Financial inclusion is an important international policy goal. Remittances promote financial inclusion by contributing almost half a trillion dollars to the economies of developing countries each year and by giving people a strong reason to engage with formal financial services. In the Pacific, remittances represent a significant proportion of many countries’ GDPs. The G20 has committed to reducing the global average cost of sending remittances to 5 per cent. At the same time, financial service providers are facing increasingly onerous regulatory requirements to combat the global rise in money laundering and terrorist financing. In Australia, these requirements have led to the bank account closures of many money transfer operators, posing a real risk to financial inclusion, growth and stability in the Pacific. This paper examines the G20’s goals for financial inclusion, the role of remittances in achieving these goals for the Pacific region, and the impact of anti-money laundering and counter-terror financing (‘AML/CTF’) regulations on the Australian remittance industry. A number of solutions are proposed to address the challenges facing the remittance industry in Australia, including the adoption of risk-based regulatory measures such as limiting transfer sums, digitising payments and encouraging greater use of technological innovation to reduce risks.

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I INTRODUCTION

Financial inclusion involves the delivery of financial services at affordable costs to all sections of society.1 It is increasingly being seen as a significant international policy goal.2 The commitment of the Group of Twenty (‘G20’) to creating a more inclusive global financial system recognises that financial inclusion not only promotes development and reduces poverty, but enhances financial stability and financial integrity as well.3 At the Brisbane Summit in November 2014, the G20 adopted the 2014 Financial Inclusion Action Plan (‘FIAP’), which highlights ten action areas considered to be key to the advancement of financial inclusion over the next five years.4 One such goal is to reduce the cost of sending remittances.5 The G20 affirmed this goal in the High-Level Statement on Remittances, approved at the Antalya Summit in November 2015.6

More than 250 million people live outside their country of birth and many migrants choose to send money back to their home country.7 These payments are called remittances. The remittance industry plays an important role in furthering financial inclusion because remittances through formal channels require recipients to engage with the financial system and provide them with the means to do so. The amount of money migrants transfer back to developing countries is more than three times the size of official development assistance and, excluding investments made by China, significantly exceeded foreign direct investment flows to developing countries in 2013.8 In some developing countries,

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2 Financial inclusion has been identified as a key goal of many international organisations, including the Group of Twenty (‘G20’) and Financial Action Task Force (‘FATF’). In April 2015, central bank governors and finance ministers from more than 30 countries across the Group of Twenty-Four (‘G24’) and Alliance for Financial Inclusion (‘AFI’) Networks, together with stakeholders such as the International Monetary Fund (‘IMF’), World Bank, Financial Stability Board (‘FSB’), the Bank for International Settlements, British Bankers’ Association (‘BBA’), United States Treasury and International Association of Deposit Insurers (‘IADI’) all met to discuss financial inclusion at the seventh annual G24/AFI Policymakers’ Roundtable: Alliance for Financial Inclusion, G-24/AFI Policymakers Discuss Financial Inclusion and Global Standards: Opportunities and Risks (30 April 2015) <https://perma.cc/C63A-MU3V>.
8 Dilip Ratha et al, ‘Migration and Remittances: Recent Developments and Outlook Special Topic — Forced Migration’ (Migration and Development Brief No 23, Migration and Remittances Team, Development Prospects Group, 6 October 2014) 3.
remittances represent a significant proportion of the country’s gross domestic product (‘GDP’).\footnote{For example, in 2013 remittances represented 49 per cent of Tajikistan’s GDP, 32 per cent of the Kyrgyz Republic’s GDP, 29 per cent of the GDP of Nepal and 25 per cent of the GDP of Moldova: Ratha et al, ‘Financing for Development’, above n 7, 5.}

In theory, the G20’s efforts to advance financial inclusion complement the G20’s goal of strengthening the integrity of the global financial system. Expanding access to the formal financial system increases the reach and effectiveness of measures introduced to safeguard the system.\footnote{Hennie Bester et al, Implementing FATF Standards in Developing Countries and Financial Inclusion: Findings and Guidelines (Genesis Analytics, 2008) vi.} However, measures introduced globally to achieve the latter goal are in fact hindering fulfilment of the former. In recent times, large-scale money laundering scandals and the rise of well-financed extremist organisations have highlighted the need to strengthen measures protecting the financial system from abuse.\footnote{In the case of HSBC, see Permanent Subcommittee on Investigations, Homeland Security and Government Affairs, ‘HSBC Exposed US Financial System to Money Laundering, Drug, Terrorist Financing Risks’ (Media Release, United States Senate, 16 July 2012) <https://perma.cc/NH4D-N43V>.} Governments worldwide have introduced stringent compliance processes to curb money laundering and the funding of terrorism. Such processes pose a major challenge to the remittance industry worldwide even when the remittances represent scrupulously ‘clean’ money.

The United States has been the driving force behind the introduction of anti-money laundering and counter-terror financing (‘AML/CTF’) measures globally.\footnote{This is the case because almost 90 per cent of global foreign exchange transactions involve the US dollar and the majority of these transactions pass through two clearing networks in the US. Under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (‘USA PATRIOT Act’) of 2001, a federal law, all US financial institutions are required to obtain, verify and record information that identifies each person and each legal entity that opens an account. As such, foreign banks are required to comply with US AML/CTF measures in order to clear funds for their customers. See Yalman Onaran, ‘Dollar Dominance Intact as US Fines on Banks Raise Ire’, Bloomberg Business (online), 16 July 2014 <https://perma.cc/CQ23-DRVG>.} While such measures may be necessary to address problems affecting developed economies, they have unintended and far-reaching consequences that threaten financial inclusion in the developing world. In Australia, compliance with strengthened AML/CTF legislation has led to the bank account closures of many money transfer operators (‘MTOs’) operating in the Pacific region.\footnote{Jonathan Capal, ‘What Next for Remittances and Money Transfers in the Pacific?’ on Consultative Group to Assist the Poor (12 June 2014) <https://perma.cc/UU26-YPE4>.} Yet these MTOs do not pose the type of risk that prompted the regulatory push from abroad.

Remittances play a vital role in the Pacific region. In Samoa they are the single most important source of external income, accounting for a fifth of the country’s GDP.\footnote{Jeannette Francis, ‘Remittances Keep Post-Disaster Economies Afloat’, SBS News (online), 24 December 2012 <https://perma.cc/D6N3-EXZT>; Ratha et al, ‘Financing for Development’, above n 7, 5.} In Fiji, remittances are the second largest foreign exchange earner after tourism.\footnote{Jeannette Francis, above n 14.} Studies have found that the impact of remittances extends far beyond the direct recipients and contributes significantly to the alleviation of...
poverty across communities. The impact of AML/CTF measures on the flow of remittances to the Pacific is thus an important social justice issue.

This article seeks to examine the challenge to financial inclusion in the Pacific posed by stricter AML/CTF requirements, and explore possible solutions. The paper has six sections. Following this introduction we outline the G20’s goals for improving financial inclusion worldwide and highlight the importance of remittances to achieving this aim. The third section focuses on the Pacific, examining the remittance industry in Australia and the contribution it makes to financial inclusion in the region. The article then analyses the international and domestic AML/CTF regulatory frameworks and discusses the compliance pressures faced by banks. The fifth section explores some of the creative solutions to the challenges facing financial inclusion in the Pacific and the sixth section concludes.

