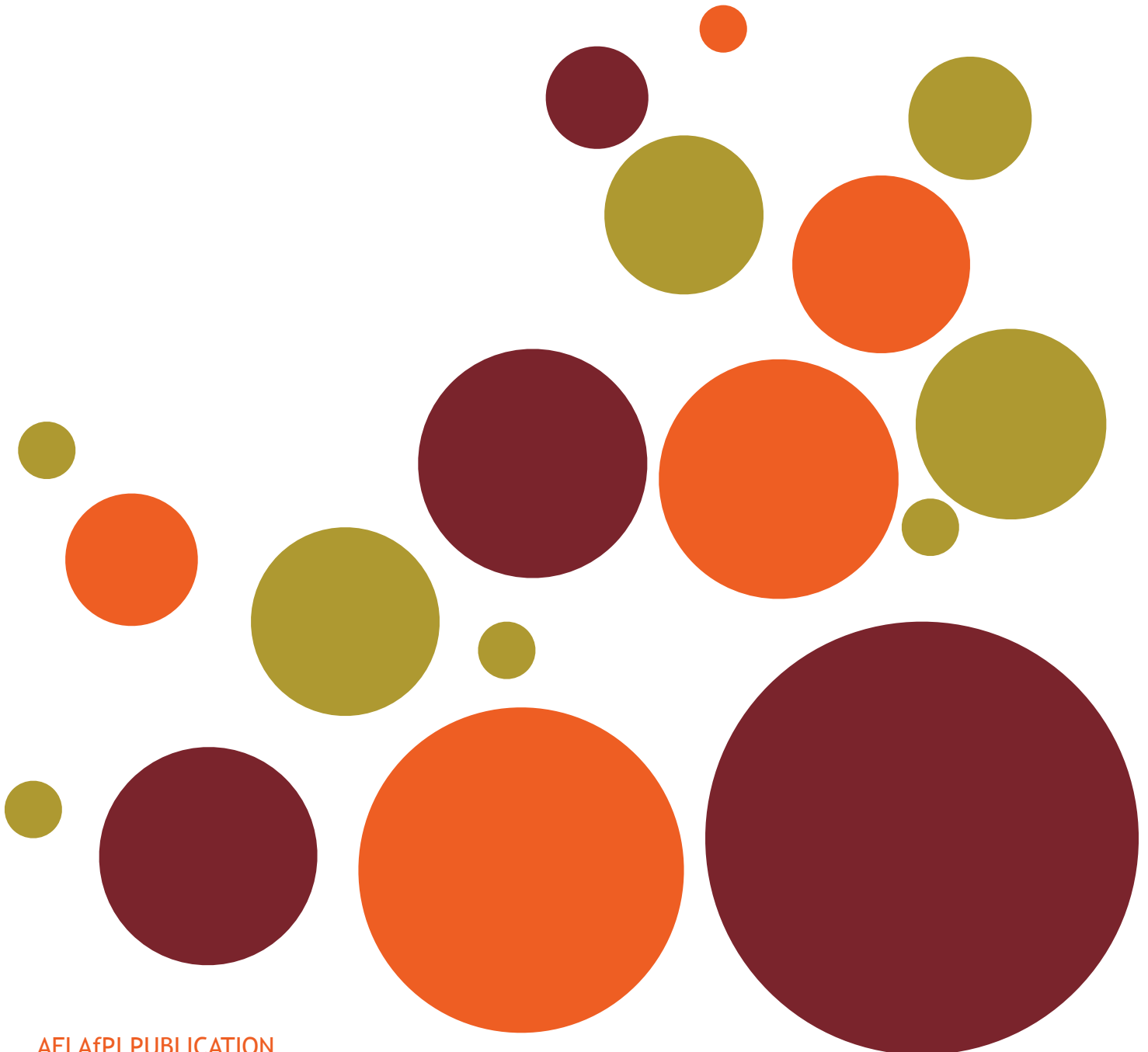




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# STRENGTHENING COOPERATION BETWEEN FINANCIAL AND TELECOM REGULATORS ON DFS ISSUES: A CASE STUDY OF GHANA

