Mobile banking services in the east African community (EAC): challenges to the existing legislative and regulatory frameworks.

In the East African Community (EAC), mobile banking is growing at a remarkable speed and it is bound to further grow in a significant way in the near future. The field of mobile-payments and mobile-banking is not only new and fast evolving in the EAC but also sits at the overlap of several regulatory and legislative domains—those of banking and telecommunication. The overlap substantially raises the risk of coordination failure, where legislation or regulatory approaches are inconsistent or contradictory. This is creating considerable uncertainty about the appropriate regulatory response that must be established and also what supervisory regime applies to the various activities involving banks and non-banks. A comprehensive vision for market development between policy makers, regulators and industry players in the EAC can help to define the obstacles and calibrate proportionate responses to risk at appropriate times. In the EAC, cell phones transfer more than half a billion dollars monthly. The number of mobile phone users has long exceeded the number of people with bank accounts across the EAC. There is a need to address issues relating to telecommunications and financial regulation to ensure that mobile money services bring the desired broad benefits, especially to the poor in the EAC.

Introduction

In the ICT sector, the EAC has seen a rapid growth of mobile telephony in the EAC. The establishment of the common market has led to increased competition in the sector. Mobile network operators (MNOs) are exploring new business opportunities and as a result many new services are emerging. Mobile money is one of the most notable services of this trend. This is a phenomenon that took off in earnest only in the past few years with M-PESA which started operating in Kenya in 2007. M-PESA has taken the lead in terms of innovation for providing more inclusive access to finance a large part of the population who hitherto had been without a bank account. The EAC is therefore at the forefront of this trend.

Mobile money is generally used here to refer to money stored using the SIM (subscriber identity module) in a mobile phone as an identifier as opposed to an account number in conventional banking. Notational equivalent is in value issued by an MNO and is kept in a value account on the SIM within the mobile phone that is also used to transmit transfer or payment instructions, while corresponding cash value is safely held elsewhere, normally in a bank for the case of EAC. The balance on the value account can be accessed via the mobile phone, which is also used to transmit instant transfer or payment instructions.

Mobile money offers new possibilities for making financial services more inclusive in EAC and beyond. Unlike conventional banking and financial services, MNOs in the EAC have made huge investments to create networks that reach further and deeper into rural areas historically marginalised in an effort to satisfy their demand to communicate. As average revenue per user (ARPU) from traditional services decline, MNOs and their partners are looking at this network platform to offer new kinds of services. In addition, there is a wide range of cheap mobile phones making them affordable to a wider section of the population and a common artefact across the EAC.

The rapid growth in mobile money has added urgency to the need for an effective and robust legal and regulatory framework in the EAC. Ordinarily, regulators and Governments in the EAC tend to look towards the developed world to draw examples from. But in the case of mobile money, the situation is the reverse. EAC region is at the forefront of the mobile money revolution with a number of implementations amongst the few that are gaining attraction globally and, as a result, has few examples to draw from elsewhere. In- stead, countries in this region—four of which are least developed countries (LDCs)—can provide leadership and example through experimenting with new models and ways of doing things such that they do not erode past achievements but instead create more development opportunities.

Mobile money landscape across the EAC

In the EAC, the players involved in the Mobile Money include the following:

(a) An MNO that provides the mobile infrastructure and customer base that is already using its communication services. MNOs ensure compliance with telecommunication regulations and policy within the country.

(b) A bank or other financial institution with banking license and infrastructure that enables the exchange of money between different parties. Banks ensure oversight and regulatory compliance with national financial regulations and policy.

(c) Regulatory institutions across different sectors. The key regulators in EAC include Central banks for the financial sector and ICT regulators for the communications sector.

(d) An agent network that facilitates cash-in and cash-out to afford convertibility between mobile money and cash. Agents earn commission on various transactions carried out by mobile money users.

(e) Merchants and retailers: they accept mobile money payments in exchange for different products and services. They help increase demand for mobile money by offering more avenues through which users can spend their mobile money. In return, they can minimise the need to handle cash. These include businesses that utilize mobile money as a means to deliver their services.

