

# Clearinghouse REVIEW

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# Mobile Banking

## Can the Unbanked Bank on It?

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**M**obile banking, first introduced in developing countries as a way to provide banking services to communities that lack formal banking institutions or infrastructure, has recently gained prominence in the United States. While the United States does have sufficient banking infrastructure, many low-income Americans remain unbanked and underbanked. Currently thirty million Americans are either unbanked or underbanked.<sup>1</sup> Consumers who are “unbanked” do not have a checking or savings account, while those who are “underbanked” may have a checking or savings account but rely primarily on alternative financial services for their financial needs.

Unbanked and underbanked Americans pay a high price for not being banked—high fees to cash checks and being unable to earn interest on savings, develop credit, or obtain loans from mainstream financial institutions. This population is forced to use expensive alternative financial service products such as payday loans, refund anticipation checks, check cashiers, and auto title loans. As mobile device and phone usage expands (and becomes more affordable), our hope is that opportunities for the unbanked and underbanked population to enter the financial mainstream will expand as well.

Here we explain what mobile banking is and how it can be used to provide low-income and unbanked and underbanked populations access to mainstream financial services across the United States. We review bank outreach efforts, discuss recent developments such as mobile, virtual, and telco banking, and assess consumer protections and regulations related to mobile banking.

<sup>1</sup>FEDERAL DEPOSIT INSURANCE CORPORATION, NATIONAL SURVEY OF UNBANKED AND UNDERBANKED HOUSEHOLDS 10 (Dec. 2009), [http://1.usa.gov/fdic\\_households](http://1.usa.gov/fdic_households).

## Banks' Traditional Outreach to the Unbanked and Underbanked

A 2009 Federal Deposit Insurance Corporation (FDIC) national survey estimated that 7.7 percent of U.S. households, or approximately seventeen million people, are unbanked, while 17.9 percent of American households, or forty-three million people, are underbanked.<sup>2</sup> In other words, one-in-four Americans are unbanked or underbanked and rely on high-priced alternative financial services.<sup>3</sup>

According to one estimate, an unbanked family with a net income of \$20,000 per year could spend up to \$1,200 annually on alternative financial service fees for everything from cashing payroll checks to writing money orders.<sup>4</sup> For example, the unbanked and underbanked spend about 3 percent of their government benefits checks and 4.5 percent of their payroll checks just to cash them.<sup>5</sup> Aside from losing this income, these families forgo other benefits of formal banking arrangements, such as accumulating savings and interest, developing credit, and obtaining capital—all of which are key asset-building tools.<sup>6</sup>

In response to the continuing failure of banks to serve the unbanked and underbanked, in 2005 Congress passed a law requiring the FDIC to conduct biennial

surveys of insured depository institutions' efforts to bring the unbanked and underbanked into the mainstream financial industry.<sup>7</sup> The first survey, conducted in 2008, sought to identify the extent of depository institutions' outreach to the unbanked and underbanked, the challenges they faced in such outreach efforts, and the innovations developed to encourage participation from unbanked and underbanked populations.<sup>8</sup>

According to this survey, while 73 percent of banks were aware that there were unbanked and underbanked populations within their service areas, less than 18 percent of them had identified the expansion of their services to the unbanked and underbanked as a priority in their business strategy.<sup>9</sup> When asked for examples of the efforts they made as part of their strategies to serve unbanked and underbanked customers, fewer than half of banks stated that they provided check cashing (49 percent), money orders (41 percent), bill paying (18 percent), prepaid card issuance and reloading (12 percent), or check-cashing kiosks (less than 1 percent) to the unbanked or underbanked.<sup>10</sup> These are the very services that the unbanked and underbanked require; if banks do not provide these services, the unbanked and underbanked will continue to turn to alternative financial services.

<sup>2</sup>*Id.* at 10–11. Minorities and those with lower incomes are the most likely to be unbanked. An estimated 21.7 percent of African American households and 19.3 percent of Hispanic households are unbanked, compared with only 3.3 percent of white households (*id.* at 10). Similarly, 31.6 percent of African American households and 24 percent of Hispanic households are likely to be underbanked, while only 14.9 percent of white households are likely to be so (*id.* at 11). Households with earnings below \$30,000 per year account for at least 71 percent of unbanked households, and the proportion of underbanked households is significantly lower among the highest-income groups (i.e., income of \$75,000 or greater) (*id.* at 11, 12).

