LAW MAKING AND FINANCIAL INCLUSION:
NATIONAL STRATEGIES FOLLOWING INTERNATIONAL STANDARDS

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Financial inclusion means that individuals and businesses have access to useful and affordable financial products and services that meet their needs – transactions, payments, savings, credit and insurance – delivered in a responsible and sustainable way.
G20 High-Level Principles for Digital Financial Inclusion

• **PRINCIPLE 1: Promote a Digital Approach to Financial Inclusion**
  Promote digital financial services as a priority to drive development of inclusive financial systems, including through coordinated, monitored, and evaluated national strategies and action plans.

• **PRINCIPLE 2: Balance Innovation and Risk to Achieve Digital Financial Inclusion**
  Balance promoting innovation to achieve digital financial inclusion with identifying, assessing, monitoring and managing new risks.

[https://www.gpfi.org/publications/g20-high-level-principles-digital-financial-inclusion]
G20 High-Level Principles for Digital Financial Inclusion

- PRINCIPLE 3: Provide an Enabling and Proportionate Legal and Regulatory Framework for Digital Financial Inclusion

Provide an enabling and proportionate legal and regulatory framework for digital financial inclusion, taking into account relevant G20 and international standard setting body standards and guidance.

- PRINCIPLE 4: Expand the Digital Financial Services Infrastructure Ecosystem

Expand the digital financial services ecosystem—including financial and information and communications technology infrastructure—for the safe, reliable and low-cost provision of digital financial services to all relevant geographical areas, especially underserved rural areas.
G20 High-Level Principles for Digital Financial Inclusion

• PRINCIPLE 5: Establish Responsible Digital Financial Practices to Protect Consumers

Establish a comprehensive approach to consumer and data protection that focuses on issues of specific relevance to digital financial services.

• PRINCIPLE 6: Strengthen Digital and Financial Literacy and Awareness

Support and evaluate programs that enhance digital and financial literacy in light of the unique characteristics, advantages, and risks of digital financial services and channels.
G20 High-Level Principles for Digital Financial Inclusion

• **PRINCIPLE 7: Facilitate Customer Identification for Digital Financial Services**

Facilitate access to digital financial services by developing, or encouraging the development of, customer identity systems, products and services that are accessible, affordable, and verifiable and accommodate multiple needs and risk levels for a risk-based approach to customer due diligence.

• **PRINCIPLE 8: Track Digital Financial Inclusion Progress**

Track progress on digital financial inclusion through a comprehensive and robust data measurement and evaluation system. This system should leverage new sources of digital data and enable stakeholders to analyze and monitor the supply of—and demand for—digital financial services, as well as assess the impact of key programs and reforms.
Global Partnership for Financial Inclusion
[www.gpfi.org/about-gpfi]

- The Global Partnership for Financial Inclusion (GPFI) is an inclusive platform for all G20 countries, interested non-G20 countries and relevant stakeholders to carry forward work on financial inclusion, including the implementation of the Financial Inclusion Action Plan, endorsed at the G20 Summit in Seoul in 2010

- New edition Financial Inclusion Action Plan, 2020
  - Advancing Financial Inclusion through Engagement with Regulation and Standard-Setting Bodies
• Promoting Inclusive Growth through an Enabling Regulatory Framework for Responsible Digital Financial Services

• Support regulatory and legal reforms that reduce unequal access to responsible digital financial services, which results from social, economic, and cultural inequalities.

• Consider developing a regulatory framework that supports responsible innovation in private and public sectors.
OECD High-Level Principles on Financial Consumer Protection, 2023

|--------------------------------------------------------|--------------------------------------|----------------------------------|---------------------------------------------|
Some of the several Unidroit contributions to this exercise

- Financial inclusion and digital assets
- Financial inclusion and stable-coins
- Financial inclusion and CBDC
- Insolvency of non systemic banks
- Reinsurance

- Innovation and digital products; New business models
- Infrastructure
Main Legal Issues and Implications for Regulation

**Legal (Unidroit Principles)**
- Proprietary rights
- Custody
- Insolvency
- [Data Information]
- [Cybersecurity]
- Applicable law

**Regulatory**
- Enforceability and redemption rights
- Recovery and resolution plans
- Segregation, traceability
- Robust systems for collecting, storing, safeguarding
- Resiliency
- Cooperation
**Focus on the Principles on Digital Assets**

**The Era of Electronic Transfers and Electronic Money**

Technological neutrality,

new actors and new services ...

but the same conceptualization of payment services and money transfers

Influence over supervision and oversight
“The issuance of CBDC will naturally also raise questions under tax law, private law (including property law), contract law, payment systems and settlement finality law, insolvency law, privacy and data protection law, and private international law. [...]”

(IMF Working Paper, Legal Aspects of Central Bank Digital Currency: Central Bank and Monetary Law Considerations)
Design – a chain of decisions

EXTERNAL FACTORS:
Objectives
Market structure
Enabling infrastructure ...

High Level of abstraction

CBDC?
- wCBDC
- or rCBDC?

Guiding Principles
- Role of CB vs. PS

Use and features
- Interest, caps etc.?
- Interoperability, XB

Distribution model, privacy
- Tokens, accounts
- Centralised, decentralised
- Technology
- Rule book, standards
The need for a legislative framework

Inability to effectively supervise and oversee a stablecoin arrangement if the legal classification of a stablecoin falls outside an existing regulatory framework (e-money or a security).

