Special Topic: Strong FIAS Results in OHADA

$3.8 billion
in additional domestic credit

in seven OHADA countries between 2011 and 2015[1]

$385
in increased domestic credit

generated for every dollar spent on FIAS-supported projects

$7.8 million
in business cost savings

in six OHADA countries, 2015 through late June 2017—against a target of $7 million

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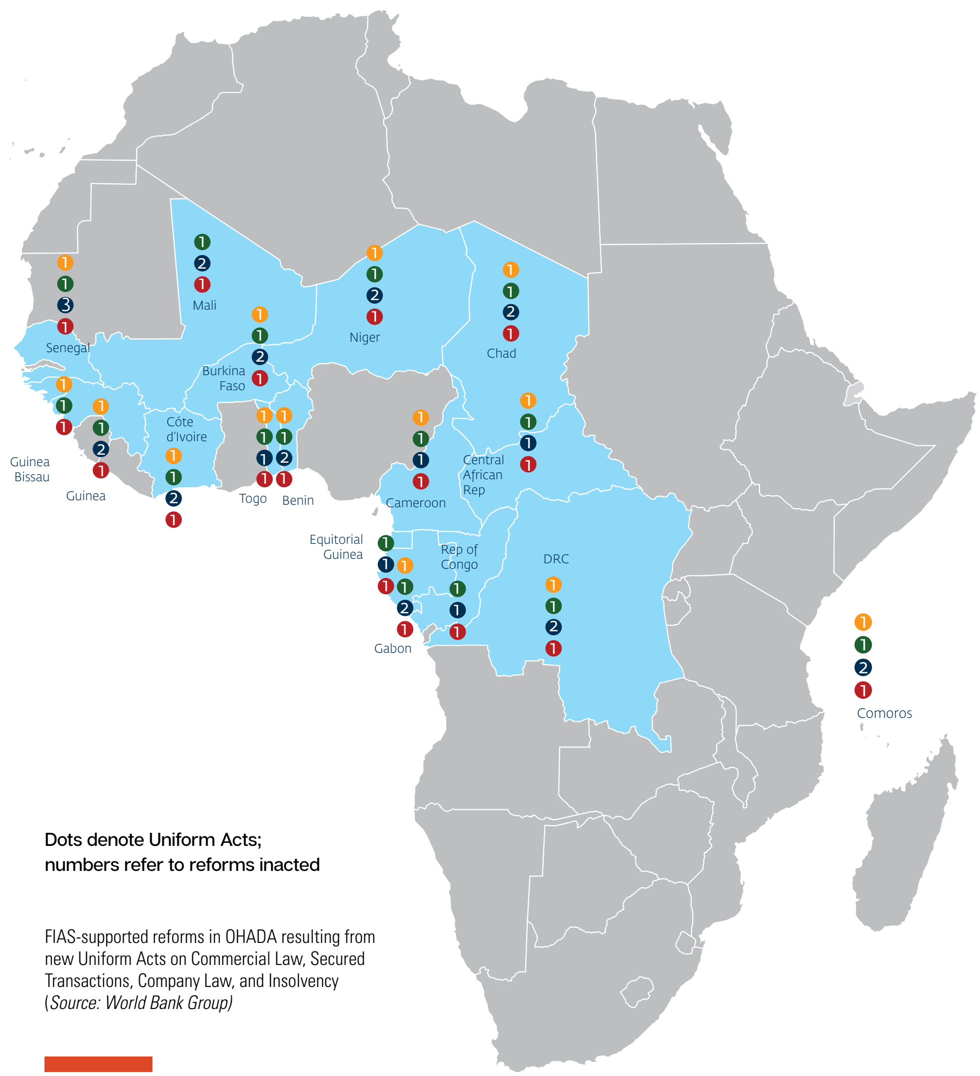
[1] ECOPA and Economisiti Associati, independent evaluators, *An Impact Assessment of OHADA Reforms: Uniform Acts on Commercial, Company, Secured Transactions, and Insolvency*, an impact evaluation of IFC's OHADA Investment Climate Program 2007–2017, (co-publication of the World Bank, IFC, and the East African Community Secretariat, 2018), p 11.

Throughout its 33-year history, FIAS has sought out opportunities to support advisory services delivered on a regional basis, through organizations that cover multiple client countries.

This approach leverages World Bank Group expertise and enables delivery of beneficial economic impact at scale. FIAS has adopted this approach to support advisory projects in the Common Market for Eastern and Southern Africa, the Council of Ministers for Central American Economic Integration, the East African Community, the Economic Community of West African States, the Eurasian Economic Commission (EEC), the Organization of Eastern Caribbean States (OECS), and the Western Balkans region, among other regional endeavors.

