

Seminar Report [A.2]



Enabling poor rural people
to overcome poverty

REACHING GEORGIA'S RURAL POOR THROUGH MOBILE REMITTANCES

CRYSTAL FUND, GEORGIA

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1. INTRODUCTION

In the frames of IFAD FFR-funded project, Crystal Fund, with support of Mobile Finance Eurasia (“MFE”), organized the seminar “Regulatory Environment for Electronic Remittance and Payment Systems in Georgia”.

The objective of the seminar was to contribute towards an enabling environment for the development of electronic remittance and payment systems by fostering the policy dialogue between the regulators and the stakeholders.

To reach this objective, Crystal Fund brought together representatives of the National Bank of Georgia, Financial Monitoring Service, the Ministry of Finance, the Civil Registry of the Ministry of Justice, the



Parliament and the National Communications Commission of Georgia. There were mobile network operators, associations of banks and microfinance institutions, plastic card, money transfers and instant-payments service operators representing the industry as well as donors, international organizations and representatives of mass media.

The seminar highlighted operational, technological and legal aspects of the mobile finance service. The MFE’s legal team presented the outcomes of a regulatory due diligence. This has identified significant issues which were discussed in a comprehensive manner. The discussion panel included key officials of the National Bank of Georgia, Financial Monitoring Service as well as representatives of Crystal Fund and MFE. The discussion was moderated by Nikoloz Loladze, Chairman of the Supervisory Board of MFE.

The issues discussed included the definition of e-money, technological and operational aspects of cross-border remittances, data safety and transaction security, customer registration, KYC, agent network, currency conversion and taxation aspects of the service.

This event was used as a starting point for the discussion on the forthcoming law on payment systems and e-money regulation by the National Bank of Georgia. The questions raised by CF/MFE legal team as well as other industry representatives have been fed into the legal drafting process.

The seminar organizers received high assessment from the participants, which was manifested by session evaluation questionnaires and the feedback interviews. In general, the seminar helped to create an open atmosphere for the on-going dialogue between the emerging industry of electronic payment institutions and the regulators.

2. OBJECTIVES OF THE SEMINAR

The overall objective of the seminar was to contribute towards an enabling environment for the development of electronic remittance and payment systems by fostering the policy dialogue between the regulators and the stakeholders.

The seminar helped to clarify and obtain feedback from regulators on the following key issues:

- Application of rules of “money remittance service provider” for the mobile finance operators;
- Need for additional registration as a currency exchange unit/bureau; technical requirements related to management of foreign currency cash;
- Electronic money definition and applicable regulation; would it be regarded as a deposit-taking activity;
- Tax implications.

3. OUTCOMES



Gela Butbaia, Nikoloz Loladze, Archil Bakuradze

The outcomes of the seminar informed the judgments of a project team on legal framework for the mobile finance services in Georgia. The presentations by MFE legal team and panel discussion issues were used by the policy team of the National Bank of Georgia to refine the draft law on Payment Systems.

3.1 Application of rules of “money remittance service provider” for the mobile finance operators

The issue was described by the legal team. The questions were raised whether minimum requirements for money remittance service providers will be applicable for the agents of such companies. If agents were requested to acquire the hardware and software requested by the service provider it would increase capital expenditure for agents, which could constraint the expansion of the agent network in regions.

The discussion confirmed that the norms apply to money remittance service provider which is accountable to the Financial Monitoring Service of Georgia. Provided that mobile finance service provider will have centralized Management Information System which will connect its agents via mobile phones and/or POS terminals, this will create a strong basis for the real-time and historic monitoring of transactions. The transaction data will be exchanged via the secured channels is thoroughly encrypted and allows comprehensive monitoring and reporting of transactions if they are suspicious. The registration of customers can be improved by verifying personal identification data with the data base of the Civil Registry of the Ministry of Justice. All transactions within the mobile finance platform will take place between duly registered and identified users (customers, agents and merchants).

3.2 Need for additional registration as a currency exchange unit/bureau; technical requirements related to management of foreign currency cash

The question was whether mobile/electronic remittance service provider requires additional registration to perform currency conversion services.

