Notes on Regulation of Branchless Banking in the Philippines

January 2010

Note: This update of CGAP's 2008 "Notes on Regulation of Branchless Banking in the Philippines" incorporates research conducted by CGAP in January 2010 regarding relevant legal and policy changes through the end of 2009. It is one of 11 similar country updates produced by CGAP as a part of the work plan of the Access through Innovation Sub-Group of the G-20 Financial Inclusion Experts Group. However, CGAP alone is responsible for its content. Corrections may be forwarded to yseltzer@cgap.org.

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1. Introduction

The Filipino government's commitment to extending financial services to unbanked low-income populations has made the Philippines a world leader in branchless mobile banking services. The central bank, Bangko Sentral ng Pilipinas (BSP), has practiced a flexible but hands-on role in the emergence of mobile banking in the Philippines, finding ways to permit innovation within safe, sound and prudent standards. In the past 8 years, BSP has supported the development of two different arrangements for two mobile operators. In one model, banks are permitted to outsource a substantial range of activities to the mobile operator, Smart Communications (Smart), via a system of pre-paid accounts. In the second, a subsidiary of the mobile operator, Globe Telecom (Globe) offers virtual stored-value accounts which enable mobile phone customers to make payments and money transfers. Globe's subsidiary, known as G-Xchange Inc (GXI), is regulated as a remittance agent, permitting a nonbank-based model also using pre-paid accounts. As a condition of their permission to launch, *Smart Money* and *GCash* each agreed to furnish detailed operational data to the BSP.

Arrangements for Smart and GXI have been successful due largely to the flexible and creative approach taken by BSP, which has been ad hoc due to the absence of clear guidelines on e-money issuance. For example, through intensive discussion between Smart and the BSP, the two sides worked out an approach to issues such as the outsourcing of account maintenance, treatment of the float from e-money issuance and status and operations of *Smart Money* agents. These resolutions gave the company the space to launch its innovative product and gave the BSP comfort that identified risks would be handled prudently. In March 2009, BSP issued an E-Money Circular, giving more clarity to the e-money sector. Both GXI and Banco de Oro (Smart's bank partner) have applied and become e-money issuers.

The most significant regulatory obstacle to the further growth of branchless banking in the Philippines has been the restrictions placed on both banks' and nonbanks' use of agents. Banks are not allowed to outsource their inherent banking functions to third parties, nor their 'Know Your Customer' (KYC) responsibilities, although the BSP is

[1] The 2008 Notes on Regulation of Branchless Banking in the Philippines was based on an analysis of existing legislation and regulations relevant to branchless banking approaches and on the CGAP research team's insights from interviews with a range of stakeholders. The original diagnostic assessment was carried out under the auspices of CGAP's Technology Program, which is co-funded by the Bill & Melinda Gates Foundation. The Filipino diagnostic assessment was one of seven that provided evidence for CGAP & DFID's Focus Note 43, *Lyman, Timothy, Mark Pickens, and David Porteous. 2008. "Regulating Transformational Branchless Banking: Mobile Phones and Other Technology to Increase Access to Finance."* Washington, D.C.: CGAP & DFID, January."

[2] The research involved a review of new regulations and other government documents as well as significant secondary sources and interviews with the following experts: Bella Santos, Director of Payments and Settlements Office, Bangko Sentral ng Pilipinas (BSP); Raymond Estioko, Manager Core Information Technology Specialist Group, BSP; Ricardo Alair, Financial and Operations Head, Globe Commerce; and Maybelle Santos, Senior Manager, Domestic Alliances Financial Services, Wireless Consumer Division, Smart Communications.

[3] In September 2009, the G-20 called for the establishment of a Financial Inclusion Experts Group with two sub-groups, one of which is the ATI Sub-Group. CGAP is a member of an experts group assembled to assist the ATI Sub-Group in its work, which will include updating information previously published on the policy and regulatory framework for branchless banking in various developing countries.

considering the possibility of permitting agents to perform KYC. Nonbanks may use remittance agents only for distribution of payments and for KYC. However, certain requirements imposed on agents have inhibited the signing up of agents. With recent regulatory changes (including the permitting of mass licensing) the situation is already changing dramatically.

