



TERMS OF REFERENCE FOR HIRING CONSULTANT(S) OR A CONSULTING FIRM

TITLE:

State of the art at the global, regional, and local levels of bond issuance and policies, investment regime, and fintech regulations, identifying the potential for instrumentation and preparing regulatory proposals for the Solidarity Economy in Colombia and its organizations.

CONTEXT:

The International Cooperative Alliance (ICA) was founded in 1895 to unite cooperatives worldwide. The Alliance works with regional and international governments and organizations to create favorable legislative environments to allow cooperatives to form and grow. In 1946, the United Nations granted the Alliance consultative status with the ECOSOC, the first non-governmental organization to obtain this status.

The International Cooperative Alliance directly represents over 700 million people through approximately 312 member organizations in 109 countries. Its global headquarters are located in Brussels, Belgium, and it has four regional offices.

In 1990, the International Cooperative Alliance founded its regional office for the Americas in San Jose, Costa Rica. Cooperatives of the Americas promotes repositioning the cooperative model in the new economic, political, social, and business environment. Cooperatives of the Americas represents 97 cooperative organizations in 23 countries in the region, consolidating over 207 thousand cooperatives that generate over 6 million direct and indirect employees.

OBJECTIVE:

Research the state of art at the global, regional and local levels of bond issuance and policies, investment regime and fintech regulations, identifying the potential for instrumentation and preparing regulatory proposals that can be issued and/or promoted by the Colombian Superintendence of Solidarity Economy (SES) in support of the solidarity economy sector in Colombia and its organizations.

1. ACTIVITIES

Activities include, but are not limited to, the following to achieve the objectives outlined in these Terms of Reference:

1. Identify, manage and organize sources of data, information and primary and secondary knowledge required to conduct a descriptive and analytical benchmarking study of bond issuance and policies,



- investment regime and fintech regulations based on the experiences of Germany, Spain, South Korea, India, Chile, Mexico, Panama, Argentina, and Colombia (countries may vary at the recommendation of the consultant).
2. Benchmark good and bad practices regarding bond issuance and policies, investment regime, and fintech regulations by describing, comparing, and analyzing the experiences of Germany, Spain, South Korea, India, Chile, Mexico, Panama and Argentina (countries may vary at the recommendation of the consultant). This comparison should be made to existing or applicable regulations in Colombia and not be limited to certain sectors.
 3. Analyze the appropriateness of maintaining or implementing investment regimes for solidarity sector organizations within the framework of risk-based supervision.
 4. As part of the benchmark study, perform a gap analysis, and identify the main problems, causes and effects, as well as possible alternative solutions with their corresponding theoretical and practical basis.
 5. Present and defend the benchmark results to Cooperatives of the Americas and SES, resolving any observations and comments and, if necessary, modifying the respective deliverables.
 6. Based on the benchmarking study, conduct a detailed analysis of the alternative solutions identified to close the gap, determining for each of the following topics three (3) scenarios and potential proposals for regulatory adaptation, supplementation and adoption in Colombia: bond issuance and policies, investment regime and fintech regulations.
 7. For the three (3) scenarios and potential proposals for each of the topics mentioned above, prepare and conduct an impact assessment to determine the viability and benefits of regulations issued in Colombia directly by the SES per its facultative capacities or by the competent authority based on the nature and pathway of the regulation identified.
 8. Present and defend the scenarios and potential proposals to Cooperatives of the Americas and SES for each topic listed, and the results of the regulatory impact assessment in terms of the viability and benefits of issuing regulations in Colombia, addressing and resolving any observations and comments.
 9. Prepare the final, comprehensive regulatory proposals regarding bond issuance and policies, investment regime and fintech regulations per the scenarios and proposals selected by Cooperatives of the Americas and SES; also, prepare the justification or statement of reasons, as applicable, with the analytical and critical description of the benefits, scope and interpretation of the proposed articles.
 10. Include all legal and financial aspects noted in the scope regarding “Convertible Bonds,” as well as those related to authorizations and disclosure of information regarding private placement and public offerings in the proposed regulations for bond issuance. Finally, include all financial and legal aspects to ensure that the funds received from the bond issuance are adequately protected as funds raised from the public, including liquidation scenarios.
 11. Prepare an action plan with the pathway(s) of implementation for the issuance and/or promotion of the proposed regulations for bond issuance and policies, investment regime, and fintech regulations, along with actions for continuous review and updating.
 12. Present and justify to Cooperatives of the Americas and SES the proposed regulations for each of the topics above, and the action plan for its issuance and continuous review and updating, resolving any observations and comments without prejudice to any final modifications and supplements that may be necessary.



2. DELIVERABLES

1. Work plan, which includes as a minimum: general and specific objectives, scope, methodology, deliverables, activities schedule, quality management, communications, and risk management plan.
2. Database with the primary and secondary sources used to conduct the benchmarking study, including the main regulations at the global, regional, and local levels related to bond issuance and policies, investment regime, and fintech regulations.
3. Benchmark of good and bad practices regarding bond issuance and policies, investment regime, and fintech regulations per the objective, scope, and specific obligations.
4. Detailed descriptions of three (3) scenarios and potential proposals for regulatory adaptation, supplementation, and adoption in Colombia for each topic (bond issuance and policies, investment regime, and fintech regulations).
5. Document or section describing the methodology and results of the assessment of viability and benefits of issuing regulations in Colombia per the scenarios and proposals presented.
6. Final proposed regulations, including their justification and statement of reasons, as applicable, regarding bond issuance and policies, investment regime, and fintech regulations.
7. Action plan for implementing the proposed regulations selected, including their continuous review, and updating.

