Pacific injustice and instability: Bank account closures of Australian money transfer operators

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Remittances from Australia to the Pacific Islands play a significant role in encouraging economic development and stability in the region. Money transfer operators promote financial inclusion and provide an important service by facilitating these remittances. Despite providing such a valuable service, Australian money transfer operators have been facing account closures by their banks. This article aims to examine the impact of regulation on financial inclusion. It argues that the current approach to anti-money laundering and counter-terrorist financing regulation has had the unintended consequence of encouraging banks to create financial exclusion. The article concludes that timely attention from industry, banks, government and regulatory bodies is required and provides suggestions to address this issue.

INTRODUCTION

> If the misery of the poor be caused not by the laws of nature, but by our institutions, great is our sin.[1]

The remittance industry provides international money transfer services for migrant workers and individuals looking to send relatively small amounts of money overseas. Money transfer operators (MTOs) facilitate these international payments and offer services to a segment of the market that is often unserved by banks. An alarming trend is developing in Australia of banks closing the accounts of MTOs. A potential explanation for this trend is the increased cost of regulation and perceived risk to the banks from facilitating these transactions.[2] However, these account closures create real problems for the remittance industry, Australia, and the Asia-Pacific region.

This article starts by highlighting the importance of remittances to the Pacific Island Countries (PICs) and Australia. It then explores the trend of account closures in Australia and it considers the regulatory framework in Australia, and argues that the current approach to anti-money laundering (AML) and counter-terrorist financing (CTF) regulation has had the unintended consequence of encouraging banks to create financial exclusion. The article also investigates the factors that have influenced bank behaviour. Finally, it explores the role that financial regulation should play in promoting financial inclusion. This final part explores how this trend of MTO account closures might be addressed and how the seemingly conflicting goals of AML/CTF regulation can be balanced with financial inclusion.

IMPORTANCE OF MTOs TO THE PACIFIC

Role of the MTO

Australian banks traditionally offer two methods of transferring funds internationally. Banks can send funds through the Society for Worldwide Interbank Financial Telecommunication network by transferring funds from one bank account to another, or through a bank draft. These methods require both the receiving and sending party to hold a bank account, and the fixed fees for sending a small

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[1] Charles Darwin, *The Voyage of the Beagle* (Penguin, 1989).

[2] World Bank, *Migrants from Developing Countries to Send Home $414 billion in Earnings in 2013* (2 October 2013), http://www.worldbank.org/en/news/feature/2013/10/02/Migrants-from-developing-countries-to-send-home-414-billion-in-earnings-in-2013.

amount of money are often discouragingly high. High fees and difficult access to banks mean international transfers are beyond the reach of many Pacific Islanders.

MTOs solve many of these difficulties by facilitating small transfers more cheaply, swiftly, and without the need for a bank account. This is an important service for people in developing countries, many of whom cannot access a bank account.

Financial inclusion is defined as the delivery of financial services at affordable costs to all sections of society. The services provided by MTOs promote financial inclusion.

Benefit to the PICs as developing countries

Poverty in the PICs is a significant and growing problem caused by more than two decades of weak economic performance, population growth, urban migration, and wealth inequality.[3] Over the years, extensive migration has occurred from the PICs to Australia, New Zealand, and the United States (US). Migrant workers from the PICs now contribute significantly to their communities back home. Numerous studies have documented the importance of remittances to developing countries.[4] Migrant remittances have the potential to significantly contribute to poverty reduction and the achievement of other United Nations (UN) Millennium Development Goals.[5]

The PICs provide an excellent example of the potential importance of remittances. In Tonga and Samoa, remittances account for over 25% of GDP.[6] In Fiji, remittances account for around 5% of GDP, or roughly $150 million a year. Remittances are also developing in importance in Tuvalu, Kiribati, the Federated States of Micronesia, and the Marshall Islands.[7] Although individual remittance amounts are, generally, relatively small, the market as a whole is far from low value. A recent World Bank study has forecast that total remittances from migrant workers could reach 60% of current aid flows to the Pacific countries participating in the seasonal worker scheme.[8]

The size, geographical isolation, and the high exposure to natural disasters of the PICs make Pacific Islanders particularly vulnerable to economic and natural shocks. Family and community networks are a culturally important part of life in the Pacific and many people depend on their family members for support when such shocks occur. Community members working abroad who remit money home promote economic development and provide this informal, family-based social protection.[9] Remittances thus play a particularly important role in stabilising the region.[10]

The importance of economic co-operation between the PICs, Australia, and New Zealand has been recognised through inter-governmental organisations such as the Pacific Islands Forum. This organisation has encouraged employment programs for individuals to work in Australia and New Zealand to meet seasonal labour needs in these countries and to economically benefit the PICs. Greater

[3] Oxfam New Zealand, *Poverty in the Pacific* (2014), http://www.oxfam.org.nz/what-we-do/where-we-work/poverty-in-the-pacific.

[4] Puri S and Rizema T, *Migrant Worker Remittances, Micro-Finance and the Informal Economy: Prospects and Issues*, Working Paper N/21 (Enterprise and Cooperative Development, Social Finance Unit, International Labour Office, 1 March 1999). See also World Bank, *Global Economic Prospects: Economic Implications of Migration and Remittances* (2006).

[5] Irving J, Mohapatra S and Ratha D, *Migrant Remittance Flows: Findings From a Global Survey of Central Banks*, Working Paper No 194 (World Bank, 2010).

[6] Abel D and Hailwood K, *The New Zealand-Pacific Remittance Corridor: Lowering Remittance Costs, Mitigations and Remittances During the Global Financial Crisis and Beyond* (World Bank, 2012).

[7] Hezel F, *What Have Been the "Drivers of Change" in PICs' Relations with Other Countries, and How Have These Affected PICs' Development so Far? What Probably Lies Ahead?*, Paper presented at the What Can We Learn Project Symposium at University of the South Pacific (Suva, Fiji, 6-8 November 2012).

