



Vodafone comments to "Amendments to Money Service Providers Regulation to Extend Regulatory Oversight to E-money Institutions"

Vodafone welcomes Da Afghanistan Bank's efforts to review the Afghan regulatory framework for electronic money.

The proposed amendments generally seek to regulate e-money in a proportionate way, by taking into account the relatively limited risks which may arise. This is positive. As our comments detail it below, there are however instances where the proposed rules deviate from this principle.

We also suggest that this new framework should be technology neutral – with the same rules applying to the same risks, no matter the technology used. While mobile network operators appear particularly well placed to offer transaction services, they should not be regulated differently to other e-money issuers. Ultimately, regulation should address risks arising from services, rather than focus on the nature of the service provider.

In addition, some of the suggested new rules might benefit from being further clarified and put in context. Their adoption seems to sometime lack justification.

Our comments below follow the headlines adopted in the consultation document and include both the specific questions raised as well as some of the concrete suggestions for new wording in the regulation.

BACKGROUND AND SUMMARY

1 – Do you agree with the proposed rule's declaration that e-money is not a deposit.

Yes. The risks associated with electronic money (where the value is stored, ahead of future transactions) are lower than the risks linked with amounts of money deposited with a credit institution. They must therefore be regulated differently.

2 – Do you think that the responsibilities placed on banks that utilise a third-party vendor to provide e-money services, as described in the proposed rule, are specific enough?

Yes.



3 – Do you agree with the prohibition on the payment of interest, and interest equivalents, on e-money balances?

No. The risk associated with savings account does not come so much from the size of the savings. It is rather a consequence of the banks lending the amounts saved by its customers - as they issue loans, mortgages, etc – and thereby putting these funds at risk. One could imagine some financial services institutions would take 'deposits' but not provide any loan.

Additional comments on background and summary

Page 2 – connection with a commercial bank account; It would be useful to make the distinction between 'e-money customers' having a bank account and the e-money service relying on a bank account clearer. The M-PESA service in Kenya does not require any of its customers to have a bank account. However, the float is held in a Trust account, with a commercial bank (prudentially regulated).

Page 2 – liabilities of the MNO; In some models, the e-money balances are not liabilities of the MNO. This is the case for instance with M-PESA in Kenya. The float is held in a Trust account, with a commercial bank (prudentially regulated) and is therefore not a liability of Safaricom.

Page 11 – Definition k) e-money; monetary value is not always 'stored on an electronic device'. In some cases, it is stored on a server.

Page 12 – Definition r) mobile value transfer; it is not clear why 'mobile value transfer' need to be segregated from any other type of e-money transfer. Technology neutrality should be preserved. All references to MVT in the draft should be replaced by EMT (electronic money transactions).

PRUDENTIAL REQUIREMENTS

1 – Do you agree with the amount, and calculation method, of the minimum capital requirement?

Any rules on capital requirement should take into account other measures which are in place to ensure the sustainability of the service and the protection of customers. The use of a Trust account should for instance reduce the need for minimum capital requirement.

2 – Do you agree that EMIs should be allowed to hold liquid assets in the form of current account and savings accounts at banking organisations licensed or permitted by DAB?

Yes, although the benefits of having to use several accounts in different banking organizations (as per article 2.5.5.3) should be weighted against the practical costs of doing so. It may only apply above a certain float.

3 – Do you agree that EMIs should not be subject to the reserve requirement for monetary policy purposes?

Yes.



Additional comments on prudential requirements

Article 2.5.3 – licensing application; The draft suggests that a mobile network operator should obtain a letter of non-objection from the Afghanistan Telecom Regulatory Authority and a written agreement with the Ministry of Finance and the Afghanistan Telecom Regulatory Authority related to

its tax status. The justification for these requirements is not clear. It could be considered as discriminatory compared to other EMIs which are not MNO. The regulatory framework for e-money provision should be technology neutral.

Article 2.5.5.2 – minimum liquidity requirement; the reference to banknotes and coins should be clarified.

CONSUMER PROTECTION

Article 2.5.6 – Transaction and e-money limitations; as per comment on MVT definition above, it is not clear why specific rules should apply to mobile based money transfer services. The same rules should apply to all electronic money service providers, unless specific different risks are identified. All references to MVT in the draft should be replaced by EMT (electronic money transactions).

Article 2.5.8.2.1 – There should be a level playing field for similar types of transactions, not matter the license held by their providers (EMIs, banks). If not, customers will arbitrate.

The rules put in place to achieve customer protection should not disregard the risk for moral hazard. This section should therefore put some incentives on customers to actively seek to minimize risks.

Article 2.5.8.2 c – E-money account as a liability of the EMI; The e-money on the account of the customer is not necessarily a liability of the EMI. When the money is held in a trust account, as for M-PESA for instance, the money does not belong to the EMI, it is neither an asset or a liability.

The article seems to link the alleged liability of the EMI with its customer care responsibility. This is not necessarily so. The EMI should indeed be the interface for its customers for all questions related to the store value account and the related transaction, on the basis that it is providing the service.

PREVENTION OF SYSTEMIC RISK

1 – Do you think that the measures in place to prevent systemic risk are adequate? If not, what other measures should DAB adopt?

Yes.

2 – Do you agree with the reporting threshold of “100 customers” concerning service interruptions?

A percentage rather than a set number of customer may be more helpful, as the reporting requirement will adapt to the uptake of the service and its potential.



The notion of service interruption should be clarified.

Additional comments on prevention of systemic risk

Article 2.5.9 – limit of agents revenue from VMT transactions; There is no reason to treat MVT transactions differently from any other money transfers.

The background for requiring that agents do not get more than 50 percent of their total revenues from EMI commissions should be clarified.

Article 2.5.9.2 – Using existing DAB-licensed and permitted financial institutions; These institutions should certainly be encouraged to work with EMIs. The wording of the article may however be interpreted as suggesting that EMI should first and foremost work with these institutions. That would deprive EMIs from a key asset to reach the financially excluded – non-bank agents. Generally, EMI should be free to work with any types of agents.

Article 2.5.9.4 – liquidity; It would be useful to clarify the rationale for this article.

PREVENTING MONEY LAUNDERING AND TERRORIST FINANCING

1 – Do you agree with the proposed limitations on individual, daily and monthly transactions? If not, what limitations would you propose, and what are your justifications for these limitations from an AML/CFT perspective?

Generally, Vodafone supports a risk based approach to transaction limits, with higher limits granted where KYC levels are increased. This has been applied for M-PESA in Kenya.

2 – Do you agree with the proposed ban on the use of EMIs by corporations? If not, what would you suggest to address the AML/CFT customer acceptance and customer responsibilities in a cost-effective way?

No. It would actually undermine any financial inclusion objective. A corporation may want to set up an account to pay its staff, or a utility provider may want to allow EMI customers to pay bills through the service. However, these accounts would have, for instance, a separate account opening procedure involving due diligence on the company and the beneficial owners of the company.

INTEROPERABILITY

1 – Whose responsibility is it to address the issue of “interoperability” when e-money is concerned: the financial sector regulatory authority? The telecommunications regulatory authority, the enforcers of anti-monopoly laws. Or none of the above? Should the question be left entirely to the market?

At this stage, it should be left to the market. In Kenya, Safaricom’s customers can send money to non-M-PESA users. This is a form of interoperability, which was driven by the market rather than by



any intervention of the financial service regulator. The latter may be working with experts in competition law to monitor the development of the market

2 – If the issue is important to address from a technical or public policy perspective, how do you think it should be addressed in relevant laws, regulations or policies?

NA.