element of consumer protection and a responsible financial system.<sup>80</sup>

In nutshell, literature acknowledges prevention of over-indebtedness, transparent and responsible pricing, and appropriate debt collection practices, ethical staff behavior, mechanisms for redress of grievances, and privacy of consumer data as the core principles of consumer protection in MFIs.

### **2.5.2. Objectives**

Individuals who are functionally illiterate and first-time consumers are vulnerable due to unfair financial arrangements of microfinance service providers. Consumer protection in microfinance service providers is necessary to safeguard the interests of consumers from the malpractice of service providers. Studies show that the very purpose of microfinance is to improve the lives of poor people by making financial services available to them. The poor or low-income populations are the consumers of microfinance institutions. Microfinance service providers provide loans to their consumers. Microfinance consumers are poor and vulnerable groups of society. The objective of microfinance consumers' protection is to protect them from the malpractice of microfinance service providers. Preventing microfinance consumers from over-indebtedness and high interest rates, averting unclear pricing, terms and conditions, preventing abusive and coercive debt collection practices, and protecting the privacy of personal data are serious consumer protection issues in microfinance institutions.

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<sup>78</sup>.Jacqueline Urquizo and Dominique Brouwers, Responsible Finance: The Making of Association-Led Client Grievance Redress Mechanisms Experiences of AMFIU in Uganda and Consortium Alafia in Benin (n.d), p. 6, available at [https://seepnetwork.org/files/galleries/1756\\_GRM-062017.pdf](https://seepnetwork.org/files/galleries/1756_GRM-062017.pdf) ,( This page was last accessed on August 15,2021)

<sup>79</sup>.See supra note 51, p.2

<sup>80</sup>.See supra note 78,p.6

## 2.6. International Legal and Regulatory Frameworks

Consumers are inherently less protected and are individually less powerful than MFIs.<sup>81</sup> Thus, governments are required to enact solid laws and regulations to protect consumers of MFIs. Consumer protection frameworks in financial services are growing as products become more complex and many people rely on financial services.<sup>82</sup> In recent years, a serious concern has arisen that a significant number of microfinance consumers are over-indebted. So many countries have developed laws and regulations to protect consumers in microfinance.<sup>83</sup> According to Mossy Lukuvi's dissertation, an efficient legal and regulatory framework for financial consumer protection comprises three complementary components. These aspects include laws and regulations governing relations between service providers and consumers that ensure fairness, transparency, and recourse rights; an effective enforcement mechanism, including a dispute resolution mechanism; and the promotion of financial literacy and capability by helping consumers acquire the necessary knowledge and skills to manage their finances.<sup>84</sup> Financial consumer protection regulation seeks to address specific biases and weaknesses on the demand side.<sup>85</sup>

Padma Narayan Bhamidipati argued that, unlike other consumer protection acts, a few different rules for microfinance consumer protection should be there keeping in mind the socio-economic condition of consumers.<sup>86</sup> The existence of microfinance necessitates having well-stated laws and regulations to protect consumers of financial service providers. Microfinance needs to be properly regulated and supervised in order to provide the financial services that the poor and vulnerable populations require. Many countries have developed laws and regulations to protect consumers in microfinance.<sup>87</sup> In some countries, MFIs are covered by regular financial laws; in

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<sup>81</sup>.Hanna Carlson, Client Protection Regulations for Microfinance Institutions in Ghana, Kenya, and Tanzania (University of Kentucky Gatton College of Business and Economics, 2018), p. 9, available at <https://uknowledge.uky.edu/cgi/viewcontent.cgi?article=1013&context=oswald>, This page was last accessed on August 14,2021)

<sup>82</sup>.See supra note 62, p.26

<sup>83</sup>.Zaina Ahmed-Karim, Justina Alders-Sheya, and Josien Sluijs, Client Protection in Microfinance: The current state of law and regulation (n.d) p. 7, available at [https://www.inclusivefinanceplatform.nl/wp-content/uploads/2019/04/NpM-Report\\_Client-Protection-in-Microfinance.pdf](https://www.inclusivefinanceplatform.nl/wp-content/uploads/2019/04/NpM-Report_Client-Protection-in-Microfinance.pdf) (This page was last accessed on March 27, 2021)

<sup>84</sup>.See supra note 62, p. 26

<sup>85</sup>.See supra at note15 p. 2

<sup>86</sup>.See supra at note 25, p. 46-47

<sup>87</sup>.Supra note at 83, p.7

other countries, they have special laws. Besides, the methods of regulation concerning price setting differ from country to country.

*In three countries in scope (Peru, Russia and the Philippines), microfinance institutions are covered by regular financial laws and regulations concerning price setting. Cambodia and India have specific price-setting rules for the microfinance sector. In the rest of the countries, price setting is not regulated by law.*<sup>88</sup>

This indicates the methods of price setting rules for microfinance institutions vary between countries. The impact of the law and regulations on consumer protection in microfinance largely depends on effective enforcement and monitoring of compliance.<sup>89</sup> Weak regulatory regimes and the absence of microfinance laws to regulate institutions create undesirable impacts on consumers. Inadequate regulation and supervision have been widely recognized as potential problems in the sector, so that enforcement of microfinance laws to regulate the sector remains low in Africa.<sup>90</sup> Despite the efforts of others, the World Trade Organization, the Group of 20, the Organization for Economic Cooperation and Development, and regional organizations such as the Association of Southeast Asian Nations, the Asia Pacific Economic Cooperation, the African Union, the European Union, and the Organization of American States are intergovernmental organizations that stipulate issues related to consumer protection.<sup>91</sup> These intergovernmental organizations provide guidelines and resolutions regarding consumer protection. However, the guidelines are soft laws that have no binding effect on national consumer protection, particularly in financial consumer protection. Countries adopt hard laws that have a binding effect on consumer protection using the international guidelines stipulated by the above-noted organization by taking into account their national circumstances.

## **2.6.1. Microfinance Institution Regulation: Types and Approaches**

### **2.6.1.1. Regulation Types**

As the literature shows, there are two types of regulations, i.e. prudential and non-prudential.<sup>92</sup> Regulation is 'prudent' when it is aimed specifically at protecting the financial system as a whole

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<sup>88</sup>.Id, p., 16

<sup>89</sup>.Id, p., 19

<sup>90</sup>.Supra note at 58, p. 3

<sup>91</sup>.See supra at note 3 p.,11

<sup>92</sup>.See supra at note 10,p., 301



as well as protecting the safety of small deposits in individual institutions.<sup>93</sup> Prudential regulations protect the solvency of regulated financial institutions for the sake of ensuring the stability of the institutions and the safety of small depositors. This type of regulation mostly focuses on the safety and soundness of financial service providers. Prudential regulation is more complex, more difficult to administer, and more expensive than non-prudential regulation, and that leads to the important principle of avoiding the use of burdensome prudential regulation for non-prudential purposes, that is, purposes other than protecting depositors' safety and the soundness of the financial sector as a whole.<sup>94</sup> Thus, prudential regulation is more complex, difficult and expensive as compared with non-prudential regulations. Prudential regulations can be macro prudential regulations or micro prudential regulations. Macro-prudential regulation is focused on the stability of the financial system as a whole, and micro-prudential regulation, on the other hand, is focused on the health of individual deposit-taking institutions.<sup>95</sup> In contrast, "non-prudential" regulation, which is also referred to as "conduct of business" regulation, does not involve monitoring or assessing the financial health of the regulated institution.<sup>96</sup>

Non-prudential regulation tends to focus on protecting consumers of financial services, enabling a range of institutions that provide a mix of appropriate products and services, and providing governments with information to carry out economic, financial, and criminal enforcement policies.<sup>97</sup> Non-prudential microfinance regulation is vital to protect microfinance consumers. Unlike prudential regulation, non-prudential regulation is less complex and costly.

### **2.6.1.2. Regulation Approaches**

As literature indicates, there are three main approaches to regulating microfinance institutions in order to protect both the consumers of the institutions and the health of the institution itself.

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<sup>93</sup>.Ibid

<sup>94</sup>.Ibid

<sup>95</sup>.David Porteous, et.al, Prudential Regulation In Microfinance (The Financial Access Initiative is a consortium of researchers at New York University, Harvard, Yale, and Innovations for Poverty Action, January 2010), p., n.p available at <https://www.findevgateway.org/sites/default/files/publications/files/mfg-en-paper-prudential-regulation-in-microfinance-jan-2010.pdf>, (This page was last accessed on August 14,2021)

<sup>96</sup>.Robert Peck Christen, et.al, A Guide to Regulation and Supervision of Microfinance (n.d), April 2011, p.,18, see,<https://documents1.worldbank.org/curated/en/896621468330259482/pdf/706050ESW0P1160ent0Version004011011.pdf>,( This page was last accessed on August 14,2021)

<sup>97</sup>.Ibid

These regulatory approaches include self-regulation (through governance/non-prudential regulation), banking law regulation and special law regulation.<sup>98</sup>

## **I. Self-regulation**

Self-regulation concentrates this responsibility in the hands of the MFIs themselves, without recourse to the government.<sup>99</sup> MFI self-regulation refers to MFIs' voluntary commitments, practices, standards, and actions to promote consumer protection. Self-regulation is a set of institutions in which standards and rules of conduct are set by an industry-level organization, rather than at the governmental or firm level.<sup>100</sup> As per this regulatory approach, MFIs design standards and rules of conduct at the institutional level to protect their customers. Hayk Grigoryan, in his paper, noted that self-regulatory regimes could operate either as a substitute for or as a complement to government regulation.<sup>101</sup> Mamiza Haq debated that lack of government intervention can lead to reliability problems such as lack of depositor protection and even safeguarding of the financial system.<sup>102</sup> Sometimes, regulators decide that it is not cost-effective for the government financial supervisor to provide direct oversight of large numbers of MFIs, so self-regulation is sometimes suggested as an alternative.<sup>103</sup>

## **II. Banking Law Regulation**

Banking law regulation is the other extreme, where MFIs are simply another form of financial institution and are regulated accordingly.<sup>104</sup> According to this approach, the regulatory rules and standards of conventional banks are simply extended to cover MFIs too. Under this approach, MFI supervision can take place on-site or off-site by the government authorities, an external body or private supervisory institution.<sup>105</sup>

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<sup>98</sup>.Mamiza Haq, Regulation of microfinance institutions in Asia: A comparative Analysis (n.d), January 2008, p. 431, available at <file:///C:/Users/user/Downloads/335B15D.Mamiza.pdf>, (This page was last accessed on August 19,2021)

<sup>99</sup>.Ibid

<sup>100</sup>.Hayk Grigoryan, Approaches to self-regulation of microfinance organizations: the case of Russia (n.d), 2018, p. 21, see [https://dspace.spbu.ru/bitstream/11701/12931/1/Master\\_Thesis\\_-\\_Hayk\\_Grigoryan.pdf](https://dspace.spbu.ru/bitstream/11701/12931/1/Master_Thesis_-_Hayk_Grigoryan.pdf) (This page was last accessed on August 19,2021)

<sup>101</sup>.Ibid

<sup>102</sup>.See supra at note 98, p. 431

<sup>103</sup>.Robert Peck Christen et.al, Microfinance Consensus Guidelines: Guiding Principles on Regulation and Supervision of Microfinance (CGAP/The World Bank Group, 2003), p. 28, available at <https://www.cgap.org/sites/default/files/CGAP-Consensus-Guidelines-Guiding-Principles-on-Regulation-and-Supervision-of-Microfinance-Jun-2003.pdf> (This page was last accessed on August 19,2021)

<sup>104</sup>.See supra at note 98, p. 432

<sup>105</sup>.Ibid

### **III. Special Law Regulation**

Microfinance practitioners are championing the development of special regulations because they allow microfinance institutions to maintain their distinct characteristics, providing a reduced range of financial services, without becoming a bank in exchange for a low capital requirement.<sup>106</sup> The last option would be for MFIs to be regulated by their own special legislation.

In summary, each regulatory approach has its pros and cons, but placing MFIs under banking legislation seems more effective than special MFI legislation. Experience in developing countries suggests self-regulation fails due to enforcement problems. In addition, engaging an apex organization for supervision, as a delegated authority by the central bank, may lead to disagreements and conflicts of interest. The right choice will depend on any country-specific MFI issues, deficiencies in supervisory capabilities and knowledge, and the time and ability of the MFIs to grasp the proposed regulatory environment.<sup>107</sup>

#### **2.6.2. Countries' Experiences**

As the literature shows, microfinance markets are divided into three phases of development based on four factors: (i) a strong microfinance network; (ii) MFI operational and managerial capacity; (iii) a relatively developed microfinance sector in terms of scale; and (IV) a consumer protection regulatory framework. A level 1 country has all four elements, a level 2 country has three elements, and a level 3 country has one or two elements. India is categorized as level I.<sup>108</sup>

#### **I. India**

The lack of consumer protection laws and regulations leads to repayment crises for consumers in microfinance institutions. The lack of consumer protection regulations for the Indian microfinance sector led to a repayment crisis in Andhra Pradesh in late 2010.<sup>109</sup> Though MFIs increased in both size and number in India, they were subject to minimal regulation, particularly

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<sup>106</sup>.Colin Kirkpatrick and Samuel Munzele Maimbo, *The Implications of the Evolving Microfinance Agenda for Regulatory and Supervisory Policy* (Development Policy Review, 2002), p. 288, available at <https://library.fes.de/libalt/journals/swetsfulltext/15597329.pdf> (This page was last accessed on August 19,2021)

<sup>107</sup>.See supra at note 98, p. 433

<sup>108</sup>.Shigehiro Shinozaki, Alexandra Rizzi, Hema Bansal and Tanwi Kumari, *microfinance client protection in Asia and the Pacific : lessons from ADB-SMART campaign training programs*, January 2017, p.3 available at <https://www.adb.org/sites/default/files/publication/221476/microfinance-client-protection-asia.pdf> (This page was last accessed August 25,2021)

<sup>109</sup>.See supra at note 18,p. n.p

with respect to consumer protection.<sup>110</sup> In India, the Andhra Pradesh case is a good lesson in designing appropriate laws and regulations and established an effective credit bureau to protect consumers in microfinance institutions.

*As MFIs expanded rapidly in India, issues like loan officer training, consumer feedback and interaction were not adequately addressed through regulations. Hence, consumers in Andhra Pradesh stopped repaying microfinance loans to protest the policies and procedures of microfinance institutions. Consumers and politicians promptly alleged that coercive debt collection practices had led to the suicide of a number of customers in the previous year, after the media focused on a few incidents involving people who seemed to be MFI consumers. Customers also expressed dissatisfaction with excessive interest rates and unscrupulous lending, which led to consumer over-indebtedness.<sup>111</sup>*

In India, a lack of regulations on coercive collection methods, excessive interest rates, and irresponsible lending practices contribute to consumer over-indebtedness in microfinance institutions. In the summer of 2011, following the Andhra Pradesh repayment crisis in India, a draft of the Micro Financial Institutions (Development and Regulation) Bill 2011 was issued, which addressed further regulatory concerns affecting the microfinance sector.<sup>112</sup> The Reserve Bank of India handles concerns about over-indebtedness in regulation. Over-indebtedness is handled by limiting loan amounts and terms, as well as directly limiting consumer debt.<sup>113</sup> Hence, in India, consumer protection from over-indebtedness is directly addressed by the RBI regulations. The RBI regulation also addresses consumer debt by restricting penalties, ensuring that a consumer will not have to pay more than the initial agreement.<sup>114</sup> Regulation may also be used to combat over-indebtedness by establishing credit bureaus or mandating institutions to submit information to credit bureaus.<sup>115</sup> Credit bureaus have been formed in certain countries across the world, including India, to prevent microfinance institutions from becoming over-indebted. As a result, worldwide best practice indicates that implementing a credit bureau is the best way to prevent consumer over-indebtedness.<sup>116</sup> A credit bureau is an institution that collects and investigates personal credit information. Designing an appropriate legal and regulatory

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<sup>110</sup>.Id, p.3

<sup>111</sup>.Ibid

<sup>112</sup>.Ibid

<sup>113</sup>.Id, p. 7

<sup>114</sup>.Ibid

<sup>115</sup>.Id, p.5

<sup>116</sup>.Id, p. 12

framework is crucial to prevent over-indebtedness. Briefly, borrowing from other MFIs can easily lead to over-indebtedness for MFI customers, so regulation is required to avoid such problems.

## **II. Malaysia**

Like in other countries, there are MFIs for Malaysia. Malaysia is an exemplary country in MFI consumer education. Financial information is disseminated to schools, community groups, and through various media sources to develop financial literacy.<sup>117</sup> The Bank Negara Malaysia (the Central Bank of Malaysia) initiated a comprehensive Consumer Education Program (CEP) aimed at improving financial awareness, literacy, and capability about consumer protection by distributing a range of educational materials that are widely distributed in schools.<sup>118</sup>

The Central Bank is conducting financial education programs through their own agency, which is the Credit Counseling and Debt Management Agency.<sup>119</sup> Accordingly, Malaysia has the best experience in consumer education or awareness for microfinance institutions.

## **III. Bangladesh**

Micro credit was commenced in Bangladesh by Professor Muhammad Yunus, and he introduced Grameen Bank to the poor. In Bangladesh, there is a consumer protection regulation specific to the microfinance sector.<sup>120</sup> Bangladesh issued this specific regulation in order to protect the poor consumers of MFIs.<sup>121</sup> In general, there is a specific regulation and regulatory body for consumers in MFIs in Bangladesh.

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<sup>117</sup>.Id, p. 11

<sup>118</sup>.Alliance for Financial Inclusion, Empowering and Protecting Financial Consumers: Bank Negara Malaysia Consumer and Market Conduct Framework, 2011, p. 10 available at <https://www.afiglobal.org/sites/default/files/afi%20case%20study%20malaysia.pdf> (This page was last accessed on August 20,2021)

<sup>119</sup>.Consumers International, In Search of Good Practices in Financial Consumer Protection, 2013, p. 12, available at <http://www.consumersinternational.org/media/2264/in-search-of-good-practices-in-financial-consumer-protection.pdf> (This page was last accessed on August 22,2021)

<sup>120</sup>.The SEEN Networks, Client Protection in Asia's Microfinance Industry, and Perspective from the Microfinance Association Nine Countries, 2015, p. 4, available at [https://seepnetwork.org/files/galleries/1576 Asia CP Report 2015 - final.pdf](https://seepnetwork.org/files/galleries/1576%20Asia%20CP%20Report%202015%20-%20final.pdf) (This page was last accessed on August 22, 2021)

<sup>121</sup>.Henry K. Bagazonzya, et al, Linking Up and Reaching Out in Bangladesh: Information and Communications Technology for Microfinance, (World Bank, Washington, DC, 2010), p. 14, available at <https://documents1.worldbank.org/curated/en/873311468209949206/pdf/528630PUB0link101Official0use0Only1.pdf> (This page was last accessed on August 22,2021)

## CHAPTER THREE

### 3. Legal and Regulatory Frameworks for Consumer Protection in MFIs in Ethiopia

#### 3.1. Introduction

It is one of the main parts of the study. This chapter is the key to the discussion and analysis part of the study. In this chapter, critical issues related to the legal and regulatory framework for consumer protection of MFIs in Ethiopia will be assessed in detail.

#### 3.2. General Overview of Consumer Protection in Ethiopia

In Ethiopia, for a long time, there has been no codified consumer protection law.<sup>122</sup> The protection accorded to consumers has been based on various private laws, such as the law of contract and extra contractual liability law, and public laws, including criminal law and regulatory laws of different natures.<sup>123</sup> Following the process of liberalization and deregulation in 1991, the Federal Democratic Republic of Ethiopia introduced the Trade Practice Proclamation No. 329/2003.<sup>124</sup> One of the objectives of the proclamation was to safeguard the interests of consumers through the prevention and elimination of any restraints on the efficient supply and distribution of goods and services.<sup>125</sup> Consumer protection issues were given direct acknowledgment for the first time under this statute. This statute defines a ‘consumer’ as any person who buys goods or services for personal consumption.<sup>126</sup> Nevertheless, this proclamation encapsulates few consumer protection provisions. The law was too inadequate and insufficient in its substantive basis and institutional structure to safeguard the emerging interests of consumers.<sup>127</sup> Until 2010, there was no integrated or separate consumer protection law in Ethiopia. On June 8, 2010, the Trade Practice and Consumer Protection Proclamation No. 685/2010 was enacted as a comprehensive amendment to the previous proclamation, and it

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<sup>122</sup>. Dessalegn Adera, The Legal and Institutional Framework for Consumer Protection in Ethiopia, Submitted in Partial Fulfillment of the Requirements for the Master of Laws Degree at Addis Ababa University, June 2011, p. 56, available at <https://chilot.me/wp-content/uploads/2013/05/the-legal-and-institutional-framework-for-consumer-protection-in-ethiopia.pdf> (This page was last accessed on May 3,2021)

<sup>123</sup>.Ibid

<sup>124</sup>.Ibid

<sup>125</sup>.Proclamation No.319/2003, Trade Practice Proclamation, Federal Negarit Gazeta, 9<sup>th</sup> Year No. 49, Addis Ababa, 17<sup>th</sup> April 20, Article 3 (2), <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/70914/95181/F818839999/ETH70914.pdf> (This page was last accessed on August 19,2021)

<sup>126</sup>.Id, article 2 (5)

<sup>127</sup>.See supra at note 122, p. 57

embodies more functional and extensive consumer protection provisions.<sup>128</sup> This proclamation comes up with basic issues about consumer protection, which were not addressed in the preceding trade practice proclamation. On March 21, 2014, a new Trade Competition and Consumer Protection Proclamation No.813/2013 was enacted which made some amendments to the foregoing trade practice and consumer protection proclamation.<sup>129</sup> It is a general consumer protection law. This proclamation was promulgated not only to fill the gaps regarding trade competition provisions, but also to give due attention to consumer protection issues in order to protect consumers from misleading market conduct. Unlike trade practice proclamation number 329/2003, trade competition and consumer protection proclamation number 813/2013 defines "consumer" as a natural person who buys goods and services for his personal or family consumption, whether the price is being paid by him or another person, and not for manufacturing activity or resale.<sup>130</sup> Every consumer has the right to obtain sufficient and accurate information or explanations about the quality and type of goods or services he purchases, to buy goods and services based on his choosing, and not to be compelled to buy without having investigated the quality or options of such goods and services or negotiating a price.<sup>131</sup>

The general consumer protection laws use the terms consumer and customer interchangeably. From the deep reading of trade practice proclamation number 329/2003, one can infer that the Amharic version uses the term “ሸማቾ፣ ተጠቃሚ፣ ደንበኛ” interchangeably to describe the term “consumer”. Though the trade competition and consumer protection proclamation number 813/2013 used consumer and customer interchangeably, it used "ሸማቾ" in the Amharic version to describe “consumer” and "ደንበኛ" to describe “customer”. The above-mentioned proclamations do not use the term client. From the close reading of the general consumer protection laws, one can understand that there is confusion about the concepts of consumer and customer. Concisely, trade competition and consumer protection proclamation number 813/2013

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<sup>128</sup>.Tesema Elias, Gaps and Challenges in the Enforcement Framework for Consumer Protection in Ethiopia, Mizan Law Review, Vol. 9, No. 1, September 2015, p. 85 , available at [file:///C:/Users/user/Downloads/124815-Article%20Text-340471-1-10-20151029%20\(6\).pdf](file:///C:/Users/user/Downloads/124815-Article%20Text-340471-1-10-20151029%20(6).pdf) (This page was last accessed on August 19,2021)

<sup>129</sup>.Ibid

<sup>130</sup>.Proclamation No.813/2013, trade competition and consumer protection, Federal Negarit Gazeta, 20<sup>th</sup> Year No. 28, Addis Ababa, 21<sup>st</sup> March 2014, Art. 2 (4),look [https://chilot.files.wordpress.com/2014/09/813\\_2013-trade-competition-and-consumers-protection.pdf](https://chilot.files.wordpress.com/2014/09/813_2013-trade-competition-and-consumers-protection.pdf) (This page was last accessed on March 27,2021)

<sup>131</sup>.Id, Art 14 (1), (2), (3)

is a general law which is applicable to those businesses who offer products and services to consumers.