<sup>3</sup>*Id.* at 11.

<sup>4</sup>Justine Rivero, *What Will It Take to Save the Unbanked?*, FORBES, Jan. 30, 2012, at 1, [http://onforb.es/save\\_unbanked](http://onforb.es/save_unbanked).

<sup>5</sup>Martha Perine Beard, *Reaching the Unbanked and Underbanked*, CENTRAL BANKER, Winter 2010, [http://bit.ly/stlouised\\_bear](http://bit.ly/stlouised_bear).

<sup>6</sup>Rivero, *supra* note 4.

<sup>7</sup>Federal Deposit Insurance Reform Conforming Amendments Act of 2005, 12 U.S.C. § 1831z, <http://1.usa.gov/MsYTE2>.

<sup>8</sup>EDWARD BACHELDER ET AL., DOVE CONSULTING, *BANKS' EFFORTS TO SERVE THE UNBANKED AND UNDERBANKED 1* (2008), [http://1.usa.gov/bachelor\\_unbanked](http://1.usa.gov/bachelor_unbanked) (report for the Federal Deposit Insurance Corporation).

<sup>9</sup>*Id.* at 3, 41–42.

<sup>10</sup>*Id.* at 8. Nearly two-thirds of banks offered an entry-level checking account with no minimum balance (*id.* at 14). Yet unbanked or underbanked individuals with blemished accounts or credit histories likely faced challenges in opening such accounts (*id.* at 8). Most banks (87 percent) required screenings, such as ChexSystems, to identify applicants with histories of mishandling their accounts (*id.* at 177). Often these applicants are automatically rejected.

Nor did banks, according to the survey, offer savings programs designed for the unbanked or underbanked. For instance, only 22 percent of banks partnered with organizations to promote savings products, only 8 percent participated in Individual Development Accounts, and only 3 percent participated in the Internal Revenue Service's Volunteer Income Tax Assistance programs.<sup>11</sup> And while more than two-thirds of banks offered unsecured small dollar loans—loans promoted by consumer advocates as alternatives to payday loans—many unbanked and underbanked consumers were hindered by the loan eligibility requirements.<sup>12</sup> In sum, the survey found banks' efforts to be insufficient, and the FDIC encouraged all financial institutions to expand their efforts to “address the unique needs of the financially underserved.”<sup>13</sup>

### Mobile Banking

Over the last five years, mobile-banking options offered by large banks and other companies have proliferated.<sup>14</sup> In general, electronic or mobile banking refers to a broad spectrum of services and products that are delivered electronically. Often a distinction is made between “mobile banking,” which refers to using a mobile phone to access a bank account, credit card account, or other financial account, and “mobile payments,” which refers to any type of payment made using a mobile phone including purchases and bill pay-

ments.<sup>15</sup> The term “mobile money” (m-Money) is often used in connection with mobile banking. It refers to the currency that is used in mobile-banking transactions and that is subsequently turned into cash upon the completion of the transaction.<sup>16</sup>

Consumers engage in mobile banking and mobile payments by using their mobile phone or other device to access a bank's webpage via the Internet, texting, or a downloaded phone application. With respect to mobile payments, “the amount of the payment may be applied to [a] phone bill (for example Red Cross text message donation), charged to [a] credit card or withdrawn directly from [a] bank account.”<sup>17</sup>

Although there are a variety of mobile-banking products and services, they often are categorized by their platform or model. The most common platform for mobile banking is bank-based. Currently 92 percent of the top twenty-five banks in the United States offer mobile-banking services.<sup>18</sup> Under the bank-based model, established banks offer mobile banking as another way for existing customers to access their accounts. The most frequent services used by bank-based mobile-banking customers were checking financial account balances or transaction inquiries (90 percent), followed by transferring money between accounts (42 percent), or receiving text alerts from banks (33 percent).<sup>19</sup> This bank-based