[8] World Bank, *Well-Being From Work in the Pacific Island Countries* (World Bank, June 2014) p 17; Abel D, "5 x 5 Will Help Families Thrive", *The Australian* (11 October 2013).

[9] Brown R, Leeves G and Prayaga P, *An Analysis of Recent Survey Data on the Remittances of Pacific Island Migrants in Australia*, Discussion Paper No 457 (School of Economics, University of Queensland, 2012).

[10] Jayaraman TK, Choong C and Kumar R, "Role of Remittances in Small Pacific Island Economies: An Empirical Study of Fiji" (2011) 3 *International Journal of Economics and Business Research* 526.

access to the labour markets of Australia and New Zealand has been an explicit policy goal of Pacific Island governments, and labour mobility has emerged as a key element in regional trade negotiations.[11]

Australian perspective

The stability and prosperity of the Asia-Pacific region has long been one of Australia's key foreign policy concerns.[12] Australia's security could be undermined by neighbouring states falling into a state of anarchy, or falling under the control of potentially hostile governments.[13] The PICs comprise a large part of the "arc of instability" to Australia's north and northeast, where governments are often disturbed by civil unrest.[14] Economic difficulties, unemployment, and inequitable income distribution in the PICs have provided fertile ground for resentment within these societies.[15]

Australia has encouraged PIC migrant workers through schemes such as the Seasonal Worker Program.[16] This program has enabled workers to remit their earnings home, which has supported Australia's goal of promoting regional stability. The recent trend of Australian banks closing MTO accounts undermines this foreign policy goal.

MTO account closures in Australia

Australian banks have not publicly announced an intention to abandon the remittance sector. However, there is ample anecdotal evidence that banks are closing the accounts of MTOs across both Australia and the PICs.[17] These account closures have been reported on and criticised by industry professionals,[18] regulators,[19] academics,[20] and industry experts.[21]

Despite this widespread criticism, detailed information about the account closures is not publicly available, thereby making it difficult for individual MTOs to address the issue. The majority of MTOs in Australia are small and independent organisations that lack the voice and negotiation power to engage productively with the banks. While the Australian Transaction Reports and Analysis Centre

[11] Craven L, "Labour Mobility Key to Pacific Future", *The Lowy Interpreter* (April 2014), http://www.lowyinterpreter.org/page/About-The-Interpreter.aspx.

[12] AusAID, *Australian Aid: Promoting Growth and Stability A White Paper on the Australian Government's Overseas Aid Program* (2006), http://aid.dfat.gov.au/publications/whitepaper/s4.htm.

[13] White H and Wainwright E, *Strengthening Our Neighbour: Australia and the Future of Papua New Guinea* (The Australian Strategic Policy Institute, 2004), https://www.aspi.org.au/publications/strengthening-our-neighbour-australia-and-the-future-of-papua-new-guinea/ASPI_PNG.pdf.

[14] Duncan R and Chand S, "The Economics of the 'Arc of Instability'" (2002) 16 *Asian-Pacific Economic Literature* 1.

[15] Collier P, *Greed and Grievance in Civil War* (World Bank, 2000), http://elibrary.worldbank.org/doi/book/10.1596/1813-9450-2355, quoted in Duncan and Chand, n 14.

[16] See *Special Program Visa (Subclass 416) for the Seasonal Worker Program* (2014), http://www.immi.gov.au/Visas/Pages/416-SWP.aspx.

[17] Garrett J, "Banks Stop Cheap Money Transfers to the Pacific", *Australia Network News* (11 December 2013), http://www.abc.net.au/news/2013-12-11/an-banks-close-off-cheap-money-transfer-options-to-the-pacific/5151066.

[18] The Director of Hai Ha Money Transfer, Dianne Nguyen, noted that: "Most banks are using this perception and taking unprecedented steps to de-bank the whole sector resulting in registered MTOs having their bank accounts closed." See Nguyen D, *Review of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth)*, Response to the Review (28 March 2014), http://www.ag.gov.au/Consultations/Documents/StatutoryReviewAnti-MoneyLaunderingAndCounter-TerrorismFinancingActCth200/hai-hai-money-transfer-28march2014.pdf.

[19] Fiji Financial Intelligence Unit, *Money Remittance Service Providers Well Regulated in Fiji*, Media Release 14/2014 (May 2014), http://www.fijifiu.gov.fj/docs/Press%20Release%20No%2014%20-%20Money%20Remittance%20Service%20Providers%20Well%20Regulated%20In%20Fiji.pdf.

[20] Naidu V, "Australian Banks Dishonest About Stopping Remittances to the Pacific – Naidu", *Radio New Zealand International* (December 2013), http://www.radionz.co.nz/international/pacific-news/231323/australian-banks-dishonest-about-stopping-remittances-to-pacific-naidu.

[21] Garrett J, "Banks Close Off Cheap Money Transfer Options to the Pacific", *Radio Australia International* (December 2013), http://www.radioaustralia.net.au/international/radio/program/pacific-beat/banks-close-off-cheap-money-transfer-options-to-the-pacific/1233194.

(AUSTRAC) register of all Australian remittance organisations shows there are thousands of independent dealers,[22] network providers and affiliates,[23] there is no industry body that represents MTOs in Australia. There is a need for an independent body to advocate and lobby on behalf of the MTOs to give voice to the problems they face.

Finding an appropriate solution that achieves Australia's foreign policy objective of regional stability will require a co-ordinated approach from MTOs, the banking industry and government agencies. This article argues that Australian government support is necessary and that an industry body would greatly assist by delivering necessary information,[24] such as the extent of the account closures. It would also provide a platform to challenge the decisions of banks to close MTO accounts.

CURRENT REGULATORY FRAMEWORK

To determine whether regulation is one of the major reasons for these account closures, it is necessary to consider the current AML/CTF regulatory framework in Australia. The legislation is largely based on recommendations from international bodies and agreements, because a co-ordinated international approach is required to combat money laundering and terrorism financing.