### **3.3. Legal Frameworks of Consumer Protection in MFI in Ethiopia**

#### **I. The FDRE Constitution**

The FDRE constitution is the supreme law of the land from which all laws emanate.<sup>132</sup> The FDRE constitution sets the general framework for other legislation. Art.51 (2) and Art.52 (2) (c) of the FDRE constitution empower both the federal government and regional states to formulate economic and social development policies in their respective spheres.<sup>133</sup> It is certain to say that ensuring consumer protection means a contribution to the economic and social objectives of a given polity.<sup>134</sup> Since microfinance has economic and social objectives, consumer protection of microfinance institutions has a constitutional foundation.

As described in chapter two, the principles of consumer protection in microfinance are the minimum standards that each microfinance institution has to consider. One can infer each consumer protection principle from a close reading of the FDRE constitution. All people are equal before the law and the law should guarantee all people equal and effective protection without any discrimination.<sup>135</sup> This constitutional right is the basis for the requirement that microfinance consumers must be treated equally and fairly without any discriminatory acts by the institution. The second constitutional right vested in everyone is the right to privacy. Every person has the right to privacy, which includes the right not to be subjected to searches of his property or seizure of any property under his position.<sup>136</sup> MFIs are duty bound to protect their consumers' privacy data. Hence, protection of privacy data has a constitutional basis. The third basic constitutional right that is granted to everyone is the right to access justice. Everyone has the right to bring a justifiable matter to, and to obtain a decision or judgment from a court of law or any other competent body with judicial power.<sup>137</sup> This basic constitutional right is applicable to consumers of MFIs when grievances arise between consumers and MFIs. Citizens have the

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<sup>132</sup>.Proclamation No. 1/1995, Proclamation of the Constitution of the Federal Democratic Republic of Ethiopia, 1<sup>st</sup> Year No. 1 ADDIS ABABA-21st August, 1995, Art 9 (1)<https://ethiopianembassy.be/wp-content/uploads/Constitution-of-the-FDRE.pdf> (This page was last accessed on August 22,2021)

<sup>133</sup>.Andinet Haile, Enforcement of Consumer Protection under the New Legal Regime of Ethiopia in Light of the EU and US Laws and Practices: A Comparative Analysis (n.d), Year n.p, P., 44, available at [file:///C:/Users/user/Downloads/haile\\_andnet%20\(4\).pdf](file:///C:/Users/user/Downloads/haile_andnet%20(4).pdf) (This page was last accessed on August 22,2021)

<sup>134</sup>.Ibid

<sup>135</sup>.See supra note at 132, Art 25

<sup>136</sup>.Id, Art 26 (1)

<sup>137</sup>.Id, Art 37 (1)



right to improve living standards and sustainable development, so the government should pursue policies that aim to expand job opportunities for the unemployed and the poor.<sup>138</sup> One of the mechanisms to enhance this policy rationale is the establishment of MFIs. Hence, consumers' protection in MFIs has constitutional foundations.

In accordance with Art.55 (1) of the FDRE constitution, the HPR endorsed licensing and supervision of microfinance proclamation number 40/1996, micro financing proclamation number 626/2009 and the Microfinance Business (Amendment) Proclamation No. 1164/2019, which mainly focused on the stability and soundness of microfinance financing. The regional states have not yet enacted their own consumer protection laws.<sup>139</sup>

## **II. License & Supervision of Microfinance Proclamation No 40/1996**

As described in the forgoing chapters, microfinance is a recent phenomenon, which commenced operations in the 1990s. The first microfinance service in Ethiopia was introduced as an experiment in 1994, when the Relief Society of Tigray (REST) attempted to rehabilitate drought and war-affected people through the rural credit scheme.<sup>140</sup> In the second half of the 1990s, because of its success, the microfinance service was gradually replicated in other regions.<sup>141</sup> The monetary and banking proclamation number 83/1994 in force did not provide for micro financing institutions catering to the credit needs of peasant farmers and others engaged in small-scale production and service.<sup>142</sup> The Microfinance proclamation in 1996 marked the start of deposit taking MFIs in Ethiopia.<sup>143</sup> Proclamation number 40/1996 is the first proclamation to include MFIs' activities in Ethiopia's monetary and financial policy. This proclamation was enacted for the purpose of licensing and supervision of the business of microfinance MFIs.<sup>144</sup> Various MFIs were officially registered and began providing microfinance services after the promulgation of proclamation number 40/1996.

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<sup>138</sup>.Id, Art 41 (6) & 43 (1)

<sup>139</sup>.See supra note 133, p., 45

<sup>140</sup>.Abdulqawi Muharram, Microfinance Provision in Ethiopia (n.d), 27 September 2020, p.,4, available at [file:///C:/Users/user/Downloads/MicrofinanceProvisioninEthiopia%20\(3\).pdf](file:///C:/Users/user/Downloads/MicrofinanceProvisioninEthiopia%20(3).pdf), (This page was last accessed on August 21,2021)

<sup>141</sup>.Ibid

<sup>142</sup>.Proclamation No.40/1996, Licensing and Supervision of Micro Financing Institutions proclamation, Federal Negarit Gazeta, 2<sup>nd</sup> Year No. 30, Addis Ababa, 5<sup>th</sup> July, 1996, preamble, available at <https://chilot.me/wp-content/uploads/2011/01/proc-no-40-1996-licensing-and-supervision-of-micro-financi.pdf>,( This page was last accessed on August 20,2021)

<sup>143</sup>.See supra note 140, p., 4

<sup>144</sup>.See supra note 142, preamble

As of the 12<sup>th</sup> day of May 2009, the licensing and supervision of MFIs proclamation number 40/1996 was applicable to license and supervise microfinance service providers. Until the 12<sup>th</sup> day of May 2009, 28 MFIs were licensed by the NBE. With the proliferation of MFIs, consumer protection has become a topic of discussion.

As per proclamation number 40/1996, micro financing business is described as an activity of extending credit, in cash or in kind, to peasant farmers or urban small entrepreneurs, the loan size of which shall be fixed by the NBE.<sup>145</sup> This proclamation provided that peasant farmers and urban small entrepreneurs are the consumers of MFIs. The proclamation recognized the group's guarantee to MFIs' consumers. The proclamation defines “group guaranty” as a guaranty mechanism whereby a group of borrowers undertake to be liable jointly or severally for defaulted loans of any of them.<sup>146</sup> In particular, the Licensing and Supervision of MFIs Proclamation provided that the government encouraged the spread of MFIs in both rural and urban areas as it authorized them to, among other things, legally accept deposits from the general public (hence diversifying sources of funds), to draw and accept drafts, and to manage funds for the microfinance business.<sup>147</sup> The proclamation gave more emphasis on licensing and supervising the merits of MFIs. This proclamation did not provide intensive provisions for consumer protection in MFIs. Nonetheless, the aforementioned licensing and supervising proclamation described some themes about consumers from the perspective of MFIs' responsibility. For instance, MFIs may provide counseling services to their clients, and render managerial, marketing, technical, and administrative advice to debtors and assist them in obtaining services in those fields.<sup>148</sup> The inset of this provision aids consumers to have awareness of the services that are offered by MFIs.

### **III. Microfinance Business Proclamation No. 626/2009**

In an attempt to enhance the development and soundness of the micro-financing business, Microfinance Business Proclamation No. 626/2009 was ratified by the House People's Representative.<sup>149</sup> This proclamation is the second microfinance proclamation that was enacted after the micro financing licensing and supervising proclamation number 40/1996. On the 12<sup>th</sup>

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<sup>145</sup>.Id, Art 2 (3)

<sup>146</sup>.Id, Art 2 (6)

<sup>147</sup>.See supra note 12, p., n.p

<sup>148</sup>.See supra note 142, Art 3 (2), (f), (h)

<sup>149</sup>.Fikadu Mitiku Abddisa, Filling the breach: Microfinance, (Academia Publishing, 2013), p., 11-12, available at <file:///C:/Users/user/Downloads/Deribieetal.Fillingthebreach-Microfinance1.pdf> (This page was last accessed on August 21,2021)

day of May 2009, the licensing and supervision of MFIs proclamation number 40/1996 was amended by microfinance business proclamation number 626/2009. After the 12th day of May 2009, the national bank of Ethiopia licensed 13 MFIs.<sup>150</sup> The former micro financing licensing and supervision proclamation is amended to have an appropriate legal framework that further enhances the development and soundness of the micro-financing business.<sup>151</sup> According to Proclamation No. 626/2009, the main purpose of MFI shall be to collect deposits and extend credit to rural and urban farmers and people engaged in other similar activities, as well as micro and small scale rural and urban entrepreneurs, the maximum amount of which may be determined by the National Bank.<sup>152</sup> Like the foregoing proclamation, proclamation number 626/2009 acknowledged the group guarantee.<sup>153</sup> Unlike proclamation number 40/1996, the new proclamation recognizes that MFIs engage in the provision of micro insurance business to consumers.<sup>154</sup> As per the proclamation no. 626/2009, irrespective of others, one of the activities of MFIs is to render managerial, marketing, technical, and administrative advice to customers and assist them to obtain services in those fields.<sup>155</sup> Like the previous micro financing licensing and supervising proclamation number, the micro financing business proclamation number 626/2009 does not have full-fledged and inclusive provisions for consumer protection in MFIs.

#### **IV. Microfinance Business (Amendment) Proclamation No. 1164/2019**

The Microfinance Business (Amendment) Proclamation No. 1164/2019 is the turning point that gives legal recognition of consumer protection in MFIs, which was not encapsulated as a concern in the forgoing microfinance business proclamations. Therefore, one can conclude that in Ethiopia, the concept of consumer protection in MFIs was introduced very recently. Before the promulgation of the banking business (amendment) proclamation number 1159/2019 of Ethiopia, the microfinance business (amendment) proclamation number 1164/2019, and the insurance business (amendment) proclamation number 1163/2019, the concept of consumer protection in financial institutions was not incorporated into the amended financial laws of Ethiopia. Regardless of others, one of the main reasons for the amendment of the previous micro financing

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<sup>150</sup>.National Bank of Ethiopia., n.p, available at <https://nbebank.com/microfinance-institutions/> (This page was last accessed September 22,2021)

<sup>151</sup>. Proclamation No.626/2009, Micro Financing Business Proclamation, Federal Negarit Gazeta, 15<sup>th</sup> Year No. 33, Addis Ababa, 12<sup>th</sup> May, 2009, preamble available at [https://www.2merkato.com/images/downloads/proclamation\\_626\\_2009.pdf](https://www.2merkato.com/images/downloads/proclamation_626_2009.pdf) (This page was last accessed on August 21,2021)

<sup>152</sup>.See supra note 149, p.12

<sup>153</sup>.See supra note151, Art 2 (9)

<sup>154</sup>.Id, Art 2 (d)

<sup>155</sup>.Id, Art 3 (2), (h)

business proclamation, including the banking, and insurance business proclamation, was to give emphasis to the rights of consumers with financial service providers. The new microfinance business proclamation does not come up with comprehensive and extensive consumer protection provisions. Proclamation number 1164/2019 enshrines consumer protection in a single provision. This proclamation provides that the NBE may issue a directive to protect the rights and interests of financial consumers.<sup>156</sup>

### **3.4. The New FCP Directive Number FCP/01/2020**

It is the financial consumer protection directive that was issued by NBE. It is the first financial consumer protection statute in the Ethiopian legal regime. As of 2020, there was no comprehensive directive issued by the NBE to protect consumers of financial service providers. Before the endorsement of the new Financial Consumer Protection Directive number FCP/01/2020 (hereinafter called the FCP directive), general consumer protection laws were applicable to financial consumers too. The new financial consumers' protection directive No.FC/01/2020 was issued by NBE to introduce a general framework for financial consumer protection. The researcher gives more emphasis on this new FCP directive legal framework. The FCP directive is constructed of 11 main provisions. The directive contains the short title, definitions, scope of application, general provisions, specific provisions, good governance, compliance and risk management, record keeping, other applicable directives, transitory arrangements, penalties for non-compliance and date of enforcement. Any financial service provider, financial products and services, as well as financial consumer and security suppliers, are subject to this directive.<sup>157</sup> The NBE endorses the FCP directive:-

- *To promote trust and confidence of financial consumers, promote financial inclusion, healthy financial transactions, and stimulate growth, stability, ethical innovation, and efficiency in the financial system;*<sup>158</sup>
- *To mitigate possible risks and challenges, particularly those that low-income and less experienced financial consumers face;*<sup>159</sup>

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<sup>156</sup>.Proclamation number 1164/2019, The Microfinance Business (Amendment) Proclamation number 1164/2019, Federal Negarit Gazeta, 26<sup>th</sup> Year No. 7, Addis Ababa, 9<sup>th</sup> January, 2020, Art 26, available at <https://nbebank.com/wp-content/uploads/pdf/proclamation/microfinance-business-proclamation-1164-2019.pdf> (This page was last accessed on August 21,2021)

<sup>157</sup>.See supra at note 16, Art.3

<sup>158</sup>.Id, preamble

<sup>159</sup>.Ibid

- *To establish a clear and objective financial consumer protection regulation, supervision, complaint handling, and dispute resolution mechanisms which are necessary to promote fair, responsible, and transparent financial transactions and shape the professional conduct of financial service providers towards financial consumers.*<sup>160</sup>

As of now, there is no separate microfinance consumers' protection law in Ethiopia. The FCP directive is applicable to consumers of MFIs. The researcher assesses some basic themes addressed in the new FCP directive below.

### **3.4.1. Financial Consumer and Financial service Provider**

The FCP directive defines basic concepts under Article 2. Irrespective of others, financial consumers, financial service providers, and financial consumer contracts are the basic concepts that are addressed in the FCP directive. The FCP directive defines a “financial consumer” as a current or prospective customer of a financial service provider.<sup>161</sup> Hence, MFI consumers will be current and prospective customers of a microfinance service provider. Nevertheless, the FCP directive failed to define the terms “current customer” and “prospective customer”. The researcher forwards literal definitions of the two basic terms to make it easier to differentiate. A “current customer” means any person who is currently utilizing any product or service that is sold, and offered by the service provider; any person who has utilized any such product or service within the previous 12 months; and any person with whom the service provider is currently conducting negotiations concerning the utilization of such products or services.<sup>162</sup> On the other hand, a prospective customer is a person or organization interested in making a purchase, with financial resources required, and the power to make purchasing decisions.<sup>163</sup> A prospective customer is someone who is not currently a customer but may become one in the future. Hence, prospective customers describe future customers of financial service providers. Besides, like the general consumer protection legislation of Ethiopia, the FCP directive used the terms consumer and customer interchangeably.

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<sup>160</sup>.Ibid

<sup>161</sup>.Id, Art 2 (2.13)

<sup>162</sup>.Law Insider, Current customer definition (n.d), p., n.p, <https://www.lawinsider.com/dictionary/current-customer> (This page was last accessed on August 22,2021)

<sup>163</sup>.Sendpulse, what is a prospective customer, p., n.p, <https://sendpulse.com/support/glossary/prospective-customer> (This page was last accessed on August 22,2021)

In the other hand, financial service providers mean banks, insurers, MFIs, capital goods finance companies, postal savings, money transfer institutions, or other similar institutions as specified by the NBE.<sup>164</sup> This definition is an illustrative one. The national bank of Ethiopia specified further financial service providers. From the foregoing definition of financial service provider, MFIs are financial service providers who offer any product or services of a financial nature marketed to their low-income consumers.

The directive gives a definition for a financial consumer contract. The FCP directive defines a financial consumer contract as a contract between the financial consumer and the financial service provider for financial products and services.<sup>165</sup> As per this definition, MFIs conclude a contract that contains the necessary terms, conditions and pricing of the contract product and the service offered to their consumers.

### **3.4.2. Unfair Contractual Terms**

The contract concluded between MFIs and their consumers must be compatible with the general contract law, the FCP directives and other public and private laws. Financial consumer contracts are an adhesion type of contract. An Adhesion contract means a standardized contract form offered to consumers of goods and services on an essentially "**take it or leave it**" basis without affording the consumer a realistic opportunity to bargain and, under such conditions, the consumer cannot obtain the desired product or services except by acquiescing to the form contract.<sup>166</sup> In financial consumer contracts, there is a disparity between contracting parties due to bargaining power, knowledge, and resources. Capacities, consent, object and form are the prerequisites for the formation of a contract.<sup>167</sup> Financial consumer contracts are also known as standard form contracts. A standard form contract is a financial product and service contract or a security contract that has been prepared by a financial service provider without negotiation and consent from the financial consumer or security provider.<sup>168</sup> Thus, a standard form contract (also known as a contract of adhesion or a take-it-or-leave-it contract) is a contract between two parties in which one party sets the terms, conditions and pricing of the contract in which the

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<sup>164</sup>.See supra note 16, Art 2 (2.16)

<sup>165</sup>.Id, Art 2 (2.14)

<sup>166</sup>.Raman Mittal et al, Principles of Contract (n.d), January 2021, p. 133, available at [http://lawfaculty.du.ac.in/files/course\\_material/I\\_Term/LB%20102%20Law%20of%20Contract.pdf](http://lawfaculty.du.ac.in/files/course_material/I_Term/LB%20102%20Law%20of%20Contract.pdf) (This page was last accessed on August 22,2021)

<sup>167</sup>.Mesganaw Kiflew and Demelash Shiferaw, Law of Contract I Teaching Material (the Justice and Legal System Research Institute, 2009), p. 17, available at <https://chilot.me/wp-content/uploads/2011/06/contract-i.pdf> (This page was last accessed on August 22,2021)

<sup>168</sup>.See supra note16, Art 2 (2.31)

other party has little or no ability to negotiate more favorable terms and is thus forced to "take it or leave it." Hence, financial consumer contracts need due attention due to the very nature of financial consumers. The pricing, terms, and conditions of financial consumer contracts must be transparent to consumers. In the formation of contracts, financial service providers are prohibited from drafting contracts that include unfair contractual terms that are against financial consumers. One mechanism to enforce the principle of transparent and responsible pricing is the unfair contract terms law. The unfair contract terms law applies to a term in a contract if it is a consumer contract, the contract is a 'standard form contract', and the contract is for a financial product or service.<sup>169</sup> Hence, unfair contract terms laws endorse the implementation of standard form contracts that are prepared by financial service providers who provide products and services to their consumers. Ethiopia introduced an unfair contract terms law for financial consumer protection beginning in 2020, following the approval of the new financial consumer protection Directive No FCP/01/2020.

The FCP directive of Ethiopia describes unfair contractual terms as follows.

*A term of a 'standard form contract' is unfair if it; (a) imposes terms inconsistent with Art.1710 (2) of the Civil code, that is, having the consent of the injured party by taking advantage of his want, simplicity of mind, senility, or manifest business inexperience. If it (b) causes a significant imbalance in the rights and obligations between a financial consumer and a financial service provider; if it (c) harms the financial consumer; or if it (d) differs from the one provided to safeguard the financial service provider's legitimate interests. The criteria are listed down for the purpose of testing unfair terms in a standard form contract, as defined under article 5.1.1.2 of the FCP directive. These testing mechanisms include, but are not limited to, allowing the financial service provider to make changes to financial consumer contracts without describing the circumstances in which such changes are made; allowing charging of fees or charges not previously disclosed or which are prohibited to the financial consumer; and restricting early repayment of a credit contract. A financial consumer contract will be presumed to be a standard form contract unless the financial service provider proves otherwise.<sup>170</sup>*

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<sup>169</sup>.Australian Securities and Investment Commissions (n.d), P. n.p, available at <https://asic.gov.au/about-asic/what-we-do/our-role/laws-we-administer/unfair-contract-terms-law/> (This page was last accessed on August 23,2021)

<sup>170</sup>.See supra note 19, Art 5.1 (5.1.1)

In MFI, the institution drafts a standard form contract to conclude with its consumer. In the formation of contracts, microfinance service providers are prohibited from forming contracts that include unfair contractual terms that are against their consumers.

The civil procedure code of Ethiopia connotes that some property should not be subjected to attachment or sale at any stages of the proceedings. These properties include the clothing, kitchen equipment, beds and bedding that the judgment-debtor and his family require ; any tools, instruments, or implements that the judgment-debtor uses in his profession or trade; if the judgment debtor is an agriculturist, such as cattle and seed grain that he needs to make a living; food necessary for three months; and pensions. Besides, any other property that has been declared exempt from attachment by law is not subject to attachment.<sup>171</sup> Financial service providers should take into account Art.404 of the CPC of Ethiopia in the conclusion of contracts with their consumers. As per this procedural law, MFIs should take into consideration legally prohibited terms in the standard form of contract.

