

**USAID ECONOMIC GROWTH OFFICERS WORKSHOP  
OCTOBER 15-19, 2007  
WASHINGTON, D.C.**

Session Title: Access to credit – Beyond Banking regulation

Date and Time: Wednesday, October 17, 2007, 2:30 – 3:30 PM

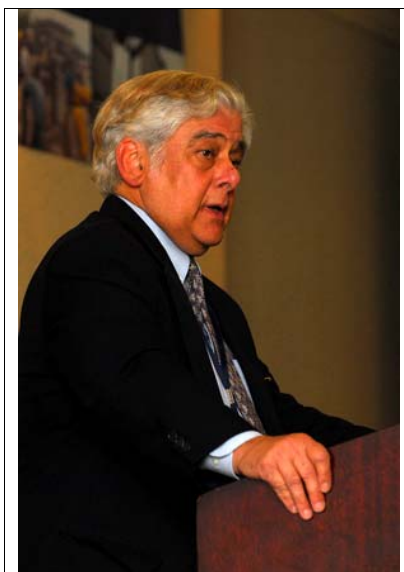
Type of Session: Breakout

Speaker(s): Heywood Fleisig, Center for the Economic Analysis of Law (CEAL)

Moderator: Bill Baldrige

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Overview of Session:



Heywood Fleisig addresses workshop attendees. Photo by Paul Goodman.

Heywood (“Woody”) Fleisig of the Center for Economic Analysis of Law (CEAL) addressed critical issues in strengthening the legal framework for access to credit in developing countries. In most of these countries, debt financing still far outstrips equity financing, by as much as 10-to-1.

Fleisig explored some of the key reforms needed to encourage and facilitate private lending in developing countries. Any reform program first needs to address the primary concern of any private lender: that is, how the lender will get the funds back. Both unsecured lending and secured lending can provide avenues for mitigating risk, but the necessary legal and institutional requirements must be in place. In the case of unsecured lending, these requirements include rules and procedures for seizing salary, seizing property, and for creating and managing credit information systems. Donors have paid considerable attention to establishing the legal frameworks for credit information bureaus, but little attention to systems and procedures for collections.

Secured lending, meanwhile, provides a different path to taking property: *i.e.*, collateral. It also provides for clear order of priority of creditor claims, and a system for registering those claims so that lenders can determine fairly well the risk they face. But of course, creating a sound environment for secured lending can be a daunting task. In many of the countries in which USAID and other donors work, even if legal and institutional arrangements for secured lending are in place, these are often inconsistent with the legal arrangements for property ownership and possession, with rules and procedures for registering and prioritizing liens, and other factors that affect secured transactions, making enforcement of secured transactions difficult and fraught with problems.

The bottom line is, if we want our partner countries to achieve the kind of economic growth they are capable of, we need to establish comprehensive legal frameworks that allow private investment to flourish. Solidifying the framework for private lending, both secured and

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unsecured, is a critical part of this. Accomplishing this requires attention to the panoply of issues from ownership and possession to security interest to bankruptcy procedures that ensure protection both for lenders and borrowers in the lending cycle.

**Key Points Discussed During Question & Answer Segment:**

During Q&A, one individual observed that in the poorest countries in which USAID works, without clear title to land, most people don't have the kind of collateral lenders are looking for. In response, Fleisig argued that there are still many avenues for people who don't have title to land to access credit, mostly unsecured but still viable. But of course, there are limits to the size of these types of loans. In the US, for example, a lender will give the same borrower with the same cash flow a loan amount that is between 3 and 10 times bigger if secured.

Another individual asked Fleisig to comment on the feasibility/advisability of co-operatives vis-à-vis secured lending. In response, Fleisig said that to the extent possible, the links among members of the co-operative should be legal. Specifically, there should a legal framework for co-operatives that establishes how the co-operative members enforce their rights against one another, particularly when a member defaults on its obligations.