2 Sector Overview

Extending formal financial services to the unbanked poor is a high priority for the Filipino government. In addition to a general concern about improving access to finance, BSP is particularly sensitive to the needs and interests of overseas Filipino workers (OFWs). OFWs sent home approximately USD 18 billion in remittances in 2008, accounting for approximately 11% of GDP.[4] Many OFWs also come from provinces where access to formal financial infrastructure is limited.

The emergence of the Philippines as an early pioneer in branchless banking is underpinned by the strong yet flexible involvement of national authorities. The approach of the BSP's top management is to "follow the market," facilitating emerging market developments and private sector innovation while managing risk.[5] BSP has also added capacity to ensure its ability to oversee and supervise branchless banking.

At the end of 2006, the Philippines had fewer ATMs (6,867)[6] than islands constituting the archipelago (approximately 7,100). At the end of 2009, the Philippines had 8,207 ATMs[7], a 20% increase although the number is still significantly small in context. In 2009, over 50 percent of the adult population in the country had a bank account.[8] With its fragmented geography and the limited reach of the formal banking infrastructure, the Philippines is a prime environment for the growth of branchless banking.

However, the commercial banking sector has been slow in taking banking beyond traditional bank branches, due primarily to the limitations on banks' use of agents. The three proprietary ATM switches – Bancnet, Megalink and Expressnet – are fully interoperable only with respect to cash withdrawals. Of the network of approximately 25,000 POS devices, the vast majority only accept credit cards and only a limited number of POS devices accept debit or prepaid cards.[9] Commercial banks have started to offer internet and mobile phone banking, but primarily as new channels for clients to access their existing accounts, not as a means of reaching new, unbanked customers.

However, the strong government emphasis on microfinance is starting to change the traditional market focus of commercial banks, creating a strategic imperative to explore branchless banking models. One of the strongest drivers of interest in branchless banking is the large flows of international remittances into the country by overseas Filipino workers (OFWs). Approximately 8% of Filipinos live abroad and regularly remit money to their families at home, many of whom live far from

[4] Figure cited for official remittances. The true size of remittances, including unrecorded flows through formal and informal channels, is believed to be larger. World Bank. 2009. "Migration and Development Brief 11: A better-than-expected outcome for migration and remittance flows in 2009, but significant risks ahead" Washington, DC. GDP obtained from CIA World Factbook.
[5] Interviews with BSP staff, April 2007. Restated by deputy Governor Espenilla in his speech at the Mobile Money Transfer Asia Pacific conference in December 2009.
[6] Presentation by BSP's Pia Roman at the Roundtable on Mobile Applications for Poverty Reduction hosted by the Asian Development Bank in Manila on 19 April 2007.
[7] Source: Bangko Sentral ng Pilipinas Statistics on ATMs: http://www.bsp.gov.ph/banking/pbs_new/1b.htm
[8] Source of percentage of bank account holders: CGAP's 2009 Financial Access Report.
[9] Interview with Rey Marukot, Director of Sales and Marketing, Bancnet, April 18, 2007.

metropolitan areas.[10] The average inbound remittance to the Philippines is USD 300[11] and typically costs the sender USD 7 to USD 33, or between 2.5% and 10% of the value.[12] If routed via GCash or Smart Money, the cost is less than 1% of the value. Finding a cost effective way to receive these remittances is forcing many banks to explore new business models and new partnerships.

2.1 Mobile Banking

Whereas commercial banks have been slow in their response to branchless banking opportunities, the mobile payment platforms launched by Smart and GXI have the potential to change the payments and banking landscape in the country. This is due in part to customer adoption of mobile banking services, which has a better chance of success in the Philippines than in most other jurisdictions. According to the International Telecommunications Union, approximately 75% of the population in the Philippines are mobile phone subscribers.[13] The Philippines is known as the "texting capital" of the world with Filipinos sending approximately a billion text messages a day.[14] In 2009, the average text use on Smart's network had grown to almost 1,050 messages per user per month, compared to 28 minutes of voice.[15] This widespread familiarity and comfort with mobile phones and tendency to use mobile phones for more than voice services has undoubtedly underpinned the initial rapid uptake of Globe's GCash and Smart's Smart Money services.

