
LEGAL FRAMEWORKS TO PROTECT SAVINGS DEPOSITS AND ESTABLISH SUSTAINABLE COOPERATIVE INSTITUTIONS

This Développement international Desjardins (DID) policy statement draws on two previous DID policy statements entitled *The Characteristics of a Federated Network of Financial Cooperatives* and *Supervision: A Responsibility to Share*.¹

BACKGROUND

Legal frameworks provide support for government supervisory and control authorities and support for cooperative networks or other DID financial partners by establishing the rules for protecting client or member deposits in financial institutions while allowing these institutions to develop, achieve sustainability and fully satisfy the needs of the community.

The financial institutions targeted for DID intervention are those engaged in microfinance or community finance, meaning that such institutions serve as financial intermediaries for individuals who are not clients of the mainstream banking and financial system, usually due to the fact that such individuals have needs that can be met through operations that require only small sums or through operations that the mainstream banking system does not provide. In general, institutions targeted by DID are characterized by collective ownership and community engagement.

This DID policy statement on legal frameworks is provided in the form of assertions. Assertions offer the advantage of concision. In this document each assertion is followed by a detailed description.

The various policy statements issued by DID are developed with reference to a cooperative model as a general rule, but may be adapted to take into account institutions other than cooperatives owned by the community and engaged in it.

Scope of applicable legal frameworks

It is the DID position that all institutions engaged in microfinance or community finance activities should operate under an enabling legal framework.

It is generally accepted that what cannot be supervised should not be regulated, because even the best conceived regulations can prove to be useless or counterproductive if they cannot be enforced effectively. Taking into account the customary constraints on authorities in terms of capacity for supervision, it might be considered advisable to focus on fewer institutions, rather than attempting to cover all microfinance operators. Whether it is opportune to supervise financial institutions engaged in lending activities only is also an issue worth addressing.

¹ This position paper is part of series that includes two other tools with restricted distribution, draft legislation on savings and credit cooperatives and draft regulations currently in preparation.

DID nonetheless believes that it is preferable for applicable legal frameworks to encompass all financial institutions engaged in microfinance or community finance activities, for the following specific reasons:

- This approach would avoid the creation of a legal vacuum. A legal gap could come into existence if certain institutions are not mentioned, thus making the legal regime imperfect at best, if not completely ineffective. Such a gap could also contribute to discrediting the applicable framework and result in a two-tiered legal system. Allowing different rules within the same environment is not a desirable situation.
- This approach would enable authorities to obtain a maximum amount of information on the microfinance or community finance sector from all institutions. The applicable framework could also be used to require the institutions to provide authorities with highly specific information and an annual report.
- This approach would ensure authorities with better control over the microfinance or community finance sector.

The idea of also regulating financial institutions that dispense only credit is intended to protect the interests of such institutions and their creditors, thus contributing to the stability of the existing banking and financial system. Moreover, a regulatory system that encompasses these institutions can also limit over-indebtedness on the condition that data on borrower indebtedness is made available. It can also increase competition among institutions engaged in microfinance or community finance, which would reduce the cost of lending and increase client satisfaction.

DID has also taken note of the current trend by government authorities to modulate the requirements of legal frameworks in relation to criteria based on the risk that such microfinance institutions represent. Legal requirements may vary in relation to the size, volume of activity or the nature of such institutions.

DID considers this trend noteworthy and emphasizes that the requirements applying to small-scale institutions or to institutions which only offer loans could be less stringent, since the risk that they represent is much smaller. As an institution's size or volume of business grows and its activities diversify, the requirements on it could become progressively stricter, since the risk it represents becomes more material. In this manner, in addition to the requirements applicable to smaller scale institutions, such institutions would be obligated to comply with prudential norms in terms of financial ratios, limit their activities in areas other than savings and credit, limit the risks they incur, etc.

Ultimately, institutions whose size, volume of business or diversification of activities require it, could be subject to a legal framework that is comparable to that applied to institutions comprising the mainstream banking and financial system.

