We provide a global perspective of the most relevant regulations on microfinance and corporate governance

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Analysis of the state of corporate governance in Iberoamerica

It is essential to re-establish investors' trust in the governance system of institutions in order to enourage sustainable economic growth in countries. This article argues that corporate governance is a fundamental tool for doing this. It provides an exhaustive analysis of the state of corporate governance in Latin-American countries, and pinpoints best practices.

The document is divided into three sections:

The first section is an introduction, analysing international trends and outlooks, and the general lines of corporate governance as it first appears and as it evolves;
The second section lists specific recommendations for the different bodies of governance within organisationgs;
The third section brings together new tendencies in corporate governance, abolve all with respect to corporate social responsibility and good governance in family-run firms and public-sector companies.

Felipe González

Felipe González was born in Seville on 5th March 1942. After graduating in law he practiced as a labour lawyer in his city of birth. He joined the "Juventudes Socialistas" in 1962. He has three children.

From October 1974 to June 1997 he was secretary general of the Spanish socialist party (Partido Socialista Obrero Español, known as "the PSOE"). He was elected Spanish prime minister on 1st December 1982 and remained in office until May 1996.

In July 2007 he was appointed Extraordinary Ambassador and Plenipotentiary for the bicentenary of the Latin-American countries' declarations of independence from the Europeans.

In December 2014 the president of Colombia, Juan Manuel Santos, granted Mr González Colombian nationality, in acknowledgement of his close relationship with the country and its citizens. At present, his activity is focussed on the defence of political prisoners in Venezuela

1. People say that of all those who have been European heads of government, you are the one closest to the Latin American countries. How come?
From when I was very young, I was always interested in what was going on across the Atlantic. It was a region where many Spaniards had found refuge after the civil war, especially in Mexico and Argentina. Several of our most prestigious intellectuals took shelter there and were doing successful work in education, medicine, philosophy and law. They were really putting something into those countries' development. Modern Mexico couldn't conceivably be what it is now without the contribution of the top-class professionals taken in by Cárdenas' government. My own relationship with that part of the Atlantic was so intense that when I stood for the first elections in 1977, people had seen me more on television in Mexico than in Spain.

2. What advantages are there in strengthening the relationship between Latin America and Spain, on either side? What aspects of that relationship do you consider to be most necessary?
There is a community in which, despite there being multiple distinct identities, there are also common realities and overlaps. Such a community can become an association of interests, a cultural community, in the sense of an identity of identities, similar to others that have achieved significant results in international circles and in cooperation between our countries. Cultural and social exchange and trade between all the countries of the Ibero-American community have increased considerably and have much potential for further growth. Movements towards greater integration will become stronger when the trade among the countries of the region is as intensive as their overall regional trade is with other regions of the world.

3. What led Latin America to open up to the idea of human rights? How do you think the conquest of these rights can best be preserved?
From the moment I came into government, I had the idea of strengthening relations with Latin America as one of the priorities in Spain's opening up to the world. I must say that right from the outset there was the goal that, once the relationship was on track, there should be a process of democratisation, of accepting pluralism. I thought a period of normality would be initiated after the terrible dictatorships and socio-economic situations that had devastated some of the countries in the lost decade of the nineteen-eighties, which I lived through as prime minister of Spain, almost in its entirety.
You ask how best to preserve the conquests made. By strengthening the democratic institutions. Democracy needs to be looked after, day in day out, and its institutions need to be regenerated. The legislature must lay down fair laws bearing in mind the welfare of the citizens. The justice system must be independent and efficient in protecting rights and enforcing obligations. And the executive must defend the interests of the majority and respect legal standards. Democracy does not guarantee us good governance, but it does give us the chance to throw out a government that has not done things well and since politicians do not want to lose their jobs, they will try to cater to people's interests.

4. Democracy has been a cornerstone of economic development in the Latin-American countries. But has it contributed in the same way to the development of greater social equality?
Without a doubt. But I do think we should insist on one of the strategic variables necessary to drive this development and spread it further: education, education, education. The formation of human capital. Failing to establish education as one of the priorities has helped inequality persist. That is really what concerns me as a citizen on both sides of the ocean. In Latin America the situation has improved whichever way you look at it, although maybe there is too much specialisation in the export of commodities. Taking advantage of a moment like this to reindustrialise and to tap into the knowledge society would be critical to achieve greater equality. And Spain also needs to do something along these same lines.

5. Latin America is the region with greatest economic and social inequality. Despite economic growth, the reduction of poverty and inequality has stagnated, according to the latest ECLAC report “Social Panorama of Latin America 2014”. What do you think are the causes behind such stagnation? What recommendations do you have to encourage more equitable distribution of wealth?

I would recommend the formation of human capital. With a very young average age throughout the region, that would make development more egalitarian. As to the causes of the stagnation, it is clear that the world-wide economic crisis has hit very hard. The countries in this area suffered it less to start with, in part because Latin America had the advantage of a regional economy that is relatively under-banked, so it did not suffer the implosion of the financial system as much as some other places. However, it was impacted by the consequences of the crisis. Spanish financial institutions in these countries made a serious contribution to the way the financial system behaved with respect to the Latin-American economy. However, the consequences of world-wide economic stagnation are making themselves felt and have put the brakes on the growth of some big countries, such as Brazil and Argentina.

The solution lies in increasing redistribution of incomes, above all indirect income, such as through education and health. It is not a matter of growing so that the leftovers can flow down to the poorest in society, but rather to grow with a model that prospers and redistributes. When this cannot be done through wages, because the south is competing with the south through wage levels, the redistribution should take place through indirect mechanisms, such as access to education or access to health, which gives additional income and enhances human capital.

6. The Foundation, through its Group members, has developed its own method, Productive Responsible Finance. Its goal is to fund productive projects and activities among the sectors of the population seen as most vulnerable, and to offer them advisory services and training. To what degree do you think that microfinance helps the economic and social inclusion of the most disadvantaged classes?

A lot. And for those of us who followed Brazil’s experience under Lula da Silva’s government, even more. President Lula granted property rights to the slum-dwellers in the favelas of Rio de Janeiro and Sao Paulo. That turned them into citizens with rights and duties. As owners of property rights, they ceased to be on the fringes of the economy and could access bank loans. Microcredit loans for productive activities propelled the development of the most depressed areas and incorporated citizens from outside the circuits of production into economic consumption. If we want to pull the greatest number of citizens in from the fringes of the economy, we must find imaginative methods to make them productive and incorporate them into consumption. Microcredit loan are a very efficacious instrument for developing the countryside and incorporating professionals and artisans into the productive activities of the country.

7. The Foundation holds workshops on corporate governance on a non-profit basis in Latin America, to encourage the implementation of formal, transparent governance frameworks in the sector. What influence do you think establishing best corporate governance practices has on the economic development of a country?