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# CONTENTS

Introduction	3
Background	4
The Memorandum of Understanding	5
Cooperation Initiatives	6
Conclusion and Recommendations	7
Acronyms and Abbreviations	7
References	7

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## INTRODUCTION

Digital financial services (DFS) have become a game changer recently – a catalyst for financial inclusion and a tool for poverty alleviation. This is especially true for underdeveloped countries around the world. First pioneered by Kenya with M-Pesa and later by Tanzania and Uganda, innovative mobile financial services (MFS) have gained healthy momentum in the rest of Africa, especially in West Africa, where enabling regulation has fostered this growth.

The phenomenal growth of DFS has not come without a cost. The influx of new technology, innovative products and new entrants in the ecosystem is posing greater risks to financial stability and consumer protection. Furthermore, the growing complexity of MFS requires a level playing field and dealing with issues of fair pricing and competition. All of this means supervision of MFS needs to be stepped up. Different models (bank-led, telco-led or some other variation) allowed by different regulatory regimes determine how the regulation of MFS is managed in any given country.

However, technology and innovation has far outpaced regulators and their ability to supervise MFS effectively. Experience has shown that stakeholder engagement and cooperation among regulators is invaluable to addressing capacity gaps and facilitating enabling environments for MFS to thrive and grow. In a 2016 technical report,<sup>1</sup> the International Telecommunication Union (ITU) points out that diverse, multiple objectives affect a range of players and stakeholders in a payments ecosystem. “Experience shows that these objectives are very often only achievable with the deliberate collaborative and organised actions by a broad range of stakeholders from the public and private sectors, typically implemented through cooperation fora.”

Given this, it is widely acknowledged that financial system supervisors need to cooperate with telecom regulators and coordinate the management and supervision of MFS. According to the Global Partnership for Financial Inclusion (GPFI), “Financial supervisors are facing important challenges to carry out their mandates effectively in the context of an increasingly complex financial sector landscape” and the questions this raises about supervisory boundaries.<sup>2</sup> This cooperation is at an early stage in most countries, however, and the degree of cooperation required and which model represents best practice are still being explored.

Taking into the importance of facilitating the corporation among financial inclusion stakeholders, cooperation, AFI member institutions from Africa adopted a “Cooperative Arrangement Framework with Telecommunications Regulators” in the area of DFS on 7 September 2016 in Nadi, Fiji, on the side-lines of AFI’s Global Policy Forum GPF. The Framework seeks to encourage financial regulators in Africa to take the lead in formalizing regulatory cooperation with Telecom regulators to avoid market distortions by regulatory conflicts on DFS issues.

Ghana, like Tanzania, Malawi, Kenya, Uganda, Rwanda, and Mozambique, is one country that has taken advocacy for regulatory collaboration and coordination a step forward. This case study, based in part on interviews and questionnaires, examines cooperation mechanisms between the Bank of Ghana (BOG), the financial system regulator, and the National Communication Authority (NCA), the telecommunications regulator. It explores the performance of these mechanisms so far and offers some recommendations to strengthen cooperation.

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1 ITU-T Focus Group Digital Financial Services (FG DFS), 2016, “Cooperation Frameworks between Authorities, Users and Providers for the Development of the National Payments System”. Available at: [https://www.itu.int/en/ITU-T/focusgroups/dfs/Documents/09\\_2016/Cooperation%20frameworks%20between%20Authorities,%20Users%20and%20Providers%20for%20the%20development%20of%20the%20National%20Payments%20System.pdf](https://www.itu.int/en/ITU-T/focusgroups/dfs/Documents/09_2016/Cooperation%20frameworks%20between%20Authorities,%20Users%20and%20Providers%20for%20the%20development%20of%20the%20National%20Payments%20System.pdf)

2 Global Partnership for Financial Inclusion (GPFI), 2016, “Global Standard-Setting Bodies and Financial Inclusion: The Evolving Landscape.” White Paper. Available at: <http://www.gpfi.org/publications/global-standard-setting-bodies-and-financial-inclusion-evolving-landscape>

## BACKGROUND

Ghana has a population of approximately 28 million. Roughly 49% of the population is rural and 65% of total land area is in agriculture. A study by the Consultative Group to Assist the Poor (CGAP) in 2015 estimates bank penetration at 36% and the non-bank formal sector at 22%, up 15% from 7% in 2010. Financial exclusion is estimated at 25%, down by 19% from 44% in 2010.