The clear distinction was established between electronic and cash-based currency conversion and it was made clear by representatives of the National Bank of Georgia, that there is no need for natural or legal persons to get registered under existing regulation if they do not perform cash-based currency conversion. Furthermore, the regulators explained a phrase in the respective legal act stating that “currency exchange bureaus are restricted to conduct any other business”. According to the National Bank, there are many currency exchange bureaus whose core service is something else but the regulation meant that they could not perform other services in the area designated for currency operation. In general, these rules apply to cash-based currency conversion operations. As for the



Zurab Grigalashvili, Natalia Chkoidze, National Bank of Georgia

electronic and mobile remittance service providers, provided they do not deal with foreign currency cash (bank-notes, coins), they do not fall under the above mentioned regulation. Therefore no restrictions apply to electronic payment and remittance operators and they are not obliged to register separately as currency exchange bureaus.

3.3 Electronic money definition and applicable regulation: “would it be regarded as a deposit-taking activity?”

The lawyers raised concern that due to the lack of clear definition of e-money, the National Bank of Georgia may regard mobile finance services as deposit-taking activity.

For example, in the EU E-Money Directive this provision is expressly mentioned: “the issuance of electronic money does not constitute a deposit-taking activity, in view of its specific character as an electronic surrogate for coins and banknotes, which is to be used for making payments”.

Participants emphasized that accepting funds for remittances and payments does not necessarily fall under the legal definition of a deposit. Furthermore, this practice is already in place with several institutions operating with e-money models and the National Bank of Georgia does not perceive them as a significant risk to the public interest, recognizing their existence and leaving these institutions beyond its supervision.

In spite of these arguments, participants felt that there could be a potential risk with issuance of e-money to be associated with deposit-taking activity, especially when it involves larger number of customers transacting in big volumes.

The National Bank of Georgia informed participants that there is a new draft law on “Payment Systems” in the pipeline, which should be followed by the secondary legislation concerning e-money. The new regulation will be in place soon, therefore current and future e-money operators will not be constrained by the lack of regulation.

3.4 Tax implications

The participants shared their view concerning the Value Added Tax (“VAT”) applicable to payment services.

While it is clear that remittances are treated as a financial service, it is questionable whether merchant payments, which include an element of provision of goods and/or services, can be equally regarded as a financial service. Hence it is not clear whether or not the payment service is a subject to VAT.



Giorgi Gabrielashvili, Civil Registry, the Ministry of Justice

Due to the lack of clarity, the policy of current electronic payment operators (Nova Technology, TBC Pay and OSMP) is to pay VAT. The reason for their decision was the vague legislation and a fear of being penalized in case if their interpretation is not correct.

One of the reasons for this policy by operators was that they operate with no obligation to authenticate users and report about transactions. The requirement could be imposed upon them if they claim that they were financial service provider.

In case of mobile finance service provider, it is clear that it should be registered under the rules of the National Bank of Georgia and given its status of a “money remittance service provider” it will be in better position to apply for VAT exception.

It was suggested to add “the issuance and execution of e-money” to the list of financial services provided in the Tax Code, which would avoid uncertainties regarding the taxation of a mobile payment service. It was agreed that this amendment should be included in the package of legislative amendments related to draft Law on Payment Systems.

4. EVALUATION

4.1 Feedback from participants

Q: “What do you think, how successful was the seminar?”



Nugzar Murusidze - Specialist on Microfinance Regulation, National Bank of Georgia

“This seminar was more interesting than previous two ones. Those seminars were interesting in terms of organizational and participants, but today we have touched specific problems with concrete answers and discussions and thus it became very interesting to participate in this seminar. It was organized very well and participants also were represented on the very high level, that’s why we did not register how fast time elapsed and I think everyone has a desire this seminar to be continued.”

Gela Butbaia - Chief of Strategy Development and Competition Department, Georgian National Communications Commission

“This seminar was very timely because of the topics discussed. I think that all these issues that were discussed create prospective direction for Georgia’s mobile finance. In developed countries it is already widely accepted service, when customers do not have to go to the banks and practically electronic communications give clients possibility to receive service without going anywhere. Here we do not talk only about money transfers, but almost all other economic sectors which are involved in this cycle.

