INTERNATIONAL BEST PRACTICES AND ISSUES ON REGULATING AGENT AND MOBILE BANKING, AND ITS RELEVANCE TO ANGOLA

ANGOLA FINANCIAL SECTOR PROGRAM

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TABLE OF CONTENTS

INTRODUCTION

The financial sector in Angola is growing, but it is not deep – by mid-2007, credit to the private sector amounted to just 7.2% of GDP while bank deposits totalled only 15.7% of GDP. Less than 6% of the population has access to banking services and credit, relative to the size of the economy, is in the lower 10th percentile in the world.

Although the Angolan financial sector has developed in the last several years in terms of both the scale and depth of intermediation; it is not contributing to broad-based growth as much as it should. Financial intermediation indicators are among the lowest in the world. By mid-2007, credit to the private sector amounted to just 7.2% of GDP while bank deposits totalled only 15.7% of GDP. Less than 6% of the population understands or has access to banking services. Credit, relative to the size of the economy, is in the lower 10th percentile of the world. NBFI's and money markets are insignificant in macroeconomic terms and there is a very limited range of financial instruments. Finally, financial services are concentrated amongst high grade clients within Luanda and some coastal cities and in short supply everywhere else.

SCOPE OF WORK

Within this context, the EMG USAID/FSP consultant to BNA reviewed the international technical literature for issues and best practices on regulating agent and mobile banking. This knowledge was shared with the management and staff of the customer service and transparency working group at the National Bank of Angola. The consultant, in conjunction with the BNA working group, then defined the scope of work and drafted appropriate regulations.

The BNA expressed its desire to regulate activities already being undertaken by financial institutions in Angola to ensure safety, consumer protection, and transparency in internet banking, banking by mobile phones, electronically stored money and funds transfer cards.

Based on review and consultation with the BNA working group, it was decided to draft two separate Avisos, or regulations, covering:

1. Electronic Banking, including all remote access to accounts including Internet, mobile telephone SMS messages, point of sale (POS) devices, automated teller machines (ATMs), smart cards and cards with magnetic stripes, stored value cards, card readers, etc. provided by financial institutions and by other parties;
2. Additive Branchless Banking, including services provided by authorized financial institutions through their respective mobile offices and at locations of third parties by their respective staff or by the staff of contract agents. The key is to start allowing innovation and eventually scale up to transformational branchless banking.

BEST PRACTICES AND ISSUES IN ELECTRONIC BANKING

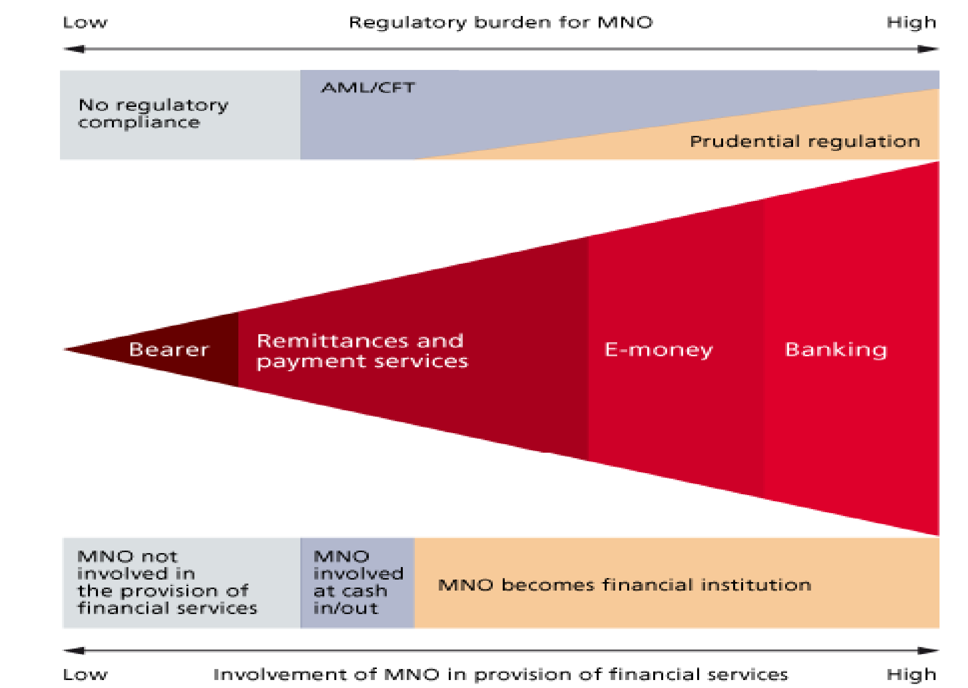
Significant customer conveniences as well as risks are involved in electronic banking. Different models allowed by regulators around the world define which institutions can provide which services.