The contractual terms and conditions shall be described clearly and prominently in the contract. The financial service provider must disclose all fees and charges, and the amount or basis of calculation of all fees and charges, the total amount of all fees and charges, and any commission due, if any, in the standard form contracts.<sup>172</sup>

### **3.4.3. Unfair Fees and Charges**

Reasonable pricing in MFIs is legal and acceptable. However, unfair fees and charges are prohibited. The FCP directive describes unfair charges and fees under Article 5.1.2. Financial services providers may not levy a fee or charge to a financial consumer:

- *That was not previously disclosed;*
- *for any early repayment of a credit contract that exceeds the contract's reasonable administrative costs;*
- *That exceeds their reasonable administrative costs for closing an account;*
- *That exceeds their reasonable enforcement expenses for the action taken;*

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<sup>171</sup>.Civil Procedure Code of Ethiopia, Negarit year 25 No. 3 Decree No.5 of 1965, Art 404, available at [http://hrlibrary.umn.edu/research/Civil%20Procedure%20Code%20\(English\).pdf](http://hrlibrary.umn.edu/research/Civil%20Procedure%20Code%20(English).pdf) (This page was last accessed on August 22,2021)

<sup>172</sup>.See supra at note 19, Art 5.2.5.6



- *for recovering an amount payable by the former to a third party that exceeds the amount actually owed to the third party;*
- *Charges that are prohibited under the FCP directive or any other.*<sup>173</sup>

Exaggerated charges and fees on loans are prohibited to protect consumers. Unfair charges and fees lead to microfinance being a cause of over-indebtedness for financial consumers. Unlike other financial service providers, in microfinance, the interest rate seems higher. In financial institutions, the interest rate is calculated annually. The annual interest rate is the interest rate that applies to a financial consumer contract on a year-to-year basis.<sup>174</sup> Concisely, unfair fees and charges cause over-indebtedness on the part of financial consumers, especially MFI consumers.

### 3.4.4. Barrier to Account Mobility and Closure

A financial product or service account is referred to as an "account."<sup>175</sup> The FCP directive recognizes four types of account. These accounts include credit accounts, current accounts, mobile wallet accounts, and saving accounts, and their main differences are described below.

Table: 1.2 Types of Financial Account

Types of account	Descriptions
A credit account	Is one that is linked to a financial consumer credit contract
A current account	A deposit account that is used to receive and send money as well as to pay for goods and services, and that may be linked to a check facility and/or an overdraft facility, but on which no or only nominal interest is paid
A mobile wallet account	Is one that may be used to receive and transfer money, as well as pay for goods and services, using a mobile device such as a phone, and a demand account does not include a check or overdraft capacity.
A saving accounts	It is a sort of demand deposit account that lets you earn interest on any portion of your balance. It is not a time deposit or a mobile wallet account

Source: The Financial Consumer Protection Directive No FCP/01/2020

A financial consumer may have either one or all of the above financial accounts. Financial service providers are duty-bound to give financial accounts to financial consumers based on the

<sup>173</sup>.Id., Art5.1.2

<sup>174</sup>.Id. Art 2 (2.5)

<sup>175</sup>.Id. Art 2 (2.1)

type of service that they want to obtain. Consumers in MFIs have the right to obtain an account for the service they want to obtain. In offering micro credit, micro saving and micro-insurance, MFIs are obliged to give an account to their consumers.

Financial consumers have the right to move and close their accounts obtained from the financial service providers. Any barrier to account mobility and closure is prohibited. Financial service providers should be required to process a financial consumer's request to close their deposit account promptly and provide them with appropriate assistance and information, including assistance with canceling any recurring payments; not to debit the deposit account with new charges following the account closure; and to in good time pay the financial consumer any money owed to them.<sup>176</sup> As per this legal provision, MFIs never have any barrier to account mobility and closure of their consumers. Besides, the MFI must cancel any recurring payments, not debit the deposit account with new charges following the account closure, and promptly pay the financial consumer any money owed to them.

### **3.4.5. Unfair Credit-related Practices**

In rendering financial services, any credit-related practices must be fair. Financial service providers are prohibited from engaging in unfair credit-related practices. Unfair credit related practices might be a cause of the over-indebtedness of financial consumers, particularly in MFIs. Financial service providers should not charge interest in advance to financial consumers; instead, they should charge interest based on an annual percentage applied to the loan's outstanding balance.<sup>177</sup> Interest on loans charged in advance to financial consumers instead of an annual percentage is prohibited. Financial service providers should offer a statement to a financial consumer upon request that outlines the amount due.<sup>178</sup> MFIs must only charge interest based on an annual percentage of the loan's unpaid balance. Besides, MFIs must offer a statement to their consumers upon request that outlines the amount due.

### **3.4.6. Unsafe Debt Collection**

Appropriate debt collection is one of the grand norms of MFI consumer protection. As described in chapter two, a coercive debt collection system in MFIs is prohibited. A financial service provider, such as an MFI, shall not harass or engage in any other unfair or abusive behavior

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<sup>176</sup>.Id., Art 5.1.3

<sup>177</sup>.Id., Art 5.1.5.1 and 5.1.5.2

<sup>178</sup>.Id., Art 5.1.5.6

towards a financial consumer or any other person in order to collect any debt due in connection with a financial product.<sup>179</sup> Financial service providers in general and MFIs in particular, are not permitted to harass their customers in order to collect debts unless required or expressly permitted by law. The FCP directive scrutinizes the abusive and coercive conduct of financial service providers in the debt collection process. Aggressive and coercive debt collection includes:

- *Contacting a financial consumer outside of the financial service provider's working hours;*
- *Going beyond what is reasonable in the circumstances in terms of contact or communication with a person;*
- *attempting to collect a debt from someone other than the debtor;*
- *Any deception in connection with a debt, such as its nature, the amount due, the legal rights of the financial service provider, or the probable legal consequences of nonpayment;*
- *revealing to a third party the existence of a debt;*
- *Public humiliation or shaming, such as disclosing the name of a debtor to the people;*
- *visiting a person's place of business in order to obtain money;*
- *threatening or inflicting harm on anyone;*
- *Threatening to take, or seize, property that has not been provided as collateral or*
- *Threatening to damage, or destroying property etc.<sup>180</sup>*

As per the close reading of the directive, any debt collection mechanisms that harass and coerce consumers are not legally prohibited.

### **3.4.7. Unauthorized Transactions**

Unauthorized transactions that are conducted by financial service providers are not allowed. Financial service providers in general and MFIs in particular should effectively disclose any transactions before entering into a service agreement. Before engaging in a service agreement, financial service providers should adequately communicate to financial consumers the conditions that constitute fraud, illegal or erroneous transactions, their duties in such instances, and the

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<sup>179</sup>.Id., Art 5.1.6

<sup>180</sup>.Id., Art 5.1.6 (5.1.6.2)

restrictions on responsibility for damages in such situations.<sup>181</sup> Any transaction that is not disclosed by financial service providers in general and MFIs in particular will cause an unauthorized transaction.

### **3.4.8. Transparency and disclosure**

As described in chapter two, transparency and disclosure are the grand norms in financial institutions in general and MFIs in particular. Financial consumers should be given accurate, simple, clearly articulated, and timely information on the features, potential risks, obligations, and other terms and prices of any financial product, service, or security they are considering.<sup>182</sup> Any information, contract, or notice provided to a financial consumer related to financial products and services must be easily legible, simple, and clearly expressed without the use of technical language; and available in Amharic, English, and the regional working language.<sup>183</sup> The standard form contract of microfinance service providers must be easily legible, simple and clearly expressed without the use of technical language, and be available to consumers in the language they understand. Concerning all of their financial products, financial service providers in general and MFIs in particular must publish, display, and make available the usual terms and conditions, including itemized fees and annual percentage rates.<sup>184</sup>

### **3.4.9. Data Protection**

As discussed above, privacy is a constitutional right that is granted to every human being. The privacy of consumer data is one of the basic principles of consumer protection in MFIs that is articulated by a consultative group to assist the poor. In principle, financial service providers must keep consumer data confidential. Financial service providers in general and MFIs in particular should keep data safe and secret, and only use and disclose financial consumer data for lawful reasons that the financial consumer has consented to or that is otherwise authorized by law.<sup>185</sup> Hence, unless otherwise required by law or authorized by customers, financial service providers should preserve their consumers' data.

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<sup>181</sup>.Id., Art 5.1.7 (5.1.7.1)

<sup>182</sup>.Id., Art 4 (4.2)

<sup>183</sup>.Id., Art 5.2 (5.2.4.3)

<sup>184</sup>.Id., Art 5.2 (5.2.3) (5.2.3.1)

<sup>185</sup>.Id., Art 4.4

### **3.4.10. Complaint Handling Mechanism**

There is an instance where a dispute may arise between the financial service provider and their consumer. Hence, designing an appropriate dispute settlement mechanism is a core principle in microfinance consumer protection. The FCP directive addresses dispute settlement mechanisms toughly. Financial service providers should make financial consumers aware of any accessible external dispute resolution processes, such as those offered by the NBE and the court of law, and give them simple access to a clear, effective, quick, and free internal complaints procedure.<sup>186</sup>

Both external and internal conflict resolution mechanisms are acknowledged under the FCP directive. Negotiation, mediation, arbitration, and lawsuits are examples of conflict resolution mechanisms. Internal complaint handling refers to a method for resolving complaints between a financial consumer and a financial service provider in line with the latter established policies and procedures as well as appropriate NBE directives.<sup>187</sup> On the other hand, a specialized mechanism, to be developed by the NBE, for resolving conflicts between the financial consumer and the financial service provider, is referred to as external dispute resolution.<sup>188</sup>

The financial service consumer may lodge a complaint with the financial service provider. A financial service provider must promptly acknowledge receipt of the complaint; give each complaint a unique tracking number and counsel the complainant of that number when the complaint is received; investigate the complaint as soon as possible; and notify the complainant of the complaint's outcome within 10 business days of receiving the complaint.<sup>189</sup> If another NBE, directive has prescribed a shorter period for financial service providers to investigate complaints related to specific types of financial products and services, such prescriptions shall apply to the investigation of complaints related to such financial products.<sup>190</sup> Financial service providers must provide the complainant with written confirmation of the complaint's outcome, including any proposed resolution or settlement, any reasons for rejecting the complaint, any reasons for failing to complete the complaint investigation within 10 business days of receiving the complaint, and contact information for any applicable dispute resolution body.<sup>191</sup> Unresolved cases in the financial services providers may be submitted to the NBE. If a financial consumer is

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<sup>186</sup>.Id., Art 4.5

<sup>187</sup>.Id., Art 2 (2.20)

<sup>188</sup>.Id., Art 2 (2.12)

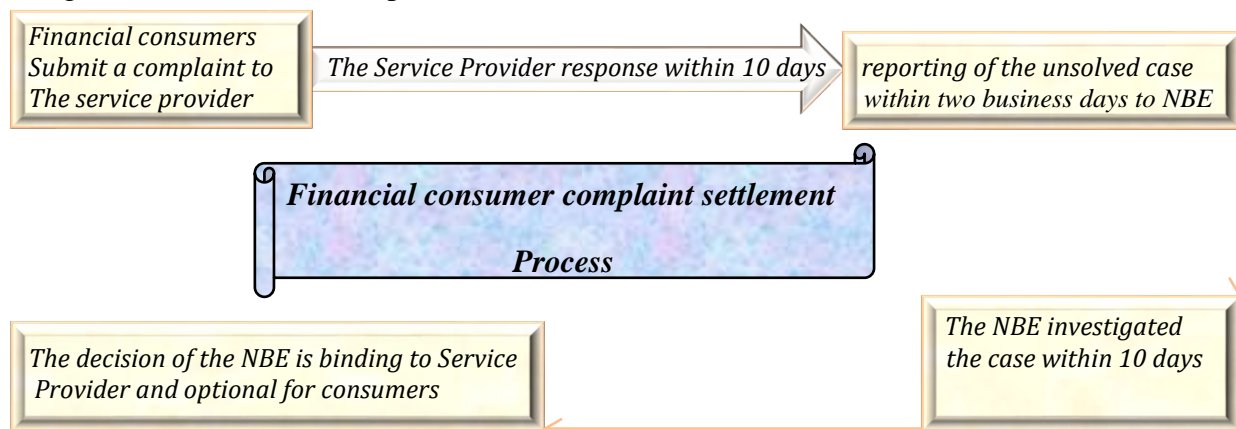
<sup>189</sup>.Id., Art 5.5.3 (5.5.3.2)

<sup>190</sup>.Ibid

<sup>191</sup>.Id., Art 5.5.3 (5.5.3.4)

dissatisfied with the decisions made by the relevant financial service provider, or has not received a response from the concerned financial service provider within 10 working days of receiving the complaint, he may file a complaint with the National Bank.<sup>192</sup> When a financial service provider is unable to resolve a complaint through internal complaint handling processes within 10 working days of receiving it, the case must be reported to the NBE within two business days, and the case must be investigated by the NBE within 10 business days of receipt.<sup>193</sup> If a lesser number of days for investigating complaints has been prescribed by another NBE directive with respect to certain categories of financial goods and services, such prescriptions must apply to the examination of complaints in relation to those financial products and services.<sup>194</sup> However, the decision of the NBE is not binding on consumers. The decision of the NBE on a complaint should be binding on the financial services provider but optional for the financial consumer.<sup>195</sup> Concisely, as per the FCP directive of Ethiopia, the procedures for the financial consumer complaints settlement process seem as followed.

Diagram 1.1 Process of Complaint Settlement



Source: FCP directive FCP/01/2020

In general, the new financial consumer protection directive is a new scenario and a turning point for having separate financial consumer protection law in Ethiopia.

### 3.5. Regulatory Framework for MFI Consumer Protection in Ethiopia

Financial service providers may be formal, informal, or semi-formal. The informal financial providers are subdivided into informal providers (eg. moneylenders, friends/relatives, Iddir, Iqqub (Ekub), and Meskel Aksiyon); and community savings groups (eg. the village economic

<sup>192</sup>.Id., Art 5.5.4 (5.5.4.1)

<sup>193</sup>.Id., Art 5.5.4 (5.5.4.2) & (5.5.4.3)

<sup>194</sup>.Id., Art 5.5.4.3

<sup>195</sup>.Id., Art 5.5.4.3

and social association and savings groups); semi-formal financial service providers (such as Savings and Credit Cooperative Societies); and formal financial service providers (such as MFIs and formal banks).<sup>196</sup>

In Ethiopia, formal financial service providers such as banks, insurance and MFIs are subject to regulation. Financial sector regulation in Ethiopia dates back to the imperial era.<sup>197</sup> MFIs are part of Ethiopia's formal financial system, which is regulated and supervised by the NBE.<sup>198</sup> The NBE is both the regulatory and supervisory body of financial institutions in general and MFIs in particular.

The objectives of regulation of MFIs in Ethiopia focus on protecting small depositors, ensuring integrity and stability of the microfinance sector in particular and the financial sector in general, and promoting efficient performance of institutions.<sup>199</sup> The researcher's focus is on MFIs' regulatory frameworks, which enable them to protect their consumers. As discussed in chapter two, MFIs should be regulated to protect their consumers. As of today, in Ethiopia, 41 MFIs are licensed and regulated by the NBE.<sup>200</sup>

Preventive and protective regulations are the two most frequently adopted instruments of regulation.<sup>201</sup> Preventive regulation is a pre-crisis measure that is taken by external supervisors, which includes entry requirements, minimum capital requirements, owners, governance structure and institutional type, and feasibility studies.<sup>202</sup> Whereas, protective regulation is a post-crisis step which is adopted by external regulators to prevent a run on the microfinance institution by ensuring depositors that they will be the first to withdraw funds from the financial

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<sup>196</sup>.Tegegne GebreEgziabher, Microfinance and Poverty Alleviation in Ethiopia, (Institute of Development Policy & Research University of Addis Ababa, June 2015), p. 4, available at [https://www.cardiff.ac.uk/\\_data/assets/pdf\\_file/0010/581509/Ethiopia-Report-Jun-2015-FINAL.pdf](https://www.cardiff.ac.uk/_data/assets/pdf_file/0010/581509/Ethiopia-Report-Jun-2015-FINAL.pdf) (This page was last accessed on August 25,2021)

<sup>197</sup>.Degefe Duressa Obo, Microfinance in Ethiopia (Research School for Resources Studies for Development, The Hague, Nederland, 2009), p., 84, available at <https://core.ac.uk/download/pdf/18514808.pdf> (This page was last accessed on August 25,2021)

<sup>198</sup>.Yigrem Kassa, Regulation & Supervision of Microfinance Business in Ethiopia: Achievements, Challenges & Prospects (n.d), 2020, p., 33, see <https://www.findevgateway.org/sites/default/files/publications/files/mfg-en-paper-regulation-supervision-of-microfinance-business-in-ethiopia-achievements-challenges-prospects-mar-2010.pdf> (This page was last accessed on August 25,2021)

<sup>199</sup>. Id, p. 33

<sup>200</sup>.See supra at note 150

<sup>201</sup>.See supra at note 198, p. 16

<sup>202</sup>.Id., p.16-17

intermediary.<sup>203</sup> Preventive regulatory frameworks in MFIs are required to protect the poor consumer.

Until 2009, Proclamation No. 40/1996, with NBE directives, constituted the major regulatory framework used to regulate and supervise the microfinance sector in Ethiopia.<sup>204</sup> In Ethiopia, irrespective of others, the NBE establishment proclamation No. 591/2008, licensing and supervision of microfinance institutions proclamation No. 40/1996, the microfinance business proclamation number 626/2009 and the financial consumer protection directive no. FCP/01/2020 and other directives issued by the NBE, circulars and guidelines of the NBE are the major regulatory frameworks for MFIs to protect consumers. The microfinance business proclamation number 626/2009 empowers the NBE to issue directives necessary for the implementation of the microfinance business proclamation and the regulations issued by the minister of council.<sup>205</sup> Hence, the NBE issued directives to regulate MFIs. Even though the FCP directive number FCP/01/2020 is the main directive that regulates MFIs to protect consumers, the NBE issued other directives that help regulate MFIs to safeguard consumers. The FCP directive provides that any provisions of the NBE's directive that enhance the protection of financial consumers, as long as they are compatible with the terms of the FCP directive, are enforceable.<sup>206</sup> Accordingly, the researcher assesses some selected regulatory directives which have an implicit linkage with microfinance consumer protection herein under.

### **3.5.1. Regulation for Loan Limits and Repayment Period**

The NBE introduced limits on loans, repayment period, and provisioning requirements in directive No MFI/28/2016. This directive has been issued since 2016. Irrespective of others, this directive is the one that regulates MFIs in Ethiopia. MFIs may provide loans to groups or individuals under directive number MFI/28/2016, and the loan may be made without collateral, secured by collateral, or secured by group or individual guarantees as appropriate and at the institution's discretion to the consumer.<sup>207</sup>

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<sup>203</sup>.Id., p. 19

<sup>204</sup>.See supra note 198, p. 5

<sup>205</sup>.See supra note 151, Art 27 (2)

<sup>206</sup>.See supra note 16, Art 8

<sup>207</sup>.Directive number MFI/28/2016, Limit in Loans, Repayment Period and Provisioning Requirement, National Bank of Ethiopia, 2016, Art 4, available at <https://nbebank.com/wp-content/uploads/pdf/directives/microfinancebusiness/directive-no-mfi-28-2016.pdf> (This page was last accessed on August 21, 2021)



According to article 5 of the directive, client information that is relevant and appropriate is analyzed by the MFI before loans are approved. In a MFI, the total loan to any single consumer shall not exceed 1% (one) percent of the institution's total capital, and the total loan to a group of consumers on the basis of a group guarantee shall not exceed 4% (four) percent of the institution's total capital. A loan extended by an MFI shall have a maximum repayment period of 15 years for housing and 5 years for all other loans and advances.<sup>208</sup> A MFI's total capital is the sum of its paid-in capital, contributed capital, retained revenues, and other fee reserves.<sup>209</sup> Based on the number of days past due, non-performing loans in MFIs can be categorized as substandard, doubtful, or loss. Therefore, the substandard loan number of days past due is from 91 to 180 days, the doubtful loan number of days past due is from 181 to 365 days, and the loss loan number of days past due is over 365 days.<sup>210</sup> As per the directive, a researcher differentiated non-performing loans, rescheduled loans and restructured loans as follows.

Table 1.3: Difference between Non-performing loans, Rescheduled loans and Restructured loans;

<i>Categories</i>	<i>Non-performing loans</i>			<i>Rescheduled loans</i>	<i>Restructured loans</i>
Difference	past due for more than 90 days beyond the agreed-upon repayment period			Repayment period has been extended or changed	refinanced, rescheduled or otherwise modified due to weakness in the consumer's financial position or ability to pay
	Substandard	Doubtful	Loss		
	90-180 Days	181-365 Days	Over 365 Days		

Source: Licensing on loans, repayment period and provisioning requirement number MFI/28/2016

MFIs shall report quarterly their loan classification and provisioning within four weeks from the end of each quarter to the regulatory and supervisory body, i.e. NBE.<sup>211</sup> This directive has no penalty if the MFI fails to fulfill its duty. The above-mentioned directive serves as a regulatory framework to ensure the stability and financial soundness of the institution. Implicitly, this regulatory directive enables to prevent the over-indebtedness of MFIs consumers.

<sup>208</sup>.Id., Art 6

<sup>209</sup>.Id., Art 2 (3.6)

<sup>210</sup>.Id., Art 8

<sup>211</sup>.Id., Art 11

### 3.5.2. Regulation for Deposit and Lending Interest Rates

It is an interest rate directive No MFI/29/2017 that is applicable to MFIs, and was issued by the NBE in 2017. The directive is effective as of the 17th day of October 2017. This directive acknowledged the applicability of interest rate directive number NBE/INT/12/17 with the only replacement of microfinance on the placement of banks. As per the interest rates directive number NBE/INT/12/17, the deposit and lending interest rates of MFIs is described below.