II FINANCIAL INCLUSION AND THE WORK OF THE G20

A The Importance of Financial Inclusion

Almost half of the world’s adult population — approximately two billion people — do not have access to a formal bank account. The majority of these people are concentrated in developing economies, where banks are often physically inaccessible to parts of the population. One of the greatest barriers to financial inclusion is also affordability. Worldwide, reducing the costs associated with formal banking could enable more than 500 million adults presently without bank accounts to enter the formal financial system.

Inclusion in the global financial system is fundamental for improving the livelihoods of the poor. Providing people in developing countries with access to financial services such as credit, savings, insurance and payments assists them to manage their financial obligations and build better futures for their families. The immediate effect of access to finance is that it can help people pay for essential services such as clean water, electricity and housing without taking time off from work to physically pay the bills. Longer term, it provides people with

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a means to save for and invest in their education and health, as well as their own businesses — providing the opportunity to rise out of poverty.\textsuperscript{23} Financial inclusion can also allow the poor to insure against unfavourable events to avoid falling deeper into poverty should such an incident occur.\textsuperscript{24}

B \textit{The G20’s Goals}

The recent global financial crisis prompted a wide and sweeping range of regulatory responses overseen by the G20.\textsuperscript{25} The aim of the response has been to build a stable and resilient global financial system that promotes confidence and growth.\textsuperscript{26} However, the reforms have been based predominantly on the highly developed financial systems of the Northern Hemisphere.

The widespread exclusion of people from the formal financial system in developing countries increases inequality, creates economic distortions and slows economic growth and development.\textsuperscript{27} Recognising this has driven the G20 to focus on bringing the world’s unbanked population into the financial system through a number of measures aimed at advancing financial inclusion.

At the Pittsburgh Summit in September 2009, G20 leaders made a commitment to improve access to financial services for the poor.\textsuperscript{28} This included establishing the Financial Inclusion Experts Group (‘FIEG’), which developed nine principles for innovative financial inclusion that were endorsed by the G20 during the Toronto Summit in June 2010.\textsuperscript{29} FIEG also recommended the creation of the Global Partnership for Financial Inclusion (‘GPFI’) to carry forward the G20’s commitments on financial inclusion and to maximise the impact of the G20’s work through broad stakeholder participation.\textsuperscript{30}

The GPFI was established at the Seoul Summit in November 2010.\textsuperscript{31} At the same time, G20 leaders endorsed the first Financial Inclusion Action Plan.\textsuperscript{32} In doing so, the G20 recognised that financial inclusion for individuals and organisations should be a key feature of the global growth and development agendas.\textsuperscript{33}

The G20 made significant progress towards improving financial inclusion during the first three years of the FIAP’s implementation. Between 2011 and

\textsuperscript{23} Ibid.

\textsuperscript{24} Christine Lagarde, ‘Empowerment through Financial Inclusion’ (Speech delivered at the International Forum for Financial Inclusion, Mexico, 26 June 2014) <https://perma.cc/Z3GE-RSLL>.


\textsuperscript{26} G20, 2014 Financial Inclusion Action Plan, above n 4, 3.

\textsuperscript{27} Ibid.


\textsuperscript{30} G20, Financial Inclusion Action Plan, above n 3, 3.


\textsuperscript{32} G20, 2014 Financial Inclusion Action Plan, above n 4, 3.

\textsuperscript{33} Ibid.
2014, approximately 700 million formerly financially excluded people gained access to financial services, either through bank accounts or mobile money services. A review of the GPFI’s progress in implementing the original FIAP shows that many of its objectives have been achieved. While ‘financial inclusion’ was a relatively new concept five years ago, the work of the G20 has prompted policymakers worldwide to commit to creating a more inclusive global financial system.

Despite these achievements, substantial work is still required to assist the 2 billion people and over 200 million businesses that remain excluded from the formal financial system. In 2014, the GPFI was tasked with reviewing and updating the FIAP to ensure further progress is made.

The G20 leaders endorsed the updated FIAP at the Brisbane Summit in November 2014. The latest version of the FIAP includes ten action areas which members of the GPFI consider crucial to advancing financial inclusion over the next five years. Three of these action items relate specifically to international payment systems:

8 Help to analyse and consider ways to address the MTO bank account closure issue
9 Reduce the cost of sending remittances
10 Expand opportunities for innovative technologies to grow responsible financial inclusion.

These new FIAP goals recognise that remittances provide an important avenue towards greater financial inclusion.

C The Role of Remittances

Money sent back by migrants assists those in some of the poorest parts of the world to pay for basic needs such as food and shelter, and contributes to poverty alleviation through providing the financial means to access health and education. Remittances also act as a form of insurance for the poor, particularly in times of conflict, political instability or natural disasters. In Vanuatu, 93 per cent of households reported that remittances were an important part of the recovery following Cyclone Pam in 2015. Remittance flows tend to increase

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34 The substantial increase in the number of financially included people is not due solely to the actions of the G20, as a trend towards greater use of mobile money was already occurring independently of the G20. Nevertheless, the G20’s action plan has made a significant contribution towards promoting financial inclusion: World Bank, ‘Massive Drop in Number of Unbanked, Says New Report’ (Press Release, 2015/364/DEC, 15 April 2015) <https://perma.cc/PZ3J-B2NZ>.
36 Ibid 1 (Executive Summary).
37 G20, Brisbane Summit: G20 Leaders’ Communiqué, above n 4, 4.
39 Ibid.
during times of need.\textsuperscript{44} For example, during the ten days after Cyclone Evan hit Samoa in 2012, the volume of incoming remittances increased by 92 per cent.\textsuperscript{45} These remittance flows have a direct impact on the poor as they go directly to the people and communities who need them most rather than through governments and official agencies, as does development aid money.\textsuperscript{46}

Remittance flows to developing countries have increased exponentially in the past thirty years, from US$22 billion in 1985–89 to an estimated US$436 billion in 2014.\textsuperscript{47} This figure is projected to grow to reach US$479 billion by 2017.\textsuperscript{48} Such statistics highlight the growing significance of remittances to aid and development worldwide.

Sending remittances is a costly business. In 2013, the global market cost of transferring money home was US$37 billion — larger than the combined GDP of most Pacific Island nations.\textsuperscript{49} Globally, migrants pay an average cost of 7.52 per cent to transfer money home.\textsuperscript{50} This figure is down from 10 per cent in 2011.\textsuperscript{51} The World Bank estimates that this reduction has resulted in an additional US$30 billion sent to developing countries from migrants in G20 countries.\textsuperscript{52} As part of its endorsement of the 2014 FIAP, the G20 made a recommittal to further reduce the global average cost of transferring remittances to five per cent.\textsuperscript{53} During 2015, G20 member states developed National Remittance Plans outlining actions they would take to achieve the five per cent target.\textsuperscript{54} Doing so would save migrants around US$14 billion per year\textsuperscript{55} — a sum that could make a significant contribution going directly to the intended recipients, rather than to financial intermediaries. Decreasing the cost of remittances is thus an important step for reducing poverty as well as promoting financial inclusion.