Legislation specific to savings and credit cooperatives

It is the DID position that savings and credit cooperatives, due to their nature and activities, should be governed by specific legislation.

A cooperative is a legal person composed of individuals who join together voluntarily to fulfill their shared economic, social and cultural needs and aspirations by means of a collectively owned and democratically governed enterprise.

Therefore, cooperatives differ in their very nature from banks or other financial establishments. A cooperative is a democratic organization owned by its members who play an active role in establishing its policies and making decisions. The members of a cooperative are both owners and users. Each member holds an equal voting right regardless of the number of shares owned. Since cooperatives are, due to their very nature, essentially different from banks or other non-cooperatively organized financial establishments, it is preferable that cooperatives not be governed by the same comprehensive legislation applying to banks or other financial establishments.

It should also be noted that a financial services cooperative, due to its sector of activities, also differs from cooperatives in other economic sectors. While financial services cooperatives have the mission of accepting deposits and making them productive in order to convert them into loans, other types of cooperatives have different goals such as:

- fulfilling supply or marketing needs for their members by purchasing goods or services related to their productive activity;
- providing members with quality goods or services at the lowest possible cost;
- facilitating access to ownership of, or access to, housing for members;
- providing employment to members along with good working conditions.

Financial services cooperatives are the only cooperatives whose activities are in the field of financial intermediation. In order to maintain proper operation of the financial and banking system and safeguard depositors who are members, such cooperatives must be subject to rules that do not apply to other cooperatives. For example, financial services cooperatives should be required to:

- obtain, prior to starting operations, authorization from those in charge of overseeing the existing financial and banking system;
- comply with the regulations, directives and orders issued by the authorities in charge of overseeing the existing financial and banking system;
- submit to supervision and control by the authorities in charge of overseeing the existing financial and banking system;
- maintain adequate liquid reserves and capitalization to meet obligations without adversely affecting the deposits held;
- limit the risks of commitments made to individuals, officers of the cooperative and its employees.

Since financial services cooperatives differ from cooperatives in other economic sectors due to their financial intermediation activities, they should not be governed by the law regarding cooperatives in general. Instead a law specific to financial services cooperatives should govern them due to their cooperative nature and financial intermediation activities.

It is important that such legislation does not obstruct their activities, but rather furnishes all that is truly needed to actually help them achieve their goals and establish sustainability. Consequently, as regards their lending activities, limits should not be imposed on unsecured loans nor should reserves be required for loans simply because there is no collateral. Such provisions would make microfinance impracticable. Instead, efforts should be made to take into account group guarantees, borrower reimbursement histories and even the degree of delinquency in the financial services cooperative loan portfolio.

Jurisdiction

It is the DID position that savings and credit cooperatives and their apex organizations should be governed, as regards operations, supervision and control, by the authority in charge of overseeing the existing financial and banking system.

Each State must decide whether savings and credit cooperatives and their apex organizations should fall under one or several jurisdictions. For example, a government could choose to have savings and credit cooperatives regulated for corporate aspects by the Minister responsible for cooperatives and, at the same time, for aspects affecting financial intermediation, by the authorities in charge of overseeing the existing financial and banking system.

In any event, the number of authorities in question should be limited and their powers clearly outlined to avoid overlap and grey areas that could lead to inaction on the part of authorities uncertain of their own responsibilities or powers. Clearly defining responsibilities would also avoid having authorities issue contradictory opinions or directives. It is the DID position that savings and credit cooperatives and their apex organizations should never be governed by more than two separate authorities. Ideally, jurisdiction should go to a single authority, namely the authority in charge of overseeing the existing financial and banking system.