Table 1.4: MFIs Interest Rates

<i>Deposit Interest Rate percent per year</i>	
Demand deposit	freely determined by each microfinance institution(MFI)
Minimum interest rates on saving and time deposits	7% per year
<i>Lending Interest Rate percent per year</i>	
Lending rates on loans and advances	freely determined by each microfinance institution(MFI)
Lending rate on loans and re-discount facilities granted by NBE to CB and other Financial institution	determined by NBE from time to time
Inter-MFIs lending rate	negotiated by concerned microfinance institution (MFI)

Source: The Interest Rate Directive Number NBE/INT/12/17

The directive empowers the board of directors of each MFI to set in writing demand deposit rates, and saving and time deposit rates of not less than 7% without discrimination in clear and explicit criteria among the same category of depositors.<sup>212</sup> The board of directors of each MFI sets lending interest rates based upon clear and explicit criteria in writing.<sup>213</sup> Unlike the deposit interest rate provision of the directive, lending interest rate non-discrimination among the same category of lenders is not provided in the lending interest rate provision. The criteria set to determine deposit and lending interest rates by the board of directors of a microfinance institution shall consider the basic principles of consumer protection in MFIs. The deposit and lending interest rates set by the board of directors of any MFI, the criteria upon which the boards are based, and any subsequent charges, along with the criteria upon which the charges are based,

<sup>212</sup>.Directive number MFI/29/2017, Interest Rates Applicable to Microfinance Institutions, National Bank of Ethiopia, Art 1.3 & 1.4, available at <https://nbebank.com/wp-content/uploads/pdf/directives/microfinancebusiness/interest-rate.pdf> (This page was last accessed on August 26, 2017)

<sup>213</sup>.Id, Art 2.6

shall be submitted to the NBE within five working days.<sup>214</sup> Regardless of others, these deposit and lending interest rates are MFI regulatory frameworks that protect consumers. The national bank of Ethiopia regulates MFIs' interest rates and supervises them based on the report submitted by the institution to the NBE. Hence, proper regulation and effective supervision of MFIs serve to tackle the poor consumers' from unprincipled practices of MFIs.

### **3.5.3. Circulars and Guidelines as a Regulatory Frameworks**

The NBE issues circulars and guidelines to regulate MFIs in order to protect consumers. In the circulars, the NBE may suspend the applicability of some provisions of the directive to protect consumers. In Ethiopia, financial institutions in general and MFIs in particular, both circulars and guidelines are considered as part of the regulatory framework of the institution.

Some circulars suspended the applicability of a given directive provision for the sake of protecting the stability of MFIs and safeguarding consumers due to the existence of unanticipated events. In 2020, there was an outbreak of the covid 19 pandemic. Due to the widespread nature of this pandemic, the NBE issued a circular to all MFIs, assisting them in protecting their consumers on June 1, 2020. The circular issued June 01,2020 temporarily suspended article 8.2.2, article 8.2.3, article 9,2, article 6.1 and article 6.2 of the limit on loans, repayment period and provisioning requirement directive number MFI/28/2016 to ensure the continuity of viable businesses of existing customers in cases where borrowers have reached their maximum borrowing limit.<sup>215</sup>

Prior to the promulgation of the new FCP directive number FCP/01/2020, the NBE issued general guidelines for risk management guidelines for MFIs in September 2010. Excessive and poorly managed risk can result in losses, endangering MFIs' safety and soundness, as well as the protection of their depositors or consumers.<sup>216</sup> MFIs may therefore fail to meet their social and financial goals, and be risky for their small depositors. MFIs face a variety of risks, including credit risk, interest rate risk, liquidity risk, and operational risk, all of which must be managed in

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<sup>214</sup>.Id, Art 1.5 & 2.7

<sup>215</sup>.National Bank of Ethiopia Circular number MFISD/01/2020, to All Microfinance Institutions, June 01,2020), p. n.p available at <https://nbebank.com/wp-content/uploads/2020/09/circular/MFISD-01-2020.pdf> (This page was last accessed on August 26,2021)

<sup>216</sup>. National Bank of Ethiopia Microfinance Institutions Supervision Directorate, Risk Management Guidelines for Microfinance Institutions, September 2010, p. 3, available at <https://nbebank.com/wp-content/uploads/2019/04/rmg-for-Microfinace.pdf> (This page was last accessed on August 31,2021)

order for them to survive and be sustainable.<sup>217</sup> This guideline is mainly focused on safeguarding the survival and sustainability of MFI, though it is implied serve to protect small depositors. The risk management guideline is not a full-fledged and comprehensive guideline for the protection of consumers in MFIs, so a separate MFI consumer protection guideline should be issued by the NBE that serves as a regulatory framework to protect consumers.

In general, the law and regulation of MFI consumers in Ethiopia has recently been enacted, but the law and regulation must be properly enforced, and consumers in MFIs need to be protected. This is because MFIs are ineffective without the service-seeking community.

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<sup>217</sup>.Ibid

## CHAPTER FOUR

### 4. Analysis of the Laws and the Practices of Consumer Protection in MFIs

#### 4.1. Introduction

In this chapter, the assessments and findings on consumers' protection in MFIs are discussed. Here, the data collected from respondents is analyzed and interpreted by putting ideas or research results from the questionnaire, FGD, interview, and personal observations into themes or segments to derive common findings. The primary data was collected from MFI consumers through a questionnaire, from informant interviews with the employers and employees of ACSI, VFMFI, AGMFI, and HMFI, from FGD with certain consumers of MFIs, and from personal observation of collected documents. Firstly, the researcher assessed the practice of consumer protection in MFIs, and major findings of the collected data are summarized. Afterwards, the law and the practices are analyzed based on the major findings by taking into account the statement of the problem. Then after, gaps in the law and its implementation are briefly explored. Hence, this chapter concertizes and crystallizes the key concerns discussed and, in the next chapter, suggests a path forward.

#### 4.2. Results and Discussion

Currently, the number of MFIs that offer financial services to the poor is growing. The total amount of savings, loans, and assets of these MFIs is increasing dramatically.

Table1.5: Microfinance Institutions (MFIs) Performance

<i>Particulars</i>	<i>2018/19</i>	<i>2019/2020</i>	<i>Percentage change</i>
Total capital	16,567,933.7	19,440,089.7	17.3%
Saving	41,897,179.6	44,714,061.1	6.7%
Credit	58,722,261.1	64,901,669.5	10.5%
Total assets	83,475,519.0	92,200,086.4	10.5%

Source: 2019/2020 Annual report of NBE

The table mentioned above shows the increasing total assets of MFIs in Ethiopia. This increment of saving, credit, and total assets of microfinance shows the increment of consumers in institutions. In the above table, the total credit is much greater than the total deposit. Therefore,

from this, one can conclude that in MFIs, loan consumers are many more in number than deposit consumers.

As of March 2021, MFIs serve a larger number of credit (loan) consumers (around 5 million), largely in the agricultural and MSMEs sectors.<sup>218</sup>

Four MFI consumers for the study, including ACSI, VFMFI, AMFI, and HMFI, are selected to assess the practices of consumer protection in MFIs. The ACSI has been in operation since 1995, when it was founded by the organization for the rehabilitation and development of Amhara, an indigenous NGO engaged in development activities that began its pilot activities in 1996, and was licensed in 1997 as a microfinance share company.<sup>219</sup> As of April 2021, ACSI had 9.2 billion in capital, 472 branch offices, over 1107 satellite offices, and 1.5 million loan customers.<sup>220</sup> As per proclamation number 40/96, VFMFI has been in operation since 1999 as a regulated and legally recognized microfinance service provider to the productive poor in Ethiopia's rural and urban areas which was licensed on June 17, 1998.<sup>221</sup> Agar was the country's first commercial private MFI, licensed on March 18, 2004, and began operations in April 2004, and it was founded by Ethiopian shareholders to target the "missing middle," or MSEs.<sup>222</sup> HMFI is a NGO founded in February 2005 to meet the requirements and directives of the NBE, which is responsible for licensing and supervising MFIs, and the institution provides financial services to poor individuals in both rural and urban areas to assist them.<sup>223</sup> All the above noted MFIs operate microfinance deeds in Amhara Regional State in general, and in the North Shewa Zone in particular. Hence, samples are taken from the MFIs and their consumers listed above for a study on consumer protection in the scope and delimitation area of the study.

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<sup>218</sup>.National Bank of Ethiopia, The Relationship Between Saving, Investment and Economic Growth in Ethiopia: ARDL and VECM Approach, Birritu Magazine No.130, March 2021, p. 23, available at <https://nbebank.com/wp-content/uploads/pdf/birritu/Birritu-130.pdf> (This page was last accessed on August 29,2030)

<sup>219</sup>. Amhara Credit and Saving Institution, Institutional Profile, Current Status and Future Strategy, May 2004, p. 4, available at <https://www.findevgateway.org/sites/default/files/publications/files/mfg-en-case-study-the-amhara-credit-and-saving-institution-acsi-institutional-profile-current-status-and-future-strategy-2004.pdf> (This page was last accessed on August 29,2021.)

<sup>220</sup>.Ethiopian broadcasting corporation, p. n.p, April 2021, available at [https://m.facebook.com/story.php?story\\_fbid=4279172772114566&id=541629952535552&source=timeline](https://m.facebook.com/story.php?story_fbid=4279172772114566&id=541629952535552&source=timeline) (This page was last accessed on August 14, 2021.)

<sup>221</sup>.Vision Fund Microfinance Institution p. n.p, <https://www.fmo.nl/project-detail/55075> (This page was last accessed on August 29, 2021.)

<sup>222</sup>.Aggar Microfinance S.C, P. n.p, available at <https://aggarmf.com> (This page was last accessed on August 29, 2021.)

<sup>223</sup>.Harbu Microfinance Institution, p. n.d, available at <https://www.facebook.com/Harbu-Micro-Finance-Institution-221482044603859/> (This page was last accessed on August 29, 2021.)

### 4.2.1. Practices of Consumer Protection in MFIs

Before analyzing the law and its implementation, it is necessary to assess the practices of consumer protection in MFIs. Hence, the data collected through the questionnaire, interview, FGD, and personal observation is examined. This is because the data collected is a clear indication of how MFIs are protecting their consumers.

The collected data is being organized into four sections to make it easier to understand and obtain the major findings. The first section deals with data gathered from consumers of the four MFIs through questionnaire. Section 2 deals with the data collected from FGD with some selected consumers of ACSI and VFMFI. In section three, data obtained by the researcher from interviews with staff and management bodies of selected MFIs is described. The fourth section is focused on personal observation about the collected documents from ACSI and VFMFI.

#### Section 1: Data collected from questionnaire'

As mentioned above, the data is collected through questionnaires from consumers of the four MFIs. For analytical purposes, it is important to summarize the questionnaire data collected from the four MFIs in aggregate rather than separately.

Table 1.6: Total Data Collected from the Four MFIs' Consumers though Questionnaires

<b>Items</b>	Total collected questionnaires (94) =72.3076%				
	<i>Loan</i>	<i>deposit</i>	<i>Insurance</i>	<i>Money transfer</i>	<i>Others</i>
<i>What types of service do you receive from MFI?</i>	65 or 76.6%	29 or 32.4%			No
<i>Did MFI fully inform you of the overall content of the contract before you entered?</i>	<b>yes</b>			<b>No</b>	
	70 or 74.46 %			24 or 25.53%	
<i>After receiving a loan from the MFI, will you obtain appropriate and consistent support from the institution?</i>	<b>Yes</b>	<b>No</b>		<b>Non response</b>	
	49 or 75.38%	10 or 15.38%		6 or 9.23%	
<i>Have you ever borrowed money from another institution without repaying your prior debt to the lender?</i>	<b>Yes</b>			<b>No</b>	
	4 or 6.15%			61 or 93.85%	

<i>Do you have any problem with the MFI opening the account and returning/closing it?</i>	<b>Yes</b>		<b>No</b>
	1 or 1.06%		93 or 98.64%
<i>Are the MFI employees treated honestly and politely?</i>	<b>Yes</b>		<b>No</b>
	85 or 90.43%/		4 or 4.26%
<i>Have you had any problems with the collection of the loan by the MFI?</i>	<b>Yes</b>		<b>No</b>
	30 or 31.91%		50 or 51.19%
<i>Have you filed a complaint about the service you offered to the concerned body? To whom did you file the complaint?</i>	<b>Yes</b>		<b>No</b>
	41 or 43.62%/		47 or 50%
	<b>Court</b>	<b>MFI</b>	<b>To others</b>
3 or 3.32%	38 or 92.7%	No	
<i>Do you have knowledge of the directive number FCP/01/2020?</i>	<b>Yes</b>		<b>No</b>
	0		85 or 90.43%
			<b>No response</b>
			5 or 5.32%
			13 or 13.83%
			6 or 6.38%
			9 or 9.57%

Source: The researcher organized it.

The table above is organized based on the findings of the questionnaires collected from four MFIs' consumers.

According to the above table, 76.6% MFIs' of consumers received loan services, while the remaining 32.4% of total respondents deposited money in the aforementioned MFIs. It can be seen from the survey that the consumers of the institutions do not receive micro-insurance and money remittance services from the MFIs.

The collected data is collected through questionnaires of MFIs' consumers regarding the conclusion of contracts. It can be seen from the collected data through questionnaires that 25.53% consumers of MFIs do not get a proper explanation of the overall content of the contract. Most respondents responded that the MFIs told them how much money they wanted to borrow, and to provide personal security and group guarantee for the loan. It is understood from the data collected that consumers of MFIs are only asked to sign a loan agreement or contract with a group or private guarantor to receive a loan service from the institution. Nevertheless, from the



respondents' answers, it is clear that around 74.46% of the MFIs' consumers are properly informed about the overall content of the contract when they conclude it with the institutions.

Consumers of MFIs need to be supervised regularly after receiving the loan. According to 75.38% percent of the respondents' response, they are closely supervised or monitored by the MFIs. On the other hand, 9.23% of the MFIs' consumers did not respond to the questionnaires, and 15.38% of the respondents said that they were not supervised or monitored after taking out loans from the institutions. Respondents who wrote answers to the close-ended questionnaires said that the institutions asked them when it was time to repay the loan. According to the data collected through questionnaires, there is a gap in supervision or monitoring by institutions after their consumers have borrowed money.

Among the distributed questionnaires, 93.85% of consumers who filled out the questionnaires stated that a consumer of a MFI would not borrow money from another lender without repaying the loan. On the other hand, 6.15% of the respondents said that they borrowed money from another lender without repaying the loan. It is understood that some people borrow money from another person without repaying the loan to the pervious lender.

Among the respondents, 98.64% said that they had no problems with the opening and closing of accounts. On the other hand, 1.06% said that they had problems with opening and closing of accounts. For example, consumers of the MFI who were surveyed responded that there was something unhappy about the side of the institution closing the account.

The majority of the respondents stated that the institution's employees would treat them with sincerity when they received service. In the questionnaires, 4.26 % of the respondents said that the employees do not treat them sincerely. In the close-ended questionnaires, they said that the MFIs' staff employees would be able to access the service from the branch office where a consumer opened the account. For example, they said that when the due date comes to pay for a bond, the money would be withdrawn from the branch of the institution where the bond was purchased. This, respondents said, would lead to exploitation and extra cost. Besides, according to some Harbu and Agar MFI consumers, when they ask for more than 100,000 birr and more than 200,000 birr from the institution, they need to go to the head office in Addis Ababa to approve the loan. When they go to headquarters, the head office does not respond immediately. "This is costing them dearly," they said in a written statement. This data shows there is a need for networking and automation of MFIs to make their services available to all.

According to the data collected through questionnaires, most respondents said that there are problems with the debt collection process. The reason stated in answering the close-ended question is that occasionally there is a lack of supervision after credit and saving institutions lend. On the other hand, they said that they have faced a lack of money to repay their debt to the institution. They added that MFIs sold their properties that are substantially essential for survival, such as farming cattle and houses. Another problem with debt collection is that borrowers are not allowed to pay their debt before the due date. From the data collected through questionnaires, the problem of loan collection in this regard mostly happens in VFMFI. From the data collected, one can understand that the loans offered by VFMFI to consumers are repaid by the consumers in one-month intervals. When we look at the standard form contract that is prepared by VFMFI, a borrower repays the loan at a monthly interval to the lender institution. For example, on April 12, 2013, a person who borrows money from a credit and savings institution cannot repay the loan before May 12, 2013. The lender is not willing to receive the loan before the due date. The interest rate is set at 24%.<sup>224</sup> The respondents said that throughout the loan term, the lending interest rate remains constant. Besides, following the covid 19 virus outbreak, the NBE published a circular informing each MFI of the loan payback due date. MFIs left the circular and demanded the return of the loan, according to respondents.

From the questionnaires collected, it is clear that in the event of a dispute, the dispute is resolved by the MFI itself. Disagreements, on the other hand, can be taken to court. For example, it is clear from the data that disputes arise between ACSI and VFMFI, and consumers' cases are taken to court. All respondents have no recognition and have never seen the directive of the new FCP directive no. 01/FCP/2020. Overall, according to the data collected, the implementation gaps are also prone to over-indebtedness. Concisely, the major findings from respondents include:

- *Absence of proper explanation of the overall content of the loan contracts*
- *After taking out loans from lending institutions, there is a lack of frequent supervision or monitoring*
- *Borrowing from another lender without repaying the previous loans*
- *Unsafe debt collection practices*
- *Using the flattening interest rate formula*
- *Time consuming court proceeding*
- *Non-awareness the new FCP directive number FCP/01/2020*

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<sup>224</sup>.Vision Fund Microfinance Institution S.C and Mister Budn, Birr 25,000 Loan Contract, May 12, 2010 E.C

The researcher discusses these major findings after assessing other findings obtained through FGD, interview and personal observation.

## Section 2: Data collected from FGD

The FGD was conducted about consumer protection in MFIs with the consumers themselves. These basic points of discussions with the discussants include which MFIs they are consumers of, issues related to MFIs' services offered to them, concerns about loan contracts, issues about post-loan offer support and supervision of consumers, issues about debt collection practices, and issues with borrowing from various lenders without repaying loans. Besides, themes related to accounts, themes about the kindness of the staff of the MFIs, issues about GRM, issues related to the New FCPD no. 01/FCP/2020, and if any, gaps in MFIs' services are the theme of discussion.

The content of the loan contract is one of the issues raised by ACSI consumers in the discussion. Participants of the FGD, who are ACSI loans consumers, stated that they signed the loan contract prepared by the institution. The group basis borrowers mentioned during the discussion that the kebele administration had written a letter certifying that they are residents of the kebele where they live and that they have no debts. Discussants also indicated that they were asked for the loan amount they needed before signing the loan agreement. They also mentioned that their guarantors had signed the contract. They added that they read the contract at home and understood the entire wording. When they sign a contract, the institution does not inform them everything in detail. The institution failed to inform them about the 1.5 percent fee for unhealthy loans during the conclusion of the contract, as the discussants said. The discussant said that they were not informed by the institution that any property was deployed as collateral. ACSI's borrowers who took out individual basis loans, on the other hand, indicated that they borrowed on the base of their salary as collateral. They added in the discussion that the institution informed them of the contract's interest rate as well as the loan's repayment schedule.

They said in the discussion that the institution did not disclose the contract's details to them during the contract's conclusion. "One of the VFMMFI consumers indicated that the loan was received using her salary as collateral, while the other two stated that the institution provided them with a loan for group guarantee. The contract's conditions were not clearly explained to them, according to the discussants. During the discussion, they indicated that the institution had informed them of the loan due date and interest rate. However, none of the three participants claimed that the institution informed them that the interest rates were fully computed and

included in the contract. During the discussion, the group lender stated that before they could take out a group loan from the institution, they had to bring a letter declaring that they were not in debt from the kebele where they lived. Three of the MFI's debtors stated that their guarantors signed a contract agreeing to reimburse the loan if it was not paid on time by them.”<sup>225</sup>

Another point discussed during the FGD was about MFIs charging fees during rendering loan service. During the FGD, the discussants said that when consumers borrow money, the lending institutions charge service fees improperly. “When a loan is offered, a service fee is deducted from the loan offered. This obliged the loan borrower to repay the service fee and interest together, and it is burdened with debt. Hence, borrowers become unable to pay their debt, which leads them to become over-indebted. As a result, the service fee should be reduced and reasonable, as the discussants said.”<sup>226</sup>

Another topic that came up during the discussion was how the institution would monitor and supervise the loan service after it is offered. “Surprisingly, participants from both institutions said that after receiving the loan, they do not receive ongoing monitoring and oversight. Other than meeting with the institution to repay the loan, they responded that there would be no planned follow-up monitoring and supervision. The institution would only be informed that the group borrowers would return the loan during the due date, according to group borrowers.”<sup>227</sup>

Another basic point of discussion is about the nature of debt collection practices. "Individual borrowers from ACSI responded that they would go to the institution every month and repay the loan. Group borrowers, on the other hand, repay the loan every three months. One of the individual borrowers from VFMFI responded that the institution was not interested in receiving the loan before the due date. The VFMFI consumers, who organized in-group, responded that when the loan due date was reached, they would come to the institution and return the money to the institution. Participants in the discussion said that some borrowers' farm cattle (oxen) were used to pay off their debts. As the discussants said, it leads the victims to live disastrous lives. Discussants said that some borrowers had their farm cattle sold to repay their loans, but that it was not enough to cover all of their debts. Sometimes there are people who take out loans to work as a group and do not use the money for the intended purpose. As a result, the assets of the

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<sup>225</sup>.FGD, Consumer Protection in ACSI and VFMFI, Debre Berhan city , Menz mama woreda and Baso ena Werana worda,(8),Paqume 4,2013 E.C

<sup>226</sup>.Ibid

<sup>227</sup>Ibid

guarantors are being used to pay off debts and that those who do not benefit from the loans are at risk. Sometimes, when there is a disagreement between people who are working in a group, the lender seals (closes) the workplace and orders them to repay the loan. Due to the closure of the workplace, borrowers were unable to repay their debt due to inactivity. The discussants stated that those who borrowed money in a group could be prosecuted for failing to repay the loan by the institutions. Nevertheless, according to the participants, many borrowers have taken out loans and made a better living. In general, regardless of others, the discussants of the FGD said that the use of borrowers' assets that are essential to the borrower's livelihood, making the borrower repays the loan at once, and asking the borrower to make various payments in addition to the loan amount and appropriate interest are the gaps in debt collection practices.”<sup>228</sup>

Another topic that was discussed during the FGD is the pre-loan credit history of the participants, which has a direct linkage to being over-indebted. “All FGD participants stated that they did not take out loans from other lending institutions without repaying their loans. The discussants said that some people who take out loans from MFIs sometimes borrow informally from private lenders without repaying their loans to the formal institutions. Discussants stated that this was due to the inability of some lenders to repay their loan to MFIs, and to repay it. Besides, group borrower pre credit history was inspected by the kebele where they lived, participants said.”<sup>229</sup>

Another topic that was discussed during the FGD was the opening and returning of accounts and the way in which the staff of the MFIs treat consumers. “All the discussants stated that they did not have any problems with the opening and closing of their accounts. However, three of the discussants said, they are unhappy with the fact that not every institution is connected to a network to make the service accessible. There are times when they do not get all the services anywhere. In some cases, service is offered in the place where the account is opened. All the discussants said that staff members treat them in a hospitality manner while receiving the services they want. The staff members handle their cases honestly, as the discussants said”<sup>230</sup>.