The offerings Smart Money and GCash emerged from the intense competition between the two parent companies. Smart first introduced Smart Money in 2000, and expanded the system dramatically in 2003 to eliminate physical scratch-off cards[16] in favor of electronic reload of airtime. Globe introduced GCash in 2004 to compete with Smart Money.

Eliminating the scratch-off cards in favor of electronic reload led to considerable benefits. First, there was no longer the security risk and associated expense of card transport.[17] Now, 90% of prepaid airtime sales are done electronically over the air. MNOs passed some of the cost savings to merchants, in the form of bigger commissions for selling airtime. This helped attract small stores into the network of locations where customers could purchase airtime. Today, there are an estimated 1.65 million airtime dealers in the Philippines. Finally, airtime can now be sold in denominations as small as PHP 10 (USD .21), making it more attractive to lower-income Filipinos.

Converting cash into electronic value, and vice versa, is a key feature for clients living in a largely cash-based economy. Yet until 2009, the network of places where GCash and Smart Money customers could do so was limited: there were only approximately 5,000 agents that could do cash-in/cash-out, with many servicing as agents of both companies. Regulation was cited as a primary reason for limited growth in the number of agents. Initially, agent registration required attending a one-day training which was

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[10] Presentation by Philippine Bureau for Internal Revenue at the Roundtable on Mobile Applications for Poverty Reduction hosted by the Asian Development Bank in Manila on 19 April 2007.
[11] Interview with Pia Roman and Ed Jimenez, BSP, April 2007.
[12] Remittance Prices Worldwide, The World Bank Group: http://remittanceprices.worldbank.org/RemittanceCosts/?from=197&to=153
[13] International Telecommunications Union, http://www.itu.int/ITU-D/icteye/DisplayCountry.aspx?countryId=184, accessed January 22, 2010
[14] BSP Governor Amando Tegangco Jr.'s speech at the Mobile Money Transfer Conference Asia Pacific, Manila, December 2009, http://www.bsp.gov.ph/printpage.asp?ref=http://www.bsp.gov.ph/publications/speeches.asp?id=372&yr
[15] Wireless intelligence, Q2 2009 data
[16] These cards could be scratched by the purchaser to reveal a secret code which could then be used to refill airtime.
[17] Because of their high cash value, the cards had to be transported around the country in armored vehicles. Interview with Gerardo Ablaza, President & CEO, Globe Telecom, April 2007.

not widely available outside Manila. Since 2008, the Central Bank has allowed GXI and Smart Money each to conduct its own training.[18] Both companies can also fly out some of their specialized instructors to train merchants outside of Manila.[19] In addition to the training requirement, the documentary requirements imposed on agents (e.g., audited financial statements) is difficult for some smaller merchants to comply with.

There have also been customer barriers to adoption. Some customers may resist becoming "formal", i.e., placing funds in accounts that are visible in the formal financial sector, possibly under scrutiny by tax authorities. In addition, completing an in-store purchase via a person-to-person GCash or Smart Money transfer tends to be significantly more time-consuming than a card-initiated payment, which may dissuade some customers from using GCash or Smart Money for this purpose.

Clients tend to leave small balances in their mobile payment accounts, and the total value flowing through these mobile banking platforms is still low. In 2009, the monthly turnover of Smart Money amounted USD174 million (PHP 8 billion). A large portion is likely to be comprised of Smart airtime dealers paying for airtime which they then resell. GCash turnover was USD 100 million (PHP 4.6 billion) per month in 2009.[20]