International bodies

The international nature of AML/CTF is reflected in international instruments such as the *United Nations Convention Against Transnational Organized Crime*,[25] and the international standards established by the Financial Action Task Force (FATF). The FATF standards include the requirement to criminalise terrorist financing and money laundering, the establishment of a financial intelligence agency to collect and evaluate suspicious transaction reports, and supervise financial institutions. Australia is also a member of the Asia-Pacific Group on Money Laundering, a regional body that implements international standards to combat money laundering and the financing of terrorism, in particular the FATF recommendations on money laundering, terrorist financing and proliferation financing.[26]

Australian law and regulator

Australia has implemented the FATF recommendations to bring domestic legislation in line with international standards through the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (AML/CTF Act).[27] Under the Act, the government agency AUSTRAC has been given the dual role of the AML/CTF regulator and the financial intelligence unit. AUSTRAC ensures that Australian businesses, including MTOs, comply with the AML/CTF Act.[28]

Obligations under the Act

The AML/CTF Act imposes a number of obligations on reporting entities when they provide designated services,[29] which include:

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[22] Attorney-General Department, *Regulation Impact Statement – Enhanced AML/CTF Regulation of the Alternative Remittance Sector* (2010) p 8, http://ris.finance.gov.au/files/2011/03/04_Remittance_Dealers_RIS.pdf.

[23] AUSTRAC, *Remittance Sector Register* (2014), http://www.austrac.gov.au/remittance_sector_reg.html.

[24] Irving et al, n 5, "there is a need for more frequent and better coordinated data collection, both across national institutions and among different divisions within the same national institution, as well as between countries".

[25] *United Nations Convention Against Transnational Organized Crime*, opened for signature 15 November 2000, 40 ILM 335 (entered into force 29 September 2003).

[26] FATF, *International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation: The FATF Recommendations* (February 2012).

[27] FATF, *Third Mutual Evaluation Report on Anti-Money Laundering and Combating the Financing of Terrorism: Australia* (FATF/OECD, October 2005), http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20Australia%20full.pdf. See also Davis K, *Remittances: Their Role, Trends and Australian Opportunities* (Australian Centre for Financial Studies, 4 November 2012), http://www.australiancentre.com.au/News/remittances-their-role-trends-and-australian-opportunities.

[28] *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), s 210.

[29] *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), s 6 (definition of "designated service").

1. Customer identification and verification of identity. The reporting institution must verify the identity of a customer before providing a designated service and carry out ongoing due diligence on customers.[30] A reporting entity must develop and implement systems to identify customers and third party service providers to monitor and report suspicious transactions.[31] The latest amendments to the Act which came into effect on 1 June 2014 have added requirements including the identification of the beneficial owner of a transaction and enhanced customer due diligence regarding any politically exposed persons.[32]
2. Record keeping. The reporting institution must retain certain records for seven years.[33]
3. Establishing and maintaining an AML/CTF program. The reporting institution must have and comply with AML/CTF programs designed to identify, mitigate, and manage money laundering or terrorist financing risks. This should be implemented and include a wide-ranging program that includes employee risk awareness and due diligence.[34]
4. Ongoing customer due diligence and reporting. Reporting on suspicious matters, threshold transactions and international funds transfer instructions are all requirements of the Act.[35] Customer due diligence is central to the AML/CTF regime and requires reporting entities to identify and verify each of their customers.[36] This is to ensure the reporting entity is able to determine the risk of dealing with the customer, whether to provide services to the customer and to determine the level of monitoring required. There are three mandatory components specified:
   a. collection and verification of additional know your customer information;
   b. a transaction monitoring program; and
   c. an enhanced customer due diligence program.[37]

A risk-based approach (RBA) has been taken to bring the AML/CTF Act in line with the FATF recommendations.[38] Reporting entities determine how to meet their obligations based on their assessment of the AML/CTF risk. This means the reporting entity is responsible for determining the level of risk and the appropriate method to address it. AUSTRAC describes the RBA as the most cost-effective and appropriate way to manage and reduce AML/CTF risks, allowing the cost of compliance to be balanced with the level of risk as assessed by the reporting entity.[39]

Enforcement by the regulators internationally

The RBA allows reporting entities to exercise their own business and professional judgement in determining an appropriate strategy. This involves a fine balance between facilitating financial transactions and reducing risk. On the one hand, it can be difficult to do business if the reporting entity places overly stringent AML/CTF controls to reduce risk. Alternatively, financial institutions can face heavy fines and reputational damage if they underestimate the level of risk and money is laundered. The potential consequences of incorrectly assessing risk were highlighted by the global bank HSBC in 2012.

[30] *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), Pt 2, Div 6.

[31] *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), Pt 3, Div 2.

[32] *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2014 (No 3)* (Cth).

[33] *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), s 107.

[34] *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), Pt 7.

[35] *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), Pt 3.

[36] *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), ss 88-91.

[37] *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No 1)* (Cth), Ch 15.

[38] FATF, *International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation: The FATF Recommendations* (February 2012), http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf.

[39] AUSTRAC, *Anti-Money Laundering and Counterterrorism Financing Act 2006* (2014), http://www.austrac.gov.au/aml_ctf.html.

The HSBC group had a practice of assigning a risk rating to its customers based on the country risk rating where the customer was located.[40] One consequence of this was that potentially high risk clients residing in low risk countries escaped enhanced due diligence and account monitoring.[41] At the time of investigation, HSBC rated Mexico as a "standard" risk country, the lowest of the four available risk ratings within the bank.[42] This inappropriate country risk rating, and other deficiencies in their AML approach, resulted in HSBC failing to identify risks and facilitating the flow of illicit proceeds between Mexico and the US.[43] The inadequacies in HSBC's risk approach resulted in a US$1.9 billion settlement with the US regulatory authorities and severe reputational damage.[44]

Other banks that have settled allegations of infringing US AML/CTF regulation in recent years include ABN Amro Bank, Credit Suisse, Barclays, Lloyds, and Standard Chartered Bank.[45] In 2012, total settlements in the US related to AML/CTF compliance breaches exceeded US$4 billion.[46]

Bank reactions to regulators efforts

MTOs are a relatively low-margin business for banks. Currently, regulation is forcing banks to choose between closing MTO accounts and servicing accounts that contain potential compliance risk. Given their risk and low profitability, it is unsurprising that banks seem to be classifying MTO accounts as high risk and closing them.