Six telecommunications companies operate in Ghana and mobile (voice) subscriptions had reached 39.2 million by the end of March 2017. Four of these companies (MTN, Vodafone, Airtel and Tigo) offer mobile money services with total subscriptions at 20.5 million, 9.3 million of which are active mobile money users. MTN is the dominant company with over 50% market share in both voice and mobile money subscriptions. The volume of total mobile money transactions ballooned from a mere 18 million in 2012 to 550.2 million in 2016. The value of transactions also grew from GHS 594.1 million to 78.5 billion over the same period.

The CGAP survey found that financial inclusion in Ghana has expanded substantially in the last five years. This expansion was attributed to mobile financial services, which have opened nearly as much access to formal financial services as banks. A significant number of mobile money consumers (50%) expressed a high degree of satisfaction with the range of financial options, but 39% of respondents complained about mobile network downtime (the most-recorded complaint).<sup>3</sup>

In 2008, the Bank of Ghana (BOG) issued branchless banking guidelines to formalize and regulate a booming mobile money offering by MNOs in partnership with banks. Since this was a financial service, the central bank's immediate response was to curb the leadership role of MNOs and designate them as agents of banks and other regulated financial institutions (RFIs). By 2010, however, it became apparent that the practice of MFS delivery conflicted with the spirit of the guidelines, mainly because banks were not interested in leading the process as the Bank had conceived it. As MNOs were forced to take on the leadership and management of the entire value chain, their operations fell into a largely unregulated grey area. Spotting this loophole, the central bank organized stakeholder meetings and workshops involving MNOs, the NCA, banks and third-party service operators.

From the start, the NCA was unwilling to supervise the financial transactions of MNOs. Licenses granted to MNOs went only as far as allowing them to engage in "value-added services", which, though unspecified, were intended to cover digital financial services. They felt that financial transactions should be handled by BOG, which was best placed to do so. For BOG, there was no question that mobile money fell directly within its mandate of managing the financial system, cementing agreement on who had jurisdictional authority over mobile money operations.

It was also agreed that MNOs should not enjoy supervisory arbitrage, but neither should they be subjected to double supervision. However, BOG could not legally supervise and/or regulate mobile money unless the structure changed. The answer was found in requiring MNOs to hive off their mobile money departments to create autonomous non-bank institutions with separate boards. These could then be supervised directly by BOG. In July 2015, the Electronic Money Issuers (EMI) and Agent Guidelines were issued by BOG to formalize the transition of mobile money departments into non-bank financial institutions (NBFIs), define their scope of operations and provide governing rules and regulations.

The fact remained that these institutions were technology companies close affiliated with their parent firms. Indeed, the integrity of mobile money operations relies heavily on the integrity of the mobile telecommunication platforms of MNOs, which are regulated by the NCA. It was therefore necessary for BOG to collaborate closely with NCA as the regulator of the mother companies. At the same time, jurisdictional responsibility between BOG and the NCA had to be clearly defined to avoid any ambiguity. It was felt that some mechanism for formal cooperation and coordination should be put in place, and a Memorandum of Understanding (MOU) was adopted for this purpose.

<sup>3</sup> Consultative Group to Assist the Poor (CGAP), FII Ghana Launch Report, November 23, 2015

## THE MEMORANDUM OF UNDERSTANDING

The MOU between BOG and the NCA was signed on 20 September 2016 at a private official launch and announced later at the annual National Banking Conference, with media coverage.