In developing countries, electronic banking services, whether provided by financial institutions alone, in association with other providers, or by private companies, offer the possibility of making banking services available to large sectors of the low income, unbanked population including those in remote locations. Such services include, primarily, cash transfers and bill payment.

Peru, Brazil, South Africa, India, and Kenya are examples of countries where telecommunications technology has enabled millions of new customers to conveniently store and transfer funds at nominal costs. Nevertheless, significant problems remain with costs, transparency, customer service, and consumer protection against fraud and errors.

Internet banking has remained a convenience for higher income clients, mostly in developed countries. But internet banking has been the subject of fraud and criminal activity. In general, regulations are not well thought out and leave gaps in terms of operational security, clearly defined licensing requirements, consumer warnings and disclosure, error resolution processes, and liability protocols for unauthorized transactions.

Telecom network operators have also identified issues in Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT) prudent regulations for deposits, payments, e-money, outsourcing, and the use of agents.



Regulations, either for banks or for telecoms and other providers, can be excessive for services to low income consumers, or for small value transactions.

Examples of good regulation: The Third EU Anti-Money Laundering Directive

allows for simplified customer documentation for e-money institutions, where:

- If the technological device cannot be recharged, the maximum amount stored in the device is no more than EUR 150, or where,
- If the device can be recharged, a limit of EUR 2,500 is imposed on the total amount transacted in a calendar year by the bearer
- Any other product or transaction represents a low risk of money laundering or terrorist financing.

CGAP has identified the following issues to be addressed as necessary for good regulatory framework:

1. Use of Agents. Authorization to use nonbank retail agents as the ―cash in/cash out- point and principal customer interface;

2. AML/CFT. Risk-sensitive anti-money laundering (AML) rules and rules for Combating Financing of Terrorism (CFT) adapted to the realities of remote transactions conducted through agents;
3. E-Money. Appropriate regulation for the issuance of e-money and other stored-value instruments (particularly when issued by parties other than fully licensed and supervised banks);
4. Consumer Protection. Effective consumer protection to address the risks involved in electronic payments;
5. Payment Systems. Inclusive payment system regulation and effective payment system oversight as branchless banking reaches scale;
6. Competition. Policies governing competition among providers that balance incentives for pioneers to get into the branchless banking business and against the risk of establishing or reinforcing customer-unfriendly monopolies;
7. Prudential Regulation: For Deposits & Payments;
8. Data Privacy;
9. Foreign Exchange Controls;
10. E-Commerce and e-Security;
11. Telecom/Mobile Network Operator (MNO) Regulation;
12. Taxation; and
13. General Banking & Financial Access.

CGAP uses the above list in its diagnostic tool for regulatory frameworks for mobile banking and branchless banking. The consultant used the list of topics as a checklist of issues to consider in the drafting of the regulations.

Given the present development of the financial system in Angola and the need to increase access to banking services, the consultant recommended that the regulations allow for the participation of non bank persons, who meet specified qualifications, in the provision of electronic banking services not directly accessing a bank account.

This includes allowing electronic money or electronic wallets; a stored value card issued in magnetic or rechargeable intelligent cards, or other means. Such a solution is being offered already in Angola without any guidelines by a microfinance institution.

Most, but not all, of the electronic transactions involve a form of electronic funds transfer. The consultant found that a comprehensive regulatory model with detailed provisions for transparency, sharing liabilities, error solution protocols, and consumer protection, are present in Regulation E of the Federal Reserve System for Electronic Funds Transfers. US Federal Regulation E served as a basis for drafting the electronic banking regulations for the BNA which complements Angola´s detailed provisions for its bank payment system.

Significant issues in electronic security are raised by Internet and electronic banking. The Hong Kong Monetary Authority recently issued regulations that serve as a model for the security portion of BNA's Internet Banking regulation.

The WTO covers issues of territorial access to regulation of Internet banking. The consultant proposed to the BNA working group that Angola adopt Model 1 of the WTO. Thus, BNA, in the draft Internet banking regulation, claims authority to regulate Internet banking services marketed and offered to local persons in Angola by foreign banks lacking legal or physical presence in Angola.