Latin America must make an enormous effort to improve decision-making processes. The public and the private sectors must work together to sustain development in the medium and long term. But there is one thing that must be given top priority: institutions need to make decisions in a more efficient, more predictable manner. Good corporate governance practices are absolutely vital at all levels. It is not possible to make entrepreneurs accountable when there is no predictability about their future, if when they project their investments, they are just making speculative, short-term bets. To sustain investments in the medium and long term, investors need to know that what they do has predictable outcomes; that they do not have to go for an immediate killing because there is enough space for them to recover the investment and take part in the development of the countries where they are investing. There is a lot more argument over legal certainty, which is really implicit in what I

am saying. We need foreseeability and efficiency in the decision-making process. I suggest we require an enormous effort to enhance institutions (both businesses and the government) so that they can process decisions well and provide visibility of the future in the short, medium and long term.

8. How does a statesman like you conceive of equality between men and women? Have you observed significant progress in the role of women in business?

I see it as an urgent need that all governments must support. I sometimes say that they should do this even if only out of self-interest. What business can afford to miss out on fifty per cent of its workers for reasons of gender… or any other difference, come to that? It would be ruinous! In society we have to become aware that we cannot write off 50% of our citizens with all their qualities and their value and potential. It is very likely that we are seeing a fight of power. Men fear losing their pre-eminence and fight desperately to avaid an equality that becomes more unavoidable with every day. In the business world, equality is a long way off, especially at senior management level. But that is not the case in politics, where equality is more visible in this region of the world, with three women heads of state.

9. We know you read law at university in Seville and subsequently practiced as a labour lawyer there for a time. During your very long professional career, have you ever missed being involved in law?

Quite honestly, I have never been that far from the world of law, because when you are in government you have to be very aware of the rights of all the people you are representing and the obligations your position imposes on you. I had a very intense life as a politician, because there was much to do in a country that had just emerged from being a dictatorship. Right now, moreover, I am very deeply involved in the defence of political prisoners in Venezuela, imprisoned for their political views. My job is to advise the defence lawyers, as permitted by Venezuelan law, and I propose to help establish a dialogue between all the stakeholders to find a way out of the social and economic crisis the country is in. This is not the first time I try to get freedom for political prisoners, but it is the first time I try to get freedom for political prisoners in a democratic country.

10. You are a great Nature lover. Within the American continent, which landscape has impressed you most?

It is very hard on such an enormous continent with so much variety to choose just one landscape. From the highest peaks of the Andes to the Patagonian plains in Argentina or the Chilean Antarctic or the Sierra Nevada in Colombia or the Caribbean islands or the Barranca del Cobre in Mexico, the Angel Falls in Venezuela, the Amazon forest in Brazil, Machu Pichu in Peru…. We are talking about unique landscapes you will never find anywhere else in the world. Why choose just one?

11. Given your outstanding role in the recent history of Spain, if you had to choose a moment in history in which to live, when would it be?

I think the life I have lived and am still living is very gratifying whichever way you look at it. Bear in mind that I was given the trust of my fellow citizens to govern this country for many years, for which I am extremely grateful. What governor does not want citizens to vote for him and give him the freedom to do what he has proposed to them? I have had various absolute majorities and have even come across citizens who did not vote for me but were in agreement with what we were doing. I think the time I happen to have been born into suits me fine and there is still so much more to do…

Protecting financial consumers, financial education

Financial education should be provided independently of the commercial aspects of specific financial products. On 18th March 2014, Colombia's financial watchdog, Superintendencia Financiera de Colombia (which oversees financial entities and their regulatory compliance) published a document, Concepto 2014023357-001, clearly stating that financial education must not be confused with the advertising that financial institutions use in their marketing campaigns.

Law on Transparent Pricing: a banking view

The Colombian banking association, Colombia-Asobancaria, represents the financial industry in the country. It includes foreign and national public and private commercial banks, commercial finance companies, financial corporations and official financial institutions. Recently it published its feedback on the recently enacted Law 1748/2014, which requires financial institutions to inform their customers and potential customers of the Total Unified Value (Valor Total Unificado or VTU) of their products (discussed in the second issue of Progreso). The law is intended to ensure that people know the total cost of products that they have or wish to take out, so that they can compare different financial services and product offering available on the market.

Aging and financial inclusion: an oportunity

The study focuses on Latin America, identifying the obstacles and difficulties currently facing the elderly when they try to gain access to formal financial services.

The research shows how the financial requirements of this age group differ from those of other demographic groups; essentially, they need money to cover basic necessities, such as food, shelter and health, rather than to enter into productive or entrepreneurial activities.

It also highlights how the elderly are often excluded from the formal financial system because of their age, the instability of their incomes, etc, obliging them to seek alternative sources of finance.

Consequently, in order to promote their financial inclusion, the study proposes five priority actions to be pursued by governments and providers of financial and social services:

Improve data on income sources and financial services used by older people.
Support the goal of universal pension coverage by integrating social pensions, our savings, and

improve compatibility with other income strategies.
Make credit more accessible: eliminate age caps and offer emergency loans.
Deepen existing financial products used by older people and design new ones.
Financial education and consumer protection.

What happens to clients who default?

This study was carried out between 2013 and 2014 and published in February 2015 by the “Smart Campaign”, an international consumer protection group that monitors the culture and practices of the microfinance sector.

The aim of the research was to analyse possible situations that a customer unable to repay a debt may have to face. It sets out to investigate the treatment that borrowers in arrears receive from microcredit institutions. To do so, it studied three countries with radically different legislation, supervisors and socio-economic and cultural characteristics: Peru, India and Uganda.

The study shows that the quality of the treatment such customers receive largely depends on the practices in each financial institution. It measures the human approach in terms of key recommendations: “*Do not shame or humiliate people. Talk to them privately and with respect. Do not deprive them of their basic survival needs or tools of work*”. It points out that where there is good regulation, efficient supervisory bodies and credit bureaux, and a culture of respect towards debt repayment, the collection systems tends to be more humane.

This is a significant comparative analysis, which comes up with important recommendations on how customers can be protected, in order to improve collection practices for performing and non-performing loans.

Code of corporate governance in line with international practices

The Japanese Code of Good Governance is part of the Japanese Revitalisation Strategy. It began with a committee of experts in August 2014, tasked with drawing up a code of corporate governance for the country based on OECD principles. It is applicable to all companies trading on the primary Japanese market.

The Tokyo Securities Exchange and the Financial Services Agency both sat on the committee and worked together to prepare the final draft of Japan’s first such code. It was finally published on 5th March 2015.

The fundamental objectives of the code are:

Generate systems of corporate governance oriented towards the growth of its companies,

encouraging them to act in a transparent fashion, complying with their accountability obligations stemming from their responsibility towards shareholders and other stake holders.
Support companies' sustainable growth and increase their medium-term and long-term value.
Stimulate an environment propitious to business initiative in which the powers of the companies' administration and management bodies are reinforced.
Encourage medium-term and long-term investment.

The code contains *5 general principles* (protection of rights and equitable treatment of all shareholders, cooperation with stakeholders, publication and transparency of information, powers of the board of directors and engagement with shareholders), which are enforced through the supplementary principles that follow. Their application will depend on the individual status of each institution.