Longstanding FIAS Commitment to OHADA

One of the longest-running advisory engagements on the regional level to benefit from FIAS support has been the legal reform work in the 17 nations of **OHADA**, the Organization for the Harmonization of Business Law in Africa. OHADA falls squarely within the priority areas of the FIAS FY17–21 strategy cycle: all are Sub-Saharan African countries; all but two are IDA borrowing countries; and eight are in fragile and conflict-affected situations. With the completion of a decade of advisory work in this economically challenged region it is possible to step back and assess the impact of OHADA reforms. Both the Bank Group's own analysis and an independent evaluation of the multi-phase project agree: the member nations of OHADA have made significant progress in improving their business climate and substantial strides in increasing the availability of credit and stimulating the formation of new businesses.



Dots denote Uniform Acts;
numbers refer to reforms inacted

FIAS-supported reforms in OHADA resulting from new Uniform Acts on Commercial Law, Secured Transactions, Company Law, and Insolvency (*Source: World Bank Group)*

Uniform Act on General Commercial Law
The UA on General Commercial Law introduced the *entreprenant* status and an effort to computerize the RCCM (2011).

Uniform Act on Secured Transactions
The UA on Secured Transactions broadened the range of assets that can be used as collaterals (2011).

Uniform Act on Company Law
The UA on Company Law introduced the SAS and the GIE and simplified the creation of a SARL (2014).

Uniform Act on Insolvency
The UA on Insolvency safeguarded liquidation procedures, facilitating recovery after business discontinuation (2015).

Established in 1993, OHADA has provided a forum for the development of innovative legal reform in francophone African countries with the goal of creating a uniform legal and regulatory framework encompassing accounting standards, arbitration, commercial law, collateral, company law, and insolvency. For more than a decade, the World Bank Group, with the support of FIAS and the government of France, has helped develop a consistent and modern set of business codes covering all 17 member nations of OHADA—**Benin, Burkina Faso, Cameroon, the Central African Republic, Chad, the Comoros, Côte d'Ivoire, the Democratic Republic of Congo, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Mali, Niger, the Republic of Congo, Senegal,** and **Togo**.

Phase 2 of the FIAS-supported Uniform Acts project focused on revising regional laws or "Uniform Acts," specifically the Company Law and Insolvency Law, and on continuing and strengthening implementation at the country level of earlier reforms to the Commercial Law and Secured Transaction Law. The revised Company Law created a new form of limited liability company, providing greater flexibility for contractual arrangements among shareholders; it modernized corporate governance rules, facilitating the creation and operation of corporations, including the possibility of attending board meetings via videoconference and protections for minority investors; it created new categories of securities, including hybrid securities such as convertible bonds; and it simplified the company registration process for SARL (*société à responsabilité limitée*), a type of limited liability company common in French-speaking regions.

IFC's OHADA investment climate program initiative from 2007 to 2017 had significant impact on access to finance, business registration, and business cost savings for all 17 member nations.

In 2011, when the project's second phase was being planned, OHADA member states collectively were among the lowest performers in the annual *Doing Business* ranking of countries. *Doing Business 2011* showed that out of 183 countries worldwide, **Burkina Faso** ranked the best among OHADA countries at 151st. Six of the bottom ten countries on that year's *Doing Business* ranking were OHADA member nations. *Doing Business 2019* showed that while OHADA countries continued to face significant challenges in terms of ease of doing business, circumstances had improved markedly. Out of 190 countries, **Côte d'Ivoire** had the best ranking among OHADA members, at 122nd (an improvement of 17 places from *Doing Business 2018*). And only three of the bottom ten countries were OHADA nations. Of the global top-ten improvers in *Doing Business 2019*, four are from Sub-Saharan Africa, and two of those—**Côte d'Ivoire** and **Togo**—are OHADA member countries.

Substantial Beneficial Impact of Reforms

Now a newly published independent evaluation is providing a more granular picture of the impact of FIAS-supported work in OHADA. The independent firms ECOPA and Economisiti Associati teamed up in preparing *An Impact Assessment of OHADA Reforms*, analyzing the Bank Group's OHADA investment climate program from 2007 to 2017. The assessment, prepared to coincide with OHADA's 25th anniversary, found that "the OHADA initiative had significant impact on access to finance, business registration, and business cost savings."

The study employed the synthetic control method (SCM) to build control country data to which observed impacts could be compared. It also relied on detailed case studies of **Cameroon**, **Côte d'Ivoire**, and **Niger** involving interviews of more than 150 representatives from government, business, the financial sector, and the legal profession.