<sup>11</sup>*Id.* at 15 (22 percent), 14 (18 percent), 223 (3 percent). Individual Development Accounts are matched savings accounts that allow qualified low- and moderate-income individuals to save, build assets, and enter the financial mainstream (see generally Federal Deposit Insurance Corporation, *Individual Development Accounts and Banks: A Solid “Match,”* FDIC QUARTERLY, Sept. 13, 2010, [http://1.usa.gov/fdic\\_idas](http://1.usa.gov/fdic_idas)). The Internal Revenue Service's Volunteer Income Tax Assistance program offers free help to qualifying low- and middle-income individuals who cannot prepare their own taxes (see generally Internal Revenue Service, Free Tax Return Preparation for You by Volunteers (May 30, 2012), [http://1.usa.gov/irs\\_tax\\_return](http://1.usa.gov/irs_tax_return)).

<sup>12</sup>BACHELDER ET AL., *supra* note 8, at 247–48.

<sup>13</sup>Barbara Ryan & Susan Burhouse, Findings from the “FDIC Survey of Bank Efforts to Serve the Unbanked and Underbanked” (July 14, 2009), <http://1.usa.gov/MZ38UN>.

<sup>14</sup>Greenwich Consulting, Thoughts: Boost Usage and Profitability of Mobile Money in Emerging Markets 3 (Feb. 2012), [http://bit.ly/greenwich\\_mmoney](http://bit.ly/greenwich_mmoney).

<sup>15</sup>Matthew M. Gross et al., Division of Consumer and Community Affairs, Federal Reserve Board, Consumers and Mobile Financial Services 9–13 (March 2012), [http://1.usa.gov/fed\\_mobile\\_bank](http://1.usa.gov/fed_mobile_bank).

<sup>16</sup>Beth Jenkins, International Finance Corporation & Harvard Kennedy School, Developing Mobile Money EcoSystems 5 (2008), [http://hvr.me/jenkins\\_mmoney](http://hvr.me/jenkins_mmoney).

<sup>17</sup>Gross et al., *supra* note 15, at 11.

<sup>18</sup>Javelin Strategy and Research, Smaller Banks Facing Widening Gap in Mobile Banking (Feb. 6, 2012), [http://bit.ly/javelin\\_mbank\\_gap](http://bit.ly/javelin_mbank_gap).

<sup>19</sup>Gross et al., *supra* note 15, at 10.

model does little to expand access for the unbanked and or underbanked, so long as only those with existing accounts are able to access mobile-banking services. Most mobile banking in the United States is simply an extension of the traditional brick-and-mortar banking relationships.

A variation on the traditional bank-based mobile-banking model is the “virtual bank” model. Virtual banks do not have brick-and-mortar locations but instead provide prepaid cards, automated teller machines (ATMs), and, if necessary, access to actual bank locations through partnerships with traditional banks. As in the traditional bank-based model, virtual banks are generally targeted to those who have existing financial accounts and simply do not require the use of retail branches.<sup>20</sup>

Telco, or phone-based mobile banking, by contrast, provides financial services facilitated through telephone companies. Current technology allows users to perform everything from domestic and international remittances, bill payments, payroll deposits, loan receipt and repayment, to purchases of goods and services. The usual practice is for telephone companies to require customers to have existing bank accounts before they may use phone-based banking services. Nevertheless, mobile-phone banking appears to have the most potential for reaching the unbanked and underbanked.

Initially mobile or electronic banking meant simply using the Internet to access

accounts, but, as noted above, consumers are increasingly using mobile phones and devices to engage in mobile banking and mobile payments. While there is still a digital divide with respect to accessing the Internet through computers, there is no such divide for mobile-phone access.<sup>21</sup> In 2011 among American adults 83 percent had a mobile phone, and 21 percent of them engaged in mobile banking that year.<sup>22</sup> This was a 63 percent jump in mobile banking from the previous year.<sup>23</sup> Mobile-banking users worldwide are estimated to number 530 million by 2013, up from just over 300 million in 2011.<sup>24</sup>

Interestingly, mobile-phone use is actually higher among minorities—89 percent of African Americans and 86 percent of Hispanics own a mobile phone.<sup>25</sup> While mobile-phone penetration is less in lower-income levels, nearly 75 percent of U.S. adults in households earning less than \$20,000 a year have a mobile phone and 20 percent have a smartphone.<sup>26</sup> Among individuals who are unbanked 65 percent have access to a mobile phone, and 91 percent of the underbanked have a mobile phone.<sup>27</sup>

Banking by mobile phone could therefore be a way to offer access to mainstream financial services for the unbanked and underbanked populations. Advocates need only look at case studies of successful mobile-banking products and services from developing countries for insight in developing similar products and services in the United States.