Unlike the Australian banks, banks in the United Kingdom (UK) have been upfront about their reluctance to deal with MTOs and to manage the AML compliance risks that come with servicing the remittance sector. HSBC was one of the first banks in the UK to formally withdraw from the sector by terminating banking services to clients that offer services such as money/currency exchange, money transfers and cheque cashing. Similarly, Lloyds Banking Group has announced it is not heavily involved in the remittance sector due to risks from the nature of its activities and RBS has made the decision to close thousands of foreign currency customer accounts for the same reason.[47]

Dahabshiil Transfer Services Ltd v Barclays Bank Plc

In *Dahabshiil Transfer Services Ltd v Barclays Bank Plc*,[48] the court considered the competition law issues relating to the closure of an MTO account. Shortly after a raft of regulator fines in 2012, Barclays initiated a strategic review of its business. After completing the review in May 2013, the bank announced it planned to close the accounts of more than 88% of its MTO clients, including Dahabshiil. Dahabshiil is the largest MTO serving Somalia, and is regulated by the Financial Conduct Authority as a payment institution under the *Payment Services Regulations 2009* (UK).[49] As with the PICs, Somalia's economy relies heavily on remittances.[50] Some 40% of Somalia's population are

[40] OCC, *Bank Secrecy Act/Anti-Money Laundering ("BSA/AML") Examination – Program Violation (12 USC 1818(s); 12 CFR 21.21)*, Supervisory Letter HSBC-2010-22 (13 September 2010) p 18.

[41] Levin C and Coburn T, *US Vulnerabilities to Money Laundering, Drugs, and Terrorist Financing: HSBC Case History*, (Permanent Subcommittee on Investigations, July 2012) p 43.

[42] Levin and Coburn, n 41, p 44, quoting HBUS, *Country Risk Assessment for Mexico* (2008) p 422.

[43] Levin and Coburn, n 41.

[44] *US v HSBC Bank USA NA*, No 12-cr-00763, (USDC, 1 July 2013) (unreported), http://www.mainjustice.com/wp-admin/documents-databases/127-1-HSBC-7.01-Order.pdf.

[45] Steger I, "Tallying Up US Regulators' Money Laundering Fines", *The Wall Street Journal: Deal Journal* (15 August 2012), http://blogs.wsj.com/deals/2012/08/15/tallying-up-u-s-regulators-money-laundering-fines/.

[46] Fox T, "The HSBC AML Settlement: Lessons Learned for the AML Compliance Practitioner", *World Compliance* (2012), http://www.worldcompliance.com/Libraries/WhitePapers/The_HSBC_AML_Settlement.sflb.ashx.

[47] Klienman M, "Laundering Fears Prompt RBS Account Closures", *Sky News (UK)* (12 February 2014), http://news.sky.com/story/1210627/laundering-fears-prompt-rbs-account-closures.

[48] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [1].

[49] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [25], [27].

[50] Dahabshiil, *Dahabshiil Wins Injunction Against Barclays* (2014), http://www.dahabshiil.co.uk/news/2013/11/dahabshiil-wins-injunction-against-barclays.html.

estimated to rely on remittances as their primary source of income. In the absence of a formal banking system in Somalia, MTOs provide the safest, cheapest, and most reliable method of sending money to the country. Only a recognised, licensed bank can transfer funds across borders in the UK.[51] The closure of Dahabshiil's bank accounts would thus have had drastic implications for Somalia's economy.[52]

Dahabshiil sought an interim injunction to restrain Barclays from terminating their banking services. The court determined that there was a serious question to be tried and an interim order was made that Barclays should continue to provide services until the trial was concluded.[53] Before the case reached trial a settlement was reached where Barclays agreed to keep its banking service available until alternative arrangements were made.[54] While the legal issues may have been addressed differently at trial, the case nevertheless represents an important decision as it is the first time a bank refusing to provide services to an MTO has been considered by the courts to be in potential breach of competition law.

The interlocutory decision in *Dahabshiil* recognised that a global institution such as Barclays is subject to intensive and increasing regulation regarding money laundering and terrorist financing, and that this impacts on the compliance costs of providing banking services to MTOs. The judgment pointed out that a failure to comply with regulatory obligations would be expensive and generate bad publicity for the bank. On the other hand, it was recognised that Dahabshiil had a long and established history in the remittances industry, and that a strong AML compliance system was in place. Barclays had participated in regular audits of Dahabshiil and had acknowledged that procedures in the organisation were "satisfactory".[55]

Under UK law, Barclays is entitled to choose its customers, like any other private business, and banks have no duty to provide services to particular categories of customers. Despite the many compelling reasons to keep the Dahabshiil account open, the legal question was whether Barclays was abusing its dominant market position in breach of UK competition laws by closing Dahabshiil's account. Chapter II of the *Competition Act 1998* (UK) was the sole basis of the claim to restrict the freedom of Barclays to terminate the banking relationship.[56] In making the decision to grant an injunction, the court needed to consider two things.[57] The first was whether there was a serious issue to be tried in relation to the breach of the Ch II prohibition.[58] The second was to determine whether an injunction was more likely than not to produce a just result.[59]

Section 18 of the *Competition Act 1998* provides that:

> (1) … any conduct … which amounts to the abuse of a dominant position in a market is prohibited if it may affect trade within the United Kingdom.
>
> (2) Conduct may, in particular, constitute such an abuse if it consists in:
> (a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
> (b) limiting production, markets or technical development to the prejudice of consumers;
> (c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

[51] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [27]-[28].