Between 2011 and 2015, the analysis determined that the Uniform Act led to additional domestic credit to the private sector of $1.1 billion in **Senegal**, $894 million in **Burkina Faso**, $729 million in **Togo**, $607 million in **Mali**, $417 million in **Cameroon**, $33 million in **Central African Republic**, and $30 million in **Comoros**–a total of more than $3.8 billion. Results were inconclusive for Benin, Côte d'Ivoire, and Gabon, but SCM analysis from the other seven OHADA countries confirmed the positive impact of the legal reform on domestic credit flows to businesses.[2]

The Bank Group's Project Completion Report (PCR) calculated that increases in domestic credit attributable to the reforms resulting from both phases of the Uniform Acts project were achieved with a combined expenditure of $9.9 million. For every dollar expended under the project, domestic credit was increased by $385, according to the PCR. From 2015 through June of 2017, the project also achieved $7.8 million in business cost savings in six countries (**Benin**, **Burkina Faso**, **Côte d'Ivoire**, **Guinea, Niger**, and **Togo**), against a target of $7 million, through reduced business registration time and costs, and reduced notary fees.

The Uniform Act on Secured Transactions went into effect in 2011 and resulted in all 17 OHADA states broadening the range of assets that can be used as collateral and the range of obligations that can be secured. One important result was a marked improvement in the Doing Business indicator for getting credit, as shown here.

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$1.1b

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$7.8m

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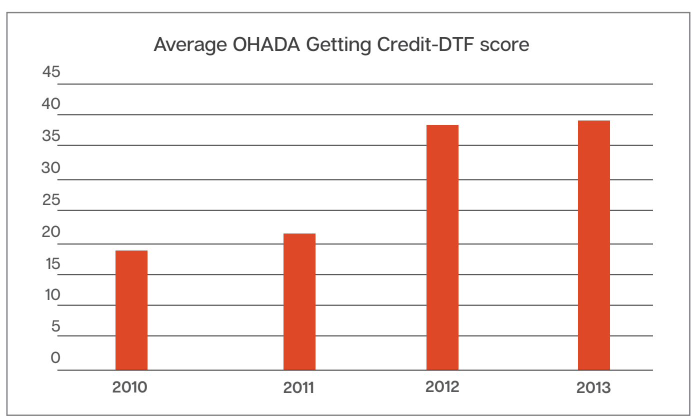

Average OHADA getting credit score roughly doubled over two years following passage of Secured Transactions law. (*Source: World Bank Group)*

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[2] ECOPA and Economisiti, *An Impact Assessment of OHADA Reforms*, p 11.

OHADA has addressed the costs and administrative obstacles to starting a business. Because of this reform, the average paid-in minimum capital required to open a business across OHADA member countries dropped by almost 50 percent in one year.

Reducing the requirements to open a new business

98%

The Democratic Republic of Congo enacted the most sweeping reform, reducing the requirement by 98 percent—from a one-time high of 500 percent of income per capita to 11 percent.

Accelerated new business start-up times

9 days

In Guinea-Bissau, where it took 260 days to start a business in 2005–06, it now takes only 9 days.

One of OHADA's top priorities has been making it easier to start a business. Sub-Saharan Africa has long compared unfavorably to Organization for Economic Cooperation and Development (OECD) countries in terms of ease of starting a business, and OHADA countries have compared unfavorably to countries in the rest of Sub-Saharan Africa. This is generally attributed to OHADA's inheritance of a set of business laws common to francophone Africa that date back to the colonial era and are generally regarded as antiquated compared to business laws in wide use today. In 2005–06, for example, OHADA countries required 12 steps taking an average of 67 days to start a business, compared to 10 steps and 54 days in the rest of Sub-Saharan Africa. Paid-in minimal capital requirements—the amount that an entrepreneur needs to deposit in a bank or with a notary to legally start a business—was also well above average across OHADA. The capital requirement is measured as a percentage of per capita income in a country. In OHADA, the minimum paid-in capital requirement more than a decade ago was nearly 400 percent of income per capita, versus 94 percent elsewhere in Sub-Saharan Africa.[3]

Through a variety of reform initiatives under the FIAS-supported project, OHADA has addressed the costs and administrative obstacles to starting a business. In January 2014, for example, OHADA economies authorized each member state to adopt national legislation to reduce the paid-in minimum capital requirement to their chosen level for the creation of a private limited liability company. Because of this reform, the average paid-in minimum capital required to open a business across OHADA member countries dropped by almost 50 percent in one year. **The Democratic Republic of Congo** enacted the most sweeping reform, reducing the requirement by 98 percent—from a one-time high of 500 percent of income per capita to 11 percent. **Burkina Faso**, **the Comoros**, **Guinea**, and **Niger** also dramatically reduced their paid-in minimums. OHADA countries also made starting a business easier in 2014–15 by decreasing administrative fees. **Benin** reduced filing fees at its one-stop shop for business registration, reducing the cost of starting a business from 56 percent of income per capita in 2013–14 to 46 percent in 2014–15. **Togo** reduced registration fees with the tax authority, which decreased the cost of starting a business from 95 percent to 84 percent of income per capita.