<sup>20</sup>Gautam Ivatury & Mark Pickens, Consultative Group to Assist the Poor, *Mobile Phone Banking and Low-Income Customers: Evidence from South Africa 2* (2006), [http://bit.ly/ivatury\\_mbanks](http://bit.ly/ivatury_mbanks).

<sup>21</sup>Gross et al., *supra* note 15, at 4.

<sup>22</sup>*Id.* at 1.

<sup>23</sup>Javelin Strategy and Research, *Mobile Banking, Smartphone and Tablet Forecast 2011–2016: Mobile Banking Moves Mainstream to Mid-sized, Community Banks and Credit Unions* (Dec. 2011), [http://bit.ly/javelin\\_mobile\\_mainstream](http://bit.ly/javelin_mobile_mainstream) (overview of full report).

<sup>24</sup>Juniper Research, *Mobile Banking for Developed and Developing Markets: Strategies and Business Models 2012–2016* (Jan. 17, 2012), [http://bit.ly/juniper\\_mob\\_bnkg](http://bit.ly/juniper_mob_bnkg); see Juniper Research, *Press Release, Mobile Banking Service Adoption to Reach over Half a Billion Users by 2013 Despite Economic Downturn* (Jan. 17, 2012), [http://bit.ly/juniper\\_press](http://bit.ly/juniper_press).

<sup>25</sup>Gross et al., *supra* note 15, at 4. Minorities are also more likely to own a smartphone, with 44 percent of both African Americans and Hispanics owning a smartphone compared with only 30 percent of whites (*id.*).

<sup>26</sup>*Id.* at 4.

<sup>27</sup>*Id.* at 19; see also Francesc Prior & Javier Santomá, *Banking the Unbanked Using Prepaid Platforms and Mobile Telephones in the United States* 17 (ISES Business School, University of Navarra, Working Paper WP-839, Jan. 2010), [http://bit.ly/prior\\_prepaid\\_platform](http://bit.ly/prior_prepaid_platform).

**Virtual Banks.** WIZZIT Payment Limited, a virtual bank based in South Africa, is a provider of basic banking services for the unbanked and underbanked.<sup>28</sup> WIZZIT's offerings are a good example of the types of products and services that could be used in the United States to ensure that mobile banking benefits the unbanked and underbanked and low-income communities.

WIZZIT, which was specifically designed for and targeted to low-income, unbanked populations, offers financial products at low rates with convenient mobile access. A WIZZIT account is "as much as one-third cheaper as an account at one of South Africa's big retail banks for the same basket of services."<sup>29</sup> There are no fixed monthly fees or minimum balance requirements, both of which appeal to low-income individuals.<sup>30</sup> With a WIZZIT account, "customers can use their mobile phone to make person-to-person payments, transfer money, purchase prepaid electricity and buy airtime for a prepaid mobile phone subscription."<sup>31</sup> The accounts also include an internationally recognized debit card that can be used for purchases and for ATM withdrawals from affiliated bank branches. Financial services such as loans and microinsurance products are also available.<sup>32</sup>

Since WIZZIT's launch seven years ago, 5.5 million people in South Africa and Africa have used its products and have made 100 million transactions.<sup>33</sup> In fact, WIZZIT has the largest national footprint for banking services in South Africa, with

3,600 points of access for deposits.<sup>34</sup> WIZZIT operates in nine different countries and is looking to expand.<sup>35</sup>

One reason for WIZZIT's success is that it was created specifically for the unbanked. In 2004 studies indicated that about 14 million adults in South Africa did not have access to banking services.<sup>36</sup> As in the United States, mainstream banks in South Africa have not offered services that are appropriate to the lower-income segment of the market. Also similar to the United States, South Africans' use of mobile phones is widespread: there are 30 million mobile-phone users compared with 13 million bank accounts.<sup>37</sup> By allowing the unbanked to access financial services through technology that they likely already have—mobile phones—WIZZIT has one of the cheapest and most effective ways of providing banking services and products to this population.

