
Evolution of Mobile Banking Regulations

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It is generally agreed that mobile banking, despite all the risks, needs to be encouraged to permit the unbanked to avail of financial services, which could reduce the cost of living for them as well as allow banks and telecom realize their fortune at the bottom of the pyramid. Therefore, any regulation to this sector should be enabling, i.e. open to the startup and growth of new and varied models and inducing certainty, both for providers investing capital taking risk, as well as consumers entrusting funds to new m-banking providers, whether banks, telcos or other entities. This openness may require a new look at what constitutes e-money and how it might impact money supply, inflation and other economic indicators. It should also insist on interoperability so that money can be transferred between operators, even if doing so increases the risks and costs of supervision. Europe is trying to create a single market and take out all cross-border

impediments. A step in this direction was taken by the Regulation (EC) No 2560/2001 which now requires that bank charges by financial institutions for cross-border payments and transfers within the EU should not be more than the bank charges for similar transactions within the member States, at least for transactions of less than €50,000. For payment systems, an initial directive was passed in 2000 (Directive 2000/46/EC). The new Directive 2009/110/EC on the taking up, pursuit and prudential supervision of the business of electronic money institutions replaces the Directive 2000/46/EC. The revised directive seeks to remove the high regulatory barriers preventing the development of an electronic money market in the EU and seeks to set reasonable conditions for the business operations of electronic money institutions. European regulators try to distinguish between spending products (electronic money) ►

and savings products (deposit taking). For this reason, interest on electronic money balances is banned in Europe. An important change to the EU regulation came from the legalization of hybrid electronic money institutions, i.e. institutions that perform other activities in addition to the issuance of electronic money. The funds of e-money customers have to be separated from that of the rest of the business, according to the 2009 directive. In this 2009 directive, agents are allowed to distribute e-money but not to issue new e-money. Electronic money institutions are subjected to effective anti-money laundering and anti-terrorist financing rules. Another fundamental change in the 2009 directive is the reduction in the regulatory burden placed on electronic money institutions and the convergence of their status with the conditions for payment institutions under the Payment Services Directive. In terms of capital requirements, initial capital is reduced from the current €1 million to €350,000, i.e. to approximately one-third. As a result of

this directive, there is a mushrooming of actors offering services to act as payment service providers (PSP). The most common of these activities is to offer their payment services to online merchants, especially for digital goods. If the consumer downloads the digital good or subscribes to an online activity, then he can pay by adding it to his telephone bill. Since, the EU does not indicate any amount of what can be paid, the telephone operators have auto-regulated themselves and set limits on what they are prepared to add. This would vary from country to country. In France, for example, these limits could be €30 by fixed telephone carriers and €10 by Mobile carriers. The Telecom deducts its charges and pays the PSP, who then deducts its charges and pays the merchant. The PSP may also take into account many of the multi-actor risks such as acting as the customer interface for returning goods, refunds, wrong charges, and multi-currency options. ■

Note:

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² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:267:0007:0017:EN:PDF>, (official Journal of European Union dated 10/10/2009). The Directive has been implemented by the Italian government with Legislative Decree n. 45 of 16 April 2012 .

³ Ashta, Arvind (2010), *An account of the Mobile Payment Expo (Paris 9 to 10 Jan, 2010): Understanding the Mobile Payme Landscape*, Microfinance Focus June 2010.

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Sintesi in italiano

Evoluzione delle normative sui servizi bancari mobili

A cura di Arvind Ashta and Stefano Battaglia ²

Qualsiasi normativa relativa ai servizi bancari mobili dovrebbe, da una parte, avere una funzione propulsiva, quindi aperta all'avvio e crescita di modelli nuovi e prodotti innovativi e, dall'altra, dare certezza sia ai fornitori di capitale di rischio che ai consumatori. Questa apertura richiede però un nuovo sguardo sulla natura della moneta elettronica ed il suo impatto sull'offerta di moneta, l'inflazione ed altri indicatori economici. Particolare attenzione dovrebbe essere data all'interoperabilità, in modo che il denaro possa essere trasferito tra gli operatori, nonostante ciò ne aumenti la rischiosità ed i costi di controllo. L'Europa sta facendo importanti sforzi per affrontare tali argomenti, attraverso una pluralità di iniziative regolamentari tese a creare un mercato unico ed eliminare le barriere transfrontaliere. ■