2.2 Cross-Border Mobile Remittances

GXI has a created a cross-border mobile remittances[21] channel with Maxis in Malaysia. The corridor has existed for more than a year now and represents one of the only mobile-to-mobile corridors in existence.[22] Total transaction volume still remains low. The largest obstacle to a significant increase in the use of this channel is the small size of the networks (i.e., number of agents is still not large enough to cover enough geographic locations) in both the remitting and receiving countries involved. This has caused GXI and Maxis to explore opportunities with Western Union, by which Western Union's agent network (6,700 in Philippines, 360,000 worldwide) can be leveraged to collect funds which are then credited to a mobile account. (Agents can also receive funds sent by a mobile account to a Western Union office abroad.) This might change now that a mass registration of 15,000 new GCash agents was accredited by the BSP and Smart agents are expected to be registered in the next couple of months (see section 3.1).

The advantage of a mobile-to-mobile corridor is that remittance costs are kept very low. In the case of Malaysia, the maximum transfer from Maxis to GXI is 1,500 ringgit (approximately US$440) and there is a 5 ringgit flat fee (US$1.5). The average transfer is 200 ringgit (US$58). A comparison of the US$1.5 fee with the remittance prices mentioned above (between US$5-US$33) highlights the potential cost-cutting effects that a channel like this can have if scaled adequately, particularly on bigger ticket transactions.

[18] The AML unit in the Central Bank ensures that the material used by both companies is up to date and within the quality and standards required by the Central Bank. The training is offered with AML/CFT material provided by the Central Bank, that is then re-packaged by the companies.
[19] Interviews with GCash, Smart and BSP, December 2009
[20] Interview with Ricardo Alair, Financial and Operations Head, Globe Commerce, January 2010.
[21] By cross border mobile remittance corridors we are referring to a channel in which at least one mobile account serves to remit or receive funds.
[22] Smartone and GCash have a Hong Kong - Philippines channel and there is another one between Vodafone and M-Pesa from the United Kingdom to Kenya that opened last March as a pilot.

2.3 Up Close: Smart Money & GCash

There are 3.7 million active Smart Money and GCash users.[23] Clients can use the mobile platforms to store money electronically and send it as a remittance or as a payment for bills and store purchases. Clients can also receive remittances, make deposits and withdrawals at more than 20,000 merchants affiliated with one or both of the services, within certain wallet and transaction limits (see table below). The most common transactions are airtime top-up and domestic remittances, particularly parents sending funds to children attending school away from home. Both Globe and Smart have also forged links with commercial banks, ATM switches, and even rural banks, suggesting mobile payments are progressively integrating into the traditional financial system.

Although each functions as a mobile payment service, Smart Money and GCash follow different business models and are regulated in substantially different ways.

Smart Money is a reloadable payment card that can be accessed either through a Smart mobile phone or a MasterCard "power card" that is similar to a debit/cash card.[24] Smart's bank partners hold the Smart Money accounts, making it a bank-based model, and Smart's bank partners are responsible for securing approval from and reporting to BSP. Smart offers two different platforms: a mobile banking platform and an e-money platform (an e-wallet). The mobile banking platform enables customers to do the following: prepaid reloading, bill payment, funds transfer, checkbook request, balance inquiry and other transactions otherwise done through ATMs. The e-money platform involves a reloadable electronic card that works with the phones; it can be used at any ATM of a partner bank. The mobile banking platform permits payments to third parties using the mobile phone only if the third party also has a Smart Money account; with the e-money platform, payments can be made with the Smart Money card at any existing POS device that accepts Mastercard. Currently, Smart is working with 21 banks: all the banks utilize Smart's mobile banking platform and three utilize Smart Money's e-money platform and issue smart money: Banco de Oro, Chinabank and Landbank.

By contrast, **GCash** presents a nonbank-based model of branchless banking. Globe launched GCash in 2004 but not in cooperation with a bank. GCash clients load cash onto electronic "wallets" from which they then make payments (via SMS) to other GCash clients using their Globe mobile phone. Value in GCash accounts, and information about transactions, is held by GXI, a wholly-owned subsidiary of Globe that is registered with BSP as a remittance agent. Customer funds are pooled and deposited by GXI in several commercial bank accounts held in GXI's name. GXI follows an internal policy of matching the value in GCash accounts on a 1:1 basis with funds deposited in GXI's bank accounts.