\textsuperscript{44} Dilip Ratha, ‘The Hidden Force in Global Economics: Sending Money Home’ (Speech delivered at TEDGlobal 2014, Rio de Janeiro, October 2014) \url{https://perma.cc/6Q26-DLHM}.


\textsuperscript{46} Ibid 657–8.


\textsuperscript{50} World Bank, ‘Remittance Prices Worldwide’ (Report, Issue No 15, October 2015) 2.

\textsuperscript{51} G20, High-Level Statement on Remittances, above n 6.

\textsuperscript{52} Ibid.

\textsuperscript{53} G20, ‘G20 Plan to Facilitate Remittance Flows’, above n 40, 10.

\textsuperscript{54} Global Partnership Financial Inclusion, Financial Inclusion Features Prominently in Antalya G20 Communiqué (18 November 2015) \url{https://perma.cc/3MU8-9X6U}.

\textsuperscript{55} Ratha et al, ‘Financing for Development’, above n 7, 1.
III THE SITUATION IN THE PACIFIC

The Pacific is one of the least banked regions in the world.\(^{56}\) The area is characterised by challenging physical geography, poor infrastructure, widespread poverty and a high proportion of people living a subsistence-based lifestyle.\(^{57}\) It is estimated that in some Pacific Island countries (‘PICs’), less than 10 per cent of the population has access to basic financial services.\(^{58}\) The major barriers to financial inclusion include the physical accessibility of banks, low levels of financial competency and inexperience with using money.\(^{59}\)

In 2014, the Australian government restructured its aid program so that 90 per cent of all its aid funding is now directed to the Asia-Pacific.\(^{60}\) This regional focus reflects the fact that many of Australia’s neighbours are politically fragile developing countries whose instability affects Australia’s national security.\(^{61}\) A key goal of Australia’s foreign policy is now to ‘promote prosperity, reduce poverty and enhance stability’ within the Asia-Pacific.\(^{62}\) Encouraging financial inclusion is fundamental to achieving these aims.

For a long time Australia has encouraged migrant workers from the PICs through schemes such as the Seasonal Worker Program.\(^{63}\) Within Australia, these migrants remit the highest percentage of their incomes home of any migrant groups in the country.\(^{64}\) Payments sent by migrant workers are vital to the economic development and political stability of the PICs.\(^{65}\) It is estimated that remittances account for almost a quarter of the GDP of Samoa and Tonga, the two most remittance-dependent countries in the region.\(^{66}\)

Sending remittances from Australia to the PICs is expensive.\(^{67}\) Among G20 countries, Australia has the fourth highest average cost of sending remittances and is above the global average, which was 7.52 per cent in the third quarter of 2015.\(^{68}\) Indeed, at the time of writing, the remittance corridor between Australia

\(^{57}\) Ibid.
\(^{58}\) Ibid.
\(^{59}\) Ibid.
\(^{61}\) Ibid.
\(^{62}\) Ibid 1.
\(^{63}\) See Australian Government, Department of Immigration and Border Protection, Special Program Visa (Subclass 416) for the Seasonal Worker Programme <https://perma.cc/4UQJ-KHS2>.
\(^{64}\) Francis, above n 14.
\(^{67}\) Julie Bishop, ‘Signing of Memorandum of Understanding with Westpac’ (Speech delivered at Westpac Place, Sydney, 8 September 2014).
\(^{68}\) World Bank, ‘Remittance Prices Worldwide Issue No 15’ above n 50, 2, 5.
and Vanuatu is the most expensive worldwide, costing migrants an average of 20.61 per cent to send money home.69

Australian banks offer migrants two main ways to send money home: bank drafts and electronic transfers using the Society for Worldwide Interbank Financial Telecommunication (‘SWIFT’) network. Both methods involve fixed fees that are often disproportionate to the value of the remittance sought to be sent.70 Additionally, these methods require both the sending and receiving parties to hold a bank account.71 This requirement is a significant barrier for many migrants wishing to send remittances to the PICs, given the high rate of financial exclusion in that region.

MTOs have traditionally provided migrants with an attractive alternative to the banks. Australia has 5500 registered MTOs, which make about 80 million money transfers each year.72 MTOs facilitate quick, inexpensive transfers of money overseas and do not usually require the sender or receiver to hold a bank account. MTOs operate through agents, who often run small businesses as well as handling money transfers. Generally an agent in one country collects the funds to be remitted and informs an agent in the receiver’s country, who uses his or her own funds to distribute money to the receiver. At the end of the day, the agent in the home country deposits the collected funds in the MTO’s bank account and the next day the MTO transfers this amount to the agent in the receiving country.

Using MTOs to send remittances saves migrants a lot of money. In September 2015, we conducted a comparison of the cost to send AU$500 from Australia to Samoa using the SendMoneyPacific.org website. This comparison showed that MTOs charged less than half the amount charged by banks. Only two of the four major Australian banks offered remittance services, and both charged fees of more than 13 per cent of the amount transferred.73 Remittances sent via these banks took three to five days to be transferred.74 By contrast, four MTOs offered

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69 Cleoffe Maceda, ‘Which Countries Are the Cheapest to Send Money to?’, Gulf News (online), 8 April 2015 <https://perma.cc/8YLC-NX34>.
70 The average transfer of money out of Australia is AU$300 and banks generally charge flat rates of about AU$30 in addition to any margin they already make on exchange rates: Anthony Klan, ‘Industry Fights Back in “Terror” Cash Row’, The Australian (Sydney), 19 November 2014, 25.
73 On 26 September 2015, the total cost for sending AU$500 from an Australian bank account to a Samoan bank account was AU$68.78 (13.76 per cent) at Westpac and AU$84.48 (16.9 per cent) at ANZ. Remittance services were not offered by the Commonwealth Bank of Australia or National Australia Bank: see Send Money Pacific, Comparison Results (11 May 2016) <https://perma.cc/CP24-CF5C>. It should be noted that ANZ only charged AU$19.37 (6.4 per cent) to transfer money using the ANZ Pacific Money Transfer Card. However, this required the recipient to have the card, which has an initial issue fee of AU$24.95.
same-day money transfers for fees of less than five per cent.\textsuperscript{75} Three of these MTOs offered to transfer remittances in less than an hour.\textsuperscript{76} Furthermore, recipients received the funds in cash so were not required to hold a bank account.\textsuperscript{77}

Given that the majority of people in the PICs do not hold a bank account,\textsuperscript{78} the cash-to-cash transfer services offered by MTOs are vital. However, banks still play a key role when migrants use MTOs to send money home. While it is not necessary for those sending and receiving funds to have bank accounts, MTOs and their agents do need to hold accounts in order to facilitate the transfers.