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<sup>228</sup>.Ibid

<sup>229</sup>.Ibid

<sup>230</sup>.Ibid

Another point of discussion is the conflict resolution system. “Discussants from all institutions said that they would file a complaint with the MFI and that the institution would resolve it. They added in the discussion that no case had been filed in court. Nevertheless, other people who have taken loans from MFIs are prosecuted, as the discussants in the discussion said. Discussants said that those who could not repay their loans often went to court and that the case would not be resolved soon. Discussants said that those borrowers would be in trouble because they were being sued for being unable to repay their debt and could not even pay transportation costs to come to court.”<sup>231</sup>

Another topic that was discussed during the FGD was the new FCP directive number FCP/01/2020. “All the participants stated that they were unaware that the NBE had issued a consumer protection directive. During the discussion, discussants said that they had never seen any directives issued by the NBE. Nevertheless, they also told the researcher that the NBE's directives are not as accessible as other laws. The discussants said that they did not even know the full contents of their loan contract with the MFIs, let alone the directive.”<sup>232</sup> Concisely, the major findings during the FGD include:

- *Non-disclosure of the whole content of the contract during the time of conclusion (discussants from both MFIs);*
- *Calculation of the total interest rate and incorporation into the loan contract (discussants from VFMI);*
- *Non-disclosure of 1.5 percent interest rate for bad loans at the time of contract signing and recovery of it during debt repayment (ACSI deputies);*
- *Non-disclosure of the incorporation of the phrase "the lender uses any property to recover debt..." in the loan contract during the conclusion of the contract (discussants from ACSI);*
- *Limitation on monitoring and supervising of loan consumers before the due date (raised by discussants from both MFIs);*
- *Utilizing assets that are essential to a person's survival for debt recovery (discussants from ACSI);*

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<sup>231</sup>.Ibid

<sup>232</sup>.Ibid

- *Obligated loan consumers to repay debt at once before the due date (discussants from ACSI);*
- *Not interested in receiving a loan before the due date (discussants from VFMFI);*
- *Borrow loans from informal lenders before repaying loans borrowed from MFIs;*
- *investigation group borrower's pre-loan credit history from Kebele administration (discussants from both MFIs);*
- *The majority of group borrowers are being sued in regular court for debt recovery (as raised by discussants from both MFIs);*
- *Higher imposition of service fees during the offering of loan services to consumers (discussants from VFMFI).*

### Section 3: Data collected from Interview

Interviews are conducted with the staff and management bodies of ACSI, VFMFI, AMFI, and HMFI.

#### Interview Results from ACSI

An interview was conducted with ACSIs staff and officials. Firstly, the deputy general manager said the following statements.

*The ACSI has 472 branches and satellite that guarantee loans and deposits. There are 58 branches and satellite loan and savings offices in North Shoa. Loans to individual borrowers are available at the nearest branch office. For group borrowers, if the loan is between 500,000 birr and 1,000,000 birr, the institution in North Shoa will approve the loan. If the group borrowers need more than one million birr, it is approved in Bahir Dar. The institution started offering loans to farmers by using their land as a guarantee. If the borrower wants to borrow by using all the land as a guarantee, the loan service will be available. All directives issued by the NBE are in English. Some ACSI branches are not network. There is no awareness creation for consumers about the new FCP directive. There is no practical distinction between the region's 472 branches and the satellite offices of ACSI.*<sup>233</sup>

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<sup>233</sup>.Hailegiorgis Kasaye, Deputy General Manager of Amhara Credit and Savings Institution North Shoa Branch, Debre Berhan, interviewed August 31, 2021 G.C.

The deputy general manager said that the institution provides proper monitoring and support for its consumers. He added in the interview that the main services provided to consumers are loans, and savings or deposit services. On the other hand, awareness and disclosure about institutions and the rights of consumers forward to consumers, as the manager said. The interviewee added that there is a staff member whose job it is to educate the institution's customers about the institution, and their rights. The interviewee stated that the loan and savings institutions' consumers often understand the overall contents of the contract when entering into a contract with the institution. When consumers come to get a loan service, the institution asks how much they want to borrow, said the interviewee. The interviewee said that consumers could apply for the loan in groups or individually. Besides, the deputy general manager told the researcher that when consumers take out a loan from the institution, they are required to provide a guarantee. The type of collateral to borrow could be a group guarantee or personal security, as the interviewee said. As per the interviewee's information, consumers of the institution who are subject to group debtors are jointly and severally liable for unpaid debt. "On the other hand, a person who comes to get a loan as an individual can be offered a loan service. When an individual comes to take the loan, he/she is given a loan with security. The institution checks the credit history of group borrowers from their kebele. Then the loan will be given to them. If the borrower does not repay a loan, he will be disqualified from the institution until the end. According to the contract entered between consumers and institutions, the loan will be repaid to the institution within the time specified in the loan contract. If a person refuses to repay the loan, the institution will file a complaint with the competent court."<sup>234</sup> One of the interviewees, Hailegebreal Genene, a legal professional or lawyer of the institution, told the researcher the following statement.

*Usually, when people borrow money in a group, one borrower refuses to repay the loan. When this happens, the group members will first be notified to repay the loan to the institution. If they do not return the borrowed money, the institution will sue all the members of the group and take the case to court. Once the court has made a decision, the institution will search for any of the property of the debtors for the purpose of exclusion of the judgment. The institution noticed that some people who had received loans in*

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<sup>234</sup>.Ibid



*groups from the institution were unable to repay the loans. In-group lending, the institution has a hard time recovering the debts.*<sup>235</sup>

The researcher asked both the deputy general manager and the legal officer of the ACSI whether there had ever been a situation where the consumers of the institution could not repay the loan. The interviewees told the researcher, as per their investigation, they did not find any information that their consumers had borrowed money from another institution or lender. They added that the institution is investigating individual loan services to ensure that the security is not secured for other debt. However, for borrowers who are structured into a group, they are obligated to provide a group guarantee to ensure that they guarantee each other to get the loan service, as both interviewees said.

An in-depth interview was conducted about the concept of over-indebtedness with the deputy general manager and the legal officer. The interviewees' suggestion here is that consumers who want group loans bring written certification from the kebele they live in that they do not have another loan, and they are required to take the loan after they have been certified as residents of the kebele. The interviewees mentioned during the interviews that the kebele administration of the institution would ensure that the consumers of the institution are not in debt. They added that an individual who comes to get the loan service will be able to get the loan from the lender's institution with personal security. According to the interviewees, they told the researcher that there is no separate over-indebtedness directive at the national level. The interviewees also said that most of the loans that ACSI offers are to low-income communities. ACSI will not allow consumers to borrow money from the institution if it is proven that they have borrowed money from another lender. This is because the borrowers may not be able to repay the loan. When individual consumers come to the institution for loan service, the institution makes sure that the property served for security is not covered by any other debt, as both interviewees said.

“There is a grievance redress system in the institution. A consumer who has a complaint about service delivery will file a complaint at the nearest office, and then the complaint will be resolved. None of the institution consumers went to the NBE and complained. The most common problem is that consumers are unable to repay the loan on time. When this happens, the institution first asks the consumers to pay their debts. If consumers refused to pay their debts, the

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<sup>235</sup>.Hailegebreal Genene, the Legal Officer of Amhara Credit and Saving Institution, Debre Berhan, interviewed on August 31, 2021 G.C.

institution would file a lawsuit directly with the regular court and get them to repay the debt. When a consumer comes to open an account at the institution, the account will be opened. When a consumer wants to close the account, the account will be closed without hesitation.”<sup>236</sup>

## Interview Results from VFMMI

Secondly, an interview conducted with VFMMI staff and management bodies. Three VFMMI employees and officials were interviewed by the researcher. One is a legal officer for the northern region, one is the Northern Region's Deputy General Manager, and the other is the head of the VFMMI's Debre Berhan branch office. Interview questions forwarded to VFMMI employees and management bodies are similar to those forwarded to ACSI employees and management bodies. The Deputy General Manager of the VFMMI Northern Region made the following basic points.

*VFMMI operates its financial activities in four regions. The VFMMI is providing extensive loan and savings services in Amhara, SNNPE, Oromia and Addis Ababa. The Vision Fund has 15 branches from Sheno to Tenta/Ajbar. All branches' implementation is consistent. Consumers are treated similarly everywhere. Likewise, the consumers' obligations are the same. Seven out of 15 branches have been networked. Eight branches have not yet networked. Therefore, the institution is trying to network the remaining eight VFMMI's branches. Borrowers are supervised by the institution. Individual and group borrowers are insured for 5 percent of the loan amount. The institution does not provide an independent micro-insurance service. Borrowers are charged a 2.5 percent service fee on the loan amount.*<sup>237</sup>

As the researcher interviewed Sisay Tekletsadik, who is the general manager of VFMMI Debre Berhan Branch, about the institution's consumer protection system, he said that the Debre Berhan branch of the VFMMI mainly provides loans and savings to consumers. He added that the branch office approves a loan of up to 200,000 birr for group borrowers, and up to 500,000 birr (five hundred thousand birr) will be approved by the branch office for individual borrowers. Nevertheless, borrowers who want more than the above-mentioned amount will be approved by

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<sup>236</sup>.See supra at note 233

<sup>237</sup>.Zemedkun Behayilu, interviewed about Vision Fund Microfinance Consumer Protection, Deputy General Manager of the Northern Region of Vision Fund Microfinance Institution, Debre Berhan, interviewed on Paqume 3, 2013 E.C.

the head office in Addis Ababa, as the general manager said. “The institution provides credit services to consumers in groups or individually. People who want to borrow money from a group will organize themselves into an in-group. After they organize an in-group, they take the loan with a group guarantee. The debtors pay their loan with interest based on the contract they entered into. A lawsuit would be filed if one borrower paid his share of the loans without repaying the others' share if the group borrowers refused to pay.”<sup>238</sup>

Tilahun Tsetarege, a legal professional for the north regional branch of the VFMFI, said that borrowers who have taken out loans and stopped repaying their debts will be asked to repay the debt before the cases are brought to court. "If they do not pay their debts, the institution will sue them," he said. Some consumers of VFMFI would not repay the group loans in accordance with the contract. Even if the loan amount owed was small, the institution would file a lawsuit and return the loan as the legal officer said. “The main reason the borrowers of the institution did not repay their debts was that they did not use the loan money for the intended purposes. For example, they borrow money for cattle fattening but use it for daily survival purposes. The borrowers would not be able to repay the loan because they did not use it economically.”<sup>239</sup>

Another point raised in the interview was the issue of over-indebtedness. The legal officer of VFMFI said that group basis loans are provided only when the borrowers bring letters from the kebele that show they are not in debt. “If the kebele administration works properly, it will tell them to bring back the letter they have already repaid their loan borrowed from another institution. Some passive kebeles’, however, may simply say that they are not in debt. There is no crosschecking among MFIs about the debt history of a borrower. This is one of the gaps in practice. MFIs loan consumers could be over-indebted by the burden of debt.”<sup>240</sup>

## Interview results from AMFI

The researcher interviewed the general manager of AMFI Debre Berhan branch about the institution's consumer protection. “Debre Berhan is the only one in which AMFI operates financial services in the North Shoa Zone. AMFI has recently started its work in Debre Berhan town in the North Shoa Zone. The loan and savings services are offered to the consumers of the

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<sup>238</sup>.Sisay Tekletsadik, Interviewed about Vision Fund Microfinance Institution Consumer Protection, General Manager of VFMI Debre Berhan Branch, Debre Berhan, interviewed on Paqume 3, 2013 E.C.

<sup>239</sup>.Tilahun Tsetarege, Interviewed about Vision Fund Microfinance Institution Consumer Protection, legal officer for the Northern Region of the VFMFI, Debre Berhan, interviewed on Paqume 3, 2013 E.C.

<sup>240</sup>.Ibid

institutions. The institution offers only individual loans, not group loans. Individual loans are available through AMFI. As a result, these borrowers are covered by insurance. The insurance coverage is equal to 3% of the loan amount. A person who loans 300,000 birr for example, will be offered birr 3,000 (three thousand birr) insurance coverage. This MFI does not carry out money transfer services. The loan service would be provided to consumers of the institution who have organized themselves as group debtors. Consumers who apply for loans are required to prove that they have no other debts from their kebele where they live. Only up to Birr 100,000, loans will be given to consumers at the branch level. However, consumers of the institution should go to the head office, which is located in Addis Ababa, to obtain a loan that is more than one hundred thousand birr. Consumers of the AMFI complain to the institution, as the head office does not immediately confirm the loan amount they want. This is one of the service delivery gaps.”<sup>241</sup>

### Interview results from HMFI

The researcher interviewed HMFI's CEO and HMFI's Sales and Credit Officer. “HMFI is currently operating in Debre Berhan, North Shoa Zone. The HMFI provides only two services to its consumers. One service is a loan service and the other is a savings service. The institution provides loan services on a group and individual basis. There is no insurance coverage for individuals who receive loans on an individual basis. Group basis borrowers, on the other hand, will be required to pay 2% of the loan amount for insurance coverage. This is because if one debtor dies, the other debtors of the group are not obligated to repay the deceased's share. The deducted loan for insurance coverage would be used to pay the debt. Loan recipients, on the other hand, must pay a service fee of 5% of the loan amount. For example, a person who borrows 50,000 birr will pay 5 percent of the service, i.e., birr 2500 (two thousand five hundred birr). The Debre Berhan branch of HMFI will approve a loan of up to 200,000 birr. However, if the amount is more than 200,000 birr, the loan will be approved by the head office in Addis Ababa. Consumers will only get the loan if they go to Addis Ababa and their application is accepted.”<sup>242</sup>

“The institution does not provide a money transfer service. The institution provides loans to individuals and groups. If the group borrowers are free from debt in their kebele where they live,

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<sup>241</sup>.Befekadu Belachew, interviewed about Aggar Microfinance Institution S.C Consumer Protection, General Manager of AMFI Debre Berhan Branch, Debre Berhan, interviewed on Paqume 2, 2013 E.C.

<sup>242</sup>.Bikila Bogale, Interview about Harbu Microfinance Institution S.C Consumer Protection, General Manager of HMFI Debre Berhan Branch, Debre Berhan, Interviewed Paqume 1, 2013 E.C.

the loan will be given directly to them. Regarding the account, if the customers of the institution pay their debts at any time, they would not be prevented from closing the account.”<sup>243</sup>

Concisely, the major findings from interviews include:

- *Some branch and sub-branch offices are not networked (all surveyed MFIs);*
- *The MFIs predominantly offer loan and deposit services to consumers (all surveyed MFIs);*
- *Using rural land as a loan guarantee has commenced (ACSI);*
- *group loan guarantee offer only when the borrower brings a letter from their kebele that shows they are not in debt (all surveyed MFIs);*
- *Imposition of a penalty on those who repay their loans before the due date (VFMFI);*
- *individual and group borrowers are both insured for 5% of the total loan amount (VFMFI);*
- *a 2.5% service fee is imposed on both individual and group borrowers (VFMFI), and loan recipients are obliged to pay 5% of the service fee from the total loan amount (HMF);*
- *AMFI only makes individual loans to its customers, not group loans, and offers insurance coverage worth 3% of the total loan amount.*
- *No money transfer service and independent micro insurance services for their consumers (surveyed MFIs);*
- *The branch office approves loans up to a certain amount, and above that, the loan is approved in headquarters, i.e., Addis Ababa and Bahir Dar (all surveyed MFIs);*
- *No money transfer service and independent micro insurance services for their consumers (surveyed MFIs);*

#### Section 4: Personal observation

The ACSI and VFMFI documents are observed. The researcher first looked at documents from ACSI. On 28/5/2013, the lending institution applied the property of its consumers for debt

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<sup>243</sup>Yeshimebet Dagne Interviewed about Harbu Microfinance Institution S.C Consumer Protection, Selling and Credit Officer of HMF Debre Berhan Branch, Debre Berhan Branch, interviewed on Paqume 1, 2013 E.C.

enforcement purposes to the court.<sup>244</sup> According to the document, some of the farm cattle were taken as a loan guarantee and used for execution. In connection with this issue, the researcher has observed the type of contract that ACSI has prepared. The researcher observed Article 8 of the contract. This article of the contract provides that “**any**” movable and immovable property of the borrower would be used to cover the debt if the consumer does not repay the loan on time.<sup>245</sup> Under Article 7 of the contract, if the borrower fails to pay the required amount on the due date or terminates the payment, the creditor shall be required to cancel the loan and pay the unpaid amount, including the commission, 1.5% interest on unhealthy loans, and other expenses, at one time, even if the due time is not totally banned. Another document that the researcher looked at is the pleading document between ACSI I Lemi branch office and Alemayehu Tamene (eight people), which was filed with the court on June 22, 2012. The researcher understands that this charge sheet is based on the above-mentioned contract.

Another document the researcher saw was a document collected by the researcher from VFMFI. The researcher observed from the content of the contract that the 36,000 birr loan agreement concluded between Vision Fund Microfinance and Ms. Gurfe Hailemariam (3 people) was written in the European calendar and not in the Ethiopian calendar, and the standard form contract that was prepared by VFMFI, they used English terms such as Tiller.<sup>246</sup> The researcher also noticed in the document that the name and signature of the Operations Manager were not included in the contract.

Overall, the data collected by questionnaires, interviews, focus group discussions, and personal observation are described above in detail. Then, a researcher looked at the basic issues of consumer protection in microfinance institutions based on the data findings.

#### **4.2.2. Analysis of the Law and the Practices**

The researcher described the practices of consumer protection in MFIs. The major findings from all sources are summarized above. Afterwards, the researcher assessed the basic legal issues before analyzing the practices in line with the existing legal frameworks of consumer protection in MFIs based on the findings.

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<sup>244</sup>.Plaintiff ACSI vs. Respondents Bezabh Hailemariam, Attachment Before judgment Application to NSZHC, January 28, 2013 E.C

<sup>245</sup>.ACSI Debre Berhan Higher Financial Service Branch Office and Saleamlak Mola et al, Birr 403,226.10 Loan Contract, June 3,2009 E.C

<sup>246</sup>.VFMFI and Serto Ader Budn, Birr 36,000 Loan Contract, June 3, 2010 E.C

### **4.2.2.1. Legal Issues**

#### **I. Regarding the Understanding of Terminology**

In the first place, there is confusion about the terms consumers, clients, and customers among academics and practitioners. The HPR is the highest authority in the government that promulgates legislation.<sup>247</sup> The HPR enacted the licensing and supervision of microfinance proclamation number 40/1996, the microfinance business proclamation number 626/2009, and the microfinance business (amendment) proclamation 1164/2019. The licensing and supervision proclamation number 40/1996 under article 3 (2) (f) used the term "clients" with an equivalent Amharic version of "ደንበኛ". Similarly, the microfinance business proclamation number 626/2009 under article 3 (2) (h), article 24, used the term customer with an equivalent Amharic version "ደንበኛ". The new microfinance business (amendment) proclamation number 1164/2019 under article 26 uses the term consumer with an Amharic version "ተጠቃሚ". From these three proclamations, one can understand that there is an inconsistent use of the terminology of client, customer, and consumer. Besides, the NBE enacts directives, issues circulars and guidelines to MFIs for the sake of consumer protection. The predominant directive that was issued by the NBE is the financial consumer protection number FCP/01/2020. In this directive, the NBE used the term customer under article 2 (2.13) and article 6.3 (6.3.1). The directive never used the term client. The other provisions of the directive use the term consumer. The licensing on loans, repayment period, and provisioning requirements directive number MFI/28/2016 used the term "client" under the preamble and entire articles. Accordingly, the NBE used the terms "client," "consumer, and customer interchangeably. The other point of discussion is about the definition of financial consumer. FCP directive No. 01/FCP/2020 define the term "financial consumer" as a current or prospective customer of financial service providers. However, the directive fails to define both current and prospective customers.

#### **II. Regarding the Lending Interest Rates**

The interest rates applicable to MFI directive number MFI/29/2017 provides the board of directors of each MFI with the empowerment to set demand deposit rates, which are freely determined by each MFI, and saving and time deposit interest rates, which are not less than 7% without discrimination (Art 1.3 and 1.4 of the directive). However, the directive does not

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<sup>247</sup>.See supra at note 132, Art 50(3)&55(1)

stipulate the principle of nondiscrimination for lending interest rates for those who are at the same level. Through contextual interpretation, one can interpret the principle of non-discrimination for lending interest rates in line with the principle set for deposit interest rates. Nevertheless, MFIs are sensitive by nature, and every directive must be clearly drafted to avoid any unprincipled acts by MFI to protect consumers. The researcher argued that the principle of non-discrimination should be incorporated for lending interest rates in directive number MFI/29/2017. From the data collected, the researcher understood that one of the leading services that are rendered by MFIs to their consumers is credit or loan services. As a result, the principle of non-discrimination in lending interests is incorporated in the Directive MFI/29/2017. In particular, if lending interest rates are not properly managed, borrowers or consumers of MFI will be subject to over-indebtedness. Therefore, the principle of non-discrimination should be incorporated as a guiding principle for lending interest rates, which helps to prevent over-indebtedness that may happen due to discriminatory lending interest rates by MFIs.

### **III. Regarding the Penalty Clause**

The other point is about the penalty clause. Both the limit on loans, repayment period, and provisioning directive number MFI/28/2016 and the interest rates applicable to MFIs or directive number NBE/INT/12/2017 fail to incorporate penalty clauses in violation of these directives. The appropriateness of the directives is unquestionable. The point is the penalty for violating the limit on loans, repayment period, and deposit and lending interest rates should be clearly stated in these directives. When the law is passed, it must expressly indicate that anyone who violates the law will be held accountable. This will make it easier to understand the law's prohibitions and the penalties for breaking it. However, both directives NBE/INT/12/2012 and MFI/28/2016 say nothing about the penalty clause.