In all cases, savings and credit cooperatives and their apex organizations should be governed, for the financial intermediation aspect, by the authority in charge of overseeing the existing financial and banking system. The reasons supporting this position are numerous:

- As financial intermediaries, savings and credit cooperatives and unions should be governed by the rules drawn up by the authority in charge of overseeing financial and banking operations. Those rules are intended to protect deposits and allow them to earn a return in a secure manner. Consequently, savings and credit cooperatives and unions would not be allowed to accept deposits or make loans without being licensed to that effect by the authority in charge of overseeing financial and banking operations. In addition, they would be subject to prudential regulations set by that authority as well as to supervision and control by it.
- The supervision and control of savings and credit cooperative and unions requires services from experts in accounting, financial analysis, assessment of collateral, risk management, funds matching, etc... which are not necessarily available in other government departments.

As a final concern, the authority in charge of overseeing financial and banking operations must be able to exercise its powers without requiring intervention or approval from any other governmental authority. Direct intervention by the authority in charge of overseeing financial and banking operations must be allowed not just for problems encountered by apex organizations, savings and credit cooperatives or networks, but whenever the authority deems that there is an unresolved conflict of interest or that preventive measures are required. This authority should be permitted to fulfill its mission of overseeing the financial and banking system and protecting the interests of depositors without requiring assistance from any other authority.

The exercise of supervisory and control power

It is the DID position that the power to supervise and control financial institutions resides with the authorities of each individual country but that it is not necessary that such power be exercised by those same authorities. They may delegate the exercise of power to other bodies while retaining responsibility and final authority and control over the exercise of power.

The authorities have the duty and responsibility to ensure that all institutions engaged in microfinance or community finance activities operate in a sound and prudent manner and it is of capital importance that authorities do not abdicate their responsibilities. Delegating the exercise of power for supervision and control is not an abdication of responsibility. In fact, in countries in development, emergence or transition, authorities do not necessarily have the human, financial and material resources required for direct supervision of all institutions composing the financial and banking system under their authority. It may be more practical for them to indirectly supervise certain institutions using the intermediary of an organization already practicing internal supervision, such as an apex organization.

Where necessary, applicable legal frameworks should allow the authorities to appoint agents and to define the conditions for mandates awarded and exercised. For example, a legal framework could specify the qualifications required for an organization receiving a mandate and could require the principal to provide the mandated agents with all the directives needed to carry out the mission, especially regarding the frequency of control measures, the instruments to be used for control, the content and presentation and the frequency with which information is sent to authorities, etc.

Legal frameworks should also:

- oblige agents to follow all directives;
- grant agents the authority needed to properly fulfill the mission;
- oblige institutions subject to the supervisory and control authority of the agent to submit to the exercise of that authority;
- provide penalties in the event of default on the part of these institutions to submit to the supervisory and control authority of the agent, as well as for default on the part of the agent to follow directives issued by the authorities or if the agent does not properly fulfill the mandate.

Legal frameworks should also oblige the authorities to ensure on a regular basis that the agent is carrying out the mission properly. Mandating an agent for supervision should not constitute a way for authorities to evade their duties.

Agents must not be left to their own devices. Agents must have access to all the means and resources to properly fulfill their mission and the authorities must ensure that the agent performs the mission properly and that the institutions subject to supervision are always in a situation such that the deposits entrusted to them are not jeopardized.

However, it is worth noting that for agents to successfully carry out the mission entrusted to them, certain critical conditions must be met. For example, an apex organization must understand how to exercise authority properly in its role of internal supervision. The individuals carrying out supervision tasks must demonstrate a certain degree of independence from the supervised institutions, etc.² Such conditions can only exist within a well-integrated network.³

² See the DID position paper entitled *Supervision: A Responsibility to Share?*

³ See the DID position paper entitled *The Characteristics of a Federated Network of Financial Cooperatives.*

Principles of cooperative action

It is the DID position that due to their nature, savings and credit cooperatives and their apex organizations should subscribe to the principles outlined by the International Co-operative Alliance.

As an integral part of the Desjardins Group, which is a cooperative institution that adheres to the principles adopted by the International Co-operative Alliance at its general meeting in 1995, DID takes the position that these principles should be acknowledged as providing the inspiration for any legal framework designed to govern savings and credit cooperatives and their apex organizations.

