Expert Group Meeting

Somali Money or Value Transfer Services – Vienna, 20-22 March 2013

UNODC
United Nations Office on Drugs and Crime

The primary purpose of this transcript is to act as a record and working document for the EGM participants and GPML team.

CONTENTS

1. FINAL REPORT

A summary of the lessons learnt during the global Expert Group Meeting (EGM) on Somali Money or Value Transfer Services (SMVTS) and proposed additional advice for the Strategic Roadmap implementation

As part of this consultancy, Dr Edwina Thompson provided high-level facilitation of debates throughout the EGM, presented an expert paper during one of the sessions, and helped to shape the final Strategic Roadmap in collaboration with Mr Clément Gorrissen – therefore she is in agreement with the majority of its content and believes it accurately reflects the agreements made between the companies during the EGM. The hand-out and output from one of the sessions facilitated using the TEAMWIN Mobilisation Methodology and associated tool called the TEAMWIN Collaborator is included in this note for reference. This was used to inform the Roadmap.

Main learnings from EGM:

Looking back and ahead

In order to address the continuing issue of poor coordination between companies, they must be prepared to look back to learn, and share candidly what went wrong in the past. This should be held in tension with where they envisage the sector to be in 5-10 years. If forming another association, the companies and any supporting international actors should refer to previous documentation that was developed (e.g. past Terms of Reference and conditions of membership for the associations) and use these as a basis on which to build the new collaboration. This will expedite progress in what is a very short timeframe given the pressure from international banks to withdraw accounts in the UK and US.

In looking ahead, the companies also need to learn from some of the more innovative players in the industry both within Somalia and internationally who are investing in the technologies that will help to adapt and scale their businesses. Without investing in new technologies and educating their customers better about the need for more stringent KYC procedures, other companies that can retain banking will supplant the others who are less forward-looking in years to come – an entire traditional industry would not go away, but it would not realise its full potential to support economic growth.

Since the previous attempts to form associations of the Somali MTOs, there has been a huge turnover of staff in some of the companies, and new ones emerging. This has left both a deficit of institutional memory across the sector and some misplaced ideas about what happened in the past – most worryingly, it seems to be held by many that the lead UNDP consultant who was asked to find a technological platform for the industry in Dubai during a major financial sector development programme (2003-7) was motivated by personal commercial gain rather than the interests of the industry. This has led to a deep suspicion about the adoption of new technologies and a continued lack of understanding about what can be achieved in the sector by upgrading and sharing compliance systems – not only are there cost-savings to be made, but they increase the confidence of banks and regulators that adequate systems are in place to counter money laundering and terrorism finance (mobile banking platforms such as those used by ZAAD are a case in point).

Managing reputation and communication channels

It is now agreed that there is a need for the industry to address negative perceptions on behalf of law enforcement agencies, regulators and banks around both the compliance of Somali MTOs and the environment in which they have to operate once the funds leave the source country (e.g. clearance/settlement in UAE and pay-out compliance practices at the Last Mile). In order to bridge the gap in misunderstanding, the companies should share resources to put a plan together that helps explain the way money moves through their system – the approach will have to be sufficiently technical to satisfy the regulatory audience and proactive because of the lack of resources that regulators dedicate to niche ethnic corridors.

The idea of using political appointees such as the Somali President or incoming Central Bank Governor to influence decision-makers at a higher level within Western countries (e.g. at the London Somalia Conference) is highly advisable given the potential humanitarian impact of disrupting transparent financial flows to Somalia. These engagements should be taken, however, as opportunities to provide genuine education rather than take advantage of people's ignorance. At all times, it is important to recognise that these companies are not charities – they are businesses.

Involvement of international actors such as UNODC

It was clear during the event that side discussions excluding the internationals were taking place between the MTOs and Somali officials. This was encouraged to increase the chances of actionable outcomes being reached as a result of the meeting. It highlighted for me, however, what I have often seen in the past – that international actors such as the UN can be well-meaning but not entirely connected to the real discussions between stakeholders like these – this is especially the case with the private sector where commercial interests reign.