[23] The number of active users is significantly less than the number of registered users and the number of subscribers. There are 8 million registered Smart Money users (out of 39 million Smart subscribers) but only 2.5 million are active users. Interview with Maybelle Santos, Senior Manager, Domestic Alliances Financial Services, Wireless Consumer Division, Smart. January 2010. There are 1.2 million registered and active GCash users (out of a total of 23 million Globe subscribers. Interview with Ricardo Alair, Financial and Operations Head, Globe Commerce, January 2010.

[24] Product definition per Smart website at http://www.smart.com.ph/Corporate/Services/SmartMoney/.

	Smart Money[25]	**GCash**[26]
Customers	2.5 million active Smart Money subscribers out of 39 million Smart voice subscribers.	1.2 million active GCash subscribers out of 23 million Globe voice subscribers.
Transaction volume	PHP 96 billion (USD 2 billion) processed in 2009.	PHP 60 billion (USD 1.3 billion) processed in 2009.[27]
Account opening	A two-step process: (1) Customer accesses Smart Money menu on her mobile phone, chooses any transaction, is prompted to select a pin and then selects "get account". A confirmation SMS informs the client that the PIN is set. (2) Customer goes to any Smart Wireless Centre, fills out an application form and submits a copy of a valid ID and pays a PHP 30 (USD 0.64) processing fee. Filipinos can also apply for a Smart Money card online[28]	A two-step process: (1) The client applies by sending GXI (2882) a text message with the letters "REG" 4-digit pin, her mother's maiden name, her name, and address. She receives confirmation via SMS. (2) The client must present (at one of 1,500 Globe-owned stores or merchants certified as remittance agents under BSP Circular 471) two forms of valid ID and complete a registration form every time she cashes in.[29]
Data repository and monitoring	Customer account records are held electronically on Smart servers. Partner banks are provided a real-time look at client data. Smart performs suspicious transaction monitoring for the partner banks.	Customer account records are held electronically by GXI, which has an in-house system for suspicious transaction monitoring and reporting to authorities.
Card linkage	Clients have the option to obtain a Mastercard-branded debit card linked to their Smart Money account.	No linked debit/ATM card.
Access to payment infrastructure	Smart Money users have access to POS terminals of over 20,000 merchants accepting Mastercard, and 7,000 ATMs through the country's three main ATM networks (Bancnet, Megalink and Expressnet).	GCash users have access to 2,500 ATMs for cash-in and 9,000 ATMs for cash-out.[30]
Cash-in and cash-out	Smart Money users can do cash-in and cash-out at 1,990 Money-In Money-Out (MIMO or agents) centers, at 8,000 ATMs (in the Philippines), they can do cash out at 8,000 Money Centers. An additional 25,000 merchants have POS	GCash users can do cash-in and cash-out at more than 2,750 Globe-owned stores and outlets of GCash partners registered as remittance agents under Circular 471, and they can do cash-out at an additional 250

[25] Interviews with Smart staff during December 2009 mission, with follow-up through January 2010.
[26] Interviews with GXI staff during December 2009 mission, with follow-up through January 2010, supplemented.
[27] Based on a monthly average of PHP 5 billion
[28] Smart Money Frequently Asked Questions. http://smart.com.ph/money/consumers/faqs.htm
[29] Globe – GCash Frequently Asked Questions. http://web.globe.com.ph/web/gcash/263?sid=1t3ewq0odid4d1264901497810
[30] Interview with Ricardo Alair, Financial and Operations Head, Globe Commerce, January 2010.