[52] Dahabshiil, n 50.

[53] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [1], [77].

[54] Colchester M, "Barclays Settles Dispute With Money Transfer Dahabshiil", *The Wall Street Journal* (16 April 2014). See also Somaliland Sun, "Somaliland: Barclays Bank Retains Dahabshiil Account", *Somaliland Sun* (17 April 2014), http://somalilandsun.com/index.php/economic/5550-somaliland-barclays-bank-retains-dahabshil-account.

[55] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [17], [29].

[56] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [2], [29].

[57] Jones A and Sufrin B, *EU Competition Law: Text, Cases and Materials* (4th ed, OUP, 2010) p 1221.

[58] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [50].

[59] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [47], quoting *National Commercial Bank Jamaica v Olint Corp Ltd* [2009] 1 WLR 1405; [2009] UKPC 16 at [16]-[20].

(d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of the contracts.

Section 18 required consideration of whether Barclays held a dominant position in the market and if the refusal to supply banking services to Dahabshiil constituted abuse of this position. This required the court to define the relevant market. Barclays defined the market of the money service business quite broadly, encompassing six different types of activities. Under this definition, Barclays provided services to 11% of this market. However, the court accepted the narrower definition of the market proposed by Dahabshiil, which limited the market to "companies that provide a mechanism to transfer money from one country to another". Only three providers of banking services to this sector remained in the UK: Lloyds; RBS; and Barclays, which controlled 70% of the market share.[60] In the UK, a high market share is generally considered as strong evidence of a dominant position.[61] Consequently, the court found there was clearly a triable issue.[62]

On the question as to whether the conduct constituted abuse, the court held that there was authority that a refusal to deal with existing customers is, in appropriate circumstances, at least arguably capable of amounting to a contravention.[63] The withdrawal of banking services without justification may similarly potentially constitute abuse.[64] Under UK law, a defence to an allegation of abuse is available if there is an objective justification. The defence of justification requires that a dominant position holder can establish that its conduct is objectively justified and proportionate.[65] The issue is whether the conduct in question is "indispensible and proportionate" to the goal allegedly pursued.[66] To succeed on this defence Barclays would need to show at trial that the conduct of closing the accounts was "indispensible and proportionate" to the goal allegedly pursued of reducing its compliance risk. However, Henderson J warned Barclays that this defence would be scrutinised carefully.[67] The court was satisfied that there was a triable issue in relation to abuse of dominance that would need to be examined at trial,[68] and that the evidence favoured the grant of interim relief.[69]

Although the case never reached trial, the decision demonstrates that under UK competition law, the facts were sufficient to show that there was a serious issue to be tried. This case also highlighted the need to continue the flow of remittances through secure and legitimate channels. Shortly after the decision, the UK government established an Action Group on Cross-Border Remittances to address this issue.[70] This group tracks payments from the UK to Somalia in partnership with MTOs to assist the British government to create a safe remittance corridor for payments into Somalia.

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[60] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [14]-[15], [47], [51], [56].

[61] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [60]-[62], quoting Rose V and Bailey D (eds), *Bellamy and Child: European Union Law of Competition* (7th ed, OUP, 2013).

[62] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [55].

[63] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [47], quoting *Jobserve Ltd v Network Multimedia Television Ltd* [2001] EWCA Civ 2021.

[64] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [73]. See also Rodger B and MacCulloch A, *The UK Competition Act: A New Era for UK Competition Law* (Hart Publishing, 2000) p 126.

[65] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [74].

[66] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [74], quoting O'Donoghue R and Padilla AJ, *The Law and Economics of Article 102 TFEU* (2nd ed, Hart Publishing, 2006) p 283.

[67] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [74].

[68] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [73], quoting *Case C-7/97, Oscar Bronner GmbH & Co AG v Mediaprint Zeitungs-und Zeitschriftenverlag GmbH & Co AG* [1999] 4 CMLR 112 at [43]. See also *Dahabshiil* at [77].

[69] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [76].

[70] See *Terms of Reference for the Action Group on Cross Border Remittances* (2014), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/295344/TOR-_OVERVIEW.pdf.

POSITION UNDER AUSTRALIAN LAW

The central issue in *Dahabshiil* was whether a refusal to supply banking services could amount to abuse of a dominant market position. If the same scenario arose for consideration in Australia, it would arguably be difficult for an MTO to achieve similar success, even on an interim basis.

There are some similarities between Australia's misuse of market power and the UK's abuse of dominance provisions. As in the UK, businesses in Australia have the right to decide with whom they wish to do business, though under certain circumstances a refusal to deal can also constitute a misuse of market power.[71] However, the Australian equivalent of the UK Ch II prohibition, s 46 of the *Competition and Consumer Act 2010* (Cth) (CCA), has proven difficult to enforce in practice. Section 46 of the CCA has been criticised for the high threshold required to prove its first two elements. In the last 37 years, only 31 instances of breaches have been successfully dealt with by the ACCC.[72] The Chairman of the ACCC, Rod Sims, recently acknowledged that the "section 46 misuse of market power prohibition is of limited utility in prohibiting anti-competitive conduct by firms with substantial market power".[73] A review of competition policy in Australia is currently under way and s 46 is one area that has received attention.[74]

Section 46(1) of the CCA states:

> A corporation that has a substantial degree of power in a market shall not take advantage of that power in that or any other market for the purpose of:
>
> (a) eliminating or substantially damaging a competitor of the corporation or of a body corporate that is related to the corporation in that or any other market;
>
> (b) preventing the entry of a person into that or any other market; or
>
> (c) deterring or preventing a person from engaging in competitive conduct in that or any other market.