### **IV. Regarding the Use of Rural Land for Debt Guarantee**

Another legal issue that needs to be addressed is the provision of Article 19 of the new Rural Land Administration and Use Proclamation No. 252/2009 of the ANRS, and Article 9 of Regulation No. 159/2010 that was enacted to implement this proclamation. As described in the previous chapters, the main reason for the establishment of microfinance is to enable the poorest sections of society, who cannot access financial services from mainstreaming commercial banks, to get out of poverty and live a better life. For a farmer, rural farmland is a matter of survival. Article 19 of Proclamation No. 252/2009 stipulates that a financial institution licensed by the



NBE may lend money to a farmer by using rural land as a guarantee. Article 9 of Regulation No. 159/2020 contains a similar provision. In fact, there is no doubt that including a provision in the proclamation on rural land use as a guarantee to grant loans to farmers. It is a good idea. The main problem in the proclamation is about the size of land that a farmer used to borrow. The law does not say what will happen to a farmer if a financial credit and saving institution holds all of his farmland on credit. If a farmer fails to repay a loan offered from a MFI, he and his family will inevitably fall into poverty, as their right to use the land will be terminated. Article 15 of the proclamation stipulates that a farmer may transfer his land for rent. Sub-article 1 of this article stipulates that a farmer may lease land without displacement. In light of this provision, some lawyers argue that a credit and savings institution should lend by using rural agricultural land in a way that does not displace farmers. Nevertheless, the researcher has a different opinion from this point of view. When a law is proclaimed, it must be clear. The land proclamation does not explicitly state that a microfinance institution can offer a loan to a farmer by using rural land without total eviction of the farmer. If this is the case, credit and savings institutions may be used as guarantees for debtors' land. This can lead to extreme poverty for consumers of credit and savings institutions. Therefore, it should be noted that Article 19 of the Rural Land Proclamation No. 252/2009 and Article 9 of Regulation No. 159/2010 have a negative impact on the protection of MFI consumers. Such provisions become a source of over-indebtedness.

## **V. Regarding the Grievance Resolution Mechanism (GRM)**

Another legal issue is related to the Grievance Redress Mechanism (GRM). Conflicts between MFIs' consumers and MFIs' can be addressed through internal or external procedures, according to the literature. Consumer complaints against MFIs, without a doubt, should be treated quickly and cost-effectively. As the researcher comprehends the data collected, many claims are made in regular courts. Regular judicial proceedings take a long time and cost a lot of money. Consumers who require additional protection from MFIs are obviously not subjected to unnecessary costs. Consumers of MFIs will not be adequately protected if cases are brought before ordinary courts. The requirement for financial consumer protection is stated in Article 26 of the revised microfinance business (amendment) proclamation number 1164/2019. The protection of financial consumers is not specifically stated in the pre-proclamations. The new Financial Institutions Consumer Protection Directive 01/FCP/2020 offers some tips for resolving disputes. It invites the institution to settle disagreements. It stipulates that if the institutions cannot resolve

the dispute, the matter will be brought before the NBE. Special matters necessitate the use of a special tribunal body. There is a special tribunal for tax issues, for example. Consumers of MFIs are the poorest communities, who want prompt resolution of any complaints. In order to address this issue, an independent special tribunal must be constituted. However, taking into account the nature of MFIs and their consumers, neither the proclamation nor the directive mention the establishment of a special adjudicative tribunal. As a result, having such a special and independent tribunal is pivotal. Financial proclamations in general, and macro-financial proclamations in particular, need to be re-amended, hence this might be considered a legal issue.

#### **4.2.2.2. Implementation Issues**

##### **I. Contractual Conditions, Fees and Charges**

As described in the above chapters, transparency is a key principle for consumer protection in MFIs. Any contractual terms, fees, and charges must be transparent and disclosed to MFI consumers. As described under article 5.2 (5.2.4.3) of the FCP directive number FCP/01/2020, any terms in the standard form contracts must be legible, simple and clearly expressed without the use of technical language, and available in languages that the consumers can understand. Besides, as stated under article 5.2.5.6 of FCP directive number FCP/01/2020, microfinance service providers must disclose all fees and charges, the total amount of loans, and any commission, expressly and clearly in the standard form contract to consumers. Such disclosure is important to avoid unfair contractual terms, fees, and charges. From the data collected through questionnaires, interviews, FGD and personal observation, unfair contractual terms, fees and charges are incorporated into the standard form types of contract that are prepared by MFIs. A good example is the standard form contract that is prepared by the VFMFI and ACSI.

In VFMFI, some loan contracts are written not according to the Ethiopian calendar, but according to the European calendar. For example, the date, month, and year of the 36,000-birr loan contract concluded between Gorfe Hailemariam, Kebush Tade and Birtukan Adane and VFMFI, which was prepared by VFMFI, are not written according to the Ethiopian calendar. It is written in the European calendar.<sup>248</sup> This can make it difficult for borrowers to understand when to repay their loan. On the other hand, this contract also provides the phrases "Teller's name

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<sup>248</sup>.See supra at note 246

(ዩቲሊቲ ስም)" in article 1 of the contract.<sup>249</sup> Teller is an English word. Most of the borrowers of the institution are part of our community who do not speak English. Therefore, the word teller must be written with an equivalent Amharic version.

In practice, the ACSI stipulates in the contract that the institution has the right to demand the borrower pay interest on the loan, plus penalty interest at 1.5 percent on unhealthy loans and other costs.<sup>250</sup> If a MFI requests interest for an unhealthy loan together with recognized lending interest rates, the contract is not legally binding. As per article 2489(1) of the civil code of Ethiopia, if the borrower fails to return the money borrowed or pay the interest due, he/she is solely responsible for the legal interest. Sub article 2 of the same provision connotes that any clause that increases the borrower's liability shall be of no effect. It is to protect borrowers from being over-indebted. ACSI's contract under article 7 contradicts the above-mentioned civil code provision. In this regard, the Federal Supreme Court cassation bench rendered a decision in volume 12 cassation number 58258.<sup>251</sup> Still now, some courts rendered a decision in contradiction of article 2489 of the civil code of Ethiopia and the FDRE Supreme Court decision, which is decided in cassation number 58258, based on article 7 of the ACSI contract.<sup>252</sup> Such a kind of decision on unfair charges led to consumers of MFIs being over-indebted.

On the other hand, the terms of the contract should not be vague. The standard form contract prepared by ACSI encapsulates the term "other expenses" under Art 7.<sup>253</sup> The phrase "other expenses" is vague. As per article 5.1.2 of FCP directive number FCP/01/2020, the expenses should be listed in a clear and explicit manner in the standard form contract. Phrases like "other expenses" as contractual terms make consumers reimburse inappropriate money. This leads to over-indebtedness.

Another practical flaw in the standard form contract is that if a borrower stops paying loan payments, even if the loan repayment period has not yet expired, the institution will cancel the loan contract and order the borrower to repay the loan in full.<sup>254</sup> Obviously, a debtor has the duty

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<sup>249</sup>.Ibid

<sup>250</sup>.See supra note at 245

<sup>251</sup>.Applicant Yordanos Hagos vs. respondent Haymanot Tefera, Federal Supreme Court Cassation Decision on Penalty of Loan Contract, volume 12, cassation number 12, February 21, 2003 E.C

<sup>252</sup>.Plaintiff ACSI vs. Defendants Saleamlak Mola et al, North Shewa Zone High Court Decision on Birr 403,623, including 8% Loan Interest and 1.5% Interest for Unhealthy Loan as Penalty, file number 0133232, December 9, 2013 E.C.

<sup>253</sup>.See supra at note 244

<sup>254</sup>.Ibid

to pay his/her debt. If the borrower fails to repay the loan for one reason or another, the institution orders the borrower to pay the debt at once. It may result in over-indebtedness. It is inappropriate for a borrower to be required to repay all debts at one time before the due date. As per article 2488 (1) of the civil code of Ethiopia, unless the borrower is in default for two consecutive payments totaling at least one tenth of the capital lent, the creditor cannot demand repayment of the loan for non-payment of interest. This provision connotes that when the main amount of the loan is agreed to be partially returned from time to time, the above-mentioned provision also applies. Any contract that contradicts article 2488 of the civil code of Ethiopia shall be of no effect. These kinds of contractual terms are not advisable. Such contractual terms defeat the objectives of MFIs.

Another practical issue with the form of loan contract is the non-authentication of the contract by witnesses. The principal debtors and creditors have signed the loan contract prepared by some MFIs, but the witnesses do not sign the contract.<sup>255</sup> Article 1727 (2) of the civil code stipulates that any contract is void unless it is authenticated by two witnesses. Therefore, MFIs should not meet the requirements of the law. Such gaps will have a negative impact on MFIs' consumers.

Another practical gap is provided under article 14 of the ASCI loan contract under.<sup>256</sup> The loan contract prepared by the ACSI states that the lender (the institution) would not be deemed to have relinquished its rights if it fails to exercise its rights under the loan contract or by law. This content of the standard form contract restricts the borrowers of the institution from raising legal issues. A loan extended by an MFI shall have a maximum repayment period of 15 years for housing and 5 years for all other loans and advances, according to article 4 of directive number MFI/28/2016. Any contractual terms that contradict this directive are illegal. A lending institution must immediately claim its rights over the borrowers. The borrower is required to repay the loan based on the repayment period stipulated in the contract. It is clear that the ACSI charges more than 9% legal interest on the loan.<sup>257</sup> ACSI sued Ms. Yewubdar Yeshitla to cancel the loan contract and pay the loan with a 15% interest rate.<sup>258</sup> If the lending institutions did not ask the borrowers at the due time, the borrowers would expect the debt to be canceled. If so, the

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<sup>255</sup>.ACSI Debre Berhan Higher Financial Service Branch Office and Eyob Grum et al, Birr 1,108,000.21 Loan Contract, January 12,2012E.C

<sup>256</sup>.See supra at note 244

<sup>257</sup>.ACSI Shola Gebya Branch and Yewubdar Yeshitla, Birr 75,000 Loan Contract, August 19, 2008 E.C

<sup>258</sup>.Plaintiff ACSI Shola Gebya Branch vs. Respondent Ms. Yewubdar Yeshitla, ASCI Statement of Claim Filed to Hagermariam Worda Court, file number 0110834/2011,September 30,2011 E.C

borrowers do not intend to repay the loan. In civil cases, there are objections to the period of limitation incorporated in the law. One of the objections to the period of limitations is the 10-year period of limitation specified in article 1845 of the civil code of Ethiopia. Another objection is the 10-year period of limitation objection under article 384 of the CPC of Ethiopia. If a MFI does not request the repayment of a loan from the borrower for 10 years, the borrower has the right to rise the period of limitation as per article 1845 of the civil code of Ethiopia. If a loan and savings institution does not request a repayment within 10 years from the date of the court's decision to repay the loan as per the decision, the borrower has the right to claim the procedural period of limitation as per Art 384 of the CPC of Ethiopia. Contracts contrary to these and similar provisions constitute a breach of the MFI's consumer legal protection. In particular, MFIs should not only focus on their rights. MFIs' contracts must be prepared in a manner to protect their customers. Nevertheless, there is a problem in this regard.

## **II. Service Rendering System by MFIs**

From the data collected, it is clear that most MFIs' consumers receive loans or credit services from the institution. Consumers in MFIs should not incur additional costs and harassment. This is because the basic objective of MFIs is to enable low-income communities to benefit both socially and economically. This objective is realized when the consumers of the institution have access to a credit or loan service, and the service is fast and accessible. From the data collected, it can be seen that some MFI consumers only receive a limited amount of money from microfinance branch offices. For example, consumers in AMFI and HMFI branches that operate their financial services in Debre Berhan town have been able to obtain loans of up to 100, 000 birr and up to 200,000 birr respectively, according to the data collected. The head office approves the loan amount above this amount. According to the data collected, similar practices can also be seen at the ACSI and VFMI. Credit or loan consumers or borrowers are also being harassed and incurred because of not receiving an immediate response from the head office. MFIs are established in the places where microfinance consumers live. The lending interest rates of MFIs are higher than the lending interest rates of mainstreaming commercial banks. This is in order to cover various administrative costs. Hence, the branch office must also confirm the loan amount with the head office. Otherwise, the beneficiaries of the loan will incur unreasonable costs. This will enable us to protect consumers in MFIs.

### III. Over-indebtedness

As discussed in the above chapters, one of the pillars of MFI consumer protection is the avoidance of over-indebtedness. It is evident that For MFIs, consumers' being in debt is healthy, but being over-indebtedness is dangerous. Countries have promulgated strict laws in this regard. The new financial consumer protection directive does not even include this principle as a guiding principle. If microfinance consumer protection is not taken seriously, consumers will be over-indebted. This is dangerous, and it could lead to the collapse of microfinance institutions in general and lead the consumer to extreme poverty. As per the data collected, over-indebtedness can happen due to a variety of factors. For example, it happened owing to unfair contractual terms, unfair charges and fees, and a loan service that exceeds borrowers' ability to repay money. Not only that, but also over-indebtedness can occur if a lender does not regularly monitor and support consumers before or after offering loan services. From the data collected, it can be seen that the loan service can be offered for people who come in groups if they have no other credit, which is proven by the kebele administration where they live. However, it is not always possible for a kebele administrator to know that the consumer does not have a loan from another institution. Thus, it is clear that lending money to borrowers based solely on information from the kebele can result in over-indebtedness for consumers. According to data, a researcher realized that MFI lends to their consumers the same amount that conventional banks lend. Besides, to the maximum amount of the loan, various additional payments are included in the loan contract. In this case, the borrowers are unable to repay the debt or they become over-indebted.<sup>259</sup> Another thing that can be seen from the data collected is that there is no comprehensive avoidance of over-indebtedness directive in our country. Of course, different directives that are endorsed by the NBE set different restrictions to prevent over-indebtedness. However, the directives are scattered and do not suffice to prevent over-independents.

Other countries' experience suggests that comprehensive over-indebtedness regulation is crucial for protecting microfinance institutions and consumers. Because having such regulations in place helps in the monitoring of microfinance institution misbehavior. In India, consumers of microfinance institutions were exposed to over-indebtedness in 2010 due to a lack of law and regulation that led borrowers to commit suicide themselves.

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<sup>259</sup>Plaintiff ACSI Lemi Branch vs. Respondents Belete Fikre et al, Birr 810,000 Loan Contract Statement of Claim filed to North Shewa High court, file number 0133251, June 22, 2012 E.C.

Though Ethiopia introduced the credit reference bureau (CRB) through directive number CRB/02/2019, it is not effectively functional. It is evident that credit reference bureau assists in the protection of MFI consumers from excessive debt. The credit bureau's principal objective is to collect credit information from all microfinance institutions. It assists the credit bureau in determining the borrower's loan apex and prevents them from taking out more loans. In our country, there are 41 microfinance institutions. As a result, a comprehensive over-indebtedness directive has to be endorsed, and the credit reference bureau must be operating effectively to ensure the safety of MFI consumers.

#### **IV. Debt Collection Practices**

It is important to emphasize that a microfinance institution should be as careful about the collection of a loan as it is about borrowing money. It is clear that the MFI should constantly monitor and supervise the beneficiary of the loan as soon as it has disbursed the loan to the borrower. Some respondents stated in the questionnaires that they would not frequently supervised by the institutions after the institution lent money. This causes difficulty with debt collection for both the institution and the borrower. Another point that can be seen in the data collected is the use of borrowers' assets that are necessary for a person's survival. In debt collection, the institution uses the basic assets of the borrower's existence to collect the loan. The sale of basic properties that are necessities for survival leads borrowers into a state of greater poverty than before. The content of Article 404 of the Code of Civil Procedure, on the other hand, provides that basic properties that are necessities for a personal life shall not subject to exclusion because of a debt. For instance, an ox is important to a farmer. A sewing machine is also a necessity in life for a tailor. These properties should not be used for the execution of debt. In practice, however, they are used for the execution of debts. For example, the plaintiff ACSI lodged a list of defendants Bezabh Hailemariam and other defendants' properties that could be used for exclusion purposes in the court. The application for an attachment before judgment order is contrary to article 404 of the civil procedure code of Ethiopia.<sup>260</sup> Article eight of the standard form contract states, "Any property shall be used for exclusion purposes of a debt."<sup>261</sup> These kind of contractual terms have an impact on the collection of debt. Another point raised in

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<sup>260</sup>. See supra at note 244

<sup>261</sup>. See supra at note 245, Art.8

the questionnaires about debt collection is some MFIs do not allow their loan consumers to pay their debt before the due date. This is another practical problem happening to MFI consumers.

Another practical problem in debt collection is that some MFIs claim to owe borrowers the payment before it is due. A good example of this implementation problem is the case filed by the Amhara Credit and Savings Institution for the Angolela ena Tera Worda Court against its consumers. The general content of the case seems to be as follows:

*Getachew Tamiru and Asegedew Bekele received a loan of birr144, 000 (one hundred and forty four thousand) from the Amhara Credit and Savings Institution. The borrowers have agreed to repay the loan every three months. The borrowers repaid 9000 birr per term from the date of the conclusion of the contract (October 12,2011E.C) until January 12, 2011 E.C. Borrowers ceased to pay in April 2011E.C. The lender filed a lawsuit against them in the Angolela and Tera Worda Court, demanding that the interest and the principal debt be paid at once. The woreda court ruled that the borrower should not have to repay all the money at once because the loan due date had not expired. Amhara Credit and Savings Institution appealed to the North Shoa Zone High Court. The North Shoa Zone High Court, however, reversed the woreda court's decision, stating that the amount to be paid was the total amount plus interest at 8% and 1.5% for an unhealthy interest rate.<sup>262</sup>*

However, the researcher disagrees with the decision of the high court. The case must be entertained in accordance with Code 2488. The debtors were not obliged to repay the lender all the debt at once. The decision of the woreda court is consistent with article 2488 of the civil code of Ethiopia. The High Court's decision, however, violates article 2488 of the civil code. The decision of the High Court and the request of the lending institution were erroneous in repaying the loan. Borrowers become over-indebted because of this debt collection practice.

## **V. Disclosure and Awareness**

Borrowers become over-indebted due to a lack of consumer awareness and disclosures. It is clear from the data collected that the loan beneficiary will not be able to go into detail about the overall condition of the contract when the loan is negotiated with the institution. It is clear from

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<sup>262</sup>.Plaintiff ACSI Chacha Branch vs. Defendants Getachew Tamiru and Asegedew Bekele, NSZHC decision on Loan before due Date, File number 0131914



the survey that the MFIs only asked how much the borrower wanted to borrow, and then they signed an adherence loan contract. A loan and savings institution should be able to explain the issues that may arise connected with the loan in a language that the borrower understands. Occasionally, group borrowers assume they pay their own share of debt, not the others. In the contract, the amount of money is listed separately after each debtor's name. For example, Gorfe Hailemariam, Kebebush Tade and Birtukan Adane borrowed 36,000 birr together under the name of "Serto Ader". However, the amount of money listed next to their names is birr 12,000. This should be made clear to all. Otherwise, one of the debtors may assume that he pays his share of the debt, i.e. only 12,000 birr due to lack of awareness. Nevertheless, a debtor is jointly and severally liable for 36,000 birr without knowing it.<sup>263</sup> This leads to over-indebtedness.

The data collected from institutions shows a lack of accessibility to laws that are related to financial consumer protection. The new financial consumer protection directive No.FCP/01/2020 is not even found in some MFIs. Not only that, but also, most directives of the NBE are written in English. Any directive adopted by the concerned body shall be prepared in English and Amharic language.<sup>264</sup> Any MFIs rendered by financial service providers should be clear to consumers in the language they speak. If so, the NBE published directives related to MFIs consumer protection in the working language, i.e. in Amharic.

## **VI. Regulatory Frameworks**

Currently, the NBE is the regulatory and supervisory body for MFIs. The NBE regulates MFIs through the issuance of directives, circulars, and guidelines. In practice, there is non-implementation of some circulars issued by NBE. As described in chapter 3, the NBE issued a circular on June 01, 2020 due to the outbreak of covid 19. This circular temporarily suspended article 8.2.2, article 8.2.3, article 9, 2, article 6.1 and article 6.2 of the limit on loans, repayment period and provisioning requirement directive number MFI/28/2016. This circular was issued during the repayment crisis of loans. The National Bank of Ethiopia (NBE) has issued a circular for all microfinance from July 1, 2020 E.C, not only for the benefit of the lender but also for the protection of consumers. Nevertheless, some MFIs do not perform their debt collection practices as per this circular. According to the data collected, some borrowers requested a loan extension,

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<sup>263</sup>.See supra at note 246

<sup>264</sup>.Proclamation No.1183/2020, Federal Administrative Proclamation, 26<sup>th</sup> Year No. 32, Addis Ababa, 7<sup>th</sup> April 2020, Art 15(1),[https://www.lawethiopia.com/images/federal\\_proclamation/proclamations\\_by\\_number/Administrative%20procedure%20proclamation.pdf](https://www.lawethiopia.com/images/federal_proclamation/proclamations_by_number/Administrative%20procedure%20proclamation.pdf) (This page was last accessed on September 20,2021)

which the MFIs denied, prompting the latter to lodge a case in court.<sup>265</sup> It is clear that this conduct is already in breach of the NBE's regulations. The researcher also observed that a number of cases were filed in court in June 2012 E.C.

## **VII. Interest Rates**

As described in the above chapters, high interest rates will increase the debt burden of consumers in MFIs. Data collected shows that there are themes about interest rates at the ACSI and the VFMFI. The VFMFI's loan rate is estimated at 24%. VFMFI calculates a 24% interest rate and describes the total interest amount on the contract. If a lender states the interest rate in percent on the contract, it is not appropriate to calculate the total sum of the interest rate. It seems calculating the total sum of interest means you will not be able to repay the loan before it is due. On the other hand, even if you repay the loan before the loan repayment period, the borrower will be required to repay the total sum of interest set out in the contract. This can lead to over-indebtedness. According to the data collected, MFIs loan consumers pay a service fee. As described above, VFMFI borrowers pay the service fee from the loan received. The data collected indicates that the VFMFI calculates the interest on the total loan, including the service fee. This interest rate calculation is inappropriate. Obviously, this led the borrower to become over-indebted. A borrower with a loan of 50,000 birr, for example, pays a service fee of 2.5% of the loan amount. The service fee of 50,000 birr is 1,250 birr. The VFMFI calculates the total interest and puts it on the loan contract. The interest rate of 50,000 birr is set at 24% is 12,000 birr. Computing interest on the service fee is illegal and it has to be corrected. From the data collected, this is not the only problem. In the VFMFI, the lending interest rate remains unchanged throughout the loan tenor, or it uses a flat interest rate. It caused loan consumers to become over-indebted.

