

# The US CFPB takes stock of mobile financial services

The United States Consumer Financial Protection Bureau ('CFPB') recently launched an inquiry into the use of mobile financial services, with a focus on how mobile technologies are impacting unbanked and underbanked consumers with limited access to traditional banking systems. In doing so, the CFPB has outlined a number of opportunities and challenges presented by mobile financial services, as Mark W. Brennan and Michael Epshteyn of Hogan Lovells LLP explain.

In its Request for Information (RFI)<sup>1</sup>, the CFPB solicited comments on the opportunities and challenges associated with the use of mobile financial services by economically vulnerable populations, noting that mobile technologies have the potential to 'empower consumers to take more control over their financial lives.' This article provides an overview of the RFI and discusses some of the implications that the CFPB inquiry may hold for the future regulation of mobile banking. Financial institutions, mobile network operators, and other participants in the mobile financial services ecosystem should consider submitting comments in response to the RFI; comments are due by 10 September.

## Opportunities and challenges

The RFI observes that the use of mobile financial services has expanded in recent years, and that the rate of adoption is particularly high in the underbanked population. Specifically, according to the Federal Reserve Board's most recent survey on consumers' use of mobile financial services<sup>2</sup>, one third (up from 21 percent in 2011) of mobile phone users, and

more than half (up from 42 percent in 2011) of smartphone users, used mobile banking services in the past year. In the 'underbanked' population - meaning individuals who have a bank account but also use alternative financial services such as cheque cashers and payday lenders - 39 percent of mobile phone users reported using mobile banking services in the past year.

Additionally, both the unbanked (those without a bank account) and the underbanked make significant use of mobile phones and smartphones. Among the unbanked, 69 percent have access to a mobile phone, half of which are smartphones. And 88 percent of the underbanked have access to a mobile phone, 64 percent of which are smartphones. Thus, mobile technologies hold promise as a vehicle to expand these groups' access to financial services.

## Benefits

The RFI also highlights some of the benefits that mobile financial services may offer to underserved populations. According to the RFI, mobile banking can enable consumers to access financial services that may not otherwise be available in their communities, whether due to a lack of brick-and-mortar branches or other barriers to access. Mobile services can also reduce costs for consumers, such as the fees associated with using cash for bill payment, as well as the costs to financial institutions of providing banking services. Indeed, the RFI cites a Federal Deposit Insurance Corporation ('FDIC') white paper that calculates the average cost of an in-branch transaction to be \$4.25, compared to \$0.10 for a mobile transaction.

Another potential benefit discussed in the RFI is the speed and ease of accessing products and managing money through mobile

technology, including online account opening, checking account balances, receiving account alerts, conducting funds transfers, and engaging in remote deposits and online bill payment. These services can enhance consumers' ability to save, pay bills on time, and avoid overdrafting their accounts. The RFI also references a Federal Reserve survey that found that 69 percent of mobile banking users reported checking their account balance before a large purchase, and half of them decided not to make a purchase as a result of their account balance or credit limit.

## Challenges

The RFI recognises that the benefits of mobile financial services may not be fully realised if certain obstacles to their adoption are not addressed. Among these are perceived data privacy and security concerns, which are often cited as reasons consumers avoid using mobile banking technologies. Other challenges include technological issues, including the accessibility of devices and telecommunications services; educational barriers, such as a lack of understanding or knowledge about using financial products or services via mobile platforms; costs, including the costs of data plans; and language barriers.

The RFI also raises the issue of whether increased use of mobile financial services may result in fewer bank branches, thereby potentially expanding access to certain services but limiting the accessibility of others. Other consumer protection related concerns identified in the RFI include the risk that consumers will not be able to access their financial accounts or obtain customer service if they lose access to their mobile devices, the possibility that certain types of mobile devices or services are less

secure than others, and the prospect that data created by mobile use may result in market segmentation and underserved consumers being directed to higher-cost products and services than they would otherwise be eligible to purchase.

To help the CFPB better navigate and understand the issues surrounding the use of mobile financial services, the RFI includes an extensive series of questions that address the above topics and other related matters. The CFPB requested responses to these questions from all members of the public, including individual consumers, consumer groups, academics, financial institutions, providers and developers of mobile technology, payments providers, telecommunications firms, regulators, social service providers, and others. Responses are due by 10 September 2014 and will be used to inform the CFPB's consumer education and empowerment strategies.

#### Field hearing

In connection with the release of the RFI, the CFPB held a mobile financial services field hearing in New Orleans on 12 June 2014. The hearing included remarks from CFPB Director Richard Cordray<sup>3</sup>, as well as testimony from industry and consumer groups.

Director Cordray explained that the agency's two principal areas of focus for the RFI are: (1) the ways that mobile devices can expand access to financial products and services for underserved consumers; and (2) how mobile devices can offer all consumers additional tools for real-time money management. He also discussed the agency's concerns regarding customer service in the mobile space, noting that it may be harder for consumers to know whom to talk to or where to find

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information if they experience an error or mishap when using a mobile financial service, and that some consumers who lose their devices or have their mobile service disrupted may not have access to bank branches or computers. He stated that these consumers should not be "left in the lurch if something goes wrong."

Director Cordray also highlighted privacy and data security concerns as a challenge for the evolution and growth of mobile financial services. He noted that underserved consumers who use mobile devices to conduct financial transactions may face particular privacy concerns, such as the risk that their sensitive financial information may be endangered if their device gets lost or stolen. He also stated that the CFPB was exploring whether data breaches were more common on mobile devices as compared to traditional computers.

Director Cordray's remarks were followed by a panel discussion that included industry and consumer group representatives. Among other topics, industry representatives discussed some of the benefits of mobile financial services, such as how remote deposit capture of cheques through smartphone devices provides an alternative to costly cheque cashing services. Representatives from consumer groups noted the importance of meeting consumers' financial needs notwithstanding obstacles such as language barriers or limited financial literacy.

#### Future prospects

The RFI is not tied to specific rulemaking and, as noted above, the CFPB has stated that responses to the inquiry would be used to inform its consumer education and empowerment strategies. Nonetheless, the RFI makes clear that consumer mobile financial

issues are squarely on the CFPB's radar, and if the RFI reveals issues of significant concern, it is entirely possible that the agency would engage in further regulatory activity.

Additionally, at a 29 June hearing before the House Subcommittee on Financial Institutions and Consumer Credit, Marla Blow, the CFPB's Assistant Director for Card and Payment Markets, submitted written testimony regarding mobile payments. Although Ms. Blow's remarks did not address mobile financial services generally, she noted that, with respect to mobile payments, there was a need to examine existing regulations to determine if they impose barriers to successful mobile payment systems, as well as to determine whether regulations should be updated to address new concerns. She also mentioned the challenges of conveying meaningful disclosures to consumers on mobile devices' small screens and questioned the efficacy of lengthy "Terms and Conditions" that are often bypassed with a single click. These concerns are not only relevant for mobile payments, but also for other mobile financial products and services that the CFPB will be examining in the coming months.

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1. <https://www.federalregister.gov/articles/2014/06/12/2014-13552/request-for-information-regarding-the-use-of-mobile-financial-services-by-consumers-and-its>
2. <http://www.federalreserve.gov/econresdata/consumers-and-mobile-financial-services-report-201403.pdf>
3. <http://www.consumerfinance.gov/newsroom/prepared-remarks-of-cfpb-director-richard-cordray-at-the-mobile-request-for-information-field-hearing/>