Conversations such as the one surrounding the proposed 'Code of Conduct' and 'White Paper' underscored the disconnect for me. My recommendation is that these companies need the advice of business people from the finance and banking sectors on more immediate work that can be done to mitigate the issues posing a threat to their banking.[1] White Papers with 12-month+ timelines are not appropriate to the task. And there are many lessons to be learnt over previous attempts to draw up Codes of Conduct. Efforts to support the SMT industry must build on those lessons and find the niche that is most appropriate – otherwise, the companies will lean too heavily on international actors and delay dealing with issues they are capable of resolving themselves. This is an area of 'wisdom' that they identified in the break-out group I facilitated on Outcome 2: Forming an Association.

Initiative required by the MTOs

Although it is unfair to a large degree, it is obvious that the initiative lies with the MTOs to make changes. In view of the urgency, I have advised the companies that they should select some low-hanging fruit to launch an 'enhanced compliance initiative', which would be newsworthy for the banks, regulators, and other government agencies. This might involve immediately mandating the need for customers to show ID (despite the threshold) and pooling resources for an independent compliance audit by an auditing firm that is well-respected by the UK and US regulators (e.g. FSCom or PwC).

Commitments to the formation of another association and accompanying framework agreements such as a Code of Conduct must be accompanied by a collectively agreed action plan to prove the companies' intent. Such a plan should also point to other difficult longer term systemic changes, which also takes into account the importance of the US. These are best identified and agreed by the MTOs, and for example could include:

- Comprehensive review of third party payment system (clearance houses and agent networks)
- Review of remittance flows to different geographies in view of al-Shabaab influence
- Accelerated shift toward cashless payments
- Identification, database and compliance monitoring systems
- Capitalisation and consolidation of MTOs
- Improved understanding of diaspora behaviours, preferences, ability to influence, etc
- Strategy for future business ex Europe
- New ideas for supporting aid organisations
- New ideas for engaging other industry sectors to support shift to cashless

A critical underlying argument for those who remain 'banked' to retain their services whilst these changes are being planned and implemented is to maintain the continuing momentum away from traditional *hawala* practices to integration with the formal banking and regulatory system. The alternative is to revert to the older opaque informal system.

Dr Edwina Thompson, April 2013

[1] This is bearing in mind that only a small number of companies present retain direct banking services – many use other wholesale providers to access the banking system. In one case, a company actually used the director's personal bank account to trade, which is illegal.

2. BREAK-OUT GROUP DISCUSSION TRANSCRIPT

Outcome 2: *Explore how to establish a self-regulating organisation or committee in charge of the implementation, maintenance and monitoring of the code of conduct.*

Facilitation method: Dr Thompson co-facilitated the meeting along the lines of a 'guided conversation', using a remote version of the *TEAMWIN Collaborator* tool – a system of wirelessly connected netbooks designed to share knowledge rapidly, facilitate the creative process and capture ideas in real time, anonymously, directly from the contributor. These inputs instantly appear on all netbooks and are projected on the screen for the group to review, discuss, categorise, distil and prioritise. Each contributor's input is featured as a bullet point in this transcript.

KEY STAKEHOLDERS

Who are the key stakeholders that the Somali Money Transfer industry influences?

- Somali Government - who? President is supportive
- Chamber of Commerce - Mogadishu
- Ministry of Finance (explore PFM work/Special Financial Facility)
- Somali private sector
- Remitters (customers)
- Regulators
- Western Banks

HERE

Where are we?

- Somalia now has a 'government' - the TFG was not recognised by many powers in the world, and there were regional differences between how the government was perceived. Today, Somalia is 'Somalia', even if there is a secession.
- Somali President Hassan Sheikh Mohamud has committed to advocate on behalf of SMTs for the banks to keep accounts.