	terminals that accept Mastercard.	remittance agents. Cash-in is also available at 2,500 ATMs and cash-out at 9,000 ATMs. An additional 6,000 merchants accept GCash for purchases. The BSP approved in January of 2010 the licensing of 15,000 GCash agents. They are in the process of becoming fully functional. Clients of Bank of the Philippines Islands (BPI) can transfer funds between their BPI account and their GCash account. GCash also permits transfers between several rural banks and GCash accounts.
Cash-in and cash-out charges by agents	Agents can charge from 1-3% for cash in and cash-out.	Agents can charge from 1-3% for cash in (though Seven Eleven stores can charge up to 5%), the same for cash-out. GCash has started paying agents cash-in fees so they stop charging consumers the additional cash-in fee.
Remittance charge	2.5 pesos	2.5 pesos
Wallet limits	Single transaction limit: PHP 10,000 (approx. USD 217) Daily limit: PHP 40,000 (approx. USD866) Monthly limit: PHP 100,000 (approx. USD 2,165)	Single transaction limit: PHP 10,000 (approx. USD 217) Daily limit: PHP 40,000 (approx. USD866) Monthly limit: PHP 100,000 (approx. USD 2,165)

3. Current Legal Framework for Branchless Banking

3.1 Use of Agents

Banks' Use of Agents. Banks may not outsource any inherent banking functions, which effectively include all transactions related to deposit-based accounts.[31] With this prohibition, the development of a broad range of branchless banking models in which banks use third party merchants for cash handling is unlikely to occur in the Philippines. (The Smart Money model classifies its account as a pre-paid account, rather than a deposit, and thus does not implicate the restrictions applicable to bank agents.) And although not specifically prohibited by the law, the BSP currently does not permit banks to outsource Anti-Money Laundering/Combating Financing of Terrorism

[31] BSP Circular 268 of 2000. Banks may not outsource “inherent banking functions”, which are defined as “servicing the deposit transactions” of a bank.

(AML/CFT) functions. The BSP is currently exploring the idea of allowing such outsourcing.[32]

Remittance agents. BSP Circular 471, issued in 2005, covers all institutions that act as cash-in and cash-out agents. Under the circular, prospective remittance agents must (i) apply to the BSP for registration, which entails the submission of various legal documents and the payment of a fee and (ii) send their officers and personnel directly involved in the cash operations to training by the BSP's Anti-Money Laundering Council (AMLC).[33]

The requirement to send officers and personnel for AML trainings proved prohibitively expensive for many potential agents, particularly the typical neighborhood corner store known locally as *sari-sari* stores. Since 2008, in response to requests by Globe and Smart,[34] the AMLC has permitted GXI and Smart each to conduct its own AML training (as long as it followed Anti-Money Laundering Act (AMLA) guidelines and was certified by the AMLC), which has facilitated an increase in the registration of agents.

In January 2010, the BSP issued a resolution permitting GXI to register thousands of agents through one application to the BSP, provided that GXI retains the responsibility and liability for all of its agents.[35] The mass registration has only been approved for GXI so far. In anticipation of BSP plans, GXI completed much of the required paperwork prior to January 1010 and was able immediately to register 15,000 new remittance agents.[36] Smart's mass registration is still under negotiation. However, it is expected that Smart will register approximately 45,000 new remittance agents in the near future.

3.2 AML/CFT

Policy makers have brought the country into compliance with international standards on AML/CFT, while crafting regulatory accommodations that permit 'Know Your Customer/ Customer Due Diligence' (KYC/CDD) to be conducted by merchants certified as remittance agents (see Circular 471).[37] Currently, pursuant to Circular 649, any transaction whereby cash is converted into electronic money for transmission via electronic channels is subject to anti-money laundering controls.

Both Globe and Smart's mobile-based services involve the acceptance and dispensation of cash by merchants (who must be registered as remittance agents) for deposit into GCash and Smart Money accounts. Circular 471 permits KYC/CDD to be conducted by agents who have registered as remittance agents. All registered remittance agents must (i) for each remittance, complete a KYC/CDD process, which entails the client completing an application form and presenting a government-issued identity document, (ii) maintain records of all transactions for five years, and (iii) report specified and suspicious transactions. After the BSP registers a retailer as a "remittance agent", the agent may enter into agency agreements with one or more companies to provide various services. Remittance agents conduct KYC checks pursuant to requirements set forth in Circular 564, issued in April 2007, which limits