Incomplete regulatory coverage of the functions and activities under a SC arrangement that are economically similar to those that would fall under the remit of existing regulation, but as a result of their particular design, are not within the perimeter of existing regulation (e.g. exchange and trading, wallet services used for storing keys).

*FSB, Regulation, Supervision and Oversight of “Global Stablecoin” Arrangements (2020)*
The need for a legislative framework

Inability to monitor risk if legal consequences of issuance, transfer and redemption of stable coins are not certain

How to treat the link between the digital asset and the underlying currency?

*FSB, Regulation, Supervision and Oversight of “Global Stablecoin” Arrangements (2020)*
Financial inclusion and legal system quality: are they correlated?
Peterson K. Ozili, Central Bank of Nigeria
[https://www.emerald.com/insight/2634-2596.htm]

"Very few studies have investigated the correlation between financial inclusion and law. The present study contributes not only by filling this research gap but also by providing some useful policy implications. The novelty of this study lies in using financial access indicators as a proxy for financial inclusion, such as ATMs per 100,000 adults and bank branch per 100,000 adults and using the "rule of law" index as a proxy for legal system quality alongside other indicators of legal system quality such as enforcing contracts index, strength of legal rights index, resolving insolvency index, strength of insolvency framework index and time to resolving insolvency index.

To examine the correlation between financial inclusion and legal system quality, I use a dataset that covers 27 developed countries (for which financial inclusion data are consistently available) from 2004 to 2012 at a yearly frequency.
<table>
<thead>
<tr>
<th>Indicator name</th>
<th>Long definition</th>
<th>Source</th>
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<tbody>
<tr>
<td>DF</td>
<td>The index for enforcing contracts is the simple average of the index for each of the component indicators: the procedures, time and cost for resolving a commercial dispute through a local first-instance court</td>
<td>World Bank, Doing Business indicator</td>
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<td>DN</td>
<td>The strength of legal rights index measures whether certain features that facilitate lending exist within the applicable collateral and bankruptcy laws</td>
<td>World Bank, Doing Business indicator</td>
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<tr>
<td>TR</td>
<td>The index for resolving insolvency is the simple average of the scores for each of the component indicators: the recovery rate of insolvency proceedings involving domestic entities, as well as the strength of the legal framework applicable to judicial liquidation and reorganization proceedings</td>
<td>World Bank, Doing Business indicator</td>
</tr>
<tr>
<td>WE</td>
<td>The strength of insolvency framework index measures the legal framework applicable to judicial liquidation and reorganization proceedings and the extent to which best insolvency practices have been implemented in each economy covered by the Doing Business. This index ranges has four components, the commencement of proceedings index, management of debtor's assets index, reorganization proceedings index and creditor participation index</td>
<td>World Bank, Doing Business indicator</td>
</tr>
<tr>
<td>WN</td>
<td>The time to resolve insolvency captures the time for creditors to recover their credit and is recorded in calendar years. Potential delay tactics by the parties, such as the filing of dilatory appeals or requests for extension, are taken into consideration</td>
<td>World Bank, Doing Business indicator</td>
</tr>
<tr>
<td>LEGAL</td>
<td>Rule of Law captures perceptions of the extent to which agents have confidence in and abide by the rules of society and in particular the quality of contract enforcement, property rights, the police and the courts, as well as the likelihood of crime and violence. Estimate gives the country's score on the aggregate indicator, in units of a standard normal distribution, i.e. ranging from approximately −2.5 to 2.5</td>
<td>World Bank, Doing Business indicator</td>
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<td>BR</td>
<td>The number of commercial bank branches per 100,000 adults</td>
<td>World Bank, Global financial development indicators</td>
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<td>ATM</td>
<td>The number of automated teller machines per 100,000 adults. It provides banked adults with access to finance in a public space</td>
<td>World Bank, Global financial development indicators</td>
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Main findings for correlation

“I find evidence for a significant positive correlation between financial inclusion and legal system quality. More specifically, greater ATM supply is correlation with stronger insolvency resolution. In the regional correlation analysis, the findings show that higher number of ATM per 100,000 adults is correlated with stronger insolvency resolution among G7, European and non-European countries. Also, higher number of bank branch per 100,000 adults is correlated with strong rule of law and legal rights in non-European countries.

Furthermore, in the financial crisis correlation analyses, the findings show that financial inclusion, measured as the number of ATMs per 100,000 adults, is positively correlated with strength of insolvency resolution and negatively correlated with the time to resolve insolvency before, during and after the global financial crisis. Also, financial inclusion, measured by the number of bank branch per 100,000 adults, is negatively correlated with the strength of contract enforcement in the pre-, during- and post-financial crisis period.”
Policy consequences according to the author

• “The implication of the observed positive correlation between financial inclusion and legal system quality is that financial inclusion objectives and legal system quality are complements in improving development outcomes. The complementary benefits can help to ensure that formal finance is not only accessible to all members of society, but also ensure that users of formal finance have the legal protection they need to protect them from being exploited by providers of formal financial services. Law makers should find innovative ways to strengthen existing legal institutions to preserve the people in society while financial authorities should ensure that formal financial services are accessible to all members of society and ensure that providers of financial services comply with existing laws that protect customers in the formal financial sector”
Thank you for your attention!

https://www.unidroit.org