

Micro Steps, Giant Leaps

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Introduction

One of the lesser known facts about Jordan is its highly developed microfinance market, which competes with other similar markets on an international scale. Microfinance is a relatively recent concept invented in the 1970s, that refers to the provision of banking services to financially underprivileged people by providing small loans, otherwise known as microcredit. Jordan has several active microfinance institutions (“MFIs”) operating within the country, and it has been said that the microfinance market is nearing saturation despite having penetrated Jordan only within the last two decades, a testament to its enormous popularity and demand. This financial instrument is also reputed to economically empower women, the majority of subscribers, with one statistic suggesting they constitute 75% of the market. Given its success it is no surprise that the Jordanian government is keen on developing the regulatory infrastructure further. This article will discuss two salient points in light of such developments: first, the new proposed legislation seeking to support and enhance the microfinance market and second, the issue of the prohibition of MFIs accepting deposits.

The Current Situation

Currently there is no legal requirement to have a governmental licence in order to generally lend money, and, provided certain basic requirements are met, any permissible legal entity may engage in lending. Except for the fact that one must be a fully-regulated bank in order to accept deposits, the regulatory environment is relatively relaxed in this area, with several regulatory bodies used to govern the lending entities depending on the legal structure such entities assume. Accordingly, the nature of the legislation regulating this market is somewhat ad hoc and dispersed. The majority of MFIs are non-profit organisations and are regulated by the Ministry of Social Development, whilst profit-seeking MFIs are governed by the Companies Control Department at the Ministry of Industry and Trade. Furthermore, where the entity is a commercial bank, the Central Bank of Jordan (“CBJ”) itself steps in to oversee its microlending activities. The Ministry of Planning and International Cooperation (“MOPIC”) plays an important role in supporting the industry and requests MFIs to report certain indicators on a quarterly basis; however, MOPIC is not formally responsible for any kind of supervisory or regulatory activities. Thus, the problem with the current regime becomes apparent when trying to standardise all microfinancing activities under a consistent regulatory framework. There is no streamlined process for handling company registrations or treating tax, and financial reporting standards are not always adhered to by all MFIs. This is exacerbated by the fact that the market is fragmented by the various authoritative bodies which MFIs must report to according to their differing goals.

It is in light of the above issues that a proposed new bill, the Microfinance for Companies Regulation of 2014 (the “Regulation”), has been prepared. Once enacted, the Regulation will be the first legislation introduced into Jordan which directly and specifically governs microfinancing activities, and will hopefully bring all such activities within the ambit of a unified regulatory framework, spearheaded by the CBJ.

The Proposed Legislation

The first major change in the new Regulation involves regulating the activity of lending from an MFI perspective. An example, Article 3 of the Regulation specifies that no one is permitted to practise the activity of microfinancing unless licensed by the CBJ, and all companies engaged in such an activity must have the phrase 'microfinance' included in their trade name. As mentioned, it was previously the case that after having met some basic conditions, any permissible legal entity could lend money without needing to be licensed.

The new proposed legislation maintains the prohibition of MFIs taking deposits from its clients, pursuant to Article 10(b), in sharp contrast to several other microfinance markets which allow MFIs to accept deposits. This raises a serious question as to how commercial MFIs fund their operations and generate profit, or how non-governmental organisations ("NGOs") survive without being able to use deposits to give out credit. As a result, the overwhelming majority of MFIs in Jordan currently depend on foreign subsidies, either in the form of direct loans or credit lines extended to MFIs, from a variety of donor agencies including the World Bank and USAID. Such funds are channelled through the CBJ itself. It seems that this will continue until a defined period when the CBJ feels that MFIs are meeting its required benchmarks. To a limited extent there is some equity funding being provided by local banks and international microfinance investment vehicles.

Although it is still prohibited to accept deposits, the Regulation permits MFIs to engage in a range of other activities which were previously left undefined. Article 10 of the Regulation specifies that all MFIs will be allowed to conduct the following:

1. Grant loans;
2. Provide finance in accordance with the Islamic Sharia, i.e. without interest (with further additional rules outlined in the Regulation);
3. Act as an insurance agent;
4. Act as an agent for mobile-payment services; and
5. Any other activity the CBJ approves of.

The Regulation also specifies which types of companies are allowed to practise the above activities, and they must be either a limited liability company, a private shareholding company or a branch of a foreign company which is already providing microfinance services (subject to the requirements of the CBJ). The minimum start-up capital for any MFI company is at least 2 million JOD, and Article 4 clarifies that such a company may choose to be either a profit-making or a non profit-making entity.

All companies seeking a licence to provide microfinancing services must submit the following documents and information to the CBJ:

1. Name of the company, memorandum and articles of association, address and number of branches;
2. Founders' names and nationality and the nature of their work, start-up capital amount, and proof of their financial solvency;
3. Authorised share capital;
4. Organisational structure and an undertaking signed by the founders to abide by the specific conditions and criteria set out in this Regulation which concern senior management;
5. Estimated budgets for the first three years;
6. Audited financial statements signed by a chartered accountant for every legal founder for the past 2 years, if available;
7. Details of the activities and services of the company; and
8. Any other condition, demand or document the CBJ may request or stipulate.

If successful, the applying candidate will be granted a non-transferable licence of unlimited duration.

The Need for MFIs to Accept Deposits

It is imperative that as the next milestone the CBJ focuses on adapting the Regulation to allow MFIs to accept deposits. This will ensure that all MFIs are provided with a vital source of stable income and facilitate the process of making them independently subsisting entities. It should also stimulate even greater interest in the microfinance market, by offering a variety of previously-unavailable products to potential customers. Thus, the enactment of the above Regulation is a conscientious step sure to be welcomed by all practitioners of the microfinancing industry. The next step should be the CBJ granting permission for MFIs to accept and, therefore, make use of deposits.