The other theme is the ACSI interest rate. If the interest rate stated in the loan contract is 15 percent, the interest rate will be calculated at 15% if the contract is not canceled. This is because a contract is considered a law in the eyes of the parties. When the credit and saving institution sues the borrower for the purpose of canceling the contract and paying off unpaid loans, the institution claims the interest rate to be calculated at a rate of 15%.<sup>266</sup> Such a claim is illegal and

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<sup>265</sup>.See supra at note 259

<sup>266</sup>.See supra at note 259

it leads to the borrower being over indented. Therefore, as per article 1751 of the civil code, 9% of the legal interest has to be implemented.

### 4.3. Legal and Implementation Gaps

It is true that MFIs' consumers need proper legal protection. First, it should be emphasized that the law governing the consumers of MFIs must be clear in a way that does not endanger both consumers and the very existence of the institution. The existence of a legal gap has an impact on the protection of MFIs consumers. On the other hand, the implementation gaps in MFI consumers' protection laws will have a negative impact on the institution's consumers. Legal gaps and gaps in the implementation of existing legislation result in the over-indebtedness of MFIs' consumers due to excessive debt. This does not meet the very objective of MFIs. It can also plunge poor citizens into extreme poverty. For example, as discussed in chapter two, the repayment crisis in Andhra Pradesh in late 2010 led to the suicide of several Indians. To prevent this from happening in our country, it is important to point out the gaps in the law and the shortcomings that arise from the implementation of the law. Thus, the gaps in terms of the data collected and in terms of the rules observed by the researcher are stipulated below.

Table: 1.7 Legal and Implementation gaps in Consumer Protection in MFIs

Legal and Implementation Gaps in Consumer Protection in MFIs	
Legal gaps	Implementation Gaps
Absence of a comprehensive and integrated over-indebtedness avoidance directive	Use of the borrower's basic properties for loan security, which are essential for survival, in breach of article 404 of the civil procedure code of Ethiopia
Absence of separate MFIs consumer protection directive due to the nature of microfinance institutions, and their consumers	In practice, MFIs incorporate unjust contractual terms, fees, and charges into their standard form contracts.
Confusion about the terms "consumers," "customers," and "clients"	Consumers of microfinance institutions are unaware of the services offered by MFIs due to a lack of effective awareness and disclosure creation.
FCP directive number FCP/01/2020 fails	

to define the concepts of current and prospective customers.

The requirement that rural land shall not be utilized as a mortgage in such a way that farmers are totally evicted from their land is not included in the ANRSRLAUP number 252/2009 and regulation number 159/2010.

Absence of a penalty clause in deposit and lending interest rate directive numbers MFI/29/2017 or NBE/INT/12/2017 and in the limit on loans, repayment period, and provisioning directive numbers MFI/28/2016

In directive numbers MFI/29/2017 or NBE/INT/12/2017, the principle of non-discrimination for lending interest for those who are at the same level is missing, regardless of the fact that it is provided for deposit interest rates.

In contrast to other tribunals such as the tax adjudication administrative tribunal, there is a lack of independent judges and an administrative tribunal that help to adjudicate disputes that arise between FI and their consumers in general and MFI and their consumers in particular

The directives issued by NBE, which have a direct connection to microfinance consumer protection, are inaccessible.

Lack of an Amharic version of most directives which are issued by NBE

Microfinance institutions' reluctance to monitor and supervise consumers once they have taken out a loan

Microfinance institutions' branch offices are unable to approve loans in excess of a certain threshold (example: ACSI, AMFI, VFMI and HMI).

Refusal to accept the loan from borrowers before the loan repayment period specified in the loan contract.

Due to the poor performance capacity of the credit reference bureau, the kebele administration submits evidence that group debtors are free from loans to microfinance institutions. Such a kind of practice is not advisable.

Absence of automation and networking

Illegal implementation of interest rates which exacerbate over indebtedness

Total ban of the pre consumer from the use of financial services due to his /her previous bad debt repayment history( example ACSI as the interviewees said)

Non implementation micro-insurance and money transfer services to consumers

Absence of group basis loan to its consumers ( example AMFI)

## **CHAPTER FIVE**

### **5. Conclusions and Recommendations**

#### **5.1. Conclusions**

The theme of consumer protection is not a recent phenomenon. Consumer protection has its deep roots in the rich soil of Indian civilization, which dates back to 3200 B.C. Consumer protection is the practice of safeguarding buyers of goods and services against unfair practices in the marketplace. Consumer protection is essential due to the existence of disparities in the consumer-supplier relationship, such as bargaining power, knowledge and resources. Consumers' protection laws are intended to prevent businesses from engaging in fraud or unfair practices. Hence, countries are required to establish or encourage financial consumer protection legal and regulatory frameworks.

The 1970s were the birth year of micro credit, in which later the term "micro credit" was replaced by "microfinance." Microfinance aims to assist the poor by providing financial services to those who do not have access to commercial banks' services. Consultative groups to assist the poor connote that avoidance of over-indebtedness, transparency and responsible pricing, appropriate debt collection, ethical staff behavior, privacy of consumer data, and mechanisms for redress of grievances are the core principles of consumer protection in MFIs.

Consumer protection issues in microfinance are being discussed around the world. Consumers in MFIs need to be protected from excessive interest rates, unsafe collection practices, lack of awareness and disclosure, unfair contractual terms, fees and charges, and credit-related practices. All these defective practices lead consumers of MFIs to over-indebtedness. It is evident that borrowing from other MFIs without paying the previous debt can quickly lead to over-indebtedness for MFI consumers. Hence, designing, implementing, monitoring, and enforcing regulatory rules are critical for protecting MFIs consumers to avoid the above noted risk.

In Ethiopia, both the commencement date of microfinance business activities and the concern about financial consumer protection are recent miracles. Micro financing in Ethiopia is the 1990s phenomenon. Initially, microfinance was designed to help the impoverished who had been economically devastated by war and drought. Currently, NBE has licensed 41 MFIs in Ethiopia. The expansion of MFIs has resulted in a focus on MFIs' consumer protection. Ethiopia enacted the first financial consumer protection directives since 2020.

Laws and regulations must be enacted and executed in a way that protects the interests of consumers. Based on the data collected, it is apparent that MFIs are not effectively implementing the laws to safeguard their consumers. Before a consumer is offered a microfinance service, the consumer's whole status must be thoroughly investigated. MFIs consumers are being over-indebted due to implementation gap.

According to the data collected, there are gaps in the provision of services in MFIs, starting from offering loan services up to the ending of loan payback. It is concluded that those unfair contractual terms, charges, and fees, non-disclosure of the total loan contract to consumers, the refusal of some MFIs to accept the loan before the due date, and the attachment of essential assets as collateral in violation of article 404 of the CPC of Ethiopia are the visible implementation gaps. Furthermore, implementation gaps in consumer protection in MFIs include granting loans in a group based on information sent by the kebele administration without any additional proof, inability to access services in any branch due to a lack of networking, and a lack of proper monitoring and supervision of consumers after the institution has offered a loan.

Regardless of implementation flaws, MFI consumer protection laws in Ethiopia have defects. As it is reviewed certain consumer protection laws for MFIs, there are some legal gaps. Some of the legal gaps include the absence of definitions for current and prospective customers, the absence of penalty clauses in violation of interest rates and limits in loan directives, the lack of a comprehensive over-indebtedness directive, and the absence of a special MFI consumer protection directive. Regardless of others, these are all the legal gaps for consumer protection of MFIs. Consumers get over-indebted because of the legal and implementation problems highlighted above. The researcher strongly argued that unfair contractual terms, fees and charges, unfair debt collection practices, non-monitoring and supervision of consumers by MFIs, and violating key principles of MFI consumer protection lead to over indebtedness of MFIs consumers. Consumers are being over-indebted if it is not managed properly. As described above, in India, consumers of microfinance committed suicide in 2010 because of a lack of corrective action against MFIs' malpractice. The gaps must be filled before the people of our country, and particularly our region, face a debt repayment catastrophe. India is a lesson that the country must learn.

## **5.2. Recommendations**

Based on the data collected and the analysis of the law and the practices, the following recommendations are proposed to the legal and implementation gaps in consumer protection in MFIs.

### **✓ For Unfair Contractual Terms, Fees and Charges;**

Adhesion contracts prepared by MFIs should be transparent, unambiguous, and should not be detrimental to the consumers of MFIs. In this regard, it is found that ACSI and VMFI contracts have faced such problems. Hence, it is recommended that these contracts be properly prepared. Besides, it is suggested that the NBE make sure that the contracts prepared by the MFIs do not contravene the law, and harm MFIs consumers. For imposition excessive charges and fees such as Service fee, it is also recommended for revising FCP directive 01/FCP/2020 to incorporate minimum standards of fees and charges to mitigate excessive charges and fees in MFI.

### **✓ For the Prevention of Over-indebtedness;**

Countries have promulgated strict legal and regulatory frameworks for consumer protection in MFIs. The new FCP directive number FCP/01/2020 does not even include this principle as a guiding principle. Hence, it is recommended that endorsing comprehensive over indebtedness directive for the long term; and implements the scattered directives, circulars, and guidelines that provide concepts about MFIs' consumer protection, and proper regulation and supervision of NBE each MFI about their consumer protection status not only in report but also through regular and sudden inspection in person.

### **✓ For Unsafe Debt Collection Practice;**

It is recommended that for ACSI and VFMFI for amendment of unfair contractual terms that expose consumers to unsafe debt collection in contradiction with the general contract law and FCP directive number FCP/01/2020. The NBE should properly regulate, and supervised MFIs to prevent unsafe debt collection.

### **✓ For Transparency and Disclosure, Accessibility of the Law and Services;**

In the first place, consumer protection education is an important tool for MFIs to safeguard their consumers. It is recommended that the government should design MFIs consumer protection

education in a curriculum and give in school like the experience of Malaysia. At institutional level, each MFI has to give MFI consumer protection awareness in a scheduled manner. Furthermore, it is suggested that MFIs must be transparent in their activities and disclose every financial service to the beneficiary continuously to avoid consumer confusion.

The financial consumer protection directive is published in English. Since the law is primarily a financial consumer protection directive, it is recommended that it be published in Amharic so that consumers can read and understand it easily. Besides, the FCP directive number FCP/01/2020 should also be widely distributed so that it can be read and understood by anyone.

Like the general consumer protection law, various directives issued by the NBE use the terms clients, customers, and consumers interchangeably. Hence, it is suggested that choosing an appropriate word for MFIs' beneficiaries and using it consistently will help mitigate confusion.

The contents of adhesion contracts, which are prepared by MFIs, should be prepared in a clear and understandable way for consumers. Loan contracts are written in the European calendar and must be rewritten in the Ethiopian calendar. Contractual terms written in English must be rewritten in Amharic. Contracts with unfair fees and charges as well as vague terms must be excluded from the adhesion contract.

For inaccessibility of service offering, it is recommended that permitting any branch office of MFIs to confirm or approve loans to the maximum extent of the head office approval, and networking and automation of MFIs.

✓ For Concepts not Included in the Directives issued by NBE;

The directive number FCP/01/2020 defines financial consumers as current and prospective customers. However, the directive fails to define both current and prospective customers. Hence, it is recommended that these two key concepts need to be adequately defined and the directives should be improved in this regard. On the other hand, directive numbers MFI/29/2017 or NBE/INT/12/2017 state that deposit interest rates should not be discriminatory against those who are on equal footing. However, it does not stipulate “the principle of nondiscrimination for lending interest rates” for those who are at the same level. Hence, it is suggested that the directive should be amended in this regard. There is no “penalty clause” in the lending interest rates directive number MFI/29/2017 or NBE/INT/12/2017 and in the limits on loans, repayment period and provisioning directive numbers MFI/28/2016. A law without an incorporated penalty



clause at the time of violation is senseless. Accordingly, it is recommended that both directives need amendments to incorporate a penalty clause.

✓ For having a Separate MFI Consumer Protection Law;

The researcher advocates separatist views about the existence of MFIs' consumer protection directive. The aim of microfinance is different from that of the mainstream commercial bank and other financial institutions. The objective of microfinance is to help the poor and the marginalized to have a better standard of living. Hence, low-income people need special protection. In our country, all three financial business proclamations are promulgated separately. This is because all the three financial institutions (banks, insurance, and microfinance) have their own goals and objectives. If this is the case, then it is recommended that a separate directive be issued for MFI consumers like Bangladesh.

✓ For Use of Rural Land as a Debt Guarantee;

Article 19 of the Amhara rural land administration and utilization proclamation No. 251/2009 and article 9 of the regulations have a gap with regard to the amount or size of the land which is subject to debt guarantee. So, an additional sub-provision is needed which is articulated as rural land shall not be utilized as a mortgage in such a way that farmers are totally evicted from their land. Hence, it is proposed that additional provisions on how much land should be secured for debt are needed in order to protect farmer consumers of MFIs.

✓ For Use of Any Consumer Assets for Debt Collateral;

MFIs order their consumers to come up with collateral for their loans before providing loans to their consumers. However, Article 404 of the CPC of Ethiopia provides that basic assets that are essential for a person's survival be not subject to collateral. Some MFIs use property for debt execution in contraction with art.404 of the CPC of Ethiopia. Hence, it is recommended that the adhesion contract need to be amended in accordance with Art 404 of the CPC of Ethiopia.

✓ Performance Capacity Building for the Credit Reference Bureau(CRB);

The CRB's primary responsibility is to collect credit data for consumers from MFIs. Group loan seekers' pre-debt history is investigated by the kebele administration. This type of pre-debt history investigation is traditional. It is proposed that enhance credit reference bureau capacity

building in both personnel and capital to effective collection of pre debt history of MFIs consumers to prevent them from over-indebtedness.

✓ For Illegal Computation of Interest Rates;

It is recommended both ACSI and VFMFI to Calculate interest rates in accordance with the law. It is also suggested that MFIs use reducing interest rates instead of flatting interest rates.

✓ For Grievance Redress Mechanisms(GRM);

It is recommended that, in the first place, to amend microfinance business proclamation number 626/2009 and 1164/2019 to incorporate issues related to the establishment of a special adjudicative tribunal for resettling disputes arising between MFIs and their consumers. Then, after establishing a special adjudicative tribunal that has an independent judges' and tribunal institution

✓ For Having MFIs' Consumer Protection Guidelines;

It is suggested that issuing a comprehensive national wide MFI consumer protection guideline is needed that incorporates the grand principles of MFI consumer protection, and distributed it to all MFIs in federal working language.

### **5.3. Implications for Future Consumer Protection Research in MFIs**

An effort has been made to assess the law and practice of consumer protection in MFIs. The study was conducted by taking samples of MFIs operating in the Amhara region, north shewa zone. In our country, there are 41 MFIs registered or licensed. It is not simple to meet the requirement for thorough study in all regions. This is tough due to the present security scenario in our country. It takes a lot of time and a lot of money to do this study. Nonetheless, the researcher feels that national study on the topics is required.

Further research on the protection of MFI consumers from policy and institutional structural frameworks is essential. In addition, a look at how the CRB is ensuring that microfinance consumers do not have to borrow more than they need to pay back their loans. As a result, the researcher suggests that more research to be done on these topics.

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- ✓ *Plaintiff ACSI Lemi Branch vs. Respondents Belete Fikre, Slewondm Eshete, Fikre Getaneh Embet Ashine and Chalkut Bashahword, Birr 810,000 Loan Contract Statement of Claim filed to North Shewa High court, file number 0133251, June 22, 2012 E.C*
- ✓ *Plaintiff ACSI vs. Respondents Bezabh Hailemariam, Attachment Before judgment Application to NSZHC, January 28, 2013 E.C*
- ✓ *Plaintiff ACSI Chacha Branch vs. Defendants Getachew Tamiru and Asegedew Bekele, NSZHC decision on Loan before due Date, File number 0131914*

## **F. Loan contracts**

- ✓ *Vision Fund Microfinance Institution S.C and Mister Budn, Birr 25,000 Loan Contract, May 12, 2010 E.C*
- ✓ *VFMFI and Serto Ader Budn, Birr 36,000 Loan Contract, June 3, 2010 E.C*
- ✓ *ACSI Debre Berhan Higher Financial Service Branch Office and Saleamlak Mola Enatnesh Gezehagn, sintayehu kassu, Kinfe Derbe and Mesay Eshete, Birr 403,226.10 Loan Contract, June 3, 2009 E.C*
- ✓ *ACSI Debre Berhan Higher Financial Service Branch Office and Eyob Grum, Grum Shimels , Adiss Moges, Elsa Birhanu and Bereket Gebreslase, Birr 1,108,000.21 Loan Contract, January 12,2012E.C*
- ✓ *ACSI Shola Gebya Branch and Yewubdar Yeshitla, Birr 75,000 Loan Contract, August 19, 2008 E.C*

## Appendices

### Appendix 1: List of Microfinance Institution in Ethiopia with Date of Licensing

#### 1.8 List of Microfinance Institution in Ethiopia with Date of Licensing

<i>Numbers</i>	<i>List of MFIs</i>	<i>Date of Licensing</i>	<i>Location</i>	<i>Number of branches/ sub branch</i>
<b>1</b>	<b>Amhara saving and credit institution</b>	<b>1997</b>	<b>Bahir Dar</b>	<b>18/180</b>
<b>2</b>	Dedebit saving and credit institution	28/04/97	Mekelle	22/102
<b>3</b>	Oromia saving and credit institution	04/08/97	Addis Ababa	194
<b>4</b>	Omo saving and credit institution S.C	01/10/97	Awassa	14/147
<b>5</b>	Gasha saving and credit institution S.C	15/05/98	Addis Ababa	6/5
<b>6</b>	<b>Vision fund MFI S.C</b>	<b>17/06/98</b>	<b>Addis Ababa</b>	<b>37/14</b>
<b>7</b>	Sidama microfinance institution	17/06/98	Addis Ababa	37/14
<b>8</b>	Africa village financial services S.C	16/11/98	Addis Ababa	6/4
<b>9</b>	Dire microfinance institution S.C	02/05/2003	Dire Dawa	-
<b>10</b>	<b>Agar MFI S.C</b>	<b>18/03/2004</b>	<b>Addis Ababa</b>	<b>22</b>
<b>11</b>	One microfinance institution S.C	29/10/2004	-	-
<b>12</b>	Digaf microcredit provider S.C	28/07/2005	-	-
<b>13</b>	Tesfa microfinance institution S.C	03/01/2008	-	-
<b>14</b>	Somali microfinance institution S.C	31/01/2011	-	-
<b>15</b>	Lideta microfinance institution S.C	17/04/2012	-	-
<b>16</b>	Adaday microfinance institution S.C	24/04/2014	Mekelle	-
<b>17</b>	Gambella micro financing S.C	18/12/2008	-	-
<b>18</b>	Kendil microfinance institution S.C	07/02/2001	Shashemene	-
<b>19</b>	Kershi microfinance institution S.C	05/06/2017	Addis Ababa	-

20	Sheger microfinance institution S.C	10/07/2018	Addis Ababa	-
21	Grand microfinance institution S.C	24/10/2019	Addis Ababa	-
22	Busasa Gonofee micro financing S.C	1999	-	27/20
23	Meklit microfinance institution S.C	16/02/2000	-	-
24	Addis credit and saving institution S.C	09/04/97	Addis Ababa	-
25	ESHET microfinance institution S.C	09/04/97	Addis Ababa	-
26	Wasasa microfinance institution S.C	09/04/97	Alemgena	-
27	Benishangul gumuz MF S.C	09/04/97	Asosa	-
28	Metemamen MFI S.C	2002	Addis Ababa	5
29	<b>Harbu micro financing institution</b>	<b>17/02/2005</b>	Addis Ababa	<b>13</b>
30	Harar MFI S.C	17/08/2006	-	-
31	Lefayeda credit and saving S.C	June 2007	-	-
32	Dynamic microfinance S.C	12/05/09	-	-
33	Specialized financial and promotion Institu.S.C	25/11/97	-	-
34	Nisir MFI S.C	07/05/2014	-	6/4
35	Rays MFI S.C	07/07/2014	Addis Ababa	-
36	Peace microfinance S.C	18/11/99	Addis Ababa	-
37	Afar MFI S.C	18/08/2014	Semera	-
38	Debo MFI S.C	03/08/2018	Addis Ababa	-
39	Yemisrach MFI S.C	23/07/2018	Addis Ababa	-
40	KAAFI microfinance institution	18/12/2019	Addis Ababa	-
41	Kalub MFI S.C	-	Jijiga	-

Source: - The researcher organize it from assessing the National Bank of Ethiopia Web Site: available at <https://nbebank.com/microfinance-institutions/>

**ደብረብርሃን ዩኒቨርሲቲ  
የህግ ኮሌጅ**

**የቢዝነስ እና ኢንቨስትመንት ህግ የድህረ ምረቃ ፕሮግራም**

**📌 ሰማይክሮ ፋይናንስ ደንበኞች የተዘጋጀ የጽሁፍ ቃስመጠይቅ /questionnaires/**

የብድር እና ቁጠባ ተቋማት / ማይክሮ ፋይናንስ አ.ማ / በሀገራችን ተቋቋመው ስራ መስራት የጀመሩት እንደ ኢርጲዶን ዘመን አቅጣጠር ከ1990ዎቹ ዓመት ምህርት ጀምሮ እንደሆነ በጉዳዩ ላይ የተጻፉ ድርሳናት ያመለክታሉ። እነዚህ ተቋማት እንዲቋቋሙ የተፈለገበት ዋነኛ አሳማ ከንግድ ባንኮች እና መሰል የፋይናንስ ተቋማት ገንዘብ ለመደበር የማይችሉ በዝቅተኛ የኑሮ ደረጃ ላይ የሚገኙ የማህበረሰብ ክፍሎችን ለማቋቋም እና ወደ ተሻሽ የኑሮ ደረጃ እንዲሸጋገሩ ማስቻል ነው። ተቋማቱ ከተቋቋሙበት አሳማ አንጻር በእነዚህ ተቋማት የሚገለገሉ ደንበኞች ከድህነት ተሳቀው ወደ ተሻሽ የኑሮ ደረጃ እንዲደርሱ ለማድረግ የደንበኞች ጥበቃ አስፈላጊ እና መሰረታዊ ጉዳይ እንደሆነ እውን ነው።

