

MicroEnterprise and the Law

The Increasing Risks of Flying Under the Radar

The Radar



- MFIs and their clients navigate a space somewhere between the ground (nonexistence) and the radar scan (regulation).
- This is untenable in the long run because these types of activities are traditionally regulated.

Scope

Two Types of Radar

Traditional
Banking Law

Traditional
Business Law

Two Approaches

Government
Overlook

Government
Oversight

Scope

Two Approaches

Government
Overlook

Government
Oversight

Government Overlook

What Benefits to
Government Overlook?

- Flexibility
- Adaptability
- Innovation
- Freedom From



Government
Overlook

Government Overlook

What Drawbacks to
Government Overlook?

Risk!



Government
Overlook

Government Overlook

What Drawbacks to
Government Overlook?

- Illegitimacy
- No Legal Redress
- Loan Sharking



Government
Overlook

Scope

Two Approaches



Government Oversight



Government
Oversight

What Benefits to
Government Oversight?

- Accountability
- Control
- Freedom To
(Empowerment)
- Inclusion

Government Oversight

Government
Oversight

What Drawbacks to
Government Oversight?

- Decreased Flexibility
- Regulation Costs
- Political Challenge
- Corruption

Hazardous Navigation

Balancing Risk and Flexibility

Traditional Radar Space



Ground (Hard)

Scope

Two Types of Radar

Traditional
Banking Law

Traditional
Business Law

Banking Law

Three Primary Purposes of Banking Law

- Protect Deposits
- Protect Debtors
- Protect Economy

Banking Law

Capital/Lending Requirements

Reporting and Inspection

Consumer Credit Protection

Ownership & Operation

Tax Treatment

Scope

Two Types of Radar

Traditional
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Traditional
Business Law

Business Law

Primary Purpose of Business Law

- Balance Liability and Accountability

Business Law

Entity Status

Limited Liability

Rules of the Road

Licensing

Legal Enforceability

Tax Treatment

Safe Navigation

Balancing Risk and Flexibility

Traditional Radar Space

New Safe Space



Ground (Hard)

Special Needs of Microbanking

- Higher ratio of transactions/dollar
- Entirely unsecured portfolios
- Loan management methodology
- Nonprofit nature

Banking Law

Capital/Lending Requirements	Adapted
Reporting and Inspection	Simplified
Consumer Credit Protection	Preserved
Ownership & Operation	Adapted
Tax Treatment	Preferential

Special Needs of Microenterprise

- Higher ratio of transactions/dollar
- Higher exposure to risk
- Unsophisticated entrepreneurs

Business Law

Entity Status	Preserved
Limited Liability	Preserved
Rules of the Road	Simplified
Licensing	Nondiscretionary
Legal Enforceability	Available
Tax Treatment	Preferential

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