This section is concerned with anti-competitive behaviour of corporations that misuse their market power for a proscribed purpose. There are three elements that must be proven to succeed in action under this section:[75]

1. the defendant corporation has a substantial degree of market power;
2. the defendant corporation has taken advantage of this power; and
3. the defendant corporation has used the power for a proscribed purpose as described under s 46(1)(a)-(c).[76]

Defining the relevant market and market power

The first element requires the plaintiff to define the relevant market and prove that the defendant holds a substantial degree of market power in this relevant market.[77] One possible definition of the relevant market is "the market for the supply of banking services to money remitters in Australia", similar to the narrow definition that was proposed by *Dahabshiil*. A defendant bank would likely propose a broader definition of the relevant market, such as "the market for supply of the money service business sector as a whole". A broader definition would accommodate a larger number of competitors,

[71] *Queensland Wire Industries Pty Ltd v Broken Hill Proprietary Co Ltd* (1989) 167 CLR 177.

[72] Laman J and Nehme M, "Section 46 of the Competition and Consumer Act: The Need for Change" (2014) 22 AJCCL 112.

[73] ACCC, *Reinvigorating Australia's Competition Policy – ACCC Submission to Harper Review* (25 June 2014), http://www.accc.gov.au/media-release/reinvigorating-australias-competition-policy-accc-submission-to-harper-review.

[74] See *Competition Policy Review* (2014), http://competitionpolicyreview.gov.au/issues-paper.

[75] Mansted R and Marshall B, "Misuse of Market Power: Small Business Versus Big Business" (2008) 14 *The National Legal Eagle* 4 at 12.

[76] Purpose can be established by inference, and does not have to be the sole or dominant purpose: see *Competition and Consumer Act 2010* (Cth), s 46(7).

[77] *Re Queensland Co-operative Milling Association Ltd* (1976) 8 ALR 481 at 517.

including foreign exchange brokers, e-money providers, bureaux de change, third party cheques, encashment, and payment institutions. This expanded market definition would make it difficult to prove a substantial power.[78]

Substantial market power has been defined as the ability to behave in a manner unconstrained by competitors in that market for a sustained period,[79] and the power to behave independently of the competitive forces in a relative market.[80] Even if the court was to accept the narrower definition that was accepted in *Dahabshiil*, proving that one bank in Australia holds substantial market power would be harder to prove in comparison to the facts in *Dahabshiil*, where Barclays held 70% of the market share.[81] A large market share is a relevant factor in identifying competitive constraints, and there is no publicly available data to suggest that one particular bank holds a degree of market power to this extent in Australia.[82]

It is possible, however, for one party to possess substantial market power without a majority of market share. More than one firm in a market can possess a substantial degree of market power,[83] even in markets that fall well short of monopoly power. In *Australian Competition and Consumer Commission v Australian Safeway Stores Pty Ltd*, the defendant was found to possess substantial power despite holding a market share of only 23%.[84] This was because the defendant had the ability to negotiate favourable terms across a significant portion of the market. While none of the big four banks in Australia hold a majority market share, it is arguable that high barriers to entry in the banking industry mean that each of the banks has the ability to influence a significant portion of the market and can behave independently in the supply of services. The banks would likely argue that each bank in Australia is constrained by the actions of the other banks. It is unclear which argument would be successful without the use of expert economic evidence.

It could also be argued that the high barriers to entry and the financial resources controlled by the big four banks mean that the banks collectively hold a substantial degree of power.[85] It is unlikely that this would be considered a strong argument, as it is not permissible to treat two firms together on the basis of a "shared" position of substantial market power. The corporation that is being charged must have a substantial degree of market power by itself.[86]

Taking advantage

If the court was to accept that the defendant possessed a substantial degree of market power, the plaintiff would then need to prove the defendant bank took advantage of this market power. A firm takes advantage of its substantial market power if it "uses" its substantial market power.[87] Section 46(6A) of the CCA suggests criteria to be determined by the court, without limiting the matters to which the court may consider. It is also necessary to show a causal connection between the conduct and the market power.[88] However, in the case of *ACCC v Boral*, Heerey J held that: "If the impugned conduct has a business rationale, that is a factor pointing against any finding that conduct

[78] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [15], [55].

[79] *Competition and Consumer Act 2010* (Cth), s 46(3).

[80] *Eastern Express Pty Ltd v General Newspapers Pty Ltd* (1992) 106 ALR 297 at 320.

[81] *Dahabshiil Transfer Services Ltd v Barclays Bank Plc* [2013] EWHC 3379 (Ch) at [55]-[56].

[82] *Re Queensland Co-operative Milling Association Ltd* (1976) 8 ALR 481.

[83] *Competition and Consumer Act 2010* (Cth), s 46(3D).

[84] *ACCC v Australian Safeway Stores Pty Ltd* (2003) 198 ALR 657.

[85] *Boral Besser Masonry Ltd v ACCC* (2003) 215 CLR 374; [2003] HCA 5 at [138].

[86] *Eastern Express Pty Ltd v General Newspapers Pty Ltd* (1992) 106 ALR 297 at 315-316, quoting *Dowling v Dalgety Australia Ltd* (1992) 34 FCR 109 at 110.

[87] Laman and Nehme, n 72.

[88] *Melway Publishing Pty Ltd v Robery Hicks Pty Ltd* (2001) 205 CLR 1; [2001] HCA 13 at [110].

constitutes a taking advantage of market power."[89] The business rationale of reducing AML/CTF risk is likely to provide a strong argument in support of the bank against the taking advantage of market power.