PROGRESS TO DATE

How advanced are we already?

- 11 SMTs in Dubai are meeting this week - there are price wars, so they have now agreed to resolving this together
- In Melbourne, Australia, there is an association that works perfectly - they have their own lawyer, accountant, relationships with AUSTRAC
- There is a renewed commitment to form another SOMTA quickly
- US Association is working with legislators and lobbying Congresspeople

LESSONS LEARNED

Looking back: brainstorm the wins, walls, and wisdom from previous attempts to establish an Association.

Wins

- Some good things were accomplished under SOMTA - ref training and ICA accreditation

Walls

- Difficult to determine what the regulators want from us
- Divisions within the SMT industry; lack of trust with suggestion of common electronic platform (due to misinformation and rushed push to reform)
- Global associations are stretched across very different jurisdictions

- Interests of the smaller SMTs were not taken into sufficient account - dominance of larger SMTs
- Lack of corporate structure within the SMTs - question about whether this is important (later session sees it as vital, based on feedback from government reps)
- Lack of documented information about the industry to share with others and eliminate myth
- Lack of strong Somali government advocacy
- People ignored the contribution that major stakeholders could have on the association - UNDP was too influential
- Time required to invest in the association

Wisdom

- Learning from Melbourne example: Global association should take what's good at the country level, and share good practice. They had a lot of problems which prompted them to collaborate. AUSTRAC came to the industry and gave them a 3-month timeline to give feedback on new legislation (they saw the industry as the solution). There was also a price war between the companies. They tried, failed, tried, failed, but at the end they formed their association.
- The UN should not be in the lead on this

THERE

Vision: What does a 'fully functioning' Association look like?

- An improved situation with the banks – compliance and Banking should be the main focus – we must avoid over-complication
- An improved situation with the banks – compliance and Banking should be the main focus – we must avoid over-complication
- Be a counterpart to the domestic public sector - like AUSTRAC in Australia
- Clear communication to regulators about their issues about our compliance
- Clear membership benefits: [US experience] (1) compliance training platform ($900/year USMTA - better deals in the UK !! Through UKMTA there are existing opportunities for training). (2) Agent collection - Council on Information Sharing. (Partnership with National Association of Credit Management) Anti-trust - monitor conversations, share experience through software platform www.creditworthy.com.
- Connection with lawmakers about safe harbour and influence legal changes
- Less fragmented industry where there is a common entry-point for the regulators
- Stakeholders within Somalia engaged on the development of an AML/CFT regime
- The Association must be short-hand for the highest compliance standard, and transparency about the corporate structure, including 'beneficial owners' (strong recommendation from HMRC)
- The Somali remittance sector projects a clean, trustworthy and professional image to the customers, potential investors/trade partners, general public in the US
- This must be Somali-led
- We are presented as the 'solution' rather than the 'problem' regarding money laundering and terrorist finance
- Wider vision - broader picture. Immediate threat is the banking sector. The wider risks will still be out there - trustworthiness of customers; rise of mobile money.

TIMELINE

Looking forward: When should we aim to have a fully functioning Association?

- Something 'concrete' by 30 April - Association established; main companies agreed

KEY ACTION AREAS

Brainstorm and categorise issues, obstacles, challenges to be overcome for first milestone.

External support
- Compliance expertise for priority countries (in immediate term)
- Issue of branding - how to find support from people who can assist in projecting a different image
- Legal expertise

Membership guarantees/benefits
- Does this Association membership guarantee that members are registered with FSA, HMRC, Treasury Email Alert, SARS etc????
- Get a top Compliance Officer to help answer those questions urgently

Advocacy
- Explore 'informal' means to share with the banks, regulators - build relationships
- Identify WHO should then advocate on behalf of the Association to banks that the companies are compliant. Recommendation: share findings with the banks and influence them that you are a worthy customer
- Since 2007 HMRC used to issue CATCH letters for compliance which were useful to share with the banks - it was the stamp of approval

NEXT MAJOR MILESTONE

What must we achieve by when to be on track?