Both the Japanese code and the code published by the CNMV in Spain in February this year, are non-binding. They have several other aspects in common:

Comply or explain principle: if the institution does not comply with its principles it must explain why in its annual report on corporate governance or equivalent.
Protection of shareholders' rights and equitative treatment, with special emphasis on minority shareholders: right to attend and participate in general meetings, right to information, right to require inclusion of their items on the agenda, etc.
Encouragement of engagement with shareholders: defining and promoting public communication policies and contact with shareholders.
Transparency of information: dissemination and disclosure of financial and non-financial information on the corporate websites (corporate strategy, guidelines of corporate governance guidelines, policy for appointments and remuneration of directors and senior management, etc). This disclosure must be timely and easy for shareholders to access.
Board powers: approval of the corporate strategy, fostering an appropriate environment for reasonable risk taking, effective supervision of the management and senior management, ratio of independent directors (in Spain the minimum number is 2 independent directors, whereas in Japan it is one), training for directors, management of conflicts of interest, supervision of procedures for appointing and remunerating directors and senior management, establishment of efficacious systems of risk management and internal control, etc. The final aim of all these powers is to enable the board better to promote the corporate interest.
Diversity in the composition of the board, and active engagement of female directors.
Constitution of board committees (for appointment and remuneration matters), comprising independent directors.
Promotion of sustainability, social inclusion and protection of the environment, as part of the institution's social corporate responsibility.
The code also regulates new areas such as the possibilities of online voting at general meetings, the inclusion of measures to prevent hostile takeovers and the protection of stakeholders' specific interests (creditors, employees, customers, trading partners, etc) by establishing channels for whistleblowers, and the publication and periodic review of a code of conduct for employees.

The document, along with Japan's Stewardship Code, (published by the Japanese Financial Services Agency in February 2014 and setting out the principles of responsible institutional investment) is intended to achieve an effective system of corporate governance in Japanese companies, bringing them into line with best practices elsewhere in the world. It is expected to come into force on 1st June 2015.

Content of websites for publicly traded companies

In March 2015 the CNMV published its draft circular on instruments of reporting and disclosure of relevant events for public consultation. This deals with the technical and legal specifications of the information and the information that listed companies and savings banks issuing securities listed for trading on official markets must disclose on their corporate websites.

The draft is intended to amend existing requirements on minimum content in line with the new obligations imposed under Order ECC/461/2013, 20th March, and Law 31/2014, 3rd December, amending the Corporate Enterprises Act, in order to improve corporate governance, and also unify the standards in one single set of regulations so that the entities subject to them would have one single point of reference for compliance.

The document comprises seven standards and two appendices. The first three standards are introductory. Apart from stating the purpose of the circular and its scope of application, it highlights information transparency as its guiding principle. Thus, all information to be posted to the corporate websites must be clear, complete, correct and true. The rest of the standards are included in a single chapter, which defines the minimum content that must be included:

Technical and legal specifications: the website with its own domain name, registered on the internet, must be written in Spanish. It must have clear, meaningful titles and be expressed in language suitable for the average investor, avoiding the use of technical jargon and acronyms insofar as possible. The site must be set up for easy browsing, with suitably structured content, arranged for drill-down search, downloadable and printable. It must be easily and quickly accessible for direct use, free of charge.
Online connections to public registries: it should be possible to offer information through links to the CNMV's website, to the Companies Registry or other public registries, so that shareholders and investors can compare information and access supplementary or more recent data.
Responsibility for websites content: the administrators (listed companies) or the director general (savings banks) will be responsible for keeping the information up to date and coordinating it.
Content of websites of foreign companies listed on Spanish markets: these companies must bring their websites into line with the provisions of the circular, while also taking into account the specific regulation of the country of origin.

Appendices I and II specify the information that must be included in the websites of listed companies and savings banks, respectively.

Information content. There are three main categories of information:
General information on the institution: sources of communication, shares and share capital, dividends, issues, public offerings, relevant event filings, bylaws, remuneration, equity units, etc.
Financial and business information: periodic public reporting, audit reports, annual audited accounts, management report, annual report with notes to the accounts, rating, etc.
Corporate governance information: General Meeting regulations and regulations of the other governing bodies, shareholders' right to information, call to meeting and agenda of the General Meeting, requests for information, call for proxy, board of directors, annual report on corporate governance, directors' remuneration, board committees, internal code of conduct, online shareholders forum, etc.
Disclosure deadlines: the time institutions have to incorporate or update the mandatory information on their websites;
Permanence and maintenance: how long the information must remain available on the website.

The institutions subject to this circular may voluntarily include any other information that may not have been covered in the circular. They must adapt the content of their websites with effect as of 1st January 2016.

Transparency and independence of the Audit function

This bill aims to update Spanish regulation on the auditing of accounts and implement the set of standards and principles established in the European Parliament and European Council's Directive 2014/56/UE, 16th April 2014, and its subsequent implementing regulations. Its main objective is to increase transparency in the activities of auditors and encourage greater trust in the financial and business information that they provide to the markets.

In line with best international practices in corporate governance, the bill tries to guarantee the ability of auditors to carry out an independent and objective audit. It thus establishes that financial auditors may not be engaged for less than three years, but nor may they be kept on for more than nine. If a company wishes to extend the engagement for longer, they will have to hire another audit firm to perform a joint audit. Likewise, once engaged, the audit firm's contract may only be revoked when due grounds can be proven.

The requirements regarding the content of the audit have been tightened up significantly. The audited company must provide more thorough information to the auditors, the investors, stakeholders, shareholders and regulators.

In order to ensure auditors can be more objective and avoid possible conflict of interest, the bill includes significant limits on the fees that audit firms may charge. It includes an obligation to report these fees to the Spanish accounting supervisor each year (*Instituto de Contabilidad y Auditoría de Cuentas*). Moreover, for twelve months after the audit has been signed off, the partners who carried it out may not join the board or the senior management of the company they have audited, or indeed any other institutions where these companies have a controlling interest.

The bill devotes an entire section to the auditing of accounts for entities dubbed of "public interest" (listed companies, insurance companies and financial institutions), which are considered vital to the efficient functioning of domestic and international markets. It lays down more demanding requirements for their audits with respect to the terms of engagement, the turnover of firms, and the itemisation of their fees, as well as the internal organisation of the audit itself and the methodology applicable to it.

Corporate governance for

insurance and surety institutions

On 4th April 2015 the Insurance & Surety Institutions Law, enacted in April 2013 on the initiative of Mexico's National Insurance & Sureties Commission [Comisión Nacional de Seguros y Fianzas (CNSF)], came into force, with the aim of reinforcing insurance and sureties legislation with respect to their solvency, stability and security, in line with international standards and best practices.

One of the most interesting points of this law is the provision for those institutions wishing to determine their own solvency-capital requirements according to their risk exposure, which they then submit to the CNSF for the corresponding authorisation.