The cooperative principles constitute guidelines to help cooperatives put their values into practice. These values are the basis of their code of conduct which is founded on honesty, transparency and social responsibility. It calls on values and principles such as empowerment and personal and mutual responsibility, democracy, equality, equity and solidarity.

These cooperative principles are:

- membership is voluntary and open to all;
- members exercise democratic control;
- members contribute equitably to the capital of their cooperative;
- a cooperative is an autonomous and independent organization;
- a cooperative provides education and training so that members, elected representatives, managers and employees can contribute to its development and communicate information describing the nature and benefits of cooperation;
- a cooperative works together with other cooperatives;
- a cooperative contributes to the sustainable development of its community.

Voting rights of members

It is the DID position that in base cooperatives, each member should hold a right to vote equal to that of any other member. However, each apex organization should determine for itself the method for distributing voting rights to its own members.

In base cooperatives, each member represents only him or herself and acts accordingly. Each member should therefore possess a right to vote equal to that of any other member. The best method to make that right tangible is to attribute one vote to each member of a base cooperative. However, taking into account the fact that savings and credit cooperatives can be grouped into networks and that these networks may have at least two tiers, it is the DID position that these circumstances should affect the guidelines regarding voting rights.

Consequently, in base cooperatives, members should have equal voting rights according to the rule of *one member, one vote*. However, in second-tier cooperative institutions such as unions, as well as third-tier cooperative institutions such as federations, the manner of attributing voting rights should be left to the second and third-tier institutions to determine so that member representativity is taken into account.

For example, in general meetings of unions each base cooperative is made up of a different number of members. It should therefore be left up to each union, or as the case may be, to each federation to individually determine, under its own by-laws, a method for distributing voting rights to take these differences into account. Because the distribution of voting rights will be set out in a by-law adopted during a general meeting, it should necessarily be submitted to the members of the union or federation which will decide on the solution that they feel is the best.

The general reserve

It is the DID position that the general reserve of a savings and credit cooperative or an apex organization constitutes a group asset that is by nature inalienable and should never be subject to being divided up among the members.

It is the DID position that the general reserve of a cooperative, union or federation should not be divided up among the members even in cases of liquidation or dissolution. The general reserve is built up from the surpluses over time and it would not be appropriate that at the time of liquidation or dissolution of a cooperative, union or federation, that the persons who are members at that moment share the results of efforts made over many years and be the only ones to benefit. Otherwise, it is the DID position that the balance in the reserve would present an incentive to liquidate or request dissolution of a cooperative, union or federation in order to divide it up among the current members.

Since the reserve cannot be divided up among the members, any remaining balance after liquidation or dissolution should be attributed, in the case of a savings and credit cooperative as well as in the case of a union, to the apex organization to which the cooperative or union belongs. If the cooperative or union is not a member of an apex organization or in the case of a federation, the balance should then be attributed to a corporation involved in community development designated by the government.

Membership qualifications

It is the DID position that all users of a savings and credit cooperative should be members.

A cooperative is a collectively owned and democratically governed enterprise. In light of these circumstances, users should not be allowed to conduct business with the cooperative simply as consumers of services without any say in its orientation except under extraordinary circumstances. Power should not be concentrated in the hands of only a few individuals. The users of a cooperative are entitled to vote and have a say in the future of their cooperative. Since only the members of a cooperative are entitled to vote and have a say in its future, the users of a cooperative should all be members.

Otherwise, a minority of members could, for example, at the end of the fiscal year divide up the surplus earned from the transactions made by a majority of users. This situation would be similar to the manner in which a capital share corporation operates.

The general meeting as decision-making body

It is the DID position that the powers of the decision-making body of a savings and credit cooperative or apex organization do not stem from a vote of the general meeting but are enshrined in the provisions of the applicable legal framework.