Proscribed purposes

If the plaintiff were to successfully demonstrate to the court that the business rationale was not sufficient and that the bank did take advantage of its power, the third element of the proscribed purposes described under s 46(1)(a)-(c) would then be considered. Section 46 requires there to be intention. Purposive action must have been undertaken with the express aim of substantially damaging a competitor, preventing the entry of a competitor into a market, or preventing a person from engaging in competitive conduct in a market.[90] The intention of the bank to achieve one of these three proscribed purposes is to be ascertained subjectively.[91]

Under certain circumstances a refusal to deal with a customer has been held to satisfy these proscribed purposes.[92] A bank refusing to provide an MTO access to services could arguably be demonstrating the intention to increase its business in the area of international transfers, by eliminating the MTO as a competitor.[93] Section 46(7) states that the relevant purpose can be inferred from the surrounding circumstances. This section allows the court to draw an inference from conduct and other circumstances without the need for direct evidence.[94] The second unlawful purpose relating to preventing entry to a new market is not relevant to this scenario. The third unlawful purpose could arguably show that the intention of closing the accounts is to deter MTOs from competing with the bank's international transfer service.[95]

Unlikely to achieve interim success

Although these arguments under s 46(1)(a) and (c) of the CCA may support the MTO's case, it is unlikely that the necessary evidence could be shown. It is also unlikely that the first element of substantial market power could be satisfied and it would be difficult to prove that the bank was taking advantage of such power in light of the AML/CTF business rationale.

To receive an interlocutory injunction in Australian courts, the plaintiff must be able to make out a prima facie case. The article's analysis of s 46 of the CCA suggests that to do so would be unlikely.[96] As a consequence, MTOs in Australia that are threatened with account closures are unlikely to achieve the interim success under Australian competition law that *Dahabshiil* achieved in the UK.

WORKING TOGETHER TO ACHIEVE COMMON GOALS

The recent closures of MTO accounts suggest that regulation is creating a banking system that is becoming unwilling to bear the costs and compliance risk of the remittance sector. It is in the best interest of regulators, the remittance industry, Australian banks, and both the Australian and PICs governments to consider what solutions could be developed.

Refining the application of the FATF recommendations

Regulators and the FATF are aware of the conflicting challenge of aligning financial inclusion with meeting financial integrity objectives, and have offered recommendations in an attempt to address this.

[89] *ACCC v Boral Ltd* (1999) 166 ALR 410; [1999] FCA 1318 at [158], confirmed in *Boral Besser Masonary Ltd v ACCC* (2003) 215 CLR 374; [2003] HCA 5 at [170].

[90] *Competition and Consumer Act 2010* (Cth), ss 4F, 46(7), 84.

[91] *Eastern Express Pty Ltd v General Newspapers Pty Ltd* (1992) 106 ALR 297 at 320 (Lockhart and Gummow JJ): "The determination of purpose for the operation of s 46 is to be ascertained subjectively, in the sense that what is to be ascertained is the intent of the corporation engaging in the relevant conduct."

[92] *Queensland Wire Industries v Broken Hill Proprietary Co Ltd* (1989) 167 CLR 177.

[93] *Competition and Consumer Act 2010* (Cth), s 46(1)(a).

[94] Corones S, *Competition Law in Australia* (5th ed, Thomson Reuters, 2010).

[95] *Competition and Consumer Act 2010* (Cth), s 46(1)(b)-(c).

[96] See *Beecham Group Ltd v Bristol Laboratories Pty Ltd* (1968) 118 CLR 618.

In 2013, the FATF produced a guidance paper on AML and CTF measures and financial inclusion.[97] The guidance paper attempts to ensure that AML/CTF controls do not encourage financial exclusion due to a RBA.[98] The guidance paper encourages partnerships between different service providers and suggests delivering financial products that promote financial inclusion. It also highlights the importance of promoting the exchange of experiences at an international level, to identify best practices.[99] These ideas will now be considered in the context of Australia and the PICs.

Financial inclusive products

In recent years, the greatest challenge has been reducing the cost of remittances. In 2007, the Reserve Bank of New Zealand established the cross-government New Zealand-Pacific Remittance Project to address this. The project found that one solution to achieve low-cost remittances was to use electronic cards and the traditional ATM/EFTPOS networks to remit funds across borders and withdraw funds. One barrier identified was the New Zealand AML and CTF regulation. The New Zealand government passed the *Financial Transactions Reporting (Interpretations) Regulation 2008* (NZ) to provide exceptions for this method of remittances. This amendment is outlined under s 10 of the *Anti-Money Laundering and Countering Financing of Terrorism Act 2009* (NZ).[100] Westpac and VISA took advantage of this regulatory change in 2008 and created a compliant remittance card together. This product issued a New Zealand remitter with a special remittance card account, while a second card was issued remotely to the PICs resident, allowing money to be withdrawn in the PICs through the ATM and EFTPOS networks. Strict controls were put in place, including daily monitoring to prevent abuse.[101] This low-cost remittance card received an annual business award from a local newspaper, the *Sunday Star Times* for the "Best New Product" in 2008.[102] Westpac claims that the initiative has saved customers "well beyond half a million dollars" in fees and charges.[103] Despite the initial popularity of this initiative, a number of operational issues for Westpac have frustrated the success of the project.[104]

This remittance card product is a great example of collaboration between the banking sector and the government to promote financial inclusion. In 2012, ANZ drew on the experiences of Westpac in New Zealand and launched a similar card in Australia with the capability to send money to Fiji, Papua New Guinea, Samoa, or Tonga.[105] The card has an initial fee of $24.95,[106] after which ongoing transaction fees become very competitive when compared with MTOs.[107] For individuals needing ongoing regular transfers, the ANZ card could become an attractive long-term alternative to using an MTO. However, the card still requires fund recipients to visit a bank branch with identification, which creates a problem for those without access to a branch.

[97] FATF, *FATF Guidance: Anti-Money Laundering and Terrorist Financing Measures and Financial Inclusion* (February 2013).

[98] Malady L, Buckley R and Arner D, *Developing and Implementing AML/CFT Measures using a Risk-Based Approach for New Payments Products and Services* (Centre for International Finance and Regulation, June 2014).

[99] FATF, n 97.

[100] See *Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011* (NZ).

[101] Abel and Hailwood, n 6, p 321.

[102] New Zealand Ministry of Foreign Affairs and Trade, *Currents*, (November 2010), http://www.aid.govt.nz/webfm_send/60.