Significant progress in reducing the time required to open a business across OHADA was achieved by the establishment of the one-stop-shop for business creation in 2010–11. By 2015, the average time required to open a business across OHADA stood at 26 days, down from 67 percent a decade earlier, a 61 percent decrease. **Guinea-Bissau**, **the Democratic Republic of Congo**, and **Senegal** each reduced the number of days by over 90 percent. In Guinea-Bissau, where it took 260 days to start a business in 2005–06, it now takes only 9 days.

Impact of OHADA Reforms on Creating Markets

Across OHADA, the Uniform Acts on General Commercial Law and Company Law lowered the cost of forming companies, thus contributing to reduced entry costs. Forming companies is easier and less costly. The Uniform Act on Secured Transactions has improved collateral mechanisms, which have enhanced access to finance across the region, again contributing to lower entry costs and increased competitive pressure.

[3] Leah Nosal and Valentina Saltane, "Harmonization Strikes a Chord of Success: *Doing Business* in OHADA Economies," in *SmartLessons*, (IFC, January 2016), p. 2.

The Company Law has supported the emergence of private equity funding, which has increased competitive pressure on the banking industry. In **Cameroon**, **Côte d'Ivoire**, and **Senegal**, private equity funds have been particularly active in providing long-term equity or semi-equity finance.[4] Other factors besides the OHADA reforms have contributed to this development, but the reforms have played a significant role, and the increased availability of private equity financing is lowering entry costs particularly in agroindustry, finance, construction, health, and telecommunications.

Closing the Gap with the Rest of Africa

OHADA member economies have implemented noteworthy reforms to close the gap between OHADA member and non-member countries in Sub-Saharan Africa. In the last 10 years, approximately 25 percent of OHADA reforms (56 of 227) made starting a business easier. Dramatic reductions in the procedures, time, cost, and paid-in minimum capital required to open a business in OHADA member economies add up to a substantial improvement in their ease of starting a business over time. Across all OHADA countries, the average number of procedures required to start a business decreased from 12 procedures in 2005–06 to just over 7 procedures a decade later. **Burkina Faso**, **Côte d'Ivoire**, and **Senegal** implemented the most significant reforms, reducing the number of necessary procedures by an average of about 63 percent each.

As expected, the Uniform Act has led to a surge in the number of SARLs (*société à responsabilité limitée*, a form of limited liability company common in francophone countries). In countries where data are available (**Cameroon**, **Guinea**, **Guinea-Bissau**, **Côte d'Ivoire**, **Mali**, and **Senegal**), the Company Law reform contained in the Uniform Act was followed by a sharp increase in SARL formation after 2014, when capital requirements for SARLs were lowered and the use of notaries was made optional, and some growth in SAS registrations (*société par actions simplifiée*, another form of limited liability company). In **Senegal**, SARL registrations increased by 700, or about 30 percent over the preceding year. Similarly, in **Niger**, the OHADA reforms can be credited with prompting some 400 additional SARL registrations per year. Overall, business registration (of all legal forms) has increased markedly in the 15 countries with available data, except Chad. It should be noted that business registrations do not always lead to new business activity, as many newly established firms go out of business soon after incorporation

Conclusion

Regulatory reforms in OHADA economies in the last 10 years demonstrate the power and potential of collective action against common economic challenges.[5] Where domestic regulatory reform appears politically untenable, working with international partners can cultivate renewed enthusiasm for change. In hopes of encouraging increased foreign investment, OHADA members have established a regional business regime with more streamlined business processes and more robust legal frameworks. The reforms achieved with FIAS support in OHADA member nations appear to have staying power. There has been no incidence of reversal of any reform as of project closure. The program has demonstrated that a regional approach can yield economic impact on the ground by connecting regional and national reforms.

SARL registrations increase:

30%

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400

In Niger, the OHADA reforms can be credited with prompting some 400 additional SARL registrations per year.

Overall, business registration (of all legal forms) has increased markedly in the 15 countries with available data.

[4] ECOPA and Economisiti, *Impact Assessment of OHADA Reforms*, p. 58.

[5] In addition to the World Bank Group and FIAS, other financial supporters of OHADA include the African Development Bank, Canada, the European Union, Switzerland, and the United Nations Development Programme.