ITU Arab Regional Workshop on

:

"Digital Financial Inclusion":

Policies And Regulation

(Khartoum - Sudan, 24-25 August 2016)

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SESSION 6: HARMONIZED REGULATORY FRAMEWORK OF THE DIGITAL FINANCIAL SERVICES.

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Agenda.

1. Importance of Regulation
2. Harmonized Regulatory Framework: Definition.
3. Regulatory Convergence
4. Regulation
5. Multi-Regulators Environment …
6. Generalization
7. Regulation Objectives
8. Openness and Certainty
9. Two Tiers of Principles
10. Enabling regulatory Approach
11. Some Critical Regulatory Issues in MM.

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Importance of Regulation ….

Of the many external factors and features influencing the design and implementation of mobile money services, of those that impede a mobile money service attaining scale, 'only regulation seems to pose challenges too great for a service to overcome' [3].

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Harmonized Regulatory Framework: Definition.

- *Harmonization is the process by which technical guidelines are developed to be uniform across participating Regulatory authorities.*

Regulatory Convergence …

- A process whereby the regulatory requirements across countries or regions become more similar or "aligned" over time as a result of the gradual adoption of:
  - internationally recognized technical guidance documents,
  - standards and scientific principles,
  - Follow common or similar practices and procedures, or
  - adoption of regulatory mechanisms that might be specific to a local legal context but that align with shared principles to achieve a common public goal.

* Regulation ….

- Regulation is needed to balance between different actors on the market offering the same or similar services.
- The regulation of MM is more complex as it needs *hybrid sort of regulation*: regulating the financial activity as well as Telecoms network operation. *Such regulatory Body does not exist!*
- *It is the beginning of a new era of Regulation: Telecoms does not just provide channels …. It provides channels with various content!*

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Multi-Regulators Environment …

- In some countries, it sits in the cross-junction of 5 Regulators: (bank supervisor, payment regulator, telecommunication regulator, competition regulator, anti-money laundering authority).
- A number of new services, that will emerge and become popular under the Umbrella of Broadband services, will require Multi-Regulatory policies.

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Generalization .....

- The degree to which a certain regulatory issue can be pursued is determined by two guidelines characteristics under which we can categorize regulatory principles.
- These TWO are Openness and Certainty ......

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Regulation Objectives[4] …..

- Regulations should ensure that the most motivated players are enabled to compete on a level playing field, with regulations proportionate to the risk of the products/services being offered.
- Regulators must *(also be careful)* not to impede incentives of motivated stakeholders to invest and innovate; e.g. by prematurely forcing collaboration.

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Openness and Certainty[1]

- Openness in Regulation allows access of the market for new entrants to the sector.
- A regulatory principle is said to be supporting certainty if it does not allow arbitrary legislative changes to affect the sector.
- In any new market, enablement requires a blend of legal & regulatory *openness, which* creates the opportunity to startup and experiment, with sufficient legal & regulatory *certainty* that there will not be arbitrary or negative changes to the regulatory framework, so that providers have the confidence to invest the resources necessary.

2

Openness and Certainty ….

- Low levels of effective regulation is normally very open but highly uncertain, since regulatory discretion may lead to arbitrary action.

- Greater certainty is normally less open, in that the types of entity and approach allowed to start up are restricted.

- New market sector, such as mobile banking, the business models are not yet stabilized, enablement in the policy and regulatory sector means a move towards greater <u>*certainty and greater openness.*</u>

1

Two Tiers of Principles ….

- There are two tiers of principles.

1. *<u>First tier principles</u>*: these are necessary conditions for m-banking to happen on scale at all:
    i. There should be sufficient certainty around electronic contracting.
    ii. Customers are protected against fraud and abuse in the MM environment.
    iii. Inter-operability should be embraced, through ensuring that providers can access payment platforms and that consumers are able to switch financial providers.

2

Two Tiers of Principles ….