- March - April 2013. Generate consensus on the need for an Association among the Somali companies - led by x3 reps* from larger companies, and x1 to represent the smaller companies to send the right signal
- Companies include:
    - Bakaal Worldwide
    - *Dahabshiil
    - *Iftin Express
    - Amal UK
    - Amaana Expess
    - Amoud
    - Hodan Global
    - Horyaal Express
    - Juba Express
    - Kaah Express
    - Ladan Express
    - Medina Money Transfer
    - Mustaqbal UK
    - Oloompic Online
    - Sahal Express
    - Tawakal UK
    - Towfiq Express
    - WorldRemit
    - Choice (wholesale)
    - Other companies willing to join efforts?
- 30 April 2013. Soft launch of Association
- 7 May 2013. London Somalia Conference, which has a focus on business and investment
- 8 May 2013. FCO Somali Enterprise and Development Event - www.sef.org

NEXT ACTIONS

Who must do what in the next 30 days?

Team and location
Four representatives (Abdirashid/Dahabshiil; Hamid/Bakaal; Micin/Iftin Express; one from a smaller SMT) will form a temporary committee, and attempt to reach companies by 30 April to generate consensus about the need for an Association - start in London

Admin/practical tasks
- Create a mailing list for ease of communication - explore Association Management Software
- Decide on self-describing acronym - suggestion 'SMT' ('Somali Money Transmitter') - most neutral
- Map what electronic platforms the different SMT are using before they become members and check whether they are compliant
- Decide on specific purpose/focus of the Association initially (is it limited to reputational/banking issues?); what kinds of services the Association provides, etc - learn from Charities Commission
- Contact Dominic Thorncroft of the UKMTA to ensure there is a Police Officer from either Scotland Yard or NTFIU to speak to the members about Production Orders and the process involved and what we as MR's are expected to provide etc. This is a cost-saving measure because the SMTs are already members of the UKMTA
- Elect leadership who will take over from preparatory committee; decide on the financial arrangements, costing of initial activities, corporate structure
- Brainstorm external people to be on the Board, or Advisory Members of the Association - maintain Somali day-to-day running of the Association with advice on strategic direction and technical issues
- Decide on what external support is required - e.g. branding; legal input; independent reviewers (ACAMS not sufficient) - Simon Davis UK
- Document customer base that needs urgent cash transfers - aid agencies, mining/private sector companies, BBC......?? And share through the informal get-togethers. Solicit their support in advocating on behalf of the SMTs
- Host a breakfast and invite banks to tell them about what the Association is doing - 'soft' lobbying
- ANPL Forum (mainly banking) - 'technical compliance' versus 'real compliance' - latter entails KYC etc that Somalis have superior versions than big banks. Use British Bankers Association to communicate the messages about Somali real compliance
- Coordinate with Edwina about the Pakistan Remittance Initiative replicated in Somalia - SOCA/DfID - and explore funding opportunities for support there and through the Charities Commission/US Embassy in London. Assign a focal point for Edwina

Upcoming meetings

- Plan to brief Somali President ahead of the 7 May London Conference
- Decide whether/how to feed into the end of May meeting convened by CGCC (Nairobi)
- Decide whether/how to participate in the June 13-14 Somalia Investors Conference (Nairobi)

3. EXPERT GUIDANCE PAPER

Lessons Learned: Turning around the missed opportunities for authentic engagement with Somali Money Transfer Operators (MTOs)

Disclaimer: This paper draws on more detailed research into the mechanics of cash transfer practices in fragile states (e.g. Trust is the Coin of the Realm: Lessons from the Money Men in Afghanistan, Oxford University Press; contribution to USAID's financial sector and mobile banking review in Afghanistan). Dr Thompson was the lead evaluator of UNDP Somalia's Financial Sector Development Project (2002-2007), which aimed to develop appropriate systems and procedures for more effective regulation and monitoring in Somalia's remittance industry. This evaluation remains confidential, but some key findings are shared below.