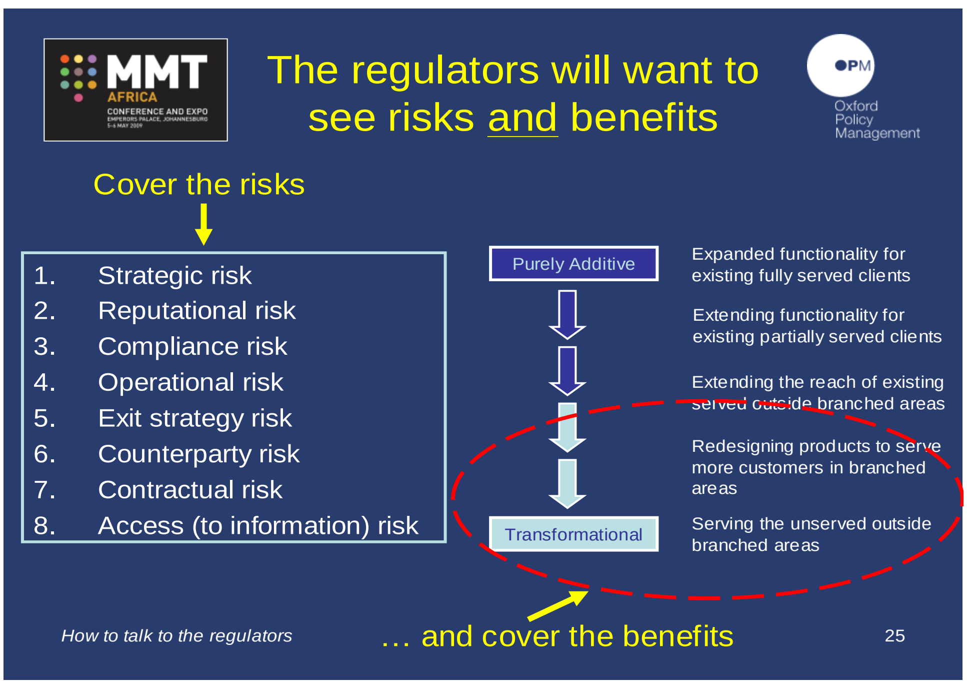
BEST PRACTICES AND ISSUES IN BRANCHLESS AND AGENT BANKING

Branchless banking is defined by CGAP as "the delivery of financial services outside conventional bank branches often using agents and relying on information and communications technologies to transmit transaction details – typically card-reading point-of-sale (POS) terminals or mobile phones."

CGAP continues that "branchless banking can increase poor people's access to financial services if regulation (i) permits the use of a wide range of agents outside bank branches, thereby increasing the number of service points, (ii) eases account opening (both on-site and remotely) while maintaining adequate security standards, and (iii) permits a range of players to provide payment services and issue e-money (or other similar stored-value instruments), thereby enabling innovation from market actors with motivation to do so."

However, branchless banking can result in significant problems for providers, consumers and regulators. The sheer growth in the volume of demand strains capacity, revealing weak operations and poor planned customer service. With unregulated players dealing with money entering a new market, consumers need to be wary, particularly as the lines blur between financial institutions, telecommunication companies, service providers, agents, and scam artists. Therefore, consumer protection is required in the insertion of retail agents between customers and the branchless banking institution, to address who is legally responsible to the customer and increased possibility of fraud.

Transparency is also needed given the large number of parties whose fees and commissions need to be made evident as well as the significant number of arguably separate, yet embedded, services involved (airtime purchases, SMS messaging fees, retail agent commission, etc.).



CGAP notes that branchless banking can be either additive or transformational (DFID 2006). It is additive when it merely adds to the range of choices or enhances the convenience of existing customers of mainstream financial institutions. It is transformational when it extends to customers who would not be reached profitably with traditional branch-based financial services.

By tapping into existing infrastructure that already reaches unbanked people - such as mobile phones and local retail outlets that might be used as agents for the cash-in/cash out function - delivering financial services through branchless banking can be radically cheaper than delivering such services conventionally.

Transformational branchless banking moves into uncharted regulatory waters. In its application to branchless banking, existing financial system regulation is likely to be both over and under protective simply because it was not designed with the types of actors and relationships in mind that are critical to transformational branchless banking models. A careful trek through regulated additive branchless banking can lead to the same result as transformational branchless banking without the inherent risks.

The consultant believes that it is best for Angolan consumers if the BNA promotes the orderly growth of the market by first allowing, or even motivating, banks, credit unions and micro finance institutions to examine the possibilities for additive expansion of banking services to the population through the use of branchless outlets and agents. Thus, the draft branchless banking regulation continues to reserve to banks this activity.

The BNA regulation promotes competition and innovation by prohibiting financial institutions from forcing exclusive arrangements with agents. It is hoped that through associations with technology providers, some of the financial institutions will find a new consumer mass market attractive. Agents can play a role but need to be carefully selected, trained and supervised. As market access evolves, BNA can re-examine how to transform and continue prudent regulation of the industry.