DID acknowledges the sovereign decision-making authority of the general meeting of a savings and credit cooperative, union or federation. Nonetheless, in order for the roles and responsibilities of the various decision-making bodies of a savings and credit cooperative or an apex organization to be complementary to each other, it is the DID position that the attributes of each body as well as those of the general meeting should be clearly laid out in the applicable legal framework.

Otherwise, if the powers of the decision-making body of a savings and credit cooperative or apex organization are conferred by a decision of the general meeting, it is the DID position that such a situation could endanger:

- any cooperative or apex organization in that no decision of its board of directors could be considered definitive since the general meeting could always modify or revoke it;
- any network in that there would be no uniformity regarding the attributes of the various decision-making bodies in each of the member institutions of the network.

The roles and responsibilities of the various decision-making bodies of a savings and credit cooperative or an apex organization should be complementary in order to harmonize development of the institution concerned and ensure continuity and stability during its growth and limit the risk of control being usurped.

Credit committees

It is the DID position that lending activities must be managed in a professional manner within a strict and rigorous framework. DID questions the pertinence and added value of a credit committee as a distinct decision-making body in a savings and credit cooperative.

A credit committee as a distinct decision-making body in a savings and credit cooperative, and the powers it has are established in legislation governing the cooperative. The creation of a credit committee along with its attributes need not be a foregone conclusion.

In fact, it is the board of directors of a savings and credit cooperative that is the body responsible for managing the business of the cooperative. Making, monitoring and recovering loans constitute the activities by which a savings and credit cooperative establishes profitability and ensures sustainability. These activities fall under the management responsibility of the cooperative.

Since they are the management responsibility of a cooperative, these activities are naturally part of the responsibilities of its board of directors. It is the responsibility of the board to oversee the adoption, application and if needed, the review of a credit management policy. The board is in charge of specifying the responsibilities and attributes of all workers in the cooperative involved in credit activities.

Documents required for lending, monitoring and recovering loans are prepared by the cooperative's employees based on economic criteria. The employees must possess the qualifications and knowledge required to grant, monitor and recover loans. In order to make lending more efficient, the board of directors could consider delegating authority to employees. This would improve the quality of service and member satisfaction due to the resulting faster processing of loan applications.

However, in such instances of decisions made by employees, it is advisable to take appropriate measures to ensure that decisions are made properly. Above a certain definable threshold, credit decisions could be approved by a committee of the board of directors, or by the apex organization with which the cooperative is affiliated.

It should not be overlooked that, in some cases, awareness by elected representatives of intangibles such as the moral character of an applicant can supplement the knowledge and skill of employees.

Therefore, the board of directors of a savings and credit cooperative should work to establish an equilibrium between profitability linked to sustainability and the quality of service and satisfaction of the members in the cooperative.

Affiliation

DID is in favour of obligatory affiliation by savings and credit cooperatives with an apex organization.

Applicable legal frameworks should strongly encourage affiliation of all savings and credit cooperatives with apex organizations.

Otherwise, a variety of small savings and credit cooperatives would flood the market. These small cooperatives would not be able to rely on collaborative support from a network and would be forced to handle on their own any risks incurred from their activities. Such a situation could seriously complicate the task of supervision and control.

Incentives must be implemented to promote affiliation since it is the best guarantee of sustainability for savings and credit cooperatives. A possible approach would be to modulate requirements to take into account any affiliation. Since non-affiliated cooperatives must respond on their own to the risks incurred by their activities, the risk they represent is higher. Consequently, their eligibility requirements should be more restrictive.

Multi-tiered structures and complementary

It is the DID position that it is not advisable to promote the creation of too many levels among the organizations within a same network.

DID also believes that in a multi-tiered structure a separation of clientele should be established among the various levels so that the tasks, roles and functions of each tier are complementary from a financial viability point of view.