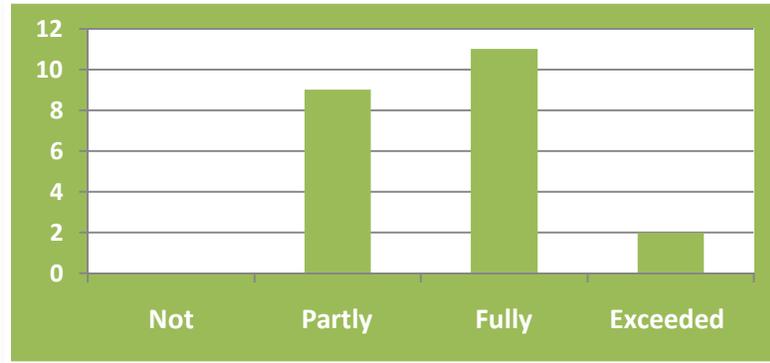


So, it was very interesting topic and all issues raised were relevant and showed that legislation should follow those initiatives that come from the new economic sectors. Seminar was attended by policy makers and as I saw from their position, they are ready to discuss this kind of topics and come up with corresponding legal initiatives.

The fact that this business model is very timely was proven today as here and in the whole world, everybody started talking about electronic money. I think it is time to begin dematerialization of the archaic mean of payment such as a cash. Nobody knows when it begins - tomorrow, in five or in ten years, but I know that today somehow it began here, at this seminar”.

4.2 Evaluation Questionnaires

Has the seminar met your expectations?



Average answer on the questions:

“How do you rate overall success of the seminar?”	Level of Organization?
3.45 on the scale of 4 (best)	3.68 on the scale of 4 (best)



Would like to take part in the similar seminars:

96%

What was the most relevant and interesting during the seminar:

- Everything (4)
- Legal issues (3)
- VAT issues (3)
- Agents (2)
- All questions raised in were fully answered

- Idea of the seminar
- Remittance transfers to Georgia.

What was the least important and necessary?

- Discussion
- Definition of legal terms (2)
- Presentation
- Technical issues discussions (3)

What are the topics you wish to suggest for future seminars?

- Payment systems/environment (4)
- Legislative environment/issues (2)
- Electronic money (2)
- It would be interesting if another seminar describes what has changed from the previous one
- E-commerce, online payments
- Mobile finance marketing

5. CONCLUSIONS

- The seminar “Regulatory Environment for Electronic Remittance and Payment Systems in Georgia” became a starting point for the policy dialogue concerning electronic (mobile) payments and remittances;
- The discussion revealed that the activities by current payment institutions, e-money operators are recognized by the National Bank of Georgia and these activities are not perceived to be a risk to the public interest. Hence, none of these players fall under the supervision of the regulator;
- Money remittance service provider is the most optimal form for the mobile finance service providers. The registration rules apply to the service provider itself and not to its agents, provided they are connected to the Management Information System, which allows real-time and historic analysis of all transactions for the purposes of AML&CTF;
- There is no need for electronic payment and remittance operators to get registered as “currency exchange bureaus” provided they and their agents do not deal with cash-based (bank-notes and coins) currency transactions;
- There is no clear link between the issuance of e-money and legal definition of a deposit-taking activity, which is a subject to prudential regulation by the National Bank of Georgia. There are several payment and e-money institutions operating for 3-4 years in Georgia, known to the National Bank. A financial supervision is not extending to these institutions. Although with the growth in numbers of subscribers and the increase of transaction volumes, the National Bank of Georgia may change its policy. As a way forward it was suggested to include commercial banks in the operating models of the mobile payment service providers;
- A forthcoming Law on Payment Systems which will be followed by the e-money regulation will provide the definition of e-money. This will establish a clear distinction between e-money and deposit-taking activity. The National Bank of Georgia is developing a light-touch regulatory model which can be satisfied by all current and prospective e-money institutions. This will allow to support existing and new companies bringing innovation to the market, which will be critical in achieving greater financial inclusion of low-income population;
- There are tax implications due to the lack of clear definition of electronic payment services in Georgian legislation. Current service providers follow the risk-free policy applying and paying the value-added tax;
- During the seminar it was suggested that the forthcoming legislative draft on Payment Systems will include an amendment in the Tax Code of Georgia, by which the issuance and operation of e-money will be added to the definition of the financial services for the purposes of the Tax Code;
- The participants gave high assessment to the seminar and expressed their wish to attend similar events. The seminar was widely publicized by several media outlets.