[32] It is important to note that Circular 471 does not apply to banks. Banks are governed by the Manual of Regulations for Banks (MORB). MORB Section X213 establishes clear guidelines on solicitation of deposits outside a bank and does not allow banking deposits or withdrawals to be outsourced to non-banks (or agents).
[33] Trainings are conducted in Manila. In addition, AMLC staff travel to conduct trainings in some regional BSP offices.
[34] All agents who perform cash-in and cash-out on behalf of Smart and Globe must be registered as remittance agents under Circular 471.
[35] Monetary Board Resolution 116 dated 27 January 2010,
[36] Source: Interviews with GXI employees, and "Globe unit secures govt nod to expand remittance service", http://mobile-financial.com/node/3495/Globe-unit-secures-govt-nod-to-expand-remittance-service [accessed January 30, 2010]
[37] The Philippines has yet to undergo the mutual evaluation process FATF uses to determine the level of compliance with FATF's AML/CFT recommendations. However, in June of 2005, the Philippines was removed from the Financial Action Task Force (FATF) blacklist, where it had been listed since June 2000.

the KYC requirement to first time transactions.[38] Circular 564 also required the client to present the original and submit a copy of at least two valid photo-bearing identification documents (from among a list of 20, a number of which are easily attainable by most Filipinos) issued and signed by an official authority. The requirement was amended by a May 2008 circular, which requires clients to present the original and submit a copy of only one valid identification document.

At present, the AMLA implementing regulations[39] require KYC/CDD checks to be conducted face-to-face in order for an employee of a bank or remittance agent to personally see the client's identity documents and verify them against the physically present customer. As a result GXI, with no retail locations of its own, depends entirely on account opening at merchants. Non-face-to-face account opening could permit growth of mobile banking among low-income clients, particularly those in rural areas where there are few accredited remittance agents.

3.3 E-Money

BSP's charter gives it a broad mandate to oversee "money, banking and credit" and to supervise the operations of banks, finance companies, non-bank financial institutions, "and institutions performing similar functions."[40] In November 2005, after both Smart Money and GCash had launched, BSP created the Core Information Technology Supervisory Group (CITSG) to act as the central group within BSP (i) to address electronic banking issues, including m-payments and m-banking and (ii) to supervise institutions engaged in providing these services.

Early Government Approach: "Test and See." In 2000, five years before the formation of CITSG, BSP issued two circulars requiring banks to seek prior approval from BSP before offering services via electronic channels to the public.[41] Pursuant to the circulars, five commercial banks (each having applied individually) entered into partnerships with Smart, the largest MNO, to use the Smart Money mobile payments platform for account opening, marketing, data processing and other functions. Meanwhile, rural banks seeking a similar partnership with GXI follow a different path. BSP scrutinizes proposals from the Rural Bankers Association of the Philippines and makes approvals on a product-by-product basis for multiple rural banks. BSP viewed this approach as a prudent way to deal with rural banks, which historically are smaller institutions with less well-developed management and information technology infrastructure than commercial banks.

The BSP-GXI relationship has been a model of a successful partnership between government and private actors and both parties note that dialogue was critical in forging a workable arrangement. BSP engaged with GXI to understand how the mobile GCash system works, to identify the risks involved and to develop mitigation strategies. As a result, GXI has made several changes to its service. (For example, client PINs originally appeared in clear text on the mobile handset screen, but this practice ended at BSP's request.) The arrangement between BSP and GXI (contained in a series of letters between BSP and GXI between 2004 and 2006) included, inter alia (i) ensuring

[38] Although Circular 564 does not explicitly state that it applies to remittance agents, the BSP has applied the circular to them. Interviews with Ms. Celia Escareal-Sandejas, Chief of Staff of the BSP Governor on Anti-Money Laundering, Bangko Sentral ng Pilipinas (BSP).
[39] Rule 9.1 .f, Implementing Rules and Regulation to Republic Act 9160 as amended by Republic Act 9194.
[40] Sections 1 and 3, The New Central Bank Act, Republic Act 7653 of 1993.
[41] BSP Circular 240 requires banks to present BSP with information about risk-management procedures in order to secure BSP approval to offer services via a new electronic channel. BSP Circular 269 updates requirements on risk management procedures, and streamlines the application process.