To achieve its purposes, the Law introduces some mechanisms to bolster corporate governance structures. Specifically, the third section "On institutions' organisation and corporate governance" states that companies must have an efficient corporate governance system that ensures their activity is managed on a robust and sensible basis, with the Board of Directors taking responsibility for introducing and tracking oversight systems. Any scheme used must be organised in a transparent and appropriate manner, with a clear division of roles, as well as effective mechanisms to guarantee timely information transfer.

The policies and procedures implemented by companies for their corporate governance must bear in mind the following factors, among others:

Their integrated risk management system will be handled by a specific company department and will manage information policies, strategies, processes and procedures necessary for measuring, controlling, mitigating and supervising the risks to which the firm may be exposed.
The internal control function will, at least, design, implement and update measures and controls that assist compliance with the internal and external standards applicable to the institution.
The internal audit function will be carried out by a specific area of the firm, and will periodically check that the policies and norms laid down by the board of directors are being appropriately implemented, as well as verify that the internal control system is operating correctly.
The audit committee, which is a mandatory board committee and a consultative body for the board, will be in charge both of overseeing compliance with internal regulations and with the legal and administrative provisions that apply. It will be chaired by an independent board member and will consist of between three and five members.

The document also regulates other areas worth noting, in particular those relative to company boards: their responsibilities, composition and roles; how board members are appointed; powers that may not be delegated; intrinsic incompatibilities with the role of board member; definition of related parties; the duty to avoid situations which create conflicts of interest; the definition of the independent board member as someone who, as well as being removed from the firm's executive management, has had at least five years of proven high-level decision-making experience, etc.

For these reasons, the introduction of the law has posed major challenges for insurance and sureties institutions. They have had two years since it was enacted to change their business management methods, renew their organisational culture and apply the changes at all levels, reforming their corporate governance systems, as well as adapting to and complying with the new requirements on solvency and reporting.

Code of good governance for publicly traded companies

On 18th February 2015 the board of the CNMV adopted the new code of good governance for publicly traded companies, replacing the 2006 Unified Code that was updated in 2013.

The new code of good governance covers three core objectives:

Oversee the correct functioning of the systems for governance and administration of Spanish companies in order to enhance their competitiveness.
Protect the interests of shareholders and investors, generating confidence and fostering transparency regarding the companies' activities.
Improve control over the companies' internal bodies and encourage corporate social responsibility policies.

The code comprises 64 recommendations. Although these are not binding and compliance is voluntary, there has been a change against the 2006 code, such that it is now mandatory for all listed companies to report under the *comply or explain* principle. This means that their annual corporate governance report must describe their degree of compliance with the recommendations; and where they do not follow them, they must provide a reasoned explanation for this decision. This gives shareholders a benchmark against which to assess the company's performance in corporate governance.

Section II of the code identifies the 25 core principles underlying the following detailed recommendations.

These recommendations, gathered in Section III, bring in significant new concepts:

With respect to more general aspects, the code recommends that the chairman of the Board reports to the General Meeting on the most significant changes in corporate governance since the previous General Meeting, and if applicable, the reasons why any of the recommendations in the code have not been implemented. The board is also expected to define and promote a suitable communication policy with shareholders and investors.
With respect to the General Meeting of shareholders, the code recommends they be able to use the company website as a critical instrument for fostering transparency of information.
With respect to the responsibility of the board of directors, the code establishes that its activity should be predicated on the pursuit of the corporation's interests. These are defined more broadly than as merely the interests of the company's shareholders. They include running a profitable business that is sustainable in the long term, which fosters the increase in the company's monetary value, in line with the interests of its local communities and respecting the environment.
With respect to the board's structure and composition, the code recommends the inclusion of specific policies and targets to boost the ratio of female to male directors. It also deals with the composition and operation of the board committees, adding specifications regarding their specialisation and their missions.
Boards of companies adopting the best practices in the code will confer powers on a board committee (which may be a committee focusing exclusively on corporate governance in the case of the larger corporations), to oversee compliance with corporate social responsibility and good governance policies.

The CNMV's adoption of this code reflects widespread interest in improving corporate governance practices throughout Spain over the last few years. The process of strengthening the regulatory framework began in 2013 with the creation of a committee of experts on corporate governance. The

following year it continued with the enactment of Law 10/2014 on the organisation, oversight and solvency of financial institutions, and Law 31/2014 amending the Corporate Enterprises Act in order to enhance corporate governance. This set of measures places Spain at the international forefront of best practices in the promotion and defence of good governance in its companies.

Corporate governance for Spanish financial institutions

This Royal Decree provides the implementing regulations for Law 10/2014, 26th June, on the organisation, supervision and solvency of credit institutions, whose key specifications were discussed in the first issue of *Progreso*.

On this occasion, we wish to highlight what is new in the implementing regulations of this law and their significance for corporate governance. The obligations relating to corporate governance and remuneration policy are in Chapter IV (Title I). The Royal Decree develops regulation on the following aspects:

Firstly, obligations regarding disclosure. Financial institutions are obliged to post comprehensive, clear and understandable information on their corporate governance and the remuneration policies for their board members to their website. They must reflect the total remuneration vesting, with itemisation of each director's remuneration, so that it is clear what is being paid for, and must include remuneration for sitting on the boards of other companies, etc.

The board of directors will be obliged to keep such information up to date. The aim here is to foster transparency and help shareholders exercise greater control over the activities of the directors and senior managers.

The decree also gives more details on the duties of the board committees of financial institutions, introduced under Law 10/2014 (Appointments Committee, Remunerations Committee and the Risks Committee):

The Appointments Committee is tasked with the periodic inspection and assessment of the Board's structure, composition and conduct and the suitability of its members.
One of the most significant items included in this mission is the committee's obligation to oversee the policies to boost the number of persons of the gender under-represented on the board of directors, in order to promote equality among male and female directors and senior managers. This obligation is in line with Recommendation 14 of the Spanish security exchange commission's Code of good governance, in which the Spanish securities exchange commission (Comisión Nacional del Mercado de Vlores, CNMV) describes the necessary structure and composition of the board of directors.
The decree pays special attention to risk management. It requires the chair of the risks management committee to be an independent director with no executive or management duties in the institution's business areas. The chairmanship cannot be revoked without a prior resolution from the board of directors, in order to preserve its freedom of action and independence.
The Law 10/2014 establishes that the Bank of Spain will determine which institutions must set up a board committee to oversee risks, depending on their size, internal organisation and the nature and complexity of their activities. However the powers established for the committee in this Royal Decree highlight the importance of boards being able to count on its services to advise them on the ins

New Country Code

In our first issue of *Progreso* (November 2014) we reported on the publication by Colombia's financial supervisor of External Circular 028/2014 adopting the New Country Code, and we gave a brief overview of its contents, which covered the implementation of best corporate governance practices.

In this issue we have taken a closer look at the guidelines issued by the Superintendencia Financiera de Colombia, and have focussed on the most important areas:

The notice required to convene shareholders to General Meetings has been extended from two weeks to a month in the case of annual meetings, and from five to fifteen days for extraordinary general meetings.
Guidelines have been introduced on the provision of information with sufficient notice to enable proper decision taking, and on the use of electronic channels for supplying information (preliminary information about the candidates for the Board of Directors, important operations, boardroom pay, succession policies, etc).
There are recommendations about allocating key roles to the organs of governance, and it gives more detail about the ones applying, the Chair and Secretary of the Board or senior management body.

