

# **ACCESS TO FINANCE, RETAIL PAYMENTS AND AN ENABLING LEGAL ENVIRONMENT**

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## The Main Drivers

- Improving the financial infrastructure
- Capacity building of existing service providers
- Supporting a more active role by government agencies and programs
- Enhancing Innovation

## The Role of the G-20 in Enhancing Financial Inclusion

- **Pittsburgh, September 2009** - Financial Inclusion Experts Group (FIEG) to recommend how to expand access to finance for micro-, small- and medium-sized enterprises (MSMEs)
- **Two sub-groups:**
  - **SME Finance (SME),**
  - **Access Through Innovation (ATISG)**
- **Toronto, June 2010** – Endorsement of G-20 Principles for Innovative Financial Inclusion

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## Principles for Innovative Financial Inclusion

1. **Leadership:** *Cultivate a broad-based government commitment to financial inclusion to help alleviate poverty.*
2. **Diversity:** *Implement policy approaches that promote competition and provide market-based incentives for delivery of sustainable financial access and usage of a broad range of affordable services (savings, credit, payments and transfers, insurance) as well as a diversity of service providers.*
3. **Innovation:** *Promote technological and institutional innovation as a means to expand financial system access and usage, including by addressing infrastructure weaknesses.*
4. **Protection:** *Encourage a comprehensive approach to consumer protection that recognizes the roles of government, providers and consumers.*
5. **Empowerment:** *Develop financial literacy and financial capability.*
6. **Cooperation:** *Create an institutional environment with clear lines of accountability and co-ordination within government; and also encourage partnerships and direct consultation across government, business and other stakeholders.*
7. **Knowledge:** *Utilize improved data to make evidence based policy, measure progress, and consider an incremental "test and learn" approach acceptable to both regulator and service provider.*
8. **Proportionality:** *Build a policy and regulatory framework that is proportionate with the risks and benefits involved in such innovative products and services and is based on an understanding of the gaps and barriers in existing regulation.*
9. **Framework:** *Consider the following in the regulatory framework, reflecting international standards, national circumstances and support for a competitive landscape: an appropriate, flexible, risk-based Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) regime; conditions for the use of agents as a customer interface; a clear regulatory regime for electronically stored value; and market-based incentives to achieve the long-term goal of broad interoperability and interconnection.*

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## The Role of the G-20 in Enhancing Financial Inclusion

- **Seoul, November 2010 - Financial Inclusion Action Plan:**
  - 1. Commitment to implement the G-20 Principles for Innovative Financial Inclusion under a shared vision of universal access;
  - 2. *Encourage Standard Setting Bodies (SSBs) to support financial inclusion and to further explore coordinated information sharing on the complementarities between financial inclusion and their own mandates;*
  - 3. Work with the private sector to increase access to financial services;
  - 4. Improve the quality of measurement and data on financial inclusion;
  - 5. Support capacity-building and training;
  - 6. Improve national, regional and international coordination; and
  - 7. Integrate Financial Inclusion into all types of Financial System Assessments.

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**The Action Plan goes beyond the Principles in calling upon SSBs and IFIs to incorporate financial inclusion into their mandates**

- **Cannes, November 2011 - Establishment of the Global Partnership for Financial Inclusion (GPFI) to implement the Action Plan. Also non-G20 countries are included (Philippines, Kenya, Malaysia, Nigeria, The Netherlands, Peru, Thailand, Turkey)**
- **Los Cabos, June 2012**
- **29 October 2012, First Conference on SSBs: *Promoting Financial Inclusion through proportionate standards and guidance***
- **Ciudad de Mexico, November 2012**

## Relevant SSBs

- BCBS (Basel Committee)
- CPSS (Committee on Payments and Settlement Systems)
- FATF (Financial Action Task Force)
- IAIS (Insurance Supervisors)
- IADI (Deposit Insurers)

## Remittances

- WB-CPSS, General Principles for International Remittance Services (BIS) January 2007
- G-8 L'Aquila, July 2009 – Adoption of “Objective 5X5”: to reduce average cost of international remittances to 5% in 5 years
- WB and Italian Ministry for Foreign Affairs, Rome Road Map for Remittances, November 2009
- G-20 Cannes, November 2011 – Reinforcement of “Objective 5X5” and Tool kit
- Monitoring entrusted to the WB (Global Remittances Working Group)