That WIZZIT offers loans and other financial products in addition to transactional accounts makes it an especially attractive model for replication in the United States. While opening a checking or transactional account may be the first step in bringing the unbanked and underbanked into mainstream banking, individuals must have access to other products such as savings and credit to gain asset-building tools and other benefits through a banking relationship.

Although WIZZIT does charge fees to cover its costs for opening and administering accounts and transaction fees, these fees are only 2 percent of a low-income indi-

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<sup>28</sup>Ivatury & Pickens, *supra* note 20, at 2. WIZZIT is a division of the South African Bank of Athens.

<sup>29</sup>*Id.* at 1.

<sup>30</sup>*Id.* at 2; Richard Lapper, *A Call to South Africa's Masses*, FT.COM, Jan. 6, 2009.

<sup>31</sup>Ivatury & Pickens, *supra* note 20, at 2.

<sup>32</sup>*Id.*

<sup>33</sup>Charles Appel, *Bringing the Bank to People in South Africa*, UNITED NATIONS RADIO, Jan. 16, 2012, [http://bit.ly/appel\\_banktopeople](http://bit.ly/appel_banktopeople).

<sup>34</sup>International Labour Organization, *Case Studies of Social Enterprises in South Africa: WIZZIT Bank* (2011), [http://bit.ly/case\\_studies\\_wizzit](http://bit.ly/case_studies_wizzit).

<sup>35</sup>Appel, *supra* note 33.

<sup>36</sup>Gautam Bandyopadhyay, Infosys Technologies Limited, *Perspective: Banking the Unbanked: Going Mobile in South Africa 4* (2009), [http://bit.ly/infosys\\_mobilesa](http://bit.ly/infosys_mobilesa).

<sup>37</sup>*Id.*

vidual's income—a reasonable amount for banking services and significantly less than fees associated with a traditional bank account.<sup>38</sup>

**Telco-Based Mobile Banking.** In 2007 Vodafone's mobile network operator in Kenya and Equity Bank partnered to launch M-PESA.<sup>39</sup> M-PESA, which means 'mobile money' in Swahili, began as a way to meet the growing need for affordable, convenient remittance services.<sup>40</sup> M-PESA was designed to reach through mobile technology the majority of Kenyans who do not have bank accounts. By September 2008 only 25 percent of Kenyans using M-PESA were estimated to be unbanked, but by late 2009 that percentage had increased to 50 percent.<sup>41</sup> By May 2010 an estimated 9.5 million Kenyans were using M-PESA—over 45 percent of Kenya's adult population and twice the number of Kenyans with bank accounts.<sup>42</sup> Nearly half of the adult population in Kenya now relies on mobile money, or "m-Money," to pay for services, transfer money, and purchase goods.<sup>43</sup>

M-PESA operates a system of low-value electronic accounts held by the mobile operator and accessible from subscribers' mobile phones through a SIM (subscriber identification module) card—resident application.<sup>44</sup> This grants subscribers access to an account

into which they can deposit and transfer money to and from other M-PESA accounts. Users also have access to over 23,000 merchants and agents that partner with M-PESA to accept m-Money as payment and to allow users to withdraw cash.<sup>45</sup> In its first four years of operation M-PESA had a deeper impact than traditional banking had had in forty years of existence in Kenya.<sup>46</sup>

Although M-PESA began exclusively as a remittance or money transfer service, new banking regulations established in 2010 allowed M-PESA's partners to offer M-KESHO, an interest-bearing savings account. These accounts have no opening fees, minimum balance requirements, or monthly charges.<sup>47</sup> M-KESHO consumers can also access credit, microloans, and microinsurance.<sup>48</sup>

In terms of application to the United States, M-PESA demonstrates how mobile banking can provide millions of Americans who have mobile phones, but not bank accounts, with access to the financial market. With low fees, an M-PESA type of account would be affordable for unbanked and underbanked Americans. More important, although M-PESA is just a transaction-type account, the M-KESHO product is even more useful. Saving and asset building are key to eliminating poverty. If similar phone-based programs—with savings options and access to credit—were

<sup>38</sup>Ivatury & Pickens, *supra* note 20, at 4; see Safaricom, M-KESHO (n.d.), [http://bit.ly/safaricom\\_mpesa](http://bit.ly/safaricom_mpesa).