In order to support respect for the rights and fair treatment of shareholders, the code stresses the importance of acknowledging the potential influence that shareholders can have on the company through their participation in and voting at the general meeting; their right to receive and ask for information both from the publicly traded firm and from its holding company; and to share in the company's profits. To this end, the company must make full information available in a timely manner, as well as promoting participation and access to information online.

In terms of the members of the boards or governing bodies, the code sets out measures designed to achieve the following: i) that these should have an appropriate composition, both in the number and profile of their members; ii) that rules should be set in order to ensure transparency when members are being selected, and iii) that resources for the responsible and efficient use of its functions should be optimised.

In the area of *Control Architecture*, the new measures seek to improve the benchmarking of performance against companies' strategic goals, as well as increasing their capacity to identify scope and manage risks appropriately and robustly.

Finally, turning to *Financial and non-financial transparency and information*, the measures seek to enable investors and stakeholders to gain an appropriate level of knowledge about the Issuer's situation and outlook.

The adoption of the Country Code means that publicly traded Colombian Issuers have aligned their good corporate governance systems with the international requirements of institutions such as the World Bank and the Organisation for Economic Cooperation and Development (OECD). It is further proof of how information disclosure is the cornerstone for building a fit-for-purpose model of governance for these firms

Employing credit information

The Constitutional Court, pursuant to the new Personal Data Protection Law, and in the area of credit information, positive information and information of a personal nature to be included in the data banks of Private Risk Information Registries (Centrales Privadas de Información de Riesgos or CEPIRS), has established the following criteria:

On the credit information to be included in Private Risk Information Registries data banks:
The Constitutional Court has ruled that it is legitimate and in accordance with freedom of contract rights that there should be a continuous flow of credit risk information in the market, since this is the only way to build up confidence in the financial system .
When credit institutions have a credit history for their customers they can conduct a more thorough credit assessment, and in this way have a sounder basis for deciding whether to originate a loan or not. This will have a direct repercussion on the society's economy.
On Private Risk Information Registries and positive information:
Private Risk Information Registries are mandated to store information about both non-performing and performing loans. Their aim is not only to identify persons who do not represent a fair credit risk, but also to establish how much can be lent, and for how long, to those who have taken out a loan in the financial system in the past.
On storing personal information in CEPIRS:
The Constitutional Court notes that personal information, such as home addresses, telephone numbers, employment information, etc, does not include details of the borrower's track record in the financial system. Such data may only be gathered for a "particular, explicit and legitimate purpose"; and the express consent of the borrower will be required for this information to be used commercially. As a result, the Supreme Court has ruled that the CEPIRS's use of this personal information exceeds their powers and does not meet the purpose for which they were set up, which is to process data about creditworthiness and loans.

Financial inclusion: standards for overcoming geographical obstacles

This bill amends the "Regulation of the opening, conversion, transfer or closure of branches, use of shared premises, ATMs and correspondent cashiers", enacted by the Peruvian Banking, Insurance & Pension Fund Supervisor, the *Superintendencia de Banca, Seguros y Administradoras Privadas de Fondos de Pensiones*, on 18th October 2013.

The purpose of this modification is to extend the existing supplementary channels for servicing the public, as well as to fine-tune the regulation referred to above. The main features introduced in the draft are as follows:

The Correspondent Cashier was already covered in the previous Regulation, which defined this as: service points in fixed or mobile establishments which operate through an intermediary representing the companies comprising the country's financial system and electronic money institutions (EMIs). The draft regulation requires these companies to keep an up-to-date register of intermediary operators and correspondent cashiers with which they work. Similarly, they will be required to publish

this information on their website, so that customers can see it.
The most interesting development is the creation of “establishments for basic transactions (EBT)”. These establishments may conduct the same transactions for which correspondent cashiers are authorised, but they will be operated directly by companies in the financial system or by EMIs. Cutting out intermediaries will mean a more straightforward and efficient financial service for their customers

The country’s geographical features, as well as the wide dispersal of its inhabitants, represent a major challenge for financial institutions which pretend to provide an appropriate and efficient service to the entire population.

That is why extending these supplementary financial channels for servicing consumers encourages access and financial inclusion for all customers who live far from the major population centres; in many cases they are the only way that these groups can have access to formal financial transactions.

AML legislation

This law was approved on 27th April 2015 by the Economy & Finance Commission of Panama’s National Assembly It amends Law 42/2000, 2nd October, establishing Anti-Money Laundering (AML) measures.

Its aim is to adopt due measures to identify, assess and understand the risks and consequence of money laundering, and to establish appropriate controls to mitigate it, in order to protect the integrity of the country’s financial system and other sectors.

The law is divided into 12 sections. It classifies the main players in the nationwide AML coordination system: i) the high-level presidential commission, ii) the financial analysis unit (UAF in its Spanish acronym), iii) the supervisory bodies and iv) persons and entities subject to its regulation. It establishes their powers and competences, the mechanisms for preventing and controlling the risk (adequate identification and monitoring of customers’ businesses), and the criteria for imposing sanctions.

One of the main issues in this AML law is the introduction of a broader range of coverage. It defines 31 “entities subject to the regulation”, including lawyers, accountants, auditors, casinos, traders in precious stones and metals, foundations and non-profit associations.

Being subject to the regulation obliges professionals to report to the UAF any cash transactions over a certain threshold (10,000 Balboas), and to inform the unit of suspicious transactions or operations, regardless of their amount, that cannot be justified or where the control mechanisms can be shown to have failed.

The bill includes mechanisms to freeze the assets of persons or entities linked to money laundering or terrorism. A preventive freeze can be imposed by virtue of a notification sent out by the UAF. The entities subject to the regulation may not unfreeze their assets or goods unless a court ruling authorises them to do so.

The bill’s sanction regulations seem rather more controversial. It establishes that 20% of the total sanction should be earmarked for the staff working in the financial analysis unit (UAF). It is not clear that such a high percentage is necessary to encourage their productivity. Indeed, it could be counterproductive in practice and encourage UAF employees to abuse the powers of sanction they are attributed by law.

But for all its shortcomings, the bill would reinforce the Panamanian system for the prevention of money laundering and the financing of terrorism. It would create an effective legal framework in line with the highest international standards for avoiding such criminal activities...

Financial inclusion: electronic payment and deposit companies (SEDPEs)

The Ministry of Finance & Public Credit has published a draft of the decree with which they wish to regulate companies specialising in electronic payment and deposits, (SEDPEs, Sociedades Especializadas en Depósitos y Pagos Electrónicos).