The vast majority of registered remittance providers in Australia have traditionally held bank accounts with the big four banks.\textsuperscript{79} This is no longer the case. Since 2010, these banks, along with Australian branches of foreign banks, have systematically closed the accounts of many MTOs and their agents.\textsuperscript{80} Banks have also refused to open new accounts for MTOs wishing to be banked.\textsuperscript{81}

This de-risking trend has dramatically increased in the past two years and poses a serious threat to the Australian remittance industry, and consequently to the promotion of financial inclusion in the PICs as well. In 2013, Developing Markets Associates found that nearly 75 per cent of surveyed MTOs operating in Australia had experienced account closures or received threats to close their accounts.\textsuperscript{82} According to the World Bank, seven MTOs went out of business in Australia in the first quarter of 2015.\textsuperscript{83} It is unlikely to be a coincidence that the average cost of sending remittances from Australia has risen each quarter during the past year, increasing from an average of 8.88 per cent in the third quarter of 2014, to 9.24 per cent in the third quarter of 2015.\textsuperscript{84} By contrast, the global average cost has fallen from 7.9 per cent to 7.52 per cent during the same period.\textsuperscript{85}

The primary cause of the account closures has been a convergence of issues related to AML/CTF measures.\textsuperscript{86} These include a decreased risk tolerance as a

\textsuperscript{75} On 26 September 2015 the total cost for sending AU$500 in cash from Australia to Samoa was AU$18.81 (3.76\%) with Pacific Way Money Transfer, AU$20.38 (4.08\%) with MoneyGram, AU$21.07 (4.21\%) with Xpress Money, AU$24.17 (4.83\%) with IMEX Money Transfer and AU$27.72 (5.54\%) with Western Union: see Send Money Pacific, \textit{Comparison Results} (11 May 2016) \url{https://perma.cc/CP24-CF5C}.

\textsuperscript{76} Ibid.

\textsuperscript{77} Ibid.

\textsuperscript{78} See generally Pacific Financial Inclusion Programme, above n 56.

\textsuperscript{79} ‘Sources say about 75 per cent of registered remitters would have been serviced by the big banks a few years ago, but it is a much smaller percentage today’: Eyers, above n 72.

\textsuperscript{80} SBS World News, ‘Plans to Shut Down Money Transfer Businesses over Terror Fears’, 16 November 2015 (Emma Hannigan), available at \url{http://www.arcpa.org.au/?page_id=298}.

\textsuperscript{81} Ibid.

\textsuperscript{82} Capal, above n 13.


\textsuperscript{84} World Bank, ‘Remittance Prices Worldwide Issue No 15’, above n 50, annex table 2.

\textsuperscript{85} Ibid.

\textsuperscript{86} Alliance for Financial Inclusion, \textit{G-24/AFI Policymakers Discuss Financial Inclusion}, above n 2.
result of high compliance costs and monetary fines, as well as pressure from foreign banks to comply with international AML/CTF measures.

IV AML/CTF AND THE THREAT TO FINANCIAL INCLUSION

A International AML/CTF Measures

Financial systems are vulnerable to misuse. In the United States, laws designed to protect the financial system from abuse date back to 1970, with the establishment of the Bank Secrecy Act.87 The integrity of financial systems was predominantly regulated on a domestic level until the 1980s, when organised crime — in particular, the narcotics trade — became increasingly international.88 Coordinating financial regulation at an international level then became imperative.89

In 1989, the intergovernmental Financial Action Task Force (‘FATF’) was established to set regulatory standards and to promote the national implementation of measures aimed at safeguarding the integrity of the international financial system.90 In 1990, the FATF released the Forty Recommendations.91 The goal of the original FATF Recommendations was to combat the misuse of financial systems by persons laundering drug money.92 The Recommendations were revised in 1996 to include all forms of money laundering, and were further expanded to deal with the issue of terrorist financing after September 11, 2001.93 Endorsed by over 180 countries, the Recommendations are now recognised as the international standard for AML/CTF.94

In 2009, the FATF initiated a review of its Recommendations, which resulted in the publication of the second revised Recommendations in February 2012.95 While the high-level principles contained in the original remain mostly unchanged, the revisions introduced a number of new elements such as tax offences and financial sanctions related to the proliferation of weapons of mass destruction.96

88 Basel Committee on Banking Supervision, ‘Prevention of Criminal Use of the Banking System for the Purpose of Money Laundering’ (Statement, December 1988) 1
89 Ibid 2.
93 Ibid.
94 Ibid.
95 International Monetary Fund Legal Department, ‘Revisions to the Financial Action Task Force (FATF) Standard’ (Information Note to the IMF Executive Board, International Monetary Fund, 17 July 2012) 3.
Of particular relevance to financial inclusion is the fact that the updated Recommendations also place an increased emphasis on risk.\(^\text{97}\) The FATF first introduced risk as an element of financial regulation policy in 2003, but limited the concept to specific Recommendations.\(^\text{98}\) For many years the term was not clearly defined, something that the FATF itself acknowledged in 2010.\(^\text{99}\) The new Recommendation 1 promotes a strengthened risk-based approach (‘RBA’) to AML/CTF, providing that countries should require financial institutions to ‘identify, assess and take effective action to mitigate their money laundering and terrorist financing risks’.\(^\text{100}\) The RBA requires regulators to apply enhanced measures in areas of high risk, but allows them to take a simplified approach where there are lower risks involved.\(^\text{101}\) Unfortunately, many banks have introduced stricter rules to manage high-risk customers but have not introduced simplified measures for people who pose a low risk.

Financial inclusion helps to protect the integrity of the global financial system by expanding the reach and effectiveness of AML/CTF regimes, as by definition the financially excluded are beyond the reach of AML/CTF regulation.\(^\text{102}\) Promoting financial inclusion has been on the FATF’s agenda since 2010.\(^\text{103}\) In 2012, the FATF Ministers noted that financial exclusion poses a real risk to the effective implementation of the revised Recommendations.\(^\text{104}\) In light of these concerns, the FATF created a guidance paper, which aims to assist financial regulators to implement an AML/CTF system that aligns with the goal of financial inclusion.\(^\text{105}\)

The FATF reiterated its commitment to promoting financial inclusion in October 2014, when it warned against wholesale de-risking and encouraged banks to manage customers on a case-by-case basis rather than terminating relationships with certain categories of customers such as remittance providers.\(^\text{106}\) The FATF is aware that this global trend of de-risking could lead affected remittance providers to resort to sending money through informal, unregulated channels.\(^\text{107}\) Not only would this affect financial integrity, but it would limit the providers’ ability to serve as a gateway for broader financial inclusion.