(f) MNO's subscribers: Users derive benefits by getting cheaper and more efficient means of transferring or paying money to other people or businesses within the network.

Legislative and regulatory frameworks

Mobile money transactions have presented regulatory challenges that could potentially hinder maximum development benefits. This is because firstly, mobile money blurs the traditionally distinct and independent sectors of regulation (most notably, the telecommunications and financial banking sectors). It often involves an overlap between multiple ministries and Government agencies, thus adding to the complexity of oversight needed. Secondly, due to the rapid growth in technological advancement, MNOs and other stakeholders are exploring emerging business opportunities like mobile banking. This in effect is changing the traditional business models and the financial landscape. Thirdly, there is limited legislative and regulatory experience in other countries and regions to draw lessons from when drafting relevant legislation and regulations. As is the case in most other developing regions, national regulations have not kept pace with developments in the field. It is therefore imperative that regional and national authorities identify and address the gaps and potential overlaps between their existing legislative and regulatory frameworks.

Overlapping issues

Mobile-banking sits at the intersection of a number of important policy issues. These issues include interoperability in relation to ICT networks, interconnection issues among ICT service providers, sector competition issues, lack of Legislative and regulatory harmonization and convergence of ICT and financial sectors. Each issue is complex in its own right, and is often associated with a different regulatory domain: as many as four regulators (bank supervisor, payment regulator, telecommunication regulator, and competition regulator) may be involved in crafting policy and regulations which affect this sector.

The complex overlap of issues creates the very real risk of coordination failure across regulators. This failure may be one of the biggest impediments to the growth of mobile-banking, at least of the transformational sort. However, even without the additional complexity introduced by mobile-banking, many of these issues require coordinated attention anyway in order to expand access. It is possible; however, that mobile-banking may be useful because the prospect of leapfrogging may help to galvanize the energy required among policy makers for the necessary coordination to happen.

Conclusions

Generally, the EAC Member States central banks are equipped to address risks present within retail payments systems in EAC, mobile money presents a new set of regulatory challenges. Mobile money involves players that traditionally have not fallen within the purview of central banks. Some of the issues that are of concern include whether MNOs should be directly licensed to issue mobile money; how the agents, which are critical for mobile money, should be regulated; Studies documenting risks across the mobile money chain have started to emerge. But they do recognise the nature, dynamism in the development of new business models as well as the uniqueness of various environments and how all of these do influence mobile money platforms in the EAC. EAC regulators have few other countries to turn to draw lessons. This further compounds the challenge of effectively regulating and protecting consumers, without stifling innovation. Overlapping issues relate to interoperability well as collaboration between regulators of all the relevant sectors both within and across the EAC. These issues are not exhaustive; they encompass common areas that need attention to help foster adoption and use of mobile money across the EAC.

The EAC's aspiration is to and move towards integration, there is therefore an element of regulatory collaboration through EAC secretariat and other regional entities, like the East African Communications Organisation (EACO), which brings together the communications regulators. Through these bodies, regulators tend to look at issues from a regional perspective and strive to create compatible regulation to support both national and regional goals. While Central banks across EAC have worked on a number of regional projects like the Real Time Gross Settlements (RTGS) system, and others that are in the pipeline, mobile money is not yet on the table. Dialogue is largely happening at a national level with Kenya often leading the way owing to the success of M-PESA and the fact that they have somewhat longer experience than the other EAC countries.

Policy implications

To unleash the potential of mobile money, regulators must create an open and level playing field that allows both banks and non-bank providers to offer mobile money services – particularly MNOs, which are well suited to building sustainable services and extending the reach of the formal financial sector rapidly and soundly.

An enabling policy and regulatory framework creates an open and level playing field that fosters competition and innovation, leverages the value proposition of both banks and nonbank providers, attracts investments, and allows providers to focus on refining operations and promoting customer adoption. Unfortunately, ineffective and divergent policies and cumbersome regulatory barriers between Member States have had a negative effect on the development of mobile money and the expansion of financial inclusion in the EACs' Mobile money markets.

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