Since electronic deposit is a financial product created to foster financial inclusion of low-income brackets in Colombia, encouraging people to save small amounts and giving them access to easy-to-use transactional mechanisms, this bill aims to establish two ways to open online deposit accounts:

Streamlined arrangements for individuals to open a deposit: Easy requirements to open a deposit account attract the kind of people who do not yet have formal financial products. Now they simply have to comply with the minimum requirements (name and other data from their identity document) in order to open an account online without having to carry any cash to a bricks-and-mortar branch office. To avoid this product being used for other purposes, the bill limits the maximum balances and number of movements for electronic deposits.
Ordinary opening arrangements: Although these are still intended for small savers, the bill increases the maximum amounts that can be agreed on, and requires that the Know Your Customer protocols that are currently applied for current savings accounts be followed.

The government considers it important to prevent online deposit providers (SEDPEs) from deviating from the basic purpose of providing this kind of service. However, it should review some of the provisions, which may not be appropriate for this specific kind of business.

The amounts collected should be capped, since the nature of these transactions involves moving considerable sums of money and the holders of the deposit accounts will be people whose activities involve significant movements of cash. The SEDPEs could be allowed to forward money against collection transactions, provided the limits on balances are respected; and also the monthly transactions carried out through the deposit accounts.

If such limits are not established or not maintained, a window could open up for the SEDPEs, which had been created to service a very specific niche (low-income customers) to let their operation slide into providing services that other entities already provide, but which are subject to stricter compliance standards and prudential regulation.

Colombian National Development Plan: All for a New Country

The Colombian government presented a bill to the Congress of the Republic that establishes the National Development Plan for 2014-2018 (PND). The plan is called Todos por un Nuevo País [All for a New Country] and allows the government to lay down the lines of strategy for the public policies proposed by the president of the Republic through his cabinet. The PND is the legal tool for monitoring delivery by the executive branch of the government on the nation's long-term targets and objectives, medium-term goals and priorities and the guidelines for economic, social and environmental policy that the government will adopt.

The PND 2014-2018 is based on three pillars of the government's economic policies:

Peace: The PND does not limit the proposed reforms on signing an agreement in Havana.
Fairness: The PND recognised that social inequality is the government's main concern, because of its significant impact on poverty and violence.
Education: The PND establishes that the development of human capital is a necessary condition for fostering economic growth, so an increase in the quality and coverage of the educational system has a vital part to play in reducing social inequalities.

The PND establishes five transversal strategies to mainstream these three policy pillars:

Strategic infrastructure and competitiveness, which is seen as essential to boost economic growth.
Social mobility, through increased quality and coverage of the educational and health systems.
Transformation of the countryside and green growth, trying to reduce the gap between rural and urban environments.
Consolidation of the welfare state in Colombia, and
Good governance, to consolidate a modern, more transparent, efficient and efficacious state.

The plan endeavours to impact the development of production in the country, especially in those sectors at the base of the income pyramid. This is where the microfinance industry and the government sector must play an active role in encouraging entrepreneurship in micro and small enterprises. The generation of opportunities in production must, necessarily, be accompanied by an increase in the supply of microcredit to facilitate the funding of productive business activities.

Financial education

At present, various groups in Colombia are making a significant effort to promote and disseminate basic financial knowledge among the general public. The initiatives have mainly been led by the entities comprising the financial system in the country, professional and consumer associations, and the public institutions overseeing and supervising the financial sector, as well as the self-regulation bodies.

With this bill, the Congress of the Republic is trying to ensure that financial education in Colombia will not only be targeted at customers already within the financial system, but at the general public as a whole. Thus, educational establishments will have the duty of teaching content on their academic curriculum that will allow their students to better understand issues, from the most elementary

aspects of their personal finance to how the financial system works in the economy as a whole. This represents a development of precepts that are contained in the constitution, establishing that people have a right to education as a public good serving a social function. The bill also develops provisions contained in the General Law on Education and in the Financial Consumer Protection Regulations.

In its initial version, the bill established that the most appropriate way to include financial training in the basic and midschool curriculum was to create a “financial chair”, making it a separate subject. Although this was not a controversial issue in the first stage of debate in the Senate, when the second debate began, the idea of the chair as a methodological tool was abandoned. On the basis of the Ministry of Education’s observations on the bill, it was decided that a more pragmatic methodology could be used to mainstream financial education over all areas of knowledge, especially in economics. This more transversal approach then shaped the mechanisms for disseminating the essential elements of financial education.

Thus, article 2 of the bill replaces the provision that set up a chair of economic and financial education, with a more general provision, which establishes that economic and financial education is obligatory in all official and private establishments offering formal education in Colombia.

The key importance of this initiative in the Congress of the Republic is how it generates mechanisms to make the public more aware of the importance of responsible financial management.

Social inclusion through enhanced access to finance

On 20th February 2015, the Senate in Puerto Rico enacted the *Ley de Acceso Financiero* para Todos, so that all residents in the State of Puerto Rico, regardless of whether they are immigrants or not, can have access to checking and savings accounts in banks, institutions and credit cooperatives.

This law aims to authorise and encourage Puerto-Rican financial institutions and cooperatives to provide financial services to immigrants, thereby contributing to their integration into society and their inclusion in its financial system.

Its sole requirement is that financial institutions verify the customer’s real identity, establishing the need to confirm a set of identification requirements: forename and surname, date of birth, current address and ID number.

It stipulates that all the banks, institutions and savings cooperatives may only refuse to open a deposit account in the following circumstances:

When there is evidence that the account may be used for illicit purposes.
When the customer has a record of illegal or fraudulent activity with financial service providers.
When the entity has proof that the customer has given false identity information.
When offering the corresponding service would negatively impact their business policies and procedures, such as the institution’s Know Your Customer Programme.

To protect the beneficiaries, and to ensure that access to financial services will never be harmful to them, the law prohibits the use of the financial institution’s data for the purpose of processing

deportation or other actions relating to immigration.

The economic and social situation of this group of people is enormously affected by their having left their country of origin, and the impossibility of accessing the formal financial market is one of the main causes of exclusion. This new measure represents an important step forward in including resident immigrants in the economic and social life of their communities in Puerto Rico.

Electronic money, broad access to financial services

On 1st April 2015, the Peruvian Ministry of Economy & Finance (MEF) enacted the Supreme Decree 079-2015-EF, amending Law 29985, which regulates the basic specifications of electronic money as an instrument for financial inclusion.

This Decree amends article 5.1 of Law 29985, which established the indispensable condition that electronic money accounts can only be opened by national or foreign natural persons. With this amendment, legal entities may also be account holders.

The fundamental aim of this decree is to make it easier for people with less access to formal financial services to trade with businesses using digital money, to help boost financial inclusion in the country.

Fondo MIPYME: Boosting investment

Law 30230, which establishes tax measures, simplification of procedures and permits to encourage and streamline investment in the country, created the fund for micro and small enterprises, Fondo MIPYME, in order to raise funds to underwrite and secure companies in the financial system or securities market, and to increase the productivity of MSMEs.

This Supreme Decree regulates the terms and conditions of the Fondo MIPYME trust, so that it can enhance the conditions of access to finance for MSMEs and make private investment in the Peruvian economy more dynamic.

