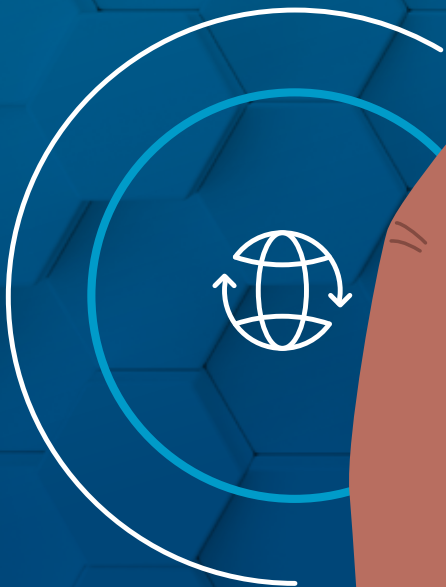




Developing guidelines
for cash transfers in Somalia:

Regulatory environment analysis





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The Somalia Cash Working Group (CWG) leads the inter-sectoral cash coordination mechanism and aims to improve the coordination of cash assistance, quality of implementation of cash assistance monitoring, evaluation and learning. It is co-chaired by the World Food Programme and Concern Worldwide/Somali Cash Consortium. The Financial Service Provider (FSP) workstream's objective is improving the systems and processes of humanitarian mobile money cash transfers in Somalia, benefiting programme participants by working with implementing agencies, mobile network operators, private sector and learning partners. The GSMA M4H has supported the FSP's work since 2020.

Further information on the Somalia CWG can be found here: www.humanitarianresponse.info/en/operations/somalia/cash-activities

Altai Consulting partnered with Tusmo in Somalia



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List of abbreviations

AML/CTF	Anti-Money Laundering/Counter-Terrorism Financing
API	Application Programming Interface
CWG	Cash Working Group
FGS	Federal Government of Somalia
INGO	International Non-Governmental Organisation
IVR	Interactive Voice Response
KYC	Know Your Customer
MNO	Mobile Network Operator
MPSP	Mobile Payment Service Provider
PDM	Post Distribution Monitoring
USSD	Unstructured Supplementary Service Data (or 'Quick Codes')
WFP	World Food Programme

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Annex 6.1

Regulatory Environment Analysis

1.1

Overview

Several regulations and pieces of legislation currently exist to support the Somalia Information and Communications Technology (ICT) and mobile money sectors. However, due to a lack of resources and capacity, as well as the political context, these regulations are not updated or poorly implemented by the government, leaving mobile money providers to self-regulate.

Government structures regarding mobile money are similar across the three regions. The Central Banks are the main authorities when it comes to financial institutions and mobile money. The Ministries of Posts, Telecommunications and Technology (Ministry of Communication and Information Technology in Somaliland) are the authorities that oversee the ICT sector. Supporting institutions include the Ministries of Finance in all three regions.

South-Central Somalia is the most developed in terms of mobile money regulations. The Somalia Mobile Money Regulation is the most significant piece of legislation with regards to mobile money in South Central and was passed by the Somalia Parliament in 2019. A similar regulation is currently being developed in Somaliland, with hope of being approved by the Somaliland Parliament before 2021. Puntland is the least developed in terms of regulation, relying heavily on South-Central regulations.