\(^{97}\) International Monetary Fund Legal Department, above n 95, 4.
\(^{99}\) Ibid.
\(^{101}\) Financial Action Task Force, ‘FATF Guidance for a Risk-Based Approach: Prepaid Cards, Mobile Payments and Internet-Based Payment Services’ (Report, June 2013) 27.
\(^{102}\) Timothy Lyman and Wameek Noor, ‘AML/CTF and Financial Inclusion: New Opportunities Emerge from Recent FATF Action’ (Focus Note No 98, Consultative Group to Assist the Poor, September 2014) 1 <https://perma.cc/HL6T-94PT>.
In June 2015, the FATF announced that it was developing guidelines for applying the RBA to MTOs, which will address the issue of access to banking services for MTOs.\(^{108}\) The FATF also stated that it was undertaking further work on financial inclusion and customer due diligence (‘CDD’).\(^{109}\) Work on both these projects should be completed by the FATF in 2016.\(^{110}\)

### B Domestic AML/CTF Measures

In Australia, many of the FATF Recommendations have been incorporated into the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (‘AML/CTF Act’).\(^{111}\) This includes implementing an RBA to regulation. When providing services to a customer, reporting entities must assess the risks of potential money laundering or terrorism financing to ensure they meet the minimum standards set out in the *AML/CTF Act* and *AML/CTF Rules*.\(^ {112}\)

In June 2014, the *AML/CTF Rules* were amended to include additional CDD requirements.\(^ {113}\) The revised *AML/CTF Rules* place a stronger emphasis on ongoing CDD and expand the factors that banks must consider when determining the money laundering and terrorist financing (‘ML/TF’) risk of customers.\(^ {114}\) Further amendments to the *AML/CTF Rules* are likely to occur in 2016 in response to two reviews: a statutory review required under the *AML/CTF Act* which is currently being undertaken by the Commonwealth Attorney-General’s Department and the fourth FATF mutual evaluation which released its findings in April 2015. The latter review found Australia was not compliant with a

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\(^{109}\) Ibid.


\(^{111}\) In 2005, Australia’s compliance with the FATF Standards was assessed through a ‘mutual evaluation’ process. While Australia had implemented many of the original FATF Recommendations, its domestic legislation was not compliant in a number of areas. Notable for the purpose of this article is the fact the FATF recommended that Australia should require all money transfer operators to be licensed or registered, and that AUSTRAC should maintain a comprehensive list of such service providers and their details: Financial Action Task Force, *Third Mutual Evaluation Report on Anti-Money Laundering and Combating the Financing of Terrorism: Australia* (14 October 2005) 158. This action has now been taken by Australia, which has required all remittance providers to register with AUSTRAC since November 2011: Australian Transaction Reports and Analysis Centre, *Remittance Sector Register* <https://perma.cc/G46P-7SVC>. Australia recently underwent another mutual evaluation process to assess compliance with the revised FATF Recommendations. The report of this process, released in April 2015, revealed that Australia’s revised AML/CTF regime is more in line with FATF Standards, though deficiencies remain: Financial Action Task Force, *Anti-Money Laundering and Counter-Terrorist Financing Measures: Australia Mutual Evaluation Report* (April 2015) 9 <https://perma.cc/496T-9TL9>.


\(^{113}\) Australian Transaction Reports and Analysis Centre, *Customer Due Diligence* <https://perma.cc/K5HG-BGKH>.

number of FATF’s recommendations. The government has also undertaken to review the registration of remittance providers under the AML/CTF Act in response to findings released in September 2015 by the Working Group on Remittance Account Closures.

The AML/CTF Act is policed by the federal government agency Australian Transaction Reports and Analysis Centre (‘AUSTRAC’) which ensures businesses and financial institutions comply with five core obligations:

(i) enrolment: all regulated businesses need to enrol with AUSTRAC and provide prescribed enrolment details;
(ii) establishing and maintaining an AML/CTF program: to help identify, mitigate and manage the money laundering and terrorism financing risks a business faces;
(iii) customer due diligence: identifying and verifying the customer’s identity, and ongoing monitoring of transactions;
(iv) reporting: notifying authorities of suspicious matters, threshold transactions and international funds transfer instructions; and
(v) record keeping: businesses are required to keep records of transactions, customer identification, electronic funds transfer instructions and details of AML/CTF programs.

The AML/CTF Act and AML/CTF Rules give AUSTRAC the power to refuse, suspend, cancel or impose conditions on the registration of remittance providers. Since the establishment of the AUSTRAC Remittance Sector Register in November 2011, AUSTRAC has used its powers to cancel the registration of eight MTOs, refuse the registration of seven MTOs, impose conditions on the registration of 17 MTOs and suspend two MTOs from the register.

According to the FATF, these actions have not been sufficient. The report released by the FATF after the fourth mutual evaluation review in 2015 criticised AUSTRAC’s lack of enforcement action, as well as its difficulties in dealing with the remittance sector. In response to the latter criticism, Australian banks have been cautioned against closing MTO accounts due to fears it will drive the remittance industry underground. However, such requests are unlikely to have any impact unless changes are made to the current regulatory framework to ease the burden on banks.

120 Ben Butler, ‘Don’t Cut Remitters Off, Banks Cautioned’, The Australian (Sydney), 22 April 2015, 22.
121 Ibid.
C The Impact of AML/CTF Measures on the Remittance Industry

There is a major ongoing debate about whether the global AML/CTF regime represents a sensible approach to regulating AML/CTF risks, or whether the overzealous application of its rules may well be counter-productive by driving money transfers into informal channels and out of the regulated space altogether.\(^\text{122}\) The strict AML/CTF measures imposed on financial providers, both in Australia and abroad, are having a huge impact on the remittance industry in Australia. Unless changes are made, the current state of affairs poses a serious threat to financial inclusion in the PICs.

For small MTOs, complying with AML/CTF measures can be too onerous. Many MTOs operate by transferring individual remittances together as a lump sum through a single account. However, doing so does not satisfy the enhanced Know Your Customer ('KYC') rules, as the payments cannot be traced to particular individuals. Banks are able to verify individual payments through money transfer software that is often too costly for small businesses to maintain.\(^\text{123}\) It is particularly costly for MTOs, as they need to purchase software licences for multiple agents.\(^\text{124}\) For small businesses, holding more than one account is also very expensive.\(^\text{125}\)

In its recent mutual evaluation report, the FATF noted that small remittance businesses ‘lack capacity to implement Australia’s complex regulatory requirements and do not implement preventative measures in line with the FATF Standards’.\(^\text{126}\) In particular, the FATF was referring to the regulatory changes Australia made in 2011 to strengthen its monitoring of the remittance sector. These changes required MTOs to perform due diligence on their affiliate, provide agents and affiliates with a compliance program, train agents, monitor agent compliance and monitor transactions across their entire network.\(^\text{127}\) FATF noted the requirements have proven too difficult and expensive for smaller MTOs.

Even larger MTOs have faced difficulties complying with the strengthened due diligence requirements. In January 2015, one of the world’s largest MTOs, MoneyGram, was fined AUD$122,400 by AUSTRAC for contravening Australia’s AML/CTF laws.\(^\text{128}\) MoneyGram has approximately 800 affiliates in Australia, of which six were found to be unregistered remittance businesses.\(^\text{129}\)

\(^\text{122}\) In 2006, Passas noted that overly burdensome regulation might dissuade MTOs from operating through officially regulated channels. This risk remains true today — financial security can be undermined by the very rules and processes designed to strengthen it: Nikos Passas, 'Fighting Terror with Error: The Counter-Productive Regulation of Informal Value Transfers' (2006) 45 Crime, Law and Social Change 315, 334.