LIST OF PARTICIPANTS

SEMINAR: “REGULATORY ENVIRONMENT FOR ELECTRONIC REMITTANCE AND PAYMENT SYSTEMS IN GEORGIA”

29 September, 2010 - “Radisson Blue Iveria” Hotel # 1 Rose Square, Tbilisi, Georgia

LIST OF PARTICIPANTS

National Bank of Georgia

1. Goderdzishvili Tamar, Deputy Head of Legal Department
2. Grigalashvili Zurab, Head of Payment Systems Department
3. Davitaia Nino, Specialist, Legal and Methodology Department
4. Murusidze Nugzar, Specialist on Microfinance Regulation
5. Chkoidze Natalia, Deputy Head of the Payment Systems Department

Financial Monitoring Service of Georgia

6. Zarnadze Tea, Chief Specialist

Ministry of Justice of Georgia, Civil Registry

7. Gabrielashvili George, Head of the Legal Department

Parliament of Georgia

8. Kardava Ekaterine, Head of staff of the EU Integration Committee

Georgian National Communications Commission

9. Butbaia Gela, Chief of Strategy Development and Competition Department

Mobile Operators

10. Dzidziguri David, Lawyer – Magti GSM
11. Iakubova Irina, Products and Segments Unit Manager – Geocell
12. Kakhidze Eka, Product Development Manager – Beeline
13. Lobjanidze Irakli, Marketing Manager – Magti GSM
14. Gvinianidze Shota, Chief Information Officer – Magti GSM
15. Nia Gobejishvili, Marketing Specialist – Beeline

Associations

16. Lebanidze Iuri, Chairman of the Association of Microfinance organizations

Card Companies, Money Transfer and Instant Payment Operators

17. Alkhazishvili George, “New Technologies” LTD
18. Begashvili Mirian, Director - “TBC Pay”
19. Veliashvili Nugzar – Intel Express
20. Kiknadze David – I-pay
21. Lobjhanidze Mamuka – Open Revolution
22. Sakanelashvili George – Web Money

23. French Konan – Open Revolution
24. Pkhovelishvili Bidzina, General Director – Nova Technologies
25. Kurdadze Koba – Web Solution
26. Chitiashvili Irakli, Director – OSMP
27. Chargeishvili Akaki – Nova Technologies

Donors and International Organizations

28. Kandelaki Tata – World Bank
29. Ormotsadze Rezo, Project Manager – USAID
30. Chkhikvadze Ivane - International Organization for Migration

Organizers

31. Aivazashvili Natia, Project Officer – Crystal Fund
32. Alavidze Tamar, Legal Expert – Mobile Finance Eurasia
33. Bakuradze Archil, Project Coordinator – Crystal Fund
34. Gegeshidze Nikoloz, Head of the Legal Department – JSC MFO Crystal
35. Loladze Nikoloz – Mobile Finance Eurasia
36. Mskhiladze Nana, Project Assistant - Crystal Fund
37. Nanobashvili Levan, Legal Expert – Mobile Finance Eurasia
38. Dzadzua Malkhaz, Executive Director – JSC MFO Crystal
39. Chitaishvili Manuchar, Head of Internal Audit, JSC MFO Crystal

SEMINAR PRESENTATIONS

PROJECT “REACHING GEORGIA’S RURAL POOR THROUGH MOBILE REMITTANCES”

Archil Bakuradze

29 September, 2010

Project implementer

- Mobile Remittance Consortium
 - Crystal Fund
 - JSC MFO Crystal
 - Mobile Finance Eurasia
- Financed by International Fund for Agricultural Development (IFAD), under the Financing Facility for Remittances program.