A Google search for 'Somalia' and 'missed opportunities' reveals over 8 million hits. The international community has certainly struggled to calibrate the right type of response to the humanitarian crises, local state-building efforts, foreign direct investment, and criminal activity off the coast of Somalia. Therefore identifying and learning lessons from the engagement is critical. This is even more acute in the area of finance, which is often marked by a deadlock between the approach of international institutions and local market actors.[2]

This short paper will look at two instances where the international community has failed to engage early and authentically with one key stakeholder group in this category – Somali money transfer operators (MTOs) – and reflect on how we can do things differently going forward.

Humanitarian cash transfers: A dangerous aversion to risk
The 2011 famine in Somalia put 750,000 people at risk of starvation, and plunged millions more into a state of high malnutrition. Cash transfers from aid agencies had immense potential to provide relief at scale to those affected by the crisis. So why did it take nine months for the humanitarian community to employ this method of support as an alternative to food aid, especially when there is strong evidence from other aid responses that context-sensitive cash transfers bolster vulnerable people's survival and coping mechanisms?

There are two periods that the lessons from this response report on – the initial stage, where there is a clear link between the prolonged inaction of the humanitarian leadership and avoidable loss of life, and the later stages, where there are positive impacts from the USD100m that was subsequently transferred by the Inter-Cluster Cash Consortium between August 2011 and April 2012. One of the main barriers to acting quickly and innovatively was an aversion to the perceived risks involved in using cash transfers at scale in Somalia, which was not helped by confusion surrounding the prevailing counter-terrorism legislation. The inadvertent contribution of cash transfers to balancing payments of MTOs where others hope to launder criminal proceeds was also recognised by some agencies.

New or innovative approaches to the design and delivery of aid programmes tend to involve engagement and collaboration with structures or actors that are not well-understood. In this case, the actors include local MTOs. Across both phases in the lessons reporting, however, there is almost no mention of proactive engagement with these technical experts. This situation is replicated in other contexts where the formal banking system is weak or collapsed, and aid agencies widely employ the services of local MTOs. The approach of aid actors has in fact rarely been affirmative – rather, the local/national finance or procurement personnel are tasked to transfer cash to pay staff or fund projects, and the international staff have little knowledge of how the system operates.

One of the challenges may be the lack of a formal entry point for aid agencies to engage the sector – much like the humanitarian system, the MTOs are fragmented, and tend not to be part of an association that is readily accessible to 'outsiders'. This does not pose a problem for the diaspora,

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[2] See Chapter 8 in *Trust is the Coin of the Realm: Lessons from the Money Men of Afghanistan* (OUP) for a detailed discussion of this. In the US, disillusionment with the apparent shortcomings of development actors in spurring economic growth after conflicts and natural disasters has led some to advocate for defence actors to take on a more active role under the banner of 'expeditionary economics'.

but it does for the broader customer base of investors and internationals operating where MTOs have superior reach and services than formal banks.

To date there have been many missed opportunities for authentic engagement of humanitarians with diverse actors like MTOs whose expertise can be leveraged not only to augment their overstretched capacity, but also to identify sustainable solutions that support economic growth. Turning around the situation would require new ways of working together, such as collaborative models that can facilitate more strategic cooperation and coordination in crisis situations and pre-crisis.

UN financial sector development: Experience in establishing an association

Annual remittance flows from Somalis outside the homeland are estimated to be in the range of USD1 billion. More than 40 per cent of households are reported to rely on remittances as the primary source of livelihood, while women are identified as receiving 50 per cent of inward payments through the UK-Somaliland corridor. Despite the clear development potential of the remittance industry, Western regulators identify its informal nature as a major challenge to the international financial system due to its lack of transparency and accountability to formal regulatory oversight. Hence, following suspected links to terrorist finance after 9/11, Somali MTOs came under the close scrutiny of regulators, banks, and law enforcement agencies in the US and Europe and the assets of al-Barakaat, Somalia's largest money transfer network, were frozen and the network dismantled.