[103] Radio Australia, "ANZ Launches Pacific Remittance Card", *Radio Australia* (March 2012), http://www.radioaustralia.net.au/international/2012-03-06/420952.

[104] Pacific Islands Forum Secretariat, *Session 4 Paper: Regional Remittance Issues* (Forum Economic Ministers' Meeting, July 2011), http://www.forumsec.org/resources/uploads/attachments/documents/2011FEMM_FEMS.06.pdf.

[105] See Pacific Islands Forum Secretariat, n 104; Send Money Pacific, *Bank of China, Australia* (2014), http://www.sendmoneypacific.org/compare-cost-send-money-pacific-fiji-kiribati-papua-new-guinea-samoa-solomon-islands-tonga-tuvalu-vanuatu/operator/details/11/bank-of-china-australia.html.

[106] ANZ, *Pacific Transfer Card* (2014), https://your.prepaidcardsupport.net/anzportal/pacific.do.

[107] See ANZ, n 106; Send Money Pacific, *Compare Costs of Different Money Transfer Providers* (2014), http://www.sendmoneypacific.org/compare-cost-send-money-pacific-fiji-kiribati-papua-new-guinea-samoa-solomon-islands-tonga-tuvalu-vanuatu/list/3/australia-to-papua~new~guinea-200.html.

Despite such challenges, financial product innovation is a positive step towards financial inclusion. The success of the Westpac and ANZ remittance cards demonstrate the benefits of involving the regulator early in the process of designing products and services.[108]

Banking regulation

Regulation might also be used to encourage banks to participate in socially responsible behaviour. In Australia, banks are profit-seeking institutions constrained only by law and regulatory compliance. There are no Australian laws or regulations that require banks to consider foreign policy issues or corporate social responsibility (CSR).

Australian banks have the privilege to be able to receive consumer deposits as authorised deposit-taking institution (ADI) licence holders and play a central role in the Australian financial system. The Australian government recognised the importance of a stable financial system as a public good when they issued a government guarantee during the global financial crisis of 2008. For these reasons, there is a strong argument that Australia should introduce mandated CSR for banks.[109]

Overseas, the Reserve Bank of India has made notable progress in relation to setting CSR in its policy for banks. In January 2010, the Reserve Bank of India requested all banks to submit a financial inclusion plan that included providing branches to unbanked villages, simplified accounts, and other products designed for financially excluded segments. Banks applying for a banking licence are required to open at least 25% of their branches in unbanked areas.[110] Since these measures were introduced, there has been clear progress in financial inclusion in India. The Reserve Bank of India has also planned to provide bank accounts linked to the Unique Identification Authority of India, an agency that operates a database of Indian residents containing biometric and other data. In the future, transactions will operate through fingerprint identification, and will cater for unbanked, illiterate, and rural people. Importantly, the link to the Identification Authority would satisfy the FATF recommendations in relation to customer identification requirements.[111] If this program is successful, there will be enormous implications for financial inclusion in India, and the financial lives of hundreds of millions of people.[112]

There is similar potential for regulators to drive change in Australia. The authority to receive consumer deposits as an ADI is a privilege, and there is a strong argument that this should come with formal responsibilities.[113]

CONCLUSION

This article has sought to analyse the impact of regulation on financial inclusion. The perceived compliance risk from AML/CTF regulation has led to banks becoming reluctant to service MTOs, threatening the provision of a valuable service to a vulnerable population. This trend of account closures is working against Australia's foreign policy goals and the promotion of financial inclusion. Timely attention from the MTO industry, banks, government and regulatory bodies is required and this article has made several suggestions.

MTOs

An industry body that represents the collective needs of the MTO industry would greatly benefit MTOs and should be established. This body would allow data collection that would provide a better

[108] Radio Australia, n 104.

[109] Wilson T, "Consumer Credit Regulation and Rights-Based Social Justice: Addressing Financial Exclusion and Meeting the Credit Needs of Low-Income Australians" (2012) 35 *University of New South Wales Law Journal* 501.

[110] Joshi DP, *Speech on Financial Inclusion Delivered by the Executive Director of the Reserve Bank of India*, Speech delivered at the Vth Dun and Bradstreet Conclave on Financial Inclusion (Kolkata, 28 October 2013), http://www.rbi.org.in/scripts/BS_SpeechesView.aspx?Id=853.

[111] Unique Identification Authority of India, *Frequently Asked Questions* (2014), http://uidai.gov.in/faq.html?catid=33.

[112] Ehrbeck T, *Could India's Unique ID be a Financial Inclusion Game-Changer?* (Consultative Group to Assist the Poor, 5 February 2014), http://www.cgap.org/blog/could-india%E2%80%99s-unique-id-be-financial-inclusion-game-changer.

[113] Wilson, n 109.

understanding of the trends and issues. This data would assist in determining whether any of the banks hold substantial market power under s 46 of the CCA.

Government action

A body focused on solving the issue of remittances to the Pacific region should also be established. This would be similar to the Action Group on Cross-Border Remittances established by the UK government. Australian competition law is currently unlikely to offer even the interim injunction that was available to Dahabshiil in the UK, meaning the need for prompt government attention is even greater here.

Regulation

The privilege of being an ADI should come with responsibilities. While the challenges it faces differ from those of Australia and the PICs, India provides an excellent example of how regulation can be used to encourage banks to work towards pursuing the national interest.

A collaborative approach

Financial products should be created in collaboration with regulators, banks, and input from MTOs, to develop solutions that meet the needs of the customers, while complying with financial regulation and Australia's competition laws. Although the remittance card product has faced some challenges, continued collaboration and product innovation is likely to feature in any resolution of the remittance problem in Australia.

Stringent AML/CTF legislation has made achieving the goal of financial inclusion more difficult. However, improving the regulation of financial activities and promoting financial inclusion should not be seen as competing goals. Instead, all stakeholders need to work together to ensure the financial system is accessible to all sections of society, whilst restricting access to terrorist financing and money laundering.