Statistics

- Money transfers comparable to 9% of GDP;
- 9-15% population are money transfer receivers;
- Totally 1 million Georgian receives benefits;
- Average \$165; 8-time in year;
- Russia (63%), Ukraine (7%), USA (6%), Greece (5%), Italy (4%);
- 47% of transfer receivers are rural population;
- Rural economy’s part consists form 19.3% of GDP (2003) to 9.7%(2007);
- Rural economy employs 52% of capable of working people;

Challenges

- Low level of finance literacy
- Problems in planning, risk management, saving and investing problems
- Geographical distances from financial institutions and thus:
- High prime costs of transactions
- Low accessibility to complex financial products

Money Transfers

- In 2008 transfer’s 66% came from money transfer systems
- Commission fee is 2-4%, but it doesn’t contain exchange rate and transportation/time costs
- Reducing costs by 2% (20 million US Dollars)

Project Goals

- To achieve an enabling and predictable regulatory environment
- To improve rural households financial literacy
- To create electronic payment system based on a mobile channel
- To provide customers with complex financial products such as micro loans, micro insurance and micro savings

Mobile Finance

- Legislative Environment
- Rules of registration and operation
- Prevention of illicit income legalization
- Open/liberal, but less predictable
- Fastening of innovations and rising new technologies

REGULATORY ENVIRONMENT FOR MONEY REMITTANCE AND PAYMENT SYSTEMS IN GEORGIA – SUMMARY OF LEGAL RESEARCH

Tamar Alavidze and Levan Nanobashvili, MFE legal experts

Legal Terms (definitions from Georgian legislation) relevant for the mobile finance system:

- Money Remittance - a method for transfer of the sums, including foreign currency between the natural persons by means of a bank transaction, and such transfer of sums shall not include the reimbursement of the provision of goods and services.
- Money remittance service provider – natural or legal person (legal entity) (except commercial bank, credit union and microfinance organization), which provides money remittance service by means of various systems;
- Private (commercial) Payment System - Private (commercial) Payment Systems are: interbank payment systems of commercial banks, payment systems of bank and nonbank credit institutions specialized in payment-clearing activities, interbank foreign exchange market, organized market for securities, retail payments by means of plastic cards and other companies' payment systems;
- Non-cash settlement – settlement by payment documents without cash money;
- Payment – reimbursement of monetary liabilities through a settlement or offset;
- Deposit - funds deposited by a person in bank or a non-bank depository institution - credit union, the ownership right on which is obtained by the credit union, and on which, as a rule, an interest is accrued.
- Identification of the Individual – collecting data that enables to find a person and distinguish from others when needed;
- Suspicious transaction – a transaction supported by a grounded supposition that it had been made or implemented for the purpose of legalizing illicit income (it does not provide verified economic (commercial) content, or clear lawful purpose, is not consistent with an ordinary business activity of the person involved in it, the person's identification or the origin of relevant amount cannot be ascertained), or the person involved in the transaction is likely to be connected with terrorist or terrorism-supporting persons;

- A financial operation is the opening, operation, and closing of any type of accounts (including deposit, broker accounts, etc), use of any type of payment instruments, including clearing, and payment in cash or in cashless form (including, encashment);
- Payment instrument – this definition is only mentioned in regard to bank plastic cards in the legal acts of the National Bank. Although, bank plastic cards are referred to “payment instrument” and “payment document”.

Normative Regulatory Acts for Mobile Finance Service

- Organic Law of Georgia on the National Bank of Georgia
- Law of Georgia on Activity of a Commercial Bank
- Tax Code of Georgia
- Law of Georgia on “Facilitating the Prevention of Illicit Income Legalization”
- Law of Georgia on “ Electronic signature and Electronic documents”
- Order of the Head of the Financial Supervision Agency N17 as of February 9, 2009 “On approval of Rules on regulation of money remittance service provider”
- Order N1 of the Head of the Financial Monitoring Service of Georgia as of February 17, 2009 “On approval of the rules on elaboration, systematization, analyze and delivery to the Financial Monitoring Service of Georgia of the information by the money remittance service providers ”
- Order N166 of the President of the National Bank of Georgia on “Rules on Non-cash transactions in Georgia” as of June 26, 2007
- Order N344 of the President of the National Bank of Georgia on “Approving Rule of Registering and Regulating Foreign Exchange Bureaus” as of December 31, 2007