After the closure of al-Barakaat, Somali remittance networks were posed with the threat of collapse due to forced bank account closures and were pressured to comply with restrictive regulations that some believed simply 'penalised the poor'. The need to address the issue of compliance was however timely due to the changing international regulatory landscape and the push for the Somali remittance industry to undergo certain structural changes to increase consumer protection.

In November 2002, the international community commissioned a Feasibility Study on Financial Services in Somalia, which was completed in September 2003. It delineated the activities necessary for the achievement of a dual strategy which focused on both the remittance and banking sectors. With regard to the latter, interventions were aimed at improving: regulation, transparency and accountability, skills and awareness of compliance issues, including female staff and clientele, and external awareness and accurate data on Somali MTOs. Problems began to arise in the implementation phase, which focused disproportionately on the banking sector. This is not uncommon in such a situation, where engagement with the 'informal' sector is deemed difficult, despite the more immediate potential gains from reforming elements of what already exists.

One clearly beneficial outcome from the Feasibility Study was UNDP's decision to deal with an association of MTOs instead of individual companies. This was partly borne out of the difficulties that the consultants encountered in gaining enough trust from the MTOs to access their business structures and financial records. Hence in consultation with the remittance sector, the Somali Financial Services Association (SFSA) was formed in late 2003 with the aim of minimising both exposed risk for UNDP and scepticism among MTOs regarding UNDP's intentions by channelling information through an executive board.

While certainly a worthy idea in theory, MTOs and UNDP staff identified a lack of appropriate expertise in project personnel and time committed to the formation of the SFSA as two of the main reasons behind the association's gradual collapse in 2005/6. It was suggested by those involved that more effort should have been spent on gaining the trust of the MTOs and consulting them to provide clarity of purpose and refine the ambitious aims of the association rather than on forming its constitution and other formal elements which were disconnected from the immediate needs of the MTOs. While the commitment to increase compliance and transparency was evident in the sector, MTOs argue that they needed a clearer method on how to go about attaining that goal:

'They were asking the wrong questions from the start. Rather than telling [the MTOs] to be compliant, they should have been seeking out the cause of non-compliance or at least an understanding of the sector that makes them more useful to the industry in the long-term'. (Interview, Dubai 17.09.07)

In the early stages of the engagement, UNDP released various press statements which certain of the larger remittance companies found offensive. For example, within only several months of forming the association, the company with the largest market share withdrew its membership due to the public statements regarding the unregulated nature of the industry. The departure of such a key player in the industry was undoubtedly to the detriment of the SFSA.

The single biggest complaint of the Somali MTOs who participated in the attempts to create an association was regarding the international community's lack of authentic consultation or engagement. The evaluation revealed many instances where invitations to participate were presented to MTOs, but then their feedback was rejected – even when they providing important technical inputs that would improve the likelihood of increasing compliance and cooperation between MTOs. One particular piece of feedback, about the need for training on compliance requirements in different jurisdictions (as opposed to 'general guidance'), was registered in early 2004, but not acted upon until late 2006.

Linked to this complaint was the sense that a lack of research had been undertaken into the companies' existing compliance procedures. The MTOs argued that the international community's engagement should have been based on the progress already made by the companies so that gaps in compliance training and awareness could be identified and addressed. The UNDP reports suggested that, while the companies certainly did not operate on a 'level playing field' in terms of compliance, such a tailored approach would provide an unfair competitive advantage to the larger companies; hence UNDP contractors assumed relative ignorance of AML and conducted workshops aimed at raising basic awareness. During consultations in March 2006, however, it was discovered that all companies follow AML compliance procedures, albeit in more of an ad hoc fashion (such as manual checks of transactions against the US OFAC Specifically Designated Nationals list), and that all MTOs but one had recently launched online remittance systems. It was also established that none had integrated AML compliance, which includes automated AML checking and reporting of suspicious activity and improved online security.

