



Advancing financial access for the world's poor

Legal Environment for Branchless Banking, including Mobile Payments, Implications for Financial Inclusion

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Financial Inclusion

Financial inclusion is high on the agenda of the international community and national governments (UN, G-20, AFI, WB/IFC, Standard Setting Bodies)

*“Financial inclusion” refers to a state in which all working age adults have **effective access** to credit, savings, payments, and insurance from formal service providers*

*“Effective access” involves **convenient and responsible service delivery**, at a cost **affordable** to the customer and **sustainable** for the provider*

Branchless Banking is essential for the goal of financial inclusion

- 2.7. billion adults worldwide do not have a savings or credit account with a bank or other formal institution
- In Pakistan there are 110mln. cell phone users but just 15mln. bank account users, 400,000 telco agents, but only 12,700 bank branches
- Branchless banking has already demonstrated, its potential to reach financially excluded households (estimated 4.59 mln. of Safaricom (Kenya) active, previously unbanked clients)

Definition of Branchless Banking

*“Branchless banking” generally refers to the delivery of financial services outside conventional bank branches, **using agents** or other third-party intermediaries as the principal interface with customers, and relying on **technologies** (POS terminals and mobile phones) to transmit the transaction details*

- Mobile payments are a subset of branchless banking
- Bank-based model and non-bank based model of branchless banking

Challenges for policy makers

For policy makers, regulators and supervisors at the country level as well as Global Standard Setting Bodies (SSBs) branchless banking presents challenges

- Branchless banking implicates new actors and new relationships among actors (nonbank e-money issuers and agents)
- The pace of innovation and evolution of new models is rapid (122 innovations in retail payments were reported by 30 central banks according to CPSS Report on Innovations in Retail Payments, 2012)

Branchless Banking Legal Issues

Widely ranging regulatory frameworks and practices exist, however there is increasing convergence on a number of issues

- Use of Agents by Banks and Non-Bank E-Money Issuers
- Regulation of E-Money Issuers
- Protection of the Float of Nonbank E-Money Issuers
- CDD and record keeping for AML/CFT purposes
- Financial Consumer Protection

Rising concerns:

- Interoperability of branchless banking schemes
- Competition and fair access to payment systems and communications infrastructure
- Data security

Standard Setting Bodies

The following Global Standard Setting Bodies (SSBs) have been identified as having significant relevance to the financial inclusion issues (CGAP White Paper prepared on behalf of GPFI, 2011)

- *Basel Committee on Banking Supervision*
- *Committee on Payment and Settlement Systems*
- *Financial Action Task Force*
- *International Association of Deposit Insurers*
- *International Association of Insurance Supervisors*

Formalization of Financial Services Providers, Financial Consumer Protection and **Branchless Banking** are considered as topics of joint relevance to SSBs

Standard Setting Bodies

- Each SSB has current activities, processes, and forums that address financial inclusion issues
- Three of the five SSBs (BCBS, FATF, and IAIS) are presently engaged in reviews of their standards, providing an opportunity to ensure that the highest level norms offer a workable framework within which more detailed guidance on topics relevant to financial inclusion can be developed
- The five SSBs are studying the relevant topics and, in some cases, have recently issued or are already working on new or updated guidance

Recommendations to SSBs and Policy Makers

- **Financial service provider's liability for its agents or other third-party intermediaries**

The principal's liability for its agents should be reinforced as business models evolve and clarified

- **Involvement of new actors**

SSB guidance should recognize new actors and their activities and the differing risks and risk mitigation that will be appropriate for each

- **Importance of a “service-based” regulatory approach**

Regulating to the extent feasible, based on the activity

Issues Requiring Coordinated Guidance of SSBs

- Regulation of nonbank e-money issuers and regulation and supervision of bank agents facilitating account opening and performing cash-in function (BCBS)
- Fair and open access to payment systems (CPSS)
- Further clarification of treatment of agents involved in AML/CFT compliance and risk-based approach (FATF)
- Possible extension of deposit insurance to cover deposit like e-money balances (IADI)
- Qualification of banking and e-money agents to serve as microinsurance agents (IAIS)

Critical principles to be considered

- **Proportionality principle**

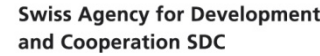
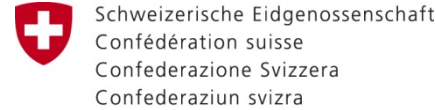
Balancing of risks and benefits against costs of regulation and supervision both in the standards and in their country-level implementation

- **Considering country context**

Normative standards may be designed to be applied flexibly and advisory guidance may consider the implementation challenges encountered in varying country contexts

- **Importance of experimentation**

It is important to permit controlled experimentation with different business models



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