2. Second tier principles: for transformational models to emerge and succeed, additional principles are also necessary:
   i. Customer due diligence procedures for account opening should be risk-based, and *not unduly prejudice remote account openings by small customers*.
   ii. Customers should be able at least to make deposits and withdraw cash through agents and remote points outside of bank branches.
   iii. Adequate provision must be made for the issuance of e-money by appropriately capitalized and supervised entities which *are not necessarily banks*.

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Enabling regulatory Approach[2].....

- **Permit non-banks to issue electronic money (or equivalent)** by allowing them to:
  - **be licensed directly, OR**
  - **set up a subsidiary for this business, OR**
  - **apply for a payments bank (or equivalent) licence, OR**
  - **provide the mobile money service under a letter of no-**objection to the non-bank or its partner bank, pending the approval of a specific regulation,
  - **AND imposes initial and ongoing capital requirements that are** proportional to the risks of the e-money business,
  - **AND permits them to use agents for cash-in and cash-out** operations,
  - **AND does not prescribe the implementation of specific** interoperability models without allowing for a market-led approach.

2

Enabling regulatory approach[2].....

- More regulators are recognising the importance of creating an open and level playing field for mobile money services.

- In 2015 GSMA annual survey, it reported that 51 of 93 countries have started offering mobile money with an enabling regulatory framework (end of Dec. 2015).

Some Critical Regulatory Issues in MM.

Building Active Agent Network …

- Do we need to Regulate Agents Networks?
- Which of the Regulatory Authority will take over the regulatory role for the Network: the Telecom Regulatory Authority or the Financial Regulator?
- Banks need to have access to the Agents Network. How this will be perceived by the MNO?
- Can MNO keep Agent Exclusivity?

Building Active Agent Network …2

- Do we need to Regulate Agents Networks?
- Safaricom's agent exclusivity arrangement in M-Pesa was formally outlawed in July, 2014 by the Central Bank of Kenya, to improve competition and encourage lower fees.
- In Uganda, the 2013 Guidelines outlawed agent exclusivity.

Building Active Agent Network ...3

- Although the expansion of the agents network continues, having active agent networks remains a challenge for most MM providers.
- It was noted that regulatory approval to have more flexibility in agent registration has increased the number of agents and shorten the overall time needed to have an active agent network.