KYC/CDD procedures comply with the AMLA, (ii) allowing GXI to open accounts via remittance agents, and (iii) requiring biannual GXI reporting to BSP.[42]

In addition, when Globe submitted its GCash model to BSP for approval, an integral part of the proposal was that GXI would at all times hold bank deposits equivalent in value to the outstanding GCash in issue. Further, Globe placed all the GCash operations in a separate legal entity (GXI) which does not perform other business functions.

E-Money Circular 649. After observing Smart Money and GCash for several years, in March 2009 the BSP issued a Circular 649, which regulates e-money as an activity rather than by the legal character of the e-money issuer. The circular defined e-money as: "monetary value as presented by a claim on its issuer that is (i) electronically stored in an instrument or device, (ii) issued against receipt of funds of an amount not lesser in value than the monetary value issued, (iii) accepted as a means of payment by persons or entities other than the issuer, (iv) withdrawable in cash or equivalent, and (v) issued in accordance with Circular 649."[43] Circular 649 specifies that electronic instruments can be cash cards, e-wallets accessible through mobile phones or other devices, stored value cards or other products. It also specifically states that e-money issued by banks is not considered to be a deposit. This ensures that the circular abides by the Manual of Regulations for Banks (MORB) and guarantees that agents can perform cash-in/cash-out functions.

Circular 649 classifies e-money issuers as banks, non-bank financial institutions supervised by the BSP, and non-bank institutions registered at the BSP as money transfer agents (EMI-Others). There is an aggregate monthly load limit for e-money instruments of PHP 100,000 (approximately USD 866). The circular prohibits the payment of interest on e-money. In addition, pursuant to the Circular, e-money is not insured by the Philippines Deposit Insurance Corporation. The circular establishes other principles such as a redress mechanism for consumer complaints, provision of clear guidance for consumers' right of redemption, as well as a requirement for tracking methods for e-money instruments and users.
Circular 649 sets minimum system controls (e.g., management, administrative and accounting procedures, computer systems, security measures, and audit functions) before institutions can become e-money issuers and also requires e-money issuers to provide quarterly financial statements to the BSP.

Lastly, Circular 649 sets forth that e-money issuers that are registered as money transfer agents can only engage in e-money and related businesses such as remittances. If these institutions are dedicated to a different type of business they must issue e-money through a separate entity formed exclusively to be an e-money issuer. In addition, customer funds are protected by requiring these non-prudentially regulated e-money issuers to keep "sufficient liquid assets equal to the amount of outstanding e-money issued". For this purpose, liquid assets include bank deposits, government securities and other assets as the BSP may allow.[44] The circular also requires that to be licensed as a non-bank e-money issuer, the entity must be formed as a stock corporation and have a minimum capital of US$2 million (PHP 100 million).

[42] Interview with Deputy Governor Nestor Espenilla, BSP, April 2007.
[43] Bangko Sentral ng Pilipinas, Circular 649, March 2009
[44] Circular 649, Section 5 D.

3.4 Payments Systems[45]

In November 2005, BSP created a Payment Systems Unit to oversee implementation of the Philippines real time gross settlement (RTGS) system, and contribute to BSP activities with retail payment systems. A draft of the Payments and Settlements System Act is ready for submission to the Philippine Congress. It has been pending in Congress for some time and it is not expected to be approved until after the next election in May 2010. Independently, there are also amendments to the New Central Bank Act[46] that seek to address the need for oversight and supervision of payments system operators. These are now under deliberation in the Philippine Congress.

[45] Source: Interviews with Bella Santos, Director of Payments and Settlements Office, BSP, and Raymond Estioko, Manager Core Information Technology Specialist Group, BSP. January 2010

[46] The New Central Bank Act (promulgated in 1993) authorizes the BSP to establish facilities for interbank clearing "under such rules and regulations as the Monetary Board may prescribe".