<sup>39</sup>Kanika Metre, *Using Mobile Banking Services to Improve Financial Access for the Poor: Lessons from Kenya, the Philippines, the United States, Haiti, and India*, 18 POLICY PERSPECTIVES: THE GEORGE WASHINGTON JOURNAL OF PUBLIC POLICY AND PUBLIC ADMINISTRATION 11 (2011), [http://bit.ly/metre\\_policy\\_perspectives](http://bit.ly/metre_policy_perspectives).

<sup>40</sup>Nick Hughes & Susie Lonie, *M-PESA: Mobile Money for the "Unbanked": Turning Cellphones into 24-Hour Tellers in Kenya*, INNOVATIONS 63, Winter-Spring 2007, [http://bit.ly/hughes\\_lonie](http://bit.ly/hughes_lonie).

<sup>41</sup>Metre, *supra* note 39, at 12.

<sup>42</sup>*Id.* at 11.

<sup>43</sup>Michael Klein & Colin Mayer, *Mobile Banking and Financial Inclusion: The Regulatory Lessons 4* (Public-Private Infrastructure Advisory Facility, Financial and Private Sector Development, World Bank, Policy Research Working Paper 5664, May 2011), [http://bit.ly/klein\\_mayer\\_mbanking](http://bit.ly/klein_mayer_mbanking).

<sup>44</sup>Ignacio Mas & Amolo Ng'weno, Bill and Melinda Gates Foundation, *Three Keys to M-PESA's Success: Branding, Channel Management and Pricing*, 4 JOURNAL OF PAYMENTS STRATEGY AND SYSTEMS (Dec. 2010), [http://bit.ly/mpesa\\_3keys](http://bit.ly/mpesa_3keys).

<sup>45</sup>Klein & Mayer, *supra* note 43, at 4.

<sup>46</sup>*Id.* at 4–5.

<sup>47</sup>Metre, *supra* note 39, at 6, 12.

<sup>48</sup>Other M-PESA products include mobile bill pay, "air time" purchase for mobile phones, m-ticketing for travel and events, and hotel purchases. For more information about M-PESA and M-KESHO, see Safaricom, *supra* note 38.

developed in the United States, consumers would have a path to economic mobility and financial stability.

Although telco-banking services are extremely promising, they also have potential downfalls and risks. One of the main concerns is the safety and security of bank accounts originated through phone companies and accessed on mobile devices. In a recent survey 77 percent of the bank managers surveyed stated that security was “the most significant barrier to the growth of mobile banking.”<sup>49</sup> However, just as the account of a lost credit card can be frozen, so can a mobile bank account when a mobile phone is lost.

According to the study, costs were the second concern regarding telco banking: about one-half of bank managers said that the cost of telco banking had slowed its growth.<sup>50</sup> The cost of mobile phones, however, has been decreasing. The decrease in the price of mobile phones, combined with government programs such as Lifeline, means that costs will not remain an issue for long. The Lifeline program subsidizes the cost of landlines and mobile phones for low-income families. In 2008 the Lifeline program was budgeted at \$722 million. The program has since increased to \$1.6 billion, reflecting the growing demand for mobile technology and presents

another opportunity for the unbanked and underbanked to use mobile banking to enter the financial mainstream.<sup>51</sup>

Despite security and cost concerns, mobile banking and payment have already been introduced in the United States.<sup>52</sup> Although the use of such products and services is not as widespread in the United States as that of M-PESA in Africa, they may eventually become just as pervasive. In the meantime, consumer protections and appropriate regulations will have to be enacted.

### Consumer Protection and Regulation

Consumer protection and regulation will be key issues as technology progresses and more people adopt mobile banking. Flexibility in the regulatory process will be essential as new products are developed.<sup>53</sup>

Concerns about security are the main impediment to greater adoption of mobile banking.<sup>54</sup> Regulators must establish rules governing information security that require data encryption and storage in mobile banking. More broadly, regulators must establish standards that govern the implementation of various banking, antimoney laundering, and counterterrorism laws in ways that protect mobile-banking consumers but that do not create barriers to the growth of mobile banking.<sup>55</sup>

<sup>49</sup>Penny Crosman, *Banks Seek Sticky Relationships from Mobile Apps*, AMERICAN BANKER, Feb. 6, 2012, [http://bit.ly/crosman\\_bank\\_apps](http://bit.ly/crosman_bank_apps).