\(^\text{123}\) Interview with David Sio, General Manager at Pacific Way Financial Services (conducted by phone, 23 October 2014).

\(^\text{124}\) Ibid.

\(^\text{125}\) Ibid.


\(^\text{127}\) Ibid.


\(^\text{129}\) Ibid.
The AML/CTF regulations also place a heavy burden on banks, particularly in relation to high-risk customers.\textsuperscript{130} The remittance industry has been assessed as ‘high risk’ due to its susceptibility to exploitation by serious and organised crime.\textsuperscript{131} AUSTRAC and the Australian Crime Commission (‘ACC’) estimate that 10 per cent of the AU$30 billion transferred across Australia’s borders by what AUSTRAC refers to as the ‘alternative’ remittance sector each year is ‘dirty money’ — funds that are the proceeds of crime.\textsuperscript{132} As a result, banks are required to spend more time monitoring the accounts of remittance providers.\textsuperscript{133}

In 2013, more than 95 per cent of all international funds transfers in Australia were made by the banking sector.\textsuperscript{134} In terms of value, money transfers made by MTOs accounted for AU$66 billion — a mere 1.7 per cent of the more than AU$3.9 trillion transferred internationally.\textsuperscript{135} Given these figures, the costs associated with maintaining MTO accounts and ensuring continued compliance with AML/CTF regulations far exceed the income they generate for banks.\textsuperscript{136} Many banks have thus chosen to close MTO accounts as the level of compliance is too high for such low levels of profits.

Banks also face significant fines and reputational damage if they make poor risk assessments. In 2012, HSBC made the largest bank settlement in US history when it was fined more than US$1.9 billion for facilitating the transfer of hundreds of millions of dollars from Mexican drug trafficking organisations through the United States.\textsuperscript{137} The transfers occurred as a result of an inappropriate country risk rating and other deficiencies in their approach to identifying AML/CTF risks.\textsuperscript{138}

HSBC is just one of a number of banks found to have infringed AML/CTF regulations in recent years. More recently, Commerzbank of Germany was forced to pay US$1.5 billion and dismiss all employees linked to its failure to comply with US AML/CTF legislation.\textsuperscript{139} BNP Paribas in France was also ordered to forfeit a staggering US$8.83 billion and pay a fine of US$140 million


\textsuperscript{131} Paul Jevtovic, ‘Moving towards a Self-Regulated Alternative Remittance Sector: How Eligo National Task Force is Strengthening the Industry against Money Laundering Exploitation by Serious and Organised Crime’ (Speech delivered at the Migration Institute of Australia, Sydney, 31 October 2014).

\textsuperscript{132} Ibid.

\textsuperscript{133} de Koker, ‘Lack of Real Action’, above n 130.


\textsuperscript{135} Ibid.

\textsuperscript{136} de Koker, ‘Lack of Real Action’, above n 130.


\textsuperscript{138} Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations, above n 11.

for violating US economic sanctions and disguising the origins of the payments in order to pass the money through the United States.140

The above examples all occurred in the United States, which is significant as the United States plays a larger role in Australia’s remittance industry than many may realise. Remittances are predominantly cleared through US dollars, so Australian banks require a US bank to settle the funds that are transferred.141 Under US law, banks can be held liable for the AML/CTF compliance failure of any foreign bank whose funds they clear.142 As a result, Australian banks are under pressure from their US counterparts to stop processing remittance transfers. Resisting this pressure could compromise the ability of Australian banks to transact in US dollars for all their customers.143 As the General Manager of Westpac Pacific noted in an interview in 2014, Australian banks are ‘too far down the line — our reliance on the US dollar means our hands are tied’.144

For banks, the reputational damage caused by closing the accounts of MTOs trying to serve the world’s poor pales in comparison to being found guilty of assisting to fund terrorism.145 This is particularly true in the United States, where the issue of terrorism has been at the forefront of policy-making since September 2001.

Given pressure from abroad, the costs associated with AML/CTF compliance and the penalties imposed for regulatory breaches, many Australian banks have chosen to leave the remittance sector. Of the big four banks in Australia, Westpac was the last bank to close down the accounts of its remittance customers. The decision to do so in November 2014 came amid pressure from its correspondent bank in the US, JP Morgan Chase, which Westpac uses to clear US dollar transactions.146 The pressure from the US bank is understandable, as in January 2014, JP Morgan Chase was fined more than US$2 billion for other unrelated breaches relating to AML/CTF compliance.147

In November 2014, a group of 24 MTOs formed a class action against Westpac for its blanket ban on dealing with the remittance industry.148 The Federal Court granted an injunction, preventing Westpac from closing the accounts before a hearing on 23 December 2014. The MTOs argued that the bank’s decision to close accounts was unconscionable, but the case settled with

141 Interview with Greg Pawson, General Manager, Westpac Pacific and Peter Capell, Head of Compliance, Westpac Pacific (Sydney, 22 October 2014).
143 Eyers, above n 72.
144 Interview with Greg Pawson, General Manager, Westpac Pacific and Peter Capell, Head of Compliance, Westpac Pacific (Sydney, 22 October 2014).
145 Eyers, above n 72.
146 Ibid; Interview with Greg Pawson, General Manager, Westpac Pacific and Peter Capell, Head of Compliance, Westpac Pacific (Sydney, 22 October 2014).
Westpac agreeing to continue to allow international money transfers from the MTOs until 31 March 2015.\(^{149}\)

As a result of the account closures, many small MTOs have been forced to close.\(^{150}\) Fewer MTOs means less competition and more reliance on banks, which are already increasing the price of sending remittances. The alternative to expensive bank transfers is for remittances to move via informal means, which leaves remitters without consumer protection,\(^{151}\) does nothing for financial inclusion goals and, ironically, may tend to support the very money laundering and other criminal practices that the AML/CTF measures are trying to combat.\(^{152}\)

The failure of Australia’s banks to do more to support the legitimate business operations of MTOs represents a failure by these banks to recognise and accept their social service obligation. A banking licence is a rare privilege, granted to few. Remittances fulfil a vital social need in our region, and legitimate operators deserve the support of their banks as without it they cannot conduct their business. One gains the impression that Australian banks have bowed swiftly and without real complaint to the pressure brought to bear by their US correspondent banks. Once MTOs are driven from the market the beneficiaries are the Australian banks themselves, which stand ready to facilitate these remittances at far higher charges than those of the MTOs. The losers are expatriate workers in Australia, their poor relatives in their countries of origin, and the stability and viability of the nations in the Pacific.

V POSSIBLE SOLUTIONS

During 2015, the average cost of sending remittances to the Pacific region rose and a number of Australian MTOs closed their businesses.\(^{153}\) Creative solutions are urgently required to prevent further increases in the cost of sending remittances and to ensure that the remittance industry is not driven underground, which could open a new money-laundering and terrorist-funding (‘ML/TF’) route that would threaten Australia’s security. Relaxing regulation for low-risk customers in the PICs should be a priority so as to prevent AML/CTF measures from stymieing financial inclusion. Limiting transfer sums, promoting the use of digital financial services and encouraging technological innovation are other measures that should also be considered in order to address the challenge currently posed to financial inclusion in the PICs.