It is the DID position that applicable legal frameworks should not permit the existence of too many levels in the various organizations within the same network. A smaller number of tiers leads to the following results:

- greater complementarity of the tasks, roles and functions of each, thus avoiding competition among the tiers;
- greater facility, in virtue of the principle of subsidiarity, for certain tasks, roles and functions to be performed by the tier best equipped to do so;
- greater facility in coordinating and harmonizing decision making and shared activities;
- greater influence by the base clientele on network decision making and commitments;
- better ability to maintain costs at an affordable level;
- faster reaction to change and a more flexible overall structure.⁴

It is the DID position that a network should have a maximum of three tiers in its organization and ideally less than three.

A legal framework should address the following:

- all base cooperatives;
- second-tier institutions such as unions;
- third-tier institutions such as federations.

In a two-tier structure, base cooperatives serve the base clientele by accepting deposits and granting loans, while unions have the mission of serving the clientele composed of the member cooperatives by holding their deposits, granting credit, providing technical support services and training and acting on their behalf as internal supervisory bodies.

In a structure with three tiers, base cooperatives serve the base clientele, unions serve the savings and credit cooperatives by holding their deposits, granting credit and providing technical support and training services. The federations provide the unions with technical support and training and act on behalf of the member unions and the member savings and credit cooperatives as internal supervisory bodies.

In either case, the function of internal supervision should be exercised at the very highest level of the network, either by the unions in a two-tier structure or by the federations in a three-tiered structure. This approach would allow internal supervision to be conducted in a uniform manner throughout the network and would also allow for the development of unique and centralized expertise.

Since federations do not accept deposits, their income is provided essentially by fees for the services provided and membership fees from their members, namely the unions, which contributes to ensuring stricter cost control.

DID emphasizes the importance of clearly specifying the shared ties that should define the clientele of a savings and credit cooperative so that these ties enable the cooperative to offer community finance services as well as enabling the overall clientele to benefit from the services offered by the cooperative. These shared ties are usually defined in terms of belonging to a group or to a geographic area. Authorities should strive for a definition that would maximize access by the overall population to community finance services, while avoiding undue competition among cooperatives.

⁴ See the DID position paper entitled *The Characteristics of a Federated Network of Financial Cooperatives*.

DID takes the position that in order for the tasks, roles and functions of the various tiers to be complementary and avoid competition with each other, the legal framework should state that only base cooperatives may be members of a union, and that only unions may be members of federations. Separation of the targeted clientele ensures complementarity and the subsidiarity of the tasks, roles and functions of the tiers.

Integration⁵

DID favours strong integration within a network.

Greater network integration means greater:

- sharing of resources by components;
- standardization of operations;
- contractual solidarity among components;
- application of strategies and rules to strengthen governance.⁶

In general, the advantages desired from network integration include the following:

- access to shared support services such as technical assistance;
- sharing and grouping of resources for all components allowing them to increase access to a larger labour pool, specialized resources and the latest expertise;
- economies of scale allowing components to obtain needed goods and services at the lowest cost;
- reduction of the risks (diversification) to which components are exposed by their activities, based on the directives or norms adopted by the apex organization and the surveillance it exercises;
- good command of the latest technologies including computerization of network components, providing immediate access to reliable information, etc.

It is the DID position that greater network integration makes it possible to provide better services. Access to better and specialized resources, along with the most up-to-date expertise, allows network components to offer better quality services to their clientele.

Also, DID takes the position that greater network integration provides better protection for the interests of the clientele. An integrated network is a network equipped with protection mechanisms that allow it to manage any crisis within its components in an effective manner by having all the components, but not the clientele, share the burden.

Network integration does not, however, mean circumventing the democratic processes at work in the cooperative environment. It is important to remember that the powers of an apex organization come from the base and from the members. The apex organization is therefore required to convince its members of its reason for existence and its utility. This is an ongoing process that requires the apex organization to report to its members on its exercise of the powers it has been granted. Integration will progress to the extent that the members are convinced of the reason for existence and the utility of the apex organization.

