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Regulation of Mobile Payment Systems in Kenya

Rome, 12 March 2019 – Mobile Payment Systems (MPS) technology has taken us closer to a cashless future making our mobile phones become our wallets. Mobile Payment is simply paying for a product or service through a mobile device such as a cell phone or tablet. MPS have particularly gained popularity in Kenya because of convenience and security.

In Kenya, M-Pesa, Airtel Money and T-Kash are special payment systems because they are virtual banking systems that provide transaction services through a SIM card. In other words, they are online payment systems, which allow users to store and transfer money through their mobile phones. Note that they are not an intermediate between the customer and the bank but rather create access to financial services without necessarily having a bank account. Currently, it is easier to register a mobile money account than a bank account.

Parties Involved

Before delving into how MPS work, we need to understand the parties involved. First, a **licensed Mobile Network Operator (MNO)** has to design an application and develop infrastructure that will support the application (app).

Second, MNOs usually enter into an agreement with a **bank** in order to get an escrow account that will hold the interest earned from deposit balances. These funds are not to be accessed by MNOs unless they are authorised by the Central Bank of Kenya (CBK), which is the overall regulator of all banks. Even in cases of bankruptcy, the MNOs still require authorisation from the CBK.

Third, each MNO recruits and vigorously trains their **agents**. After the training they are authorised to open accounts for new users. The agents, in kiosks all over the country, have cash or float ready to exchange with an equivalent amount of electronic money (e-money)/virtual money. There are ways of showing whether the agents are authorised. For instance, Safaricom (a MNO in Kenya) gives their agents a 10-digit agency code, which proves their authenticity.

Lastly, **the user/customer** is one who has the mobile money account. Every user must have attained the age of majority (18 years) to be eligible to use the app.

How Mobile Payment Systems work

One can register through the MNO's mobile application, websites, Unstructured Supplementary Service Data (USSD), call centres or agents. For one to register for a mobile money account, they should have a SIM card from a licensed MNO, and their original identity card. An agent registers the new user. Thereafter, the user must securely enter a PIN number. This number is confidential and only known to the user. The virtual money is always in the customer's control. Therefore, there is no credit risk to either the customer or the MNO.

They offer services such as sending money, withdrawing cash, buying airtime, loans and savings, paying bills, and paying for goods or services. In addition, one can send directly to and withdraw money from their bank accounts. Each of the MNOs have specified the maximum amount one can hold in the mobile money account and the amount one can transact within 24 hours. For instance, the maximum that an M-Pesa account can hold is Ksh 100,000 (approximately $1000). Moreover, the maximum one can send or receive in only one transaction is Ksh 70,000 (approximately $700). The daily transaction limit is Ksh 140,000 (approximately $1400). After every transaction, there is a confirmation message sent to both the sender the receiver.

The users can send money anywhere in Kenya. Due to the partnerships recently created by MNOs in Kenya, users can now send and receive money across networks. A case in point is an M-Pesa user can send money to an Airtel Money user.

A Simple Transaction

The diagram above illustrates how agents get e-money for exchange and a simple transaction between two persons. As shown in the diagram, the **bank** has an account that holds cash that is equivalent to the e-money held by the mobile money users, and agents. **Agent 1** deposits a float of cash in the bank account to get an equivalent amount of e-float in his/her mobile phone. A customer who wants to send money (**Sender**) to another person (**Receiver**) must deposit cash at **Agent 1's** kiosk. **Agent 1** credits into **Sender's** mobile money account as virtual money. **Sender** transfers the virtual money to **Receiver.** Both receive a notification in their mobile devices. Then **Receiver** withdraws money and gets cash from **Agent 2**, who then takes the float to the **bank** to get more e-float in their phones. The process repeats itself.

Regulatory Framework in Kenya

Transacting money using mobile payment systems such as M-Pesa, Airtel Money and T-Kash is safe. The regulations put in place by CBK has made this possible. At the time M-Pesa was launched, the Banking Act did not regulate non-banks. Because of this the innovation got resistance from some authorities who were very sceptical on this technology. Consequently, CBK carried out an audit and reassured the public that the technology was safe and in line with the financial inclusion of the country.

The Central Bank of Kenya Act (CBK Act) gives the CBK general authority, in verbatim, to formulate and implement such policies as best to promote the establishment, regulation and supervision of efficient and effective payment, clearing and settlement systems.[1]

The Communications Authority regulates mobile network operators in Kenya. They are given licenses, to offer mobile payment systems to the public, under the Kenya Information and Communications Act.[2]

In 2011, the National Payment Systems Act (NPS Act) came into effect. The NPS Act regulates payment systems. Any person who operates a business as a payment system provider without authorisation commits an offence.[3]This was the first statute to regulate Mobile Payment Systems directly in Kenya.

Mobile money apps have a 'special license' whose conditions are more relaxed as compared to licenses issued to banks and other financial institutions. For any mobile network provider to be authorised in order to provide a payment system, they must seek approval from CBK and meet all the requirements and conditions in the NPS Act and National Payment Systems Regulations (2014).[4]

Although the CBK Act does not provide for regulation on operational modalities, MPS are built with explicit anti-money laundering (AML) measures in mind, such as suspicious transaction monitoring and electronic audit trails. A case in point is the M-Pesa system, which has complied with AML standards set by the Kenyan Anti-Money Laundering Legislation as well as those set by Vodafone and the Financial Action Task Force (FATF). For instance, the limits on transactions are set to curb money laundering.

CBK has a mandate to carry out audits and inspections as may be required.[5] In addition, CBK requires MNOs to prepare reports on monthly returns. Moreover, MNOs must apply the KYC guidelines to govern mobile money transactions. These are a set of due diligence measures undertaken to identify the customer and monitor transactions performed on their mobile money wallets/accounts.[6]One common practice that abides by the guidelines is the requirement of an original identity card when withdrawing cash to curb any fraud or cheating.

Conclusion

Mobile payment in Kenya is a success because the regulation allows innovation and supports financial inclusion while managing risks. In addition, the success is also attributed to the innovative Mobile Network Operators, Regulators, and policy makers who are keeping an open mind. The economic theory of laissez-faire, that less regulation in a market gives the best results, has proven to be true. Such an approach is attractive in new, technology-based and capital-intensive industries.

The central bank of Kenya has also done great job in overseeing the payment systems to reduce systemic risk and maintain public confidence. Although challenges such as fraud, theft and network problems still exist, there are systems and regulations being put in place to curb these. It will require the regulators, government and private sector of Kenya to collaborate in order to get the best results.

[1] Section 4A, Central Bank of Kenya Act, NO. 39 of 2011

[2] Section 5, Kenya Information and Communications Act, No. 2 of 1998

[3] Section 12, National Payment Systems Act, No. 39 of 2011

[4] Central Bank of Kenya, Guidelines for application for the authorisation of payment system providers, June 2014, pg. 2

[5] Section 23, National Payment Systems Act, No. 39 of 2011

[6] Bank of Uganda mobile money guidelines 2013, pg. 5