<sup>50</sup>*Id.*

<sup>51</sup>Brad Tuttle, *Washington Footing the Cell Phone Bill for Millions of Low Income Americans*, YAHOO! NEWS, Feb. 9, 2012, [http://bit.ly/tuttle\\_time\\_cellphones](http://bit.ly/tuttle_time_cellphones) (reprinted from *Time*).

<sup>52</sup>For instance, Obopay, a mobile-payment solutions company, offers its service to partners and enables them to bring their own branded mobile money technology and services to market (see Obopay, [http://bit.ly/obopay\\_site](http://bit.ly/obopay_site)). Similarly, ISIS is a partnership among three major phone companies to provide a mobile system based on near-field technology (see ISIS, [http://bit.ly/isis\\_mobile](http://bit.ly/isis_mobile)).

<sup>53</sup>The Group of Twenty (G20) Financial Inclusion Experts Group recognized this when it issued Principles for Innovative Financial Inclusion (Toronto, Canada, June 27, 2010), <http://bit.ly/g20princp>. The principles call for a “test and learn” approach rather than regulating in advance of market conditions (Alliance for Financial Inclusion, Policy Note: Mobile Financial Services: Regulatory Approaches to Enable Access 8 (Nov. 2010), [http://bit.ly/afi\\_mobile\\_finance](http://bit.ly/afi_mobile_finance)).

<sup>54</sup>Crosman, *supra*, note 49.

<sup>55</sup>Such regulations should also be amended to apply equally to nonbank wire-transfer services that currently dominate the remittance industry, as well as the banks that are now moving into the remittance industry (Board of Governors of the Federal Reserve System, Report to the Congress on the Use of the Automated Clearinghouse System for Remittance Transfers to Foreign Countries 3 (July 2011), <http://1.usa.gov/wuFZGE>). Nonbank money transfer companies, such as Western Union and MoneyGram, are not banking institutions and therefore are generally not required to comply with banking regulations such as the “know your customer” requirements. Instead they are regulated in more than forty states and municipalities as nonbank financial institutions with licensing and bonding requirements (Manuel Orozco, Pew Hispanic Center, The Remittance Marketplace: Prices, Policy and Financial Institutions 21 (June 7, 2004), <http://bit.ly/xzpXbc>). To level the playing field and protect consumers, nonbank money transfers should be treated similarly (Karen K. Harris, *Remittances: A New Market Calls for New Protections*, 45 CLEARINGHOUSE REVIEW 481 (March–April 2012), [http://bit.ly/harris\\_cl\\_rev\\_remit](http://bit.ly/harris_cl_rev_remit)).

For example, “know your customer” requirements, which financial institutions must implement as part of preventing money laundering and terrorist activity, require customers to present certain types of identification before opening a bank account.<sup>56</sup> But how will these laws and regulations apply to and affect mobile banking? Simply and easily opening a bank account with a couple of clicks on a mobile phone, though a highly effective enrollment tool, may not be allowed under current law. Similarly, if companies or financial institutions want to develop products akin to WIZZIT, regulatory changes might be necessary. For instance, since WIZZIT is a virtual bank, it has no bank branches. Customers open accounts through field agents called “WIZZKids.” WIZZKids are previously unemployed youths who are trained to promote the product and help customers open accounts—twenty-four hours a day, seven days a week—for which they earn a commission. Yet how would “know your customer” rules apply when a WIZZKid is helping an individual enroll in a mobile-banking program over the phone while standing in the middle of the sidewalk? If an individual does not have a social security number, will the WIZZKid be able to enroll the individual in the program by using alternative forms of identification?<sup>57</sup> “Know your customer” laws and rules must therefore be reconceived to envision and permit the various ways in which people may open mobile-banking accounts.