Building Active Agent Network …4

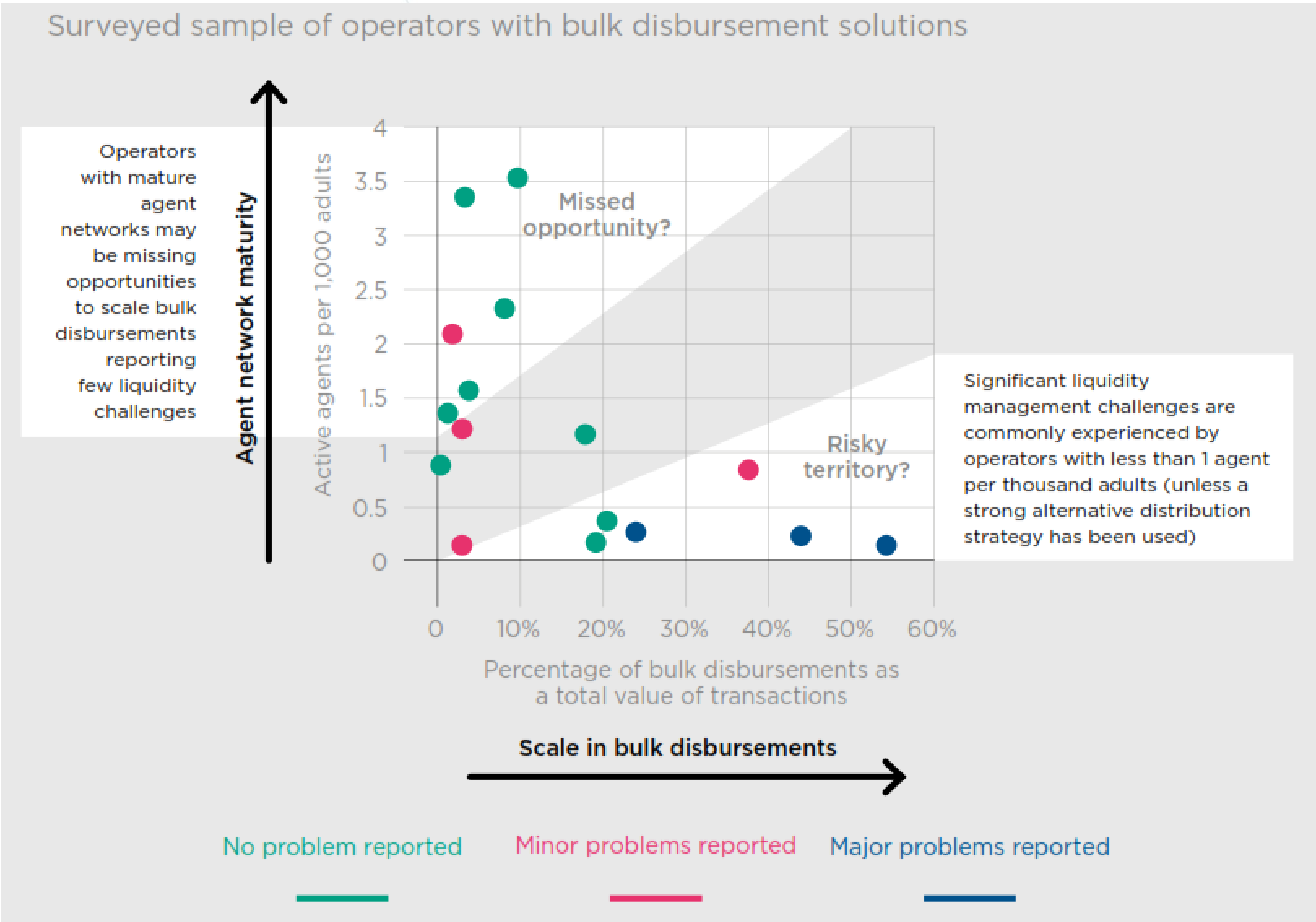
- Restrictive regulatory environment, lack of commercial investment, or a complex market context can lead to delays in activating agents.
- Although partnering with Large retail chains has the advantage of adding significant numbers of registered agents base, but many of them need a training before they can become active.

Building Active Agent Network …5

- The figure below shows the relationship between scale in bulk disbursements and agent network maturity.

- The graph shows that liquidity management problems are common amongst operators that have pushed scale in bulk disbursements without mature agent networks (less than one agent per 1,000 adults).

Liquidity Problem and Size of the Agent Network.



Generating Revenue from Float or Trust Account.

- Float is the balance of e-money, physical cash, or money in a bank account that an agent can immediately access to meet customer demands to purchase (cash-in) or sell (cash-out) electronic money.
- A ”Trust Account” or “Escrow Account” is an account in which a liquid assets equal in value to the amount of money issued electronically is maintained by a *NON BANK MM Provider*.
- These funds are usually pooled and held by one or more banks in the name of the issuer (or in the name of a trustee appointed by the issuer).

Generating Revenue from Float or Trust Account…2

- In countries with a common law legal tradition, the funds typically are held in trust for the benefit of the mobile money users.

- In countries where the common law concept of trust does not exist, mobile money users typically have a right to claim these funds under the law of contract.

Regulatory Approaches to Generating Revenue …

1. Any Revenue Generated from Float or TRUST ac should be spent on public charitable purposes; e.g. Kenya,
2. Any Revenue earned must benefit (Directly or indirectly) to MM Customers; e.g. Liberia, Lesotho.
3. Any Revenue earned must be passed on to customers: e.g. Ghana.
4. Any Revenue earned MUST NOT be returned back to MM Customers; e.g. Afghanistan and Namibia,

Regulatory Approaches to Generating Revenue … 2

5. Any Revenue Generated from Float or TRUST A/C can be utilized by MM Service Provider.

- The regulator should also consider that the startup of MM project needs some investment in building the Agent Network.
- An alternative approach is to divide the revenue generated between the MM service provider and the MM customer with a high startup ratio for MM provider and gradually decreasing as the MM services mature .

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Many Thanks.