Money Remittances – Payments – Electronic Money

Money Remittance:	Payment:
<ul style="list-style-type: none"> • Method for transferring sums; • Takes place between natural persons; • By means of banks; • Does not cover the reimbursement of the sums of an agreement (the sum for the provided work, service, goods). 	<ul style="list-style-type: none"> • Method of covering monetary liabilities; • Is done with participation and between natural persons and legal entities; • Can be done by means of bank institutions and other methods; • Allows to cover the reimbursement of the sums of an agreement, utility payment, airtime top-up, settlement with financial institutions.

Electronic money

(according to the Directive N110 of the European Parliament and of the Council as of September 16, 2009):

- Pre-paid stored value issued by payment service provider in exchange for funds;
- Can be used for payment purposes and is accepted by third persons as a payment;
- Covers electronic money, whether it is held on a payment device in the electronic money holder's possession or stored remotely at a server and managed by electronic money holder through a specific account of electronic money;
- The issuance of electronic money does not constitute as a deposit-taking activity.

Preconditions and requirements for the registration of a Money Remittance Service Provider

- Relevant operational space ("the place where the documentation required to be kept according to the Law of Georgia on Facilitation of Prevention of Legalization of Illicit Income" and the legal acts of Head of Financial Monitoring Service of Georgia);
- Computer;
- Printer and copier machine; and
- Special software for maintaining the money transfer transactions.

The requirements to be abided by the Money Remittance Service Provider according to the "Law of Georgia on Facilitation of Prevention of Legalization of Illicit Income"

- Perform the identification of the individual engaged in business relationship with the money remittance service provider (or his/her representative and authorized person, also third person), in cases when:
 - the amount of the transaction/operation performed by means of such money remittance service provider exceeds 1500 GEL (or its equivalent)
 - such transaction is suspicious.
- Analyze data gathered during identification process;
- Keep, systematize, document the information;
- Submission of the information which is subject to monitoring in respective form.

Legal Norms that might impede new models

1. Existing regulation requires that a Money Remittance Service Provider must have:
 - certain office space (the exact area is not indicated);
 - computer;
 - printing and copying equipment; and
 - special software for registration of operations.

It is not clear whether these requirements will be satisfied, if:

- agents of the MFS Operator Company have mobile phones/special terminals which satisfy all the technical requirements;
 - information regarding transaction is registered and kept on the central server of the MF service provider.
2. It is not clear whether the MFS Operator Company has to be additionally registered as a Currency Exchange Point/Bureau.
 - The MF service provider will not exchange cash, but it will perform only cashless operations.
 - Georgian legislation expressly requires that Currency Exchange Points may perform only the currency exchange and no other activity.
 3. Legislation requires that Currency Exchange Points must have:
 - office space;
 - special equipment for identification of forged currency;
 - special software for registration of operations.

It is not clear whether these requirements may be satisfied if:

 - agents of the MF service provider will not deal with cash;
 - information will be kept on the service provider's central server.
 4. In particular cases Georgian legislation requires keeping of documents in electronic/paper form. For example, Currency Exchange Points are obliged to keep the information in electronic and in paper form as well. Money Remittance Service Provider must also keep the information in electronic and in paper form.
 5. Today there is no relevant legislation in Georgia on electronic money and electronic currency exchange.
 6. Georgian legislation does not provide for the institute of agents/representation of Money Remittance Service Providers. Therefore, it is not clear whether agents of the service provider should be registered separately, or only the MF service provider will be registered, with the indication of all addresses where its agents operate.
 7. Is the issuance of electronic money a deposit taking activity?

TAX ISSUES

- Whether the MFS Operator Company performs financial operations/servives?
- According to the tax code of Georgia, financial operation/service is:
 - opening, operation, and closing of any type of accounts;
 - use of any type of payment instruments;
 - payment in cashless form;
 - circulation of payment instruments and related operations.