Under the MOU:

- a BOG is mandated to ensure the soundness and stability of the financial system in Ghana and to regulate, supervise and oversee the national payment system, including mobile money operators (MMOs); and
- b The NCA is mandated to regulate communications by wire, cable, radio, television, satellite and similar forms of technology for the orderly development and operation of efficient communication services in Ghana, including MNOs.

For BOG, the decision was driven by a recognition that the NCA had the technical capacity to regulate the ICT infrastructure of MMOs, which would be useful for the central bank to perform its supervisory duties. Moreover, defining the roles and responsibilities of each party is necessary to curtail any regulatory arbitrage. When asked why it was crucial to have an MOU in place, the Head of Payments System Department at BOG had this to say: *“NCA has technical capacity in respect of ICT infrastructure. Cooperation with them would create the necessary synergy to address the challenges of consumers.”* The NCA, for its part, considered the MOU a way to ensure that the operations and activities of MNOs were fully covered by relevant regulation and supervision.

The stated intention of the MOU is to collaborate *“in specialized areas in order to enforce and ensure compliance with the financial laws, regulations, directives and guidelines of the BOG, while the NCA on its part seeks to enforce adherence to laid down key performance indicators on quality of service with regards to service delivery for compliance.”*

The MOU covers a range of other issues, including cooperation, obligations and responsibilities of each party as a supervisor of their respective sector, the number and frequency of meetings, indemnities and resolution of disputes between parties. Broad areas of cooperation specified in the document are:

- a Digital financial services;
- b Consumer protection and market conduct; and
- c Any other relevant type of collaboration between the two parties.

Within these areas, the parties agree to share and exchange relevant information to facilitate complaint resolution, fraud investigation, supervision, regulation and monitoring of MMOs and MNOs. They also agree to collaborate in the drafting or review of directives and legislative instruments for the DFS sector.

The central bank commits to drawing on the technical expertise of the NCA for on-site inspections of MNOs and in the drafting and review of legal and regulatory instruments. The two parties agree to meet quarterly, with allowance for emergency meetings as required, *“to discuss any matter of mutual interest, and for which collaboration is required for the promotion of a stable financial and payment system in Ghana.”*

Almost a year has passed since the signing of the MOU. Although it is still early days, perhaps this is a good time to step back and review how things are going so far. How has the relationship between BOG and the NCA fared? Are the parties adhering to the provisions of the MOU? What challenges do each party face and how are these being resolved? These and other hard questions need to be asked to streamline and hone the relationship to achieve greater efficiency. The experience will also serve as a guide to other countries contemplating the same moves and initiatives.

## COOPERATION INITIATIVES

Both BOG and the NCA agree they have always had a cordial, understanding and collaborative relationship. Even before the MOU was signed, BOG had involved the NCA in many initiatives and events. In 2013, BOG set out to formulate a national payments strategy and organized workshops and stakeholder meetings. The NCA was a prominent participant at these forums and helped to draft the Strategic Payments Roadmap, which BOG launched in 2014. Then, from 2012 to 2015, the NCA was a member of a team set up to draft Guidelines for e-Money Issuers and Agents, which were subsequently issued in June 2015. Furthermore, BOG and the NCA are members of the Financial Inclusion Steering Committee set up by the Ministry of Finance in 2015. In January 2017, the Bank of Ghana established a National Payment Council with the NCA as one of its nine members. BOG is currently working on establishing a national switch to facilitate interoperability in DFS, which will interface with the banking switch to create a seamless payments ecosystem, and the NCA will be brought onboard. Therefore, BOG and the NCA have a history and solid foundation of working with each other.