It also regulates monies transferred to the fund, its oversight bodies, eligibility requirements for financial institutions that may sign agreements with it, and establishes the final beneficiaries.

Funding facilities for Mipymes through factoring and discounting

Law 30308 forms part of the National Plan for Productive Diversification approved by the government of Peru in July 2014. Its main aim is to improve financing conditions for micro, small and medium-sized enterprises (MSMEs) and increase their productivity.

Factoring is a funding instrument that recognises invoices as representing the monetary amount billed, so that they can be assigned and endorsed, empowering their holders to obtain liquidity through factoring companies or financial institutions.

This legislation aims to bring down the barriers preventing MSMEs from entering the market for factoring, encouraging competition between institutions offering such services. The SUNAT (*Superintendencia Nacional de Aduanas y de Administración Tributaria*) is placed in charge of overseeing compliance with the obligations set forth in the law.

SUNAT-authorised printing presses will have to issue a third copy of all commercial invoices, to make it easier for MSMEs to transfer them more simply and quickly to third parties in exchange for money. This will give them access to the financial system and to short-term liquidity without needing to borrow, and at more competitive discount rates

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Greater flexibility and access to finance for SMEs

Law 5/2015 was enacted in Spain on 27th April, with the intention of encouraging access to funding for SMEs. Issue 2 of Progreso already described the core points in the bill. It aims to give SMEs easier access to more flexible funding. Thus, the law regulates methods of non-bank funding, such as crowdfunding and crowdlending, so that direct investment can be raised over internet.

There are some aspects that the law brings in relating to crowd finance that are different from the bill originally put to parliament:

The Spanish securities exchange commission (CNMV) is established as the body charged with supervision, inspection and sanction of projects financed this way.
A minimum share capital of €60,000 is required to set up a crowdfunding platform. This must be fully paid up in cash.
The reporting requirements for such IT platforms are limited, so that they must only make the information available on their websites.

The limits for investment in projects financed through crowdfunding have been pushed back. The amounts that professional or registered investors may invest have increased from €2m to €5m. Limits for unregistered investors have increased from €6,000 to €10,000 for any one-year period.

Investing in projects through crowdfunding in Spain is still a relatively new activity. However, the latest precepts brought in by parliament represent a major step forward in giving SME’s easier access

to such finance.

The latest in specific regulation for microcredit

In the second issue of Progreso we referenced Act 9274, the Integral Reform of the Law on the Banking System for Development. On 9th March 2015, the Republic of Costa Rica enacted the Regulation to implement this law.

The main developments it introduces relating to the microcredit industry are:

It defines microcredit as credit requested by small farming producers, micro-firm operators or entrepreneurs, presenting production projects whose total financial requirements are not more than 40 minimum wages (approx. US$ 750).
It establishes that both the Fondo de Financiamiento para el Desarrollo and the Fondo de Crédito para el Desarrollo, must earmark at least 11% of their total loan-book to microcredit borrowers. This percentage must be increased by 5% a year until it reaches a minimum of 25% of such funds.
It indicates that the microcredit portfolio must be rated in line with the proportion of non-performing credits it contains. It also establishes that microcredit must be arranged, assessed, approved, disbursed and administered using a special credit methodology, different from that applicable to traditional business loans and credit facilities.

This Regulation recognises microcredit as a specific kind of credit which requires the public authorities to apply a specific set of rules more in line with the needs of the microfinance industry.

Mi Casa Ya: encouraging social housing

The 2015 Decree 0428 is a new governmental proposal providing incentives for the construction of social housing, within a programme called "*Mi Casa Ya*". In Colombia the term "social housing" is applied to housing development designed to safeguard the right to a home for those on the lowest incomes. It is defined as a living unit which meets quality standards in urban, architectural and building design, but which does not cost more than one hundred and thirty five minimum monthly legal wage packets – SMMLV (COP 86,987,250, or about US$ 34,540; in 2015, 1 SMMLV=COP 644,350).

The central government has set up a stand-alone trust fund to roll out the "*Mi Casa Ya*" programme, which will be managed by a company chosen by the government for this purpose. It will be responsible for administering the programme's resources, which will come from:

allocations from the National Budget earmarked for housing support programmes,
financial returns from the resources deposited in this trust fund, and

donations to the trust fund made by individuals or legal entities.

The programme provides for a state subsidy which will put down for the initial payment on the home. This will be granted to households whose income does not exceed a certain level.

Another financial advantage included in this programme is access to hedging of the interest rate granted through the FRECH Reserve Fund to stabilise the Mortgage Portfolio [1]. This system not only helps low-income households in Colombia, but also offers more secure conditions to financial institutions granting housing loans.

Notwithstanding the above, we should bear in mind the negative effects which a free-for-all in governmental subsidies might have. Some worry about economic dependence on the government on the part of the population at large, a culture of not paying, as well as asymmetries in information. This is particularly true when there are no accompanying instruments or policies in support of the creation of production units or jobs to enable households to sustain themselves.

[1] The FRECH Fund (Reserve Fund to stabilise the Mortgage Portfolio) is a fund expressly authorised in the 1999 Colombia Housing Law, Law 546. Its purpose is to provide interest rate hedgingspecifically in order to promote lending for social housing in urban areas, through loans to buy or lease housing. The hedge provided by the fund is a swap calculated against the interest rate agreed for new housing loans or leasing contracts originated by the credit institutions. It is available to borrowers meeting certain conditions required by law. The hedge will only be applicable in the first 7 years of the loan, counting from its disbursement, or from the date on which the housing lease starts. The FRECH Fund is administered by the Banco de la República.

Banking correspondents and Financial Inclusion

One of the mechanisms to encourage financial inclusion among low-income sectors of the population, which has been rolled out in several Latin-American countries, is the networking of credit institution correspondents. Thus, the “Correspondent Banking and Financial Inclusion: Business models in Latin America” study, prepared together with the Multilateral Investment Fund (MIF), member of the Inter-American Development Bank (IDB) Group, and the CAF-Development Bank of Latin America, has reported that banking correspondents are one of the key tools being used by the financial sector to set up channels to connect with people and provide services which offer inclusive financial solutions.

The research analysed the development of correspondent networks in Brazil, Mexico, Colombia, Guatemala, Peru, Ecuador and Chile, and found that banking intermediaries in these countries have created an extensive network of correspondents, which has made a significant contribution to increasing the banking footprint in places where it would otherwise not have one.

The study points to issues that as yet are still unresolved: the enlargement of the banking correspondents’ network has been executed more as a response to the requirements of traditional banking, than as a solution for excluded markets. Nevertheless, the study highlights the enormous potential of this type of channel for financial inclusion.

In the case of Colombia, banks have been using correspondents to offer certain financial services since 2006. Since then, additional institutions have broadened the ranks of those authorised to operate as banking correspondents; insurance companies are also now allowed to sell their products and services through the correspondent channel.

Fight against money laundering

On 18th February, Law 20818 came into force, fine-tuning the mechanisms for preventing, detecting, monitoring, investigating and bringing to court the crime of money laundering. It brings in significant changes to Law 19913, which created the Financial Analysis Unit (UAF) in 2003, and which had not been updated since 2006.