Not only must “know your customer” regulations and other banking-related regulations be applied to all financial institutions offering mobile banking (that is, both regulated banks and non-regulated entities), but also they must be extended to wireless carriers and telephone companies that are facilitating the mobile-banking relationship and transactions. Consumers Union, for instance, has created a set of policy suggestions for the top wireless carriers that partake in mobile banking to ensure that consumers have the same protections that they would have under the laws that govern credit and debit cards.<sup>58</sup> These policy suggestions include limiting to \$50 a credit card customer’s liability for “unauthorized transactions when false charges are made with a lost or stolen phone” and limiting consumer liability for disputed charges resulting from mobile payments.<sup>59</sup> These recommendations could be adopted by Congress and implemented on a national level to ensure consumer protection.

Linking existing programs and strategies to bank the unbanked to mobile access technologies would yield increased opportunities for reaching the unbanked and underbanked. For example, Bank On programs are in many cities and states across the country. These programs offer low- or no-cost bank accounts to individuals who are unbanked as an incentive to bring them into the financial

<sup>56</sup>International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001, Title III of the USA Patriot Act of 2001, 31 U.S.C. §§ 1051 *et seq.*, amended the Bank Secrecy Act of 1970, 31 U.S.C. §§ 5311-5330, the fundamental U.S. statute aimed at deterring and detecting money laundering, terrorist financing, and other financial crimes by including “know your customer” requirements. Pursuant to Section 326 of the USA Patriot Act, 31 U.S.C. § 5318, and related regulations, banks must collect specific information from their customers and verify their identities by using prescribed procedures (see 31 C.F.R. § 1020.220 (2011)).

<sup>57</sup>Individual taxpayer identification numbers and matrícula consular cards are, besides social security numbers, acceptable forms of identification for purposes of “know your customer” laws and regulations, federal regulators clarified shortly after the “know your customer” requirements became effective (Customer Identification Programs for Banks, Savings Associations, Credit Unions and Certain Non-Federally Regulated Banks, 68 Fed. Reg. 25089, 25098 (May 9, 2003) (31 C.F.R. § 1020.220 (2011)), <http://1.usa.gov/MVR8F2>). Individual taxpayer identification numbers are nine-digit identifiers that look like social security numbers which the Internal Revenue Service issues to immigrants in the United States to enable them to pay taxes. Mexican consulates issue a simple identity card, known in Spanish as a matrícula consular, to Mexican citizens living abroad. The card, which bears the Mexican citizen’s photograph and U.S. address, does not confer any legal status other than Mexican citizenship and may not be used for other purposes, such as employment, in the United States. The card simply attests that the Mexican consulate has verified the individual’s identity and U.S. address. While federal regulations permit banks to accept these forms of identification, most banks do not do so (BACHELDER ET AL., *supra* note 8, at 8). Unless banks are required to accept these forms of identification as part of “mobile account opening,” there are still barriers for this population.

<sup>58</sup>Consumers Union, How Top Wireless Carriers Compare on Consumer Protections for Mobile Payments (Dec. 14, 2011), [http://bit.ly/cons\\_union\\_wireless](http://bit.ly/cons_union_wireless).

<sup>59</sup>*Id.*

mainstream.<sup>60</sup> The success of such programs encouraged President Obama, in his 2013 budget proposal, to propose a national Bank On USA program.<sup>61</sup> Offering Bank On USA accounts at brick-and-mortar banks, online, and through mobile phones could significantly reduce the number of unbanked and underbanked Americans.



Whether mobile banking is the key to financial inclusion has yet to be seen. Advocates in the United States can learn

from programs such as WIZZIT and M-PESA, which demonstrate that banking the unbanked through mobile-banking and mobile-payment platforms is achievable. Consumer protection regulations adapted to such products and services will ensure the safety of such financial products. The technological growth in mobile banking could supply unbanked and underbanked people a starting point on the path to the financial mainstream with the ultimate goal of building assets and becoming economically mobile.

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<sup>60</sup>Bank On, <http://joinbankon.org/>.

<sup>61</sup>Inemesit Imoh & Katherine Lucas-Smith, President's 2013 Budget Supports Investments in Working Families' Financial Security and Asset-Building Opportunities, CFED, Feb. 14, 2012, [http://bit.ly/imoh\\_2013usbudget](http://bit.ly/imoh_2013usbudget).



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