The NCA collaborates with BOG when issues of fraud and platform downtime come to their attention, and it also shares information with the Bank that is likely to have a negative impact on the mobile money system. Similarly, BOG has engaged the NCA on some low-key issues, but these have been informal engagements. BOG admits the NCA has not had much direct involvement in addressing challenges they face with MMOs, simply because these challenges do not have any bearing on the NCA's activities or expertise. The MOU provides that the parties collaborate on consumer awareness and consumer protection initiatives to strengthen consumer confidence. There is also a clause on the implementation of government strategies and policies to enhance access to financial services through information and communications technology (ICT). However, no work has been undertaken on this yet. One reason is that BOG and the NCA have not met since the MOU was signed. Another reason is that BOG has not yet begun on-site examinations of MMOs and, therefore, has not had to approach the NCA for technical assistance. Put simply, the parties have yet to implement the provisions of the MOU.

It is important to note that the MOU was signed against the backdrop of a government commitment to deepen the financial sector and expand financial inclusion in Ghana. Indeed, the Bank of Ghana is a signatory to the AFI Maya Declaration, and the Government of Ghana, through the Ministry of Finance, is a member of the Better than Cash Alliance (BTCA), which is hosted by the United Nations Capital Development Fund (UNCDF)

Cooperation could, therefore, go beyond technical cooperation to aligning the bank's financial inclusion goals with the government's National Communication Policy. The central bank should not miss this opportunity. Areas of interest are:

- > What is the government's vision of the rollout of mobile telephony?
- > What are the NCA's plans to support and promote government's vision for mobile phone penetration?
- > What are telcos' plans (e.g. 5- to 10-year development plans) to extend mobile services?
- > How can overall country projections be incorporated into central bank initiatives for financial inclusion?

## CONCLUSION AND RECOMMENDATIONS

The performance of mobile money in Ghana and, more generally, digital financial services, shows that mobile penetration and access to mobile money is a game changer for financial inclusion. If nurtured and managed properly, mobile money has the potential to disrupt the financial system in a positive way. As more banks seek to partner with MMOs to reach Ghana's large unbanked population, the role of MMOs in the delivery of DFS will continue to grow.

Cooperation between the telco regulator and the financial regulator is therefore crucial to sustained, holistic supervision of digital financial services in the face of greater innovation and the related risks. The high number of complaints on network downtime reported in Ghana supports the need for cooperation with the telco regulator. BOG and the NCA have therefore taken the right step in drawing up an MOU as a mechanism for cooperation, but this should not be taken lightly. Commitment and leadership is required to sustain momentum for collaboration and cooperation. ITU puts it succinctly when they posit that central banks are a key driving force in national payments reform and "cannot and should not act alone (since the) involvement of other regulators .... is not only desirable but of paramount importance, especially in the case of retail payments reforms as these touch the lives of vast sectors of the population".

BOG and the NCA may consider the following recommendations:

- 1 **Strengthening their relationship:** This may be achieved by having formal meetings prescribed by the MOU, as well as instituting more frequent informal sessions (perhaps 30-minute conference calls) on specific topics and following through with action points.
- 2 **Building formal structures of engagement:** Small, efficient working groups could be set up to work on specific items in the MOU, such as drawing up strategies for consumer awareness, education on customer rights and data privacy issues, and aligning financial inclusion goals with the government's communication policy.
- 3 **Drawing up a simple annual work program and following through:** A work program could be drafted to guide joint activities throughout the year, both at high levels and at formal quarterly meetings.
- 4 **Review the MOU as new issues arise:** The document should be live and stay relevant, reflecting current market conditions.

## ACRONYMS AND ABBREVIATIONS

AFI	Alliance for Financial Inclusion
BOG	Bank of Ghana
BTCA	Better than Cash Alliance
CGAP	Consultative Group to Assist the Poor
GPFI	Global Partnership for Financial Inclusion
DFS	Digital Financial Services
EMI	Electronic Money Issuer
ICT	Information Communications Technology
ITU	International Telecommunication Union
MFS	Mobile Financial Services
MOU	Memorandum of understanding
MMO	Mobile Money Operator
MNO	Mobile Network Operator
NBFI	Non-Bank Financial Institution
NCA	National Communication Authority
RFI	Regulated Financial Institution
Telco	Telecommunications Company
UNCDF	United Nations Capital Development Fund

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