

Protecting Branchless Banking Consumers

Policy responses to new ways of doing business

Session 6

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What are the hot button issues for regulators?

1. Who regulates and supervises the provider?
2. Are clients' funds protected?
3. Is the provider fully liable for its agents?
4. Is there enough transparency?
5. Is redress effective and affordable?
6. Are services provided with quality?
7. Is personal data safe?

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Protecting Branchless Banking Consumers

Agenda – Session 6

- Regulatory responses to 7 hot button issues
- What's the top priority regulatory issue for you?
- Bottom line: minimizing risks through regulation
- Are there options beyond regulation?
- Emerging lessons

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Regulatory responses to hot button issues

1. Regulatory and supervisory authority over innovative models

- Regulatory definitions of supervised activities (banking business, deposit-taking, intermediation, payments).
- Legal authority to the financial supervisor to regulate and supervise retail payments
- Prerogative to inspect agents if necessary
- Legal authority to issue conduct-of-business rules or enforce existing rules (e.g. consumer protection code)
- Jurisdiction disputes / ambiguities in consumer protection in financial services

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Regulatory responses to hot button issues

2. Protection of clients' funds

- Definition of deposit and deposit insurance schemes
 - Bank-based vs. nonbank-based
- If funds are not considered deposits, what are the regulatory choices to protect clients' funds?
 - Case of Philippines (G-Cash, Smart)
 - Case of Kenya (M-Pesa)
 - Other alternatives?
- Prepaid accounts in mobile banking schemes are primarily used for transfers and payments but are increasingly used for storing funds for a limited period of time – appropriate level of protection needs to be in place.

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Regulatory responses to hot button issues

3. Provider's liability

- Provider (bank or nonbank) liable for services and agent's acts.
- Full liability usually addressed in agency regulations
- Consumer liability limits?

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Regulatory responses to hot button issues

4. Transparency

- Requirements for price disclosure at agents and alternative disclosure channels (e.g. SMS)
- Some will prohibit agents to charge additional fees from clients.
- Requirement to disclose “all-inclusive” prices
- Requirement to disclose agent status and name of provider(s) at agents

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Regulatory responses to hot button issues

5. Recourse

- Specific rules for branchless banking or application of general rules? (e.g. required disclosure of channels/processes at agent premises)
- Specific requirements for alternative complaint filling mechanisms (e.g. toll-free line, SMS)
- More active role of supervisor (e.g. ombudsman, specialized supervision procedures)

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Regulatory responses

6. Service quality and operational standards

- Minimum operational standards to avoid technical failures and technology-based frauds (e.g. real time transactions)
- Provider's responsibility for qualifying agents (including AML/CFT procedures)
- Requirement to inform the client about availability of funds in agent points (e.g. Colombia)
- Minimum identification requirements (e.g. client authentication through PIN or biometrics)

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Regulatory responses

7. Data privacy and security

- Patchwork of rules from different agencies: data privacy law applicable to financial services?
- Applicability of bank secrecy rules is linked to the regulatory definition of the service being provided
- Data sharing is a key feature of branchless banking and therefore for access – **need to find workable solutions**

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Exercise

- What's the hot button regulatory issue in your country?
- What regulatory response would you choose?

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Bottom line: minimizing risks through regulation

A well-balanced regulation will at least:

1. Reduce risk of regulatory arbitrage by clarifying regulatory and supervisory authority (activity-based regulation may help)
2. Hold providers (bank or nonbank) fully liable for the acts of their agents
3. Require alternative recourse mechanisms suitable to delivery channel, type of service and financial capability levels
4. Require upfront all-inclusive price disclosure and plain language (at agent points as well)

Message: Do not over-regulate, do not under-regulate

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Are there options beyond regulation?

Some positive experience

1. Strengthening supervision and enforcement

- Increased inter-agency coordination and cooperation for consumer protection in financial services (e.g. Brazil)
- Use of complaints for supervisory purposes (e.g. Peru)
- Specific supervision procedures for consumer protection and bank-based branchless banking (e.g. Peru and Brazil)
- Flexible approaches to allow supervision of nonbank-based branchless banking (e.g. Philippines)

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What are the options beyond regulation?

Some positive experience

2. Government initiatives

- Financial capability and awareness efforts
- Multiple layers of redress mechanisms (e.g. India)

3. Market-based actions

- Use of technology to provide information to consumers (e.g. SMS alerts)
- Definition of operational standards for agent schemes and information sharing on frauds (e.g. bank association in Brazil)
- Use of alternative delivery methods that best suit consumers (e.g. India)

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Emerging lessons

Do not underestimate benefits of branchless banking for the consumer

Branchless banking has been showing its power to serve millions of people who didn't have access to financial services before.
Giving access is respecting the most basic consumer's right.

So responses need to...

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Emerging lessons – Responses should...

- **Be proportional and effective**
 - Each context will require a different regulatory and institutional framework that is
 - **proportionate to the risks** (to the client and the system) and
 - **coherent with policy goals**
- Allow for **effective enforcement** of rules and increased **interagency coordination**

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Emerging lessons – Responses should...

- Recognize that branchless banking and market conduct regulation are relatively new areas in developing countries, so it is important to experiment and look at lessons from elsewhere.

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