**የጥናቱ አሳማ**

ጥናቱ ሲደረግ የታሰበበት አሳማ በደብረብርሃን ዩኒቨርሲቲ የሕግ ኮሌጅ በቢዝነስ እና ኢኮኖሚክስ ህግ 2ኛ ደግሪ መመሪያዎ ጽሁፍ ሰማዘጋጀት ቢሆንም በመሰረታዊነት አጥኚው ጥናታዊ ጽሁፉን ለማዘጋጀት የተነሳሳበት ዋነኛ ምክንያት በአማራ ክልል ሰሜን ሸዋ ዞን የሚሰሩ በአክሲዮን በተቋቋሙ የብድር እና ቁጠባ ተቋማት / ማይክሮ ፋይናንስ / ላይ አገልግሎት የሚያገኙ ደንበኞች ጥበቃ ምን እንደሚመስል ግብዓት ለማግኘት ፣ የብድር እና ቁጠባ ተቋማት / ማይክሮ ፋይናንስ/ የደንበኞች ጥበቃ በተመለከተ አሁን ላይ በስራ ላይ ካለው ህግ ጋር እንዲያስተካከሉ ተግባራዊ እድገት እንደሆነ ለማወቅ ፣ በብድር እና ቁጠባ ተቋማት ደንበኞች ጥበቃ ላይ የሕግም ሆነ የአተገባበር ክፍተት ካለ ተገቢውን የመፍትሄ አቅጣጫ ለማፈላለግ ታስቦ ነው። ስጥዎቹው ምሳሌ የሚሰጥ ማንኛውም ሰው የሰጠው ምሳሌ ሚስጢርነቱ የተጠበቀ ሲሆን እንዲያስፈላጊነቱ የጥናቱን ውጤት ለማግኘት ለፈለገ ሰው ኮፒ ተደርጎ እንዲደርሰው ሁኔታዎች የሚመቻቹ ይሆናል።

**መሰረታዊ ነጥቦች**

- ስም መጻፍ አያስፈልገውም።
  - ስጥዎቹዎች ያለዎትን ምሳሌ ተክክል ብለው ባመኑበት ከሁለቱ አማራጮች በአንዱ ሳጥን ውስጥ ✓ ምልክት እንዲያስቀምጡልኝ በአክብሮት እጠይቃለሁ።
  - በጽሁፍ ምሳሌ መስጠት በሚያስፈልገው ላይ በጥያቄው ላይ ያለዎትን መልስ ለመስጠት በተዘጋጀው ቦታ ላይ ይጻፉልኝ።
  - የሚሰጡት መልስ ግልጽ እና አጭር እንዲሆን ፍላጎቴ የፀና ነው ።
  - ዝርዝር መልስ ለሚያስፈልገው ጥያቄ ቦታ ካነሱዎት ከመጠይቁ ጋር አባሪ በተደረገው ወረቀት ላይ መልስዎን ያስፍሩልኝ።
  - ጥያቄዎች ግልጽ ካልሆንዎት በስልክ ቁጥር [0921131120](tel:0921131120) ይደውሉልኝ ወይም በኢሜል አድራሻዬ [yirgajudge@gmail.com](mailto:yirgajudge@gmail.com) ይጻፍልኝ
- 1) እርስዎ በአንሰተኛ ብድር እና ቁጠባ ተቋም/ ማይክሮ ፋይናንስ/ አገልግሎት አግኝተው ያውቃሉ ?  
አውቃለሁ  አሳውቅም
  - 2) በአንሰተኛ ብድር እና ቁጠባ ተቋም/ ማይክሮ ፋይናንስ/ አገልግሎት አግኝተው ካወቁ በየትኛው የአንሰተኛ ብድር እና ቁጠባ ተቋም/ ማይክሮ ፋይናንስ/ ?



- አብቁተ አማራ ብድር እና ቁጠባ ተቋም  - ቪክን ፈንድ ማይክሮ ፋይናንስ
- አጋር ማይክሮ ፋይናንስ አ.ማ  - ሀርቡ ማይክሮ ፋይናንስ
- ከሌላ ብድር እና ተቋም-----

3) ከተቋማቱ ያገኙት አገልግሎት ምንድን ነው ?  
 ብድር  ገንዘብ ማስቀመጥ  የመድን ስፋን  ገንዘብ ማስተላለፊ   
 ከብድር እና ቁጠባ ተቋማቱ ሌላ ያገኙት አገልግሎት ካስ ምን እንደሆነ ይግለጹልኝ -----

4) ከብድር እና ቁጠባ ሰጪ ተቋማቱ ጋር ውል ስዋዋሉ ስለ ውሉ አጠቃላይ ይዘት ከተቋሙ በሚገባ ገለጻ ይደረግሰዎታል ወይ?  
 አዎ  አይደረግም

5) ከብድር እና ቁጠባ ተቋሙ የብድር አገልግሎት አግኝተው ብድር ከወሰዱ በኋላ ከተቋሙ ተገቢ የሆነ ተከታታይነት ያለው ድጋፍ ይደረግሰዎታል ወይ?  
 አዎ  አይደረግም

6) የተበደሩትን ገንዘብ አመሳሰሉ ላይ ያጋጠመዎት ችግር አለ ወይ ?  
 አስ  የለም   
 ያጋጠመዎት ችግር ካለ ችግሩ ምንድን እንደሆነ ቢገልጹልኝ -----

7) ከአንድ ተቋም የተበደሩትን ገንዘብ ለአበዳሪው ተቋም ሳይመልሱ ከሌላ ብድር እና ቁጠባ ተቋም ገንዘብ ተበድረው ያውቃሉ ወይ ?  
 አውቃለሁ  አላውቅም

8) ከብድር እና ቁጠባ ተቋሙ የሂሳብ ደብተር ሰማውጣት እና የሂሳብ ደብተሩን ስመመስስ በተቋሙ በኩል የገጠመዎት ችግር አለ ወይ ?  
 አዎ  የለም   
 ካለ ችግሩ ምን እንደሆነ ቢገልጹልኝ-----

9) የብድር እና ቁጠባ ተቋሙ ሰራተኞች በቅንነት እና በትህትና ያስተናግዳሉ ወይ ?  
 አዎ  አያስተናግዱም

10) ከአበዳሪ ተቋማቱ ጋር ስለአገልግሎት አሰጣጡ አስመግባባት ተፈጥሮ ቅሬታዎችን ሰሚመሰከተው አካል አቅርበው ያውቃሉ ወይ ?  
 አውቃለሁ  አላውቅም   
 አቅርበው ካወቁ ያቀረቡት ሰማን እንደሆነ እና የተሰጠዎት ምሳሌ ምን እንደሆነ ቢገልጹልኝ -----

11) በ2012 ዓ.ም የኢትዮጵያ ብሄራዊ ባንክ የፋይናንስ አገልግሎት ደንቦች ጥበቃ መመሪያ ቁጥር 01/FCP/2020 አውጥቶ በስራ ላይ እንዲውል አድርጓል። ስለመመሪያው ምን ያህል እውቅና እንዳለዎት ቢገልጹልኝ -----

12) የብድር እና ቁጠባ ተቋማት / ማይክሮ ፋይናንስ/ ሰደንቦች በሚሰጡት አገልግሎት ላይ ያለ ክፍተት ካለ በዘርዘር ምን ምን ክፍተት እንዳለ ቢገልጹልኝ -----

**“ቅንነት በተሞላበት ሁኔታ ሰሰጡኝ ምሳሌ ክልብ እናመሰግናለን!”**

**Debre Berhan University**  
**College of law**

**Business and Investment Law Postgraduate Program**

**✚ Questionnaires for microfinance institution consumers**

Credit and Savings Institutions (Microfinance Institutions) have been established in our country since the 1990s. The main purpose of microfinance institutions is to serve low-income sections of the community who cannot afford to borrow money from commercial banks and similar financial institutions. It is a fact that consumer protection is an important and fundamental concern to help the consumers of microfinance institutions get out of poverty and get better.

**Aim of the study**

The purpose of the study was to prepare for a master's degree in Business and Investment from Debre Berhan University College of Law. The research aims to find out what the protection of consumers in microfinance institutions in the North Shewa Zone of the Amhara region looks like, and to examine the practice of consumer protection in microfinance institutions in line with the existing laws. If there is a gap in law and enforcement in the protection of the consumers of microfinance institutions, it is to identify the gap and set the appropriate course of action.

The response of any respondent is confidential, and finding may be copied to the respondent.

**Introductory basic themes**

- ✚ No need to write a name
- ✚ I respectfully ask that you place  $\surd$  a box in one of the two options where you believe your answer to the questions is correct.
- ✚ Write to me in the space provided for your answer to the question in writing.
- ✚ I want your answers to be clear and concise.
- ✚ If you have no space for an answer to an open-ended question, please write your answer on the attached paper.
- ✚ If the questions are unclear to you, call me on [0921131120](tel:0921131120). Or wright via Gmail [yirgajudge@gmail.com](mailto:yirgajudge@gmail.com)

1) Have you ever obtained a service from a microfinance institution?

Yes  No

2) If you have ever received a service from a microfinance institution, from which microfinance institution you received the service.

- Amhara Credit and Savings Institution  - Vision Fund Microfinance S.C

- Aggar Microfinance S.C.  - Harbu Microfinance S.C

From others microfinance institutions

3) What services did you receive from the institutions?

Savings/ deposit  Loans  Insurance  Transfer money

If you received other services, explain to me what services you have received from microfinance institutions-----

4) When you enter into a contract with a microfinance institution, will you be fully informed of the overall content of the contract?

Yes  No

5) After receiving a loan from the microfinance institution, will you obtain appropriate and consistent support from the institution.

Yes  No

6) Have you ever borrowed money from another institution without repaying your prior debt the lender?

Yes  No

7) Do you have any problem with the microfinance institution opening the account and returning/closing it?

Yes no

If so, can you tell me what the problem is? -----.

8) Do the microfinance institution employees treat you honestly and politely?

Yes  No

9) Have you had any problems with the collection of the loan by the microfinance institution?

Yes  No

Tell me if there is any -----  
-----

10) Have you ever filed a complaint with the microfinance institution about the nature of the service delivery dispute to the concerned body?

Yes  No

If there, please tell me to whom you were filed, and what the response was -----  
-----

11) In 2012 E.C, the National Bank of Ethiopia issued the Financial Consumer Protection Directive No. 01 / FCP / 2020. Tell me how much you know the directive -----  
-----

12) If there is a gap in the services provided by microfinance institutions, please tell me in detail what is the gap -----  
-----

**“Thank you for your sincere response!”**

### Appendix 3: Interviews

አብቁተ ፣ ቪዥን ፈንድ ማይክሮ ፋይናንስ አ.ማ ፣ አጋር ማይክሮ ፋይናንስ አ.ማ እና ሀርቡ ማይክሮ ፋይናንስ አ.ማ ውስጥ ሰሚሰሩ ሰራተኞች እና የሥራ ሀሳቦች የተዘጋጁ የቃሰ ምልክት ጥያቄዎች

ስተመረጡት ቁልፍ መረጃ ሰጭዎች የተዘጋጁ የቃሰ መጠይቅ ጥያቄዎች ወደ የቃሰ መጠይቅ ተሳታፊዎች ፡-

በመጀመሪያ እኔ ደርጋ ደጅኔ እባላለሁ። በአሁኑ ወቅት በደብረ ብርሃን ዩኒቨርሲቲ የሕግ ኮሌጅ በቢዘነስ እና ኢንቨስትመንት ሕግ የድህረ ምረቃ ተማሪ ነኝ። በአሁኑ ወቅት በአማራ ክልል በሰሜን ሸዋ ዞን በማይክሮ ፋይናንስ ተቋም የደንበኞች ጥበቃ ሳይ ጥናት እያደረግኩ እገኛለሁ። የጥናቱ ዋና ዓላማ የማይክሮ ፋይናንስ የደንበኞች ሕግ አፈጻጸምን መገምገም ነው ። ስጥያቄዎ የእርስዎ ምላሽ እጅግ በጣም አስፈላጊ እና መሠረታዊ ነው ፣ ስለሆነም ስቃስ መጠይቅ ትክክለኛው ምርጫ አድርገዎታለሁ። የምትሰጡን መረጃ ሚስጥራዊነቱ በእጅግ ነው።

ስቃስ መጠይቅ ስለተባበረኝ እጅግ ከልብ የመነጨ ምስጋናዬን በቅድሚያ አቀርብሎታለሁ።

ጥያቄዬን ልጀምር።

#### አጠቃላይ ጥያቄ

- ✚ የሚሰሩበት ተቋም-----
- ✚ የሥራ ደርሻዎት-----
- ✚ ስምን ያህል አመት በዚህ መስሪያ ቤት ሰሩ-----

#### ዝርዝር ጥያቄዎች

- 1) እርስዎ የሚሰሩበት የብድር እና ቁጠባ ተቋም ስተቋሙ ደንበኞች የሚሰጣቸው አገልግሎቶች ምን ምን እንደሆኑ ቢገልጹልኝ
- 2) የብድር እና ቁጠባ ተቋሙ ደንበኞች ተቋሙ ስለሚሰጠው አገልግሎት እና ደንበኞች ስላላቸው መብት በተገቢው ሁኔታ የገንዘብ ማስጨበጫ ትምህርት ይሰጣቸዋል ወይ ?
- 3) የብድር እና ቁጠባ ተቋሙ ደንበኞች ከተቋሙ ጋር ውል በሚዋዋሉበት ጊዜ የውሉ አጠቃላይ ይዘት እንዲረዱት ተደርጎ ነው ወይ?
- 4) የብድር እና ቁጠባ ተቋሙ ደንበኞች ከተቋሙ ብድር ከወሰዱ በኋላ በምን አገልግሎት ክትትል ይደረግላቸዋል?
- 5) የብድር እና ቁጠባ ተቋሙ ደንበኞች የወሰዱትን ብድር የብድር አሰባሰብ ሂደቱ ምን ይመስላል?
- 6) የብድር እና ቁጠባ ተቋሙ ደንበኛ የብድር ገንዘቡን ለመመለስ የማይችልበት ሁኔታ አጋጥሞ ያውቃል ወይ ? ካጋጠመስ ምክንያቱ ምን እንደሆነ ቢያብራሩልኝ
- 7) የብድር እና ቁጠባ ተቋሙ ደንበኞች ከሌላ ተቋም የተበደሩት ገንዘብ እያሰ የተበደሩትን ገንዘብ ሳይመልሱ ከእናንተ ተቋም ብድር ማግኘት ይችላሉ ወይ ?
- 8) የብድር እና ቁጠባ ተቋሙ ደንበኞች ከሌላ የብድር እና ቁጠባ ተቋም ያልመለሱት የብድር ገንዘብ ካሰ በምን አገልግሎት ታረጋግጣላችሁ?
- 9) የብድር እና ቁጠባ ተቋሙ ደንበኞች ስለ አገልግሎት አሰጣጡ ቅሬታ ካደረገባቸው ቅሬታቸውን በምን አገልግሎት ለመፍጣት ጥረት ይደረጋል ?
- 10) የብድር እና ቁጠባ ተቋሙ ደንበኞች በተቋሙ ውስጥ የክፍቱት የሒሳብ ደብተርን ለመዘጋት ከፈለጉ መዘጋት ይችላሉ ወይ ?
- 11) በ2012 ዓ.ም በብሄራዊ ባንክ የወጣው የፋይናንስ ተቋማት ደንበኞች መመሪያ ቁጥር 01/2020 በተመለከተ ስተቋሙ ደንበኞች እውቅና ይፈጠርላቸዋል ወይ?
- 12) በእኔ በኩል ያሉኝ ጥያቄዎች እነዚህ ሲሆኑ ሌላ ስለ ተቋሙ ደንበኞች የሚገልጹልኝ ነገር ካሰ ይግለጹልኝ

“ቃሰ ምልክቱን ለመስጠት ፍቃደኛ ሆነው ስለሰጡኝ ምላሽ በጣም አመሰግናለሁ።”

**Interview questions conducted with Employees and Managers of Amhara saving and credit institution S.C, Vision Fund Microfinance institution S.C, Aggar Microfinance Institution S.C and Harbu Microfinance Institution S.C.**

Interview questions to the key selected informants

Dear my interviewee:

My name is Yirga Dejene. I am currently a postgraduate student on Business and Investment Law in Debre Berhan University Law College. Currently, I am conducting research on consumer protection of microfinance institutions in the Amhara region by taking samples from North Shewa Zone. The main purpose of the study is to assess the implementation of the Microfinance Consumer Law. Your response is very important and basic for the study, so I made you the right choice for the interview. The information you give me is very confidential. First, I would like to thank you for your cooperation in this interview. Let me start my question.

**General question**

- + The institution in which you work-----
- + Your position occupied -----
- + How many years have you worked in this office? -----.

**Detailed questions**

- 1) Tell me about the services provided by your microfinance institution to the consumers of the institution.
- 2) Will the microfinance institution educate or create awareness of its consumers on the services provided and the rights of its consumers?
- 3) Are the microfinance institution consumers well understood the general content of the contract when entering into a contract with the institution?
- 4) How are consumers of the microfinance institution supervised after taking loans from the institution?
- 5) What is the debt collection process like?
- 6) Are there instance of the microfinance institution consumers unable to repay the loan? If so, please explain the reason
- 7) Can consumers of the microfinance institution get a loan from your institution without repaying the loan when they have borrowed money from another microfinance institution? How do you verify if your consumer who borrowed from another microfinance institution does not repay a loan?
- 8) If your microfinance Institution consumers have complained about the service, how will it be handled?
- 9) Can the microfinance institution's consumers freely close their accounts if they want?
- 10) Will the financial institutions' consumers directive No. 01/2020, issued by the National Bank of Ethiopia in 2012, be recognized by the consumers of the institution?
- 11) These are my questions and if there is anything else you can tell me about the institution's customers, please let me know

**“Thank you so much for your willingness to give me an interview.”**

## Appendix 4: Focus Group Discussion

### የትኩረት ቡድን ውይይት

#### ስቡድን ውይይት መነሻ የሆኑ ሀሳቦች

- 1) የማይክሮ ፋይናንስ አገልግሎት ያገኙት ከየትኛው ማይክሮ ፋይናንስ ተቋም ነው?
- 2) በማይክሮ ፋይናንስ ተቋሙ ያገኙት አገልግሎት ምንድን ነው?
- 3) ከብድር እና ቁጠባ ሰጪ ተቋማት ጋር ውል ስለመዋሉ ስለ ውሉ አጠቃላይ ይዘት ከተቋሙ በሚገባ ተገቢው ገለጻ ይደረግለዎታል ወይ?
- 4) ከብድር እና ቁጠባ ተቋሙ የብድር አገልግሎት አግኝተው ብድር ከወሰዱ በኋላ ከአበዳሪ ተቋሙ ተገቢ የሆነ ተከታታይነት ያሰው ድጋፍ ይደረግለዎታል ወይ?
- 5) የተበደሩትን ገንዘብ አመሳሰሉ ላይ ያጋጠመዎት ችግር ካለ ችግሩን በዘርዘር ቢገልጹልኝ ?
- 6) ከአንድ ተቋም የተበደሩትን ገንዘብ ለአበዳሪው ተቋም ላይመልሱ ከሌላ ብድር እና ቁጠባ ተቋም ገንዘብ ተበድረው ያውቃሉ ወይ ?
- 7) ከብድር እና ቁጠባ ተቋሙ የሂሳብ ደብተር ለማውጣት እና የሂሳብ ደብተሩን ለመመሰስ በተቋሙ በኩል የገጠመዎት ችግር ካለ ችግሩ ምን እንደሆነ ቢያብራሩልኝ?
- 8) የብድር እና ቁጠባ ተቋሙ ሰራተኞች በቅንነት እና በትህትና ያስተናግደዎታል ወይ ?
- 9) ከአበዳሪ ተቋማት ጋር ስለአገልግሎት አሰጣጡ አስመግባባት ተፈጥሮ ቅሬታዎችን ለሚመለከተው አካል አቅርበው ካወቁ ለማን እንዳቀርቡ ቢያብራሩልኝ?
- 10) በ2012 ዓ.ም የኢትዮጵያ ብሄራዊ ባንክ የፋይናንስ አገልግሎት ደንቦች ጥበቃ መመሪያ ቁጥር 01/FCP/2020 አውጥቶ በስራ ላይ እንዲውል አድርጓል። ስለመመሪያው ምን ያህል እውቅና እንዳሰዎት ?
- 11) የብድር እና ቁጠባ ተቋማት / ማይክሮ ፋይናንስ/ ለደንበኞች በሚሰጡት አገልግሎት ላይ ያለ ክፍተት ካለ በዘርዘር ምን ምን ክፍተት እንዳለ ቢገልጹልኝ?

*“የትኩረት ቡድን ውይይት ለመስጠት ፍቃደኛ ሆነው ስለሰጡኝ ምላሽ በጣም አመሰግናለሁ።”*

## **Focus group discussion (FGD)**

### **✚ Guiding question for group discussion**

- 1) From which microfinance institution did you get microfinance services?
- 2) What services did you receive from the microfinance institution?
- 3) Will you be sufficiently informed about the general content of a contract with MFIs before you sign it?
- 4) Will the institution provide you with appropriate and consistent supervision once you receive a loan from the MFI?
- 5) If you have any problems repaying the loan, could you please describe the situation to me in detail?
- 6) Have you ever borrowed money from a lender without first repaying your previous loan?
- 7) Can you explain to me what the problem is with the institution if you have a problem with the MFIs opening the account and returning the account?
- 8) Do members of the MFI's staff treat you honestly and courteously?
- 9) Could you explain to me if you have ever complained to the appropriate authorities about the nature of the service delivery dispute with the lending institution?
- 10) In 2012, Ethiopia's National Bank issued Financial Consumer Protection Directive No. 01/FCP/2020, which is currently being implemented. What level knowhow do you have for the directive?
- 11) If there is a gap in the services provided by MFIs, can you tell me in detail what the gap is?

***“Thank you so much for your willingness to participate in the FGD.”***