1.2

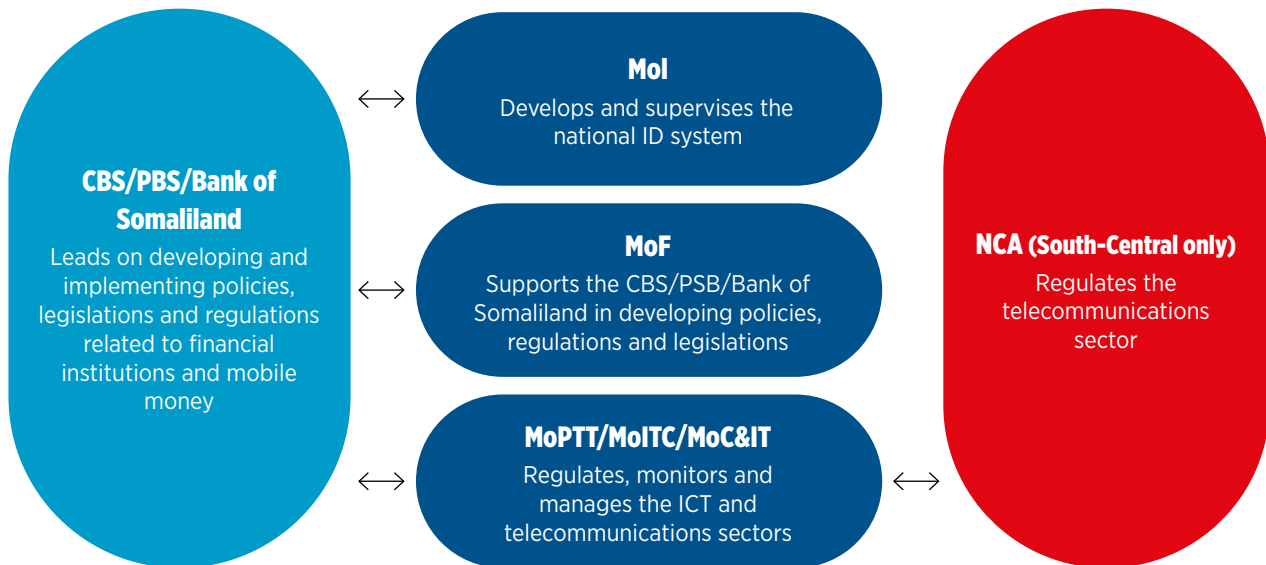
Main Government Bodies and Regulators

In South-Central Somalia, the Central Bank of Somalia (CBS) is the main government body that oversees and regulates mobile money. The Ministry of Posts, Telecommunications and Technology (MoPTT) is the main supporting body as it oversees the telecommunications sector. Other supporting bodies include the Ministry of Finance and the National Communications Agency (NCA).

Similar actors are involved in Somaliland and Puntland, apart from the NCA. In Puntland, the State authorities implement the legislations and regulations developed by the Federal Government of Somalia (FGS) in the absence of their own regulations.

Figure 1

Structure of institutions that impact the mobile money sector



1.2.1 Central Banks

The CBS of the FGS is the monetary authority of Somalia. It is the national authority for licensing, regulating and supervising financial institutions, including those carrying out mobile money operations.

In Puntland, the Puntland State Bank (PSB) is the authority that regulates financial institutions and mobile money, but the State follows policies and legislation developed by the FGS.

Similarly, the Bank of Somaliland is the monetary authority of Somaliland and leads on the policymaking, legislation and regulation of financial institutions and mobile money.

1.2.2 Ministries of Post and Telecommunications

The MoPTT of the FGS oversees the ICT sector and covers all aspects of telecommunications: regulation, monitoring and management. The Ministry provides registration certificates to the Mobile Payment Service Providers (MPSP) but does not interfere with matters related to mobile money or cash transfers. The Ministry of Information, Telecommunication and Culture (MoITC) in Puntland and the Ministry of Communication and Information Technology (MoC&IT) in Somaliland perform similar roles.

1.2.3 Ministries of Finance

The Somalia Ministry of Finance (MoF) plays a supporting role in the development of policies, legislation and regulations concerning mobile money. While the CBS leads on the mobile money agenda, the MoF provides guidance to the CBS to ensure the policies developed are in line with MoF policies and regulations. Similar roles are played by the Puntland and Somaliland MoFs.



1.2.4 National Communications Agency

The National Communications Agency (NCA) was established in 2018 in Mogadishu, following the approval of the National Communications Act in 2017. It aims to be independent of government or any other entity, transparent and accountable. The NCA's mandate is to regulate the communications sector, and it is therefore key in the regulation of mobile money. The NCA only has authority within South-Central Somalia and Puntland. There is no equivalent in Somaliland.

1.2.5 Ministries of Interior

The Ministry of Interior in Somaliland is the institution that supervises the national ID system. It also registers and issues national ID cards. Similarly, in Puntland, the Ministry of Interior of Puntland State is the institution that supervises, registers and issues national ID cards. In South-Central, no form of national ID currently exists, but a system is being developed by the Ministry of Interior with support from the World Bank's SCALED UP (Somalia Capacity Advancement, Livelihoods and Entrepreneurship, through Digital Uplift Project).

Table 1

Description of the roles of institutions related to the mobile money sector

Institution			
South-Central	Puntland	Somaliland	Description
Central Bank of Somalia (CBS)	Puntland State Bank (PSB)	Bank of Somaliland	Monetary Authority: National authority for licensing, regulating and supervising financial institutions, including those carrying out mobile money operations
Ministry of Posts, Telecommunications and Technology (MoPTT)	Ministry of Information, Telecommunication and Culture (MoITC)	Ministry of Communication and Information Technology (MoC&IT)	Regulates, monitors and manages the ICT and telecommunications sector, but does not interfere with mobile money
Ministry of Finance (MoF)	Ministry of Finance (MoF)	Ministry of Finance (MoF)	Supports the Central Bank in developing policies, legislation and regulations related to mobile money
National Communications Agency (NCA)	NA	NA	Independent body that regulates the telecommunications sector
Ministry of Interior (MoI)	Ministry of Interior (MoI)	Ministry of Interior (MoI)	Develops and supervises the national ID system

1.3

Legislative and Regulatory Documents

While several laws, regulations and acts regarding mobile money have been developed and approved by parliament in recent years, very few are implemented or enforced in a meaningful way in any of the three regions. The main evidence of implementation is seen relating to the initial and annual licensing of MPSPs, but very little is done to regulate the MPSPs or their mobile money activities, due to limited capacity and resources of the regulatory authorities, and the underlying political context.

Table 2

Development stage of mobile money related policies, legislations and regulations¹

Policy/Act/Regulations	South-Central	Somaliland
Financial Institutions Act	Approved in 2012	NA
Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) Act	Approved in 2016	Approved in 2019
Mobile Money Regulation	Approved in 2019	Developed and being finalised
National Communications Act/ Somaliland Telecommunications Law	Approved in 2017	Approved in 2011

¹ This table does not include Puntland since the Puntland government has not yet developed its own legislative and regulatory documents and relies on those of South-Central.