3. TECHNICAL CHARACTERISTICS

For all contractual purposes, determination of state of the art at the global, regional, and local levels shall entail a descriptive and analytical benchmarking of bond issuance and policies, investment regime, and fintech regulations. This benchmarking study shall address both good and bad practices on the above topics and analyze a minimum of four (4) countries at the global level and four (4) countries at the regional level. It shall also address the corresponding gap analysis related to Colombia, consulting all available databases, information, and knowledge to the fullest extent possible and, if necessary, the effective engagement with public and private leaders, both local and international.

Based on the benchmarking study used to establish the state of the art of the topics above and existing regulations in terms of the countries used for reference and comparison, a detailed study shall be conducted to determine for each of the topics a minimum of three (3) scenarios and potential proposals for regulatory adaptation, supplementation, and adoption in Colombia. Along the same line, the scenarios and proposals shall include a regulatory impact assessment to establish viability in terms of issuance of the regulatory proposals by the Superintendence of Solidarity Economy or another competent Colombian authority.

Specifically, regarding bond issuance, the document shall analyze the legal authorization that exists today for savings and credit cooperatives and the savings and credit sections of multi-activity or large cooperatives, including, if such authorization were to be removed, the treatment of current issuances. If such authorization were to continue to exist and/or be extended to other solidarity sector organizations, the following specific aspects would need to be considered and regulated:

- i) Are “Convertible Bonds” a legally and financially viable option?



- ii) If the above option were authorized, expressly establish whether bond subscribers would need to comply with the conditions outlined in Article 21 of Law 79 of 1988.
- iii) Similarly, establish mechanisms to ensure that individual participation limits are not exceeded in social contributions of natural or legal entities, as outlined in Article 50 of Law 79 of 1988.
- iv) Likewise, expressly indicate whether in these cases the provisions of Article 33 of Law 79 of 1988 applies, according to which each associate has one vote in the General Meeting, without consideration to individual participation in social contributions per the provisions of the laws mentioned above.
- v) Establish regulations concerning authorizations and disclosure of information regarding private placement or public offerings.
- vi) Finally, specify the accounting, financial, and legal treatment of the bonds issued to ensure the protection of these funds as funds raised from the public during the entire term of the bonds, including liquidation scenarios.

Regarding the investment regime, the analysis shall include not only the review and “updating” of the regime outlined in Law 454 of 1998 for savings and credit cooperatives and the savings and credit sections of multi-activity or large cooperatives, but also the need to establish an investment regime for other solidarity entities subject to SES oversight.

Likewise, it shall consider the appropriateness of establishing investment regimes for solidarity sector organizations within the conceptual framework of Law 454 of 1998 and subject to the application of a risk-based supervision system.

Finally, once the scenarios and different regulatory proposals for the three (3) topics have been presented, defended, including the impact assessment results, and approved by SES’s Legal Committee and Cooperativas of the Americas, the final regulatory proposals for bond issuance and policies, investment regime and fintech regulations shall be prepared. These proposals shall include the justification and statement of reasons, as applicable, regarding benefits, scope, and interpretation, as well as a detailed action plan with the pathway(s) of implementation based on who should issue the regulations and review and update actions.

4. PROGRAM OF DELIVERABLES

Deliverable	Date
Deliverable 1	During the first week after signing the consulting contract
Deliverables 2 and 3	September 18, 2020 (Approximately 4th week after signing)
Deliverable 4	October 16, 2020 (Approximately 8th week after signing)
Deliverable 5	November 20, 2020 (Approximately 13th week after signing)
Deliverables 6 and 7	December 7, 2020 (Approximately 16th week after signing)



5. CONSULTANT(S) PROFILE

Below are the ideal profiles of the consultant or consultants to develop this project; however, consultants with different profiles than these may compete for this project.

Profile 1

- Legal professional with a master's degree in the areas of Solidarity Economy, Pure Market Economy, Business Administration, Corporate Law or similar.
- Demonstrated knowledge and experience in the areas of Solidarity Economy, Stock Market, Investments or similar, both in Colombia and abroad.
- Fluency in English for reading economic and legal documents with ample knowledge of technical language; and
- Strong ability to write technical documents.

Profile 2

- Economics or Business Administration professional with a master's degree in the areas of Solidarity Economy, Pure Market Economy, Business Administration, Law, Finances or similar.
- Demonstrated knowledge and experience in the areas of Solidarity Economy, Stock Market, Investments, Finances, Ethical and Solidarity Finance, International Development or similar.
- Fluency in English for reading economic and legal documents with ample knowledge of technical language; and
- Strong ability to write technical documents

6. TERM FOR COMPLETION

The deadline for completion of the consultation will be established per the Program of Deliverables.

7. METHOD OF PAYMENT

Cooperatives of the Americas will make payment per a payment plan to be agreed by the parties via bank transfer against the corresponding invoice issued by the consultant for his/her professional services.

8. CONSULTING SERVICES OFFER

All consultants, teams of individual consultants or consulting firms who wish to state their intention, willingness and ability to provide the consulting services in their entirety under the terms and dynamics established herein should send the following documents to lauren.naranjo@aciamericas.coop and carlos.gonzalez@aciamericas.coop by no later than Friday, August 14, 2020:



- Professional profile of the consultant(s), team of consultants or consulting firm demonstrating sufficient ability to provide the consulting services.
- Initial draft of the work plan to execute the consultancy based on timely and quality compliance of the object and agreed deliverables.
- Financial offer with terms and amounts in US dollars (USD).
- Ensure the non-existence of financial, commercial, political or other interests related to the activities carried out by the Superintendency of Solidarity Economy of Colombia or related organizations.