A Risk-Based Regulation

In 2015, the Australian government amended the identity documentation required by MTOs so that customers sending money from Australia now only have to meet two identity verification checks rather than three.\(^{154}\) While this step

\(^{149}\) Klan, above n 148.

\(^{150}\) Eyers, above n 72.

\(^{151}\) Capal, above n 13.


\(^{153}\) World Bank, 'Remittance Prices Worldwide Issue No 13', above n 83, 6.

should be applauded, further steps could be taken to facilitate increased access to remittance services to the PICs.

The risk-based approach advocated by the FATF Recommendations permits financial institutions to use simplified due diligence (‘SDD’) measures for customers that are identified as low-risk.\(^\text{155}\) In its guidance, the FATF states that such measures would be ‘particularly relevant for individuals who rely on remittances from family members living and working away from home’.\(^\text{156}\)

One example of an SDD measure is the establishment of tiered accounts. This approach would allow undocumented individuals to access very basic accounts such as mobile wallets, with limited functions and low transaction limits.\(^\text{157}\) In order to access additional services or increase their transaction limit, customers would need to undergo more extensive identity verification.\(^\text{158}\) Such an approach has been adopted in India, where the government amended the AML/CTF regulation to allow banks to provide basic savings accounts for poor customers without sufficient proof of identity. The accounts are subject to strict limitations and are operational for a period of 12 months, after which they can only be renewed if the customer provides evidence that he or she has applied for valid identity documents.\(^\text{159}\)

Providing flexibility around the identity verification process for low-risk customers is another measure that can be adopted to promote financial inclusion. In many rural or remote parts of the PICs, people do not have formal identification documents. As a matter of practicality, regulations should allow for creativity regarding the type of credible identity documents accepted for KYC purposes. References from employers or existing customers, village chiefs or religious leaders within the customer’s community are all examples of alternative forms of identification that could be used.\(^\text{160}\)

While flexibility is necessary, regulators must ensure that identification verification does not place an additional financial burden on those who are already financially excluded. Louis de Koker has noted that allowing employers or village chiefs to verify identity can increase the power that those people hold over vulnerable members of the community and may lead to corrupt practices such as the imposition of verification fees which may act as a further barrier to financial inclusion.\(^\text{161}\) For this reason, the more options and flexibility provided to low-risk customers the better.


\(^\text{157}\) Ibid 28; Lyman and Noor, above n 102, 8.

\(^\text{158}\) Lyman and Noor, above n 102, 8.


\(^\text{160}\) Lyman and Noor, above n 102, 8.

B  Limiting Transfer Sums to Manage Risk

On average, migrants remit US$200 per month. Placing low transfer limits on remittance accounts could make it difficult for criminals to launder large sums of money, while allowing migrants to continue sending genuine remittances.

Many banks already impose transfer limits based on security or compliance concerns. In the US, transfers to Mexico from Wells Fargo are limited at US$1500 per day, whereas the bank allows twice that amount to be transferred to Vietnam. This reflects the fact that Mexico is estimated to be the third largest source of illegal money in the world.

These limits are still considerably higher than the average amount remitted by migrants each month. In order to reduce AML/CTF risk while still supporting financial inclusion, regulation could impose a much lower limit. The FATF Recommendations and guidance provide that regulators may significantly reduce the information required for international money transfers valued at less than US$1000. For transactions of this size, the minimum information required is the name of the sender, the name of the recipient and a unique reference number for the transaction. Providers do not need to verify this information unless the transaction is viewed as suspicious or unusual. Limiting remittance transfers to, say, US$750 per day would allow migrants to send money home without banks having to fulfil onerous AML/CTF requirements for the transfers.

It is important to note that migrants may sometimes need to exceed such limits, for example in the case of an emergency when they may wish to provide financial aid to friends and family. Policies could allow for flexibility around transfer limits in times of known need, such as following a natural disaster in the receiver country.

C  Digitising Payments

Digital financial services ('DFS') are globally recognised as an effective means to promote financial inclusion. DFS refers to the technologies available to deliver financial services from a broad range of providers to a wide range of recipients through mobile phones. DFS is particularly well suited to the PICs as mobile technology is inexpensive and already relatively widespread.
Encouraging the PICs to transition from cash economies would assist with managing ML/TF risks, but would have many other benefits as well.170

First, digital payments dramatically reduce the costs associated with transferring remittances. This paper has already highlighted the fee discrepancy between banks and MTOs using the example of sending AUD$500 from Australia to Samoa. In this example, the least expensive cash-to-cash transfer offered by an MTO was for AUD$18.81, or 3.76 per cent of the total amount transferred.171 By contrast, at the time KlickEx Pacific offered instantaneous money transfers via mobile phone for a cost of AUD$1.68, or a mere 0.34 per cent of the money being remitted.172 Increasing the use of DFS in the PICs would thus provide receiving parties with a much greater proportion of the funds sent to them.

In addition to receiving more money from a digital transfer, recipients may also benefit by not having to take time off work and travel to collect their money from a bank branch. Worldwide, more than 40 per cent of remittances are sent to rural areas.173 Recipients in these areas often have to travel considerable distances to collect payments, which can be costly both in terms of transportation expenses and income foregone while travelling.174 This is particularly true in the PICs, where many people live on remote islands.

Another benefit of sending remittances via digital means is that it increases transparency, which is beneficial for both regulators and the parties involved in the transaction. From a regulatory point of view, transferring money electronically improves the traceability of remittances, which assists banks and MTOs to satisfy AML/CTF compliance requirements.175 Westpac has highlighted MoneyGram’s sophisticated tracing technology as key to its continued relationship with the large MTO, as it enables the bank to satisfy its regulatory requirements.176

Digital payments provide greater security for senders and receivers of remittances, who are able to track their money online and keep digital records of the amount of money sent and received.177 This decreases the risk of ‘leakage’ associated with anonymous cash payments — where payments do not reach the recipient in full.178 Once received, funds that are stored electronically are also safer than storing cash as they are not at risk of being lost, stolen or destroyed (such as during a natural disaster).

170 While DFS holds much promise for expanding financial inclusion, there are a number of challenges and potential risks as well. For a discussion of these, see Louis de Koker, ‘The 2012 Revised FATF Recommendations: Assessing and Mitigating Mobile Money Integrity Risks within the New Standards Framework’ (2013) 8 Washington Journal of Law, Technology and Arts 165.
171 Send Money Pacific, above n 74.
172 Ibid.
175 MoneyGram, the world’s second largest MTO, uses sophisticated in-built technology to trace all its money transfers around the world. In an interview with the Pacific head of compliance at Westpac, Peter Capell, he stated that Westpac had partnered with MoneyGram because its digital systems complied with the ‘know your customer’ rules.
176 Interview with Greg Pawson, General Manager, Westpac Pacific and Peter Capell, Head of Compliance, Westpac Pacific (Sydney, 22 October 2014).
177 Klapper and Singer, above n 173, 3.
178 Ibid.
Perhaps most importantly, digital payments provide an important incentive for people to engage with DFS technology. Once people have received remittances this way, they are more likely to use DFS to make payments, save money and otherwise participate in the formal financial system through their mobile phone. Remittances can serve as the bridge to better use of DFS.