## Retail payments

- WB General guidelines for the development of Government payment programs, July 2012
- WB Retail Package, October 2012:
  - Developing a comprehensive national retail payments strategy
  - A practical Guide for retail payments stocktaking
  - Innovation in retail payments worldwide: a snapshot
  - From remittances to m-payments: understanding “alternative” means of payment within the common framework of retail payments system regulation

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## Recommendations from the Paper “From remittances to m-payments”

- **Risk-based assumptions:** *Remittance services and m-payments (as well as pre-paid cards) are both components of the (retail) payments system and should consequently be taken into consideration under this approach for the kind of risks they raise.*
- **Efficiency:** *As part of the retail payment system, remittance services and m-payments services should contribute to the overall effort to enhance the efficiency of the sector. This means that one of the objectives of regulation should be to ensure that the benefits on any improvement in the retail payment space accrue to the end-users and the economy in general, without creating un-justifiable rents in some part of the value chain.*

## Recommendations from the Paper “From remittances to m-payments”

- **Competition and market contestability:** *Different regulatory treatment might lead to distortions on competition: regulatory constraints should be proportionate to effective risks and public policy needs to ensure a level playing field for retail payment services in general. In the same vein, regulation should be non-discriminatory, avoiding either favoring or ignoring certain categories of service providers over others. Regulation should also remove business practices when they hamper competition severely.*
- **Consumer protection:** *Retail payments raise the additional issue of consumer protection. Independently from the kind of commercial relationship between the service provider and the user of the service, either durable or occasional, rules on transparency and protection of customers must be implemented.*

## Oversight

- Empowering the Overseer(s)
- ***The establishment of an effective oversight function on payment systems and services is instrumental to foster the adoption of electronic payments, including mobile money.***

(See also B. Bossone and M. Cirasino, "The Oversight of the Payment Systems: A Framework for the Development and Governance of Payment Systems in Emerging Economies", July 2001, The World Bank and CEMLA)

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## World Bank-CPSS General Principles for International Remittance Services – A valid framework for Mobile Money as well

- **GP 1: Transparency & consumer protection**  
The market for remittance services should be transparent and have adequate consumer protection
- **GP 2: Payment system infrastructure**  
Improvements to payment system infrastructure that have the potential to increase the efficiency of remittance services should be encouraged
- **GP 3: Legal & regulatory environment**  
Remittance services should be supported by a sound, predictable, non-discriminatory and proportionate legal and regulatory framework
- **GP 4: Market structure and competition**  
Competitive market conditions, including appropriate access to domestic payments infrastructure, should be fostered in the remittance industry
- **GP 5: Governance & risk management**  
Remittance services should be supported by appropriate governance and risk management practices
  
- **Responsibility of Remittance Service Providers** to support implementation
- **Responsibility of regulators and public authorities** to ensure implementation

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# The Role of Regulators

- **There is a need for reorganization of the market**
- **Need for regulation under comprehensive and consistent policy choices and to take into consideration various instances and stakeholders**
- **Flexibility is better guaranteed by plurality of tools regulators can dispose of (which is a strong asset)**
- **Continuous monitoring, moral suasion and interchange with the market**

*There is already a substantial activity in these fields by regulators at international level*

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## An enabling legal environment

- **General Principle 3 on Remittances:  
Legal & regulatory environment**
  - Remittance services should be supported by a sound, predictable, non-discriminatory and proportionate legal and regulatory framework

(common to most international standards)

## An enabling legal environment

- **International standards do not mean to cover contractual relationships (allocation of liability in case of fraud or mistake), or legal status of specific business schemes (pooling accounts under fiduciary agreements), or enforceability of specific clauses (close-out, settlement, electronic transfers) ...**



# The possible role of UNCITRAL

- **(Some) existing instruments:**
  - 1992 Model Law on International Credit Transfers (fraud, mistake, allocation of liability)
  - 2001 Model Law on Electronic Signature
  - 2005 Convention on the Use of Electronic Communications in International Contracts
- **These are already used in Technical Assistance by IFIs**

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## The possible role of UNCITRAL

- **1966 Mandate:**  
**(c) preparing or promoting the adoption of new international conventions, model laws and uniform laws and promoting the codification and wider acceptance of international trade terms, provisions, customs and practices, in collaboration, where appropriate, with the organizations operating in the field**

## Conclusion

- UNCITRAL should establish a Working Group on microfinance and related topics
- UNCITRAL should focus initially on those matters relating to microfinance where it has the greatest experience and where its work would complement the activities of other organizations involved in the field
- Its main purpose within such context should be the creation of an [Enabling Legal Environment](#)