In mid-2006, a new partnership approach was instigated through the Somali Money Transmitters Association (SOMTA), whose members focused on improving skill levels of staff and upgrading infrastructure. Progress was made to procure a common electronic money transfer platform that enables more efficient transaction processing and automated, standardised workflows in line with best practices. While some companies saw the benefits of adopting a new platform, others preferred to retain their own systems and required more convincing; there was a concern that a shared platform would lead to companies losing their independent functioning and trade 'secrets', rather that it ensuring that they can meet minimum regulatory requirements and at a lesser cost than their current operating systems.

Those in favour of the platform could see that it would enable SOMTA to become truly self-regulatory in that it can generate regular reports that alert the association to suspected ML-CT transactions. As compliant technology had become a precondition for obtaining money transfer licenses, the implementation of the platform should have assisted SOMTA members to acquire licenses in source countries and resolve the issue of companies not complying with licensing requirements in many of the countries in which they operate. Additionally, the platform was intended to help the Somali remittance industry to maintain the current commission rates which are recognised to be one of the lowest in the world. This is especially important for the poorest households who receive very small transfers that normally attract disproportionately higher fees.

SOMTA members, however, raised very legitimate questions regarding whether this would actually improve 'transparency' about the customer when key players in terrorist financing do not use their actual names in transactions; they tend to employ agents who move their money, so the offenders may not be captured through the new checking system. The Somali MTOs felt that they 'have a better type of identification than anyone else there – we can trace anyone!' (Interview 17.09.07).

The questions in relation to KYC requirements are fundamental to understanding the situations facing people in conflict-affected regions, and the possibilities of increasing formal 'compliance', and yet projects like this reveal the missed opportunities of the international community to engage with the people who could help them find appropriate solutions. Instead, the past practice has been to impose Western solutions to challenges that require at least a transitional approach – and at the more creative end of the spectrum, a potentially hybrid view of how to manage cash transfers.

Some argued that the events surrounding SFSA's existence, collapse, and subsequent formation of SOMTA contributed to the gradual separation of compliant and non-compliant companies in the association. In this respect, it could be seen as a success at that time.

However, because of delays and other issues with the project management (both on the international and Somali fronts), it seems that there was a missed opportunity for MTOs to collaborate through the shared platform, which would have positioned them to be more competitive and adaptable in light of 'mobile money'. Instead, the more traditional MTOs are faced with the prospect of becoming less relevant as other operators take an ever-growing portion of the industry, and must play 'catch-up'.

Other important lessons that were gleaned from the formal evaluation of the UNDP financial sector development project relate to membership conditions, market linkages, and involvement of women. These should be considered in the next stage of consultations with the sector because they too can help MTOs see the rationale for more cooperative competition in this space.

Some final thoughts

The above case studies demonstrate that more proactive and authentic engagement with MTOs is the only way to achieve better results. Given the fast-paced nature of technological change and current political developments in Somalia, it seems timely to consider piloting new approaches that both safeguard the poor and thriving private sector, while ensuring that the financial services are compliant with international standards – only then can Somalia expect to attract the level of international investment of other emerging and frontier markets.

The question remains who should lead on this engagement – should the private sector, rather than the international community, be encouraged to take more interest? How should the MTOs present to the outside world? In the form of an association? Is this the best way to address the reputational issues that persist today? Who should form part of its core team and membership given the specific collaborative and advocacy-based skills it requires, and who might be a useful partner for increasing the sector's legitimacy? Associations within the customer base may be a good start.

Dr Edwina Thompson, 12 March 2013

ANNEX 1: HAND-OUT

Hand-out for break-out group discussion

<u>2003 UNDP/EC Feasibility Study on Financial Services in Somalia</u>