This law not only increases the state's power to prevent and impede money laundering in the Chilean financial system, but also develops rules to combat the financing of terrorism.

The main innovations in the text of the law are as follows:

An increase in the number of individuals required to report to the UAF activities or transactions which they come across in the exercise of their working activity, and which have the potential to be money laundering. Security exchanges and product exchanges are included in the scope of the legislation, as well as any other exchange that might be subject to oversight from the Securities & Insurance Authority in the future. Likewise, professional sports organisations will be required to report to the UAF, as will savings and loan cooperatives, local offices of foreign banks and safe deposit companies.
It reduces the threshold on suspicious cash transactions which regulated private institutions must report to the UAF. The threshold of 450 Unidades de Fomento has been reduced to USD 10,000, or the equivalent in other currencies.
To combat the financing of terrorism, the assets of people on the United Nations Security Council lists may be frozen and confiscated. These measures will have to be ratified by the Justice Minister, within 30 days, which may be extended by means of a reasoned ruling handed down by the Justice Minister or by the pertinent court.
It adds to the list of crimes that form the basis of, or proceed from, money laundering: contraband, crimes against intellectual property, fraud and other deceptions, illicit association, tax crime for improper return of tax credits, selling pornographic material and bribery of a foreign public-sector employee.

These additions reinforce the Chilean system in the area of prevention, inspection and penalising of money laundering and the financing of terrorism. They also bring the country's legislation into line with the highest international standards in this area.

Encouraging productive business and social housing

On 23rd January 2015, the Ministry for the Economy and Public Finances published its Ministerial Resolution 031, which, by virtue of article 66 of the Financial Services law, sets out the targets which must be met by commercial banks, small and medium- sized enterprises (SME) banks and savings and loan institutions, for loan origination in the production sector and for social housing.

The regulation develops the formula which each financial intermediary will have to use when adjusting its loan book to the goals laid down in the Financial Services Law. Commercial banks will

have to allocate at least 60% of their credit portfolio to the production and social housing sectors, with this minimum threshold being set at 50% in the case of SME banks and home financing institutions.

Non-compliance with these targets will be penalised in line with the Financial Oversight Authority (Asfi) rules, with this body being mandated to suspend certain operations, in order to ensure compliance with these credit ratios.

These credit portfolio targets have been designed in line with Bolivia's Financial Services Law, which requires the portfolio to give priority to the allocation of funds for social housing and the production sector, principally for micro, small and medium-sized companies, artisans and community economic organisations whether in the urban or rural environment.

Reaching these credit ratios will have a major impact on Bolivia's financial system, since the financial institutions that have allocated their loan book to micro-credit will be forced to change their lending strategy and concentrate on originating credit not only to the production sector, but also to social housing.

Access to credit: non-conventional collateral

This Circular was issued by the Financial System Authority (Asfi) on 6th March 2015, in order to establish the criteria and requirements to be taken into consideration when a borrower is providing guarantees to secure their application for a loan.

The regulation establishes which non-conventional collateral are acceptable to finance production activities, as well as the criteria which should be applied when assessing them:

Guarantee Fund;
Agricultural insurance;
Documents proving ownership of real property;
Assets not covered by the property register;
Contract or binding document of future sale;
Guarantees or certifications from community institutions or local organisations;
Product stock;
Livestock;
Intellectual property patent.

This list of collateral notwithstanding, the Regulation considers the borrower's capacity to pay is the crucial factor in originating a loan. For the financial institution such security will only be of secondary importance.

One of the principal innovations in this regulation is the security relating to the "creations of the human mind" (intellectual property patent). This means that a borrower's invention, literary or artistic work, symbol, etc, can serve as a guarantee when accessing credit, provided that it is registered in the National Property Service (Senapi).

Corporate Governance: the challenge facing the microfinance industry

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Many Colombian companies have been rolling out changes to their corporate governance systems since External Circular 024/2014 came into force. This legislation was enacted by the Colombian financial supervisor and discussed in the first issue of "*Progreso*". In this editorial we want to highlight the importance for any organisation, and very particularly for the microfinance industry, of optimising the operations of such systems by adopting the principles of good corporate governance.

With this circular, the Colombian government has demonstrated its interest in bringing Colombian business into line with worldwide best practices, as employers serve as opinion leaders in the take-up of values. It also highlights the importance of transparency in its most active form: the timely, comprehensive disclosure of key information for investors.

This point is something worth focussing on. For information disclosure has traditionally been perceived as a duty, arising from best governance practices that were perceived as external to the companies and in some cases only there to help the investors in their decision taking. The importance disclosure has in generating value for the company has not really been much appreciated.

The structuring or adjustment of a good governance system should thus also focus on ensuring that the best principles, measures and recommendations are mainstreamed into all the different instances where decisions are made, and not only its decision-making organs.

It is easier to identify how this might be done if we consider two specific issues:

1. The operation of the company's decision-making bodies

Several measures contained in the Circular focus on guaranteeing that shareholders and directors (board members) receive comprehensive, accurate information with enough time prior to their meetings to be able to evaluate it in depth, to gain a critical, strategic understanding of matters about which they should be aware and, in many cases, make decisions.

In the same way, it makes sense for companies' internal committees, responsible for generating information for the governing bodies, to be subject to the same measures for their meetings: sufficient advance notice, an agenda defined beforehand, with all members receiving comprehensive information in good time. At committee level, the one member/one vote rule should be followed, and

the key aspects of all decisions should be duly minuted. The same rules regarding disclosure, risk mitigation, traceability of decisions and monitoring of their implementations should also apply.

2. Diversity

The Circular lays down measures to encourage the creation of collegiate governing bodies, bringing together people with different academic backgrounds and different professional profiles in such a way as to guarantee a balance of experience and expertise and ensure the independence of their decision making. Thus these bodies are able to take a multidisciplinary approach to their business, understanding the environment in which each company operates, while being aware of the applicable regulations governing it and having genuine insight into the markets in which they work.

The same rules ought to be adopted for all internal committees at whatever level, whether their purpose is to formulate proposals or simply to make recommendations that are taken up at a higher level.

Finally we must not omit the crucial role which company directors play in rolling out a system of good corporate governance.

The directors must oversee the implementation of good governance principles and measures. They are responsible for ensuring the incorporation of these principles into everything done in the company and for establishing an unwavering commitment to them throughout the corporate culture. This undoubtedly requires their commitment, time and effort in the appropriate performance of their duties: reviewing and analysing the reports submitted to them, active participation with decisive input on the committees supporting the board, defining policies and structures, and formulating strategic plans, among others.

Furthermore, directors are required to stand accountable before the shareholders that have appointed them to control and direct the management of their organisations, all this without forgetting the remaining stakeholders.

In conclusion, the greatest challenge in establishing and strengthening good corporate governance in any enterprise, and especially in microfinance institutions, is in implementing and complying with recommended best practices at all levels of the organisation, as well as the transparent articulation of the duties, functions and roles of all those participating in the governance system.