The following headings refer to regulations and pieces of legislation approved by the Parliament in Somalia.

1.3.1 Financial Institutions Act (2012)

The Financial Institutions Act of 2012 (FIA 2012) was developed by the CBS and gives the authority to the CBS to regulate the mobile money market. It also mandates the CBS to oversee domestic financial institutions through its 'Banking Supervision Department'.

1.3.2 Mobile Money Regulation (2019)

The Mobile Money Regulation was developed by the CBS's 'Licensing and Supervision Department' and was approved by Parliament in 2019. It states that CBS is the licensing and regulatory authority in reference to mobile money and that those entities conducting mobile money transfers must comply with the Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) Act of 2016. It also states that all companies that offer mobile money services, including those that offer international transfers related to mobile money, would be covered by the regulation.

Several regulations related to mobile money existed prior to the overarching Mobile Money Regulation (2019), which have been incorporated in the latest regulation. These include the Mobile Transfer Business Registration Regulation (2014), the Money Transfer Business Licensing Regulation (2014), the Money Transfer Business Operation Regulation (2016) and the Customer Identification Regulation (2016).

In Somaliland, the Mobile Money Regulation has been developed by the Bank of Somaliland and is currently in its finalisation stage, with hopes of being approved in 2021. In the meantime, mobile money guidelines are available which act as temporary guiding documents until the regulation is approved. Additionally, an AML/CFT Act was approved by the Somaliland Parliament in 2019.

1.3.3 National Communications Act (2017)

The National Communications Act was developed by the MoPTT and was approved by Parliament in 2017. The Act aims to create an environment conducive to investment in the sector, as well as infrastructural development and more efficient service delivery. The Act also lays the foundation for the National Communications Agency which was established in 2018.

In Somaliland, the Somaliland Telecommunications Law was passed in 2011, with similar characteristics. It did not however lead to the creation of the equivalent of the National Communications Agency.

1.4 **Registration and Licensing Process**

In order to operate in Somalia or Somaliland, MPSPs must register and apply for licenses from several institutions. First, as for all businesses, they must register with the Ministry of Commerce and Industry (MoCI), or the Ministry of Trade, Industries and Tourism (MoTIT) in Somaliland. Next, they apply for a telecom license with the MoPTT (MoC&IT in Somaliland), followed by a financial institution license and finally a mobile money license with the CBS (Bank of Somaliland in Somaliland).

1.5 **Short- and Medium-Term Developments**

The National Payment Law is under development both in Somalia and in Somaliland, which is expected to provide a legal framework for CBS to lead, organise and supervise all types of payments. Additionally, Mobile Money regulations are in the final draft stage in Somaliland. Puntland hopes to replace the FGS regulations with their own. So far in Puntland, the following regulations have been drafted but are not yet approved: Bank Licensing Regulation, AML regulation, Mobile Money Regulation and the Telecommunications Services Law.



1.6 GSMA Mobile Money Regulatory Index

In 2019, Somalia formalised its mobile money regulations through the approval of the Mobile Money Regulation (2019) under the CBS. The same year, Somalia was awarded a score of 78.20 on the GSMA Mobile Money Regulatory Index, ranked 56 out of 96 countries worldwide. The index assesses the extent to which countries' regulatory frameworks enable widespread mobile money adoption and usage, and is structured around six regulatory dimensions: authorisation, consumer protection, KYC requirements, agent networks, transaction limits, and investment and infrastructure environment. This score is only representative of FGS efforts as South-Central is the only region that has an approved Mobile Money Regulation.

The following breakdown was awarded by the GSMA in 2019:

Regulatory Dimension	Score
Authorisation	88
Consumer Protection	40
KYC Requirements	72
Agent Networks	100
Transaction Limits	100
Investment and Infrastructure Environment	50
OVERALL SCORE	78.20

Somalia scores relatively highly in terms of existing regulations, suggesting that the concern is not in terms of the content of existing regulations. Rather, the main issue remains with the implementation of these regulations due to the lack of resources, capacity and the political context, as shared by the government itself. However, some regulations remain to be improved upon and developed as Somalia scores particularly poorly in terms of consumer protection and investment and infrastructure environment.

In terms of consumer protection, the current regulation offers consumer protection rules, but does not have regulations related to safeguarding funds and deposit insurance, meaning that entities that provide mobile money do not currently have to keep 100% of their e-money liabilities in liquid assets and do not provide deposit insurance protection to each mobile money account. INGOs/agencies, MPSPs and technology firms have all expressed concerns about the lack of consumer protection regulations, both to protect the consumers themselves, but also to protect themselves as service providers.

In terms of infrastructure and investment, there is currently no government KYC, MPSPs do not have direct access to a retail payment settlement infrastructure, MPSPs are prohibited from earning interest on mobile money trust accounts, and there is no Somali financial inclusion strategy.

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