⁵ See the DID position paper entitled *The Characteristics of a Federated Network of Financial Cooperatives*.

⁶ Idem footnote 5.

Network affiliations

DID recommends that a base cooperative or a first-tier apex organization should only be affiliated with a single cooperative financial network.

Each network has its own philosophy. Each network may also issue directives to its affiliates that differ from those of other networks or even contradict them at times. Affiliation with more than one network could mean more fees to pay. The legal framework should state that a cooperative or union affiliated with a network can join only one network. If necessary, a cooperative or union could pressure its network to provide services it desires and if not satisfied, seek disaffiliation in order to affiliate with a different network.

In addition, integration with a network specifically involves the sharing of resources, standardization of operating systems, policies, norms and products, and even the promotion of a unified institutional image. As a result, greater network integration means greater standardization of systems, policies, norms and products as well as greater identification with the network of each of its components, making it more difficult for an individual component to belong to more than one network.

Issuing shares

It is the DID position that only shares fully paid for in cash should be issued, with the exception of shares issued as dividends or shares issued during an amalgamation process.

Only shares fully paid for in cash should be issued. A cooperative or apex organization should not be permitted to issue shares in exchange for a consideration other than cash due to the disadvantages this would create. For example, any other consideration provided would need to be assessed, the rules of assessment would need to be defined, a right of appeal in cases of dissatisfaction, etc... which would result in a procedure that would be heavy and difficult to implement.

In addition, since the share capital of base cooperatives and their apex organizations is one of the elements that protects the interests of depositors and their creditors, it is important to avoid allowing cooperatives or their apex organizations to receive unproductive goods in consideration for shares issued.

To avoid these disadvantages and all the delays they can produce, the release of shares should only be done for consideration in cash, with the exception of shares issued as dividends or shares issued during an amalgamation process.

In the case of shares issued as dividends, although there is no cash payment by the member benefiting from the issued shares, the shares are issued in place of payout of a dividend in cash. Instead of receiving a cash dividend, members receive the dividend in the form of shares. The share issue entails no disbursement by the cooperative or the apex organization and even offers the advantage of improved capitalization.

In cases of amalgamations, the signed amalgamation agreement could provide for the issuance of shares by the cooperative or, in other instances, by the apex organization resulting from the amalgamation. Such provisions would be intended to account for the fact that the value of the shares of the institutions being amalgamated are not uniform and consequently a conversion of these shares to shares in the resulting amalgamated institution is required.

Licensed financial institution

It is the DID position that it should be possible for a cooperative network to set up a financial body to be licensed as a bank or financial establishment that is not necessarily exclusively owned by the network.

Establishing a licensed financial institution would enable a network to benefit from an interface with the banking system and open up avenues not otherwise available. In addition, creation of such a financial institution would enable the cooperative environment to maintain relations with the banking environment, thus breaking down barriers.

For example, the financial institution could function as a compensation agent for components of the network and provide refinancing, mobilize external financing, issue securities or borrow funds in accordance with applicable legislation.

Such an institution would have to be licensed and would be governed by provisions applicable to banking and financial establishments and could provide, for the benefit of the network and its components, the same range of possibilities in terms of activities that other banks or financial establishments can offer.

Gender equality

It is the DID position that a legal framework must take into account the needs of women as well as those of men.

It is important to take into account the needs of all the individuals who make up the clientele of microfinance institutions. A legal framework must be directed towards encouraging access to financial services, without discrimination. Women, as well as men, constitute the clientele of microfinance institutions. It is necessary to acknowledge that women, just like men, are agents of economic development and, as a result, assistance should be provided to women to help them obtain what they require in the way of financial services.

CONCLUSION

It is important that legislation dealing with savings and credit cooperatives and their apex organizations should focus primarily on fostering their development and allowing them to best fulfill their role as financial intermediaries. Consequently, such legislation should be directed to granting them the powers and means and any other type of support required to allow them to achieve their goals by establishing mechanisms to develop and maintain best practices for management and good governance.