Recent research by Citigroup and Imperial College London found that a 10 per cent rise in the adoption of mobile money worldwide could bring an additional 220 million people into the formal financial sector. This would result in an estimated US$1 trillion in net new flows in the formal economy, US$100 billion in increased tax collections and US$185 billion in benefits from digitising government benefits.

Despite these benefits, only a very small proportion of cross-border transactions currently use mobile money technology. In 2013, the value of international remittances sent through mobile phones was US$10 billion — less than two per cent of global remittance flows. In the Pacific, implementation of DFS is at varying stages and differs in form from country to country. Nations such as Fiji and Papua New Guinea are relatively advanced, having introduced mobile banking services several years ago. By contrast, the availability of DFS in Vanuatu is relatively limited and Timor Leste only introduced its first pilot mobile banking program at the end of 2014.

Currently the way in which AML/CTF regulation is implemented creates a barrier to further development of DFS in the PICs. The implementation of the regulation should be simplified for low-value transfers to assist this useful tool to advance.

D Technological Innovation

The development of mobile banking technology has had a huge impact on financial inclusion worldwide. As technology continues to advance, the development of further innovative solutions for reducing concerns around KYC while promoting financial inclusion should be encouraged.

An example of a creative solution is the possible use of camera phones or voice recognition software to verify the identity of customers in remote, sparsely populated areas within the PICs. This would enable unbanked customers who pose little ML/TF risk to obtain simple bank accounts in scenarios where the cost of conducting conventional face-to-face CDD would normally be prohibitive.

The advancement of biometric technology also presents opportunities for verifying the identity of customers, as well as enhancing the security of digital payment systems. The use of biometric authentication mechanisms to authorise mobile payments would increase the transparency of payments and help deter

180 Ibid.
184 Lyman and Noor, above n 102, 7.
185 Ibid.
criminal activity.\(^{186}\) While the cost may impede adoption of the technology by local DFS providers, introducing the technology at a more central level through a government-led identification project such as that which is currently occurring in India could assist with achieving greater financial integrity as well as financial inclusion.\(^{187}\)

The possible use of cryptocurrencies and block-chain technology is another example of how technological innovation could be used to further financial inclusion.\(^{188}\) In 2015, three of Australia’s big four banks began trialling Ripple’s peer-to-peer fiat and cryptocurrency exchange technology.\(^{189}\) Ripple allows users to transfer in any currency and can provide same or next-day payment, making it a quick, simple and low-cost method of sending small remittances overseas.\(^{190}\) Furthermore, the technology satisfies AML/CTF obligations because it is able to identify the payment originator for each individual payment.\(^{191}\) The Australian government has announced that it is considering the application of AML/CTF laws to digital currencies as part of its statutory review into the \textit{AML/CTF Act}, which is due to be released in 2016.\(^{192}\)

\section*{VI Conclusion}

Financial inclusion is vital for the stability and integrity of the global financial system. It also greatly advances the lives of the poor through assisting with community development and the reduction of poverty. The importance of bringing the world’s unbanked population into the formal financial system has been recognised by the public and private sector at all levels and has become a priority on the agendas of international bodies such as the G20 and the FATF. Remittances play an increasingly significant role in promoting financial inclusion. By 2016, remittance flows to developing countries are expected to surpass half a trillion US dollars.\(^{193}\) This figure vastly exceeds the amount of

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\begin{itemize}
\item \(^{188}\) For a discussion on the potential for Bitcoin technology to facilitate remittances and promote financial inclusion, see Brett Scott, ‘How Can Cryptocurrency and Blockchain Technology Play a Role in Building Social and Solidarity Finance?’ (Working Paper 2016 No 1, United Nations Research for Development, 10 February 2016) ii. The paper also discusses some of the challenges that may hinder Bitcoin from being used freely as a tool for greater financial inclusion. In recent times, Australian banks have taken the same approach to bitcoin accounts as they have to MTO accounts, choosing to close accounts to comply with their obligations under the \textit{AML/CTF Act}. AUSTRAC has spoken in support of bitcoin exchanges and condemned the de-banking of entire industry sectors: see Nathan Lynch, \textit{AUSTRAC Throws Regulatory Lifeline to ‘De-Banked’ Bitcoin Operators}, UNSW Centre for Law Markets and Regulation <https://perma.cc/QC9U-6QAL>.
\item \(^{189}\) Paul Smith, ‘Westpac, ANZ Trial Ripple Payments, but Big Four Reluctant on Bitcoin’, \textit{Australian Financial Review} (online), 9 June 2015 <https://perma.cc/UU5J-JX54>.
\item \(^{190}\) Ibid.
\item \(^{191}\) Ibid.
\end{itemize}
official development assistance worldwide. In the PICs, remittances account for a large proportion of many countries’ GDPs and are vital for people’s livelihoods. Furthermore, these payments can serve to give the poor a reason to engage with the formal financial system by providing them with money that can be placed in a savings account, or used to acquire insurance against death or illness of a breadwinner. Doing so can lay a foundation from which the poor can climb out of poverty.

Around the world, the desire to combat money laundering and the financing of terrorism has seen the introduction of strict financial regulations that impose onerous compliance measures on financial providers. In Australia, such measures have proven too costly or too difficult for many small MTOs, who have been forced to close down. Other remittance providers have had their accounts closed by banks that have decided to exit the industry due to the associated risks and pressure from their US correspondent banks. It is noteworthy that such closures not only minimise risk for banks, but also allow them to profit from a less competitive industry in which the banks charge high rates to facilitate remittances.

The closure of MTO accounts in Australia poses a serious threat to financial inclusion in the PICs. Without MTOs, migrants will be forced to transfer money through banks, which charge significantly higher fees and require recipients to hold bank accounts. Given that the majority of people in the PICs do not hold bank accounts, this is a major problem. Alternatively, migrants may choose to transfer money through informal means. Doing so leaves legitimate remitters without important consumer protections, increases the risk of illicit transfers in Australia and tends to defeat the efficacy of the FATF global regime.

In the first quarter of 2015, a further seven MTOs were forced to close and the average cost of sending remittances from Australia to the Pacific rose slightly while the global average cost decreased.194 Addressing the issues facing the Australian remittance industry is thus an urgent priority upon which AUSTRAC could, and should, be providing more proactive leadership. This is particularly so given the Australian government’s goals of promoting prosperity and stability within our region.

First and foremost, we suggest using a more nuanced, risk-based approach to implementing AML/CTF regulations to accommodate financial inclusion goals. Simplified KYC and SDD measures should be used for lower risk customers, such as those who are very poor and currently unbanked. Other solutions include limiting the amount of funds transferred, digitising payments and encouraging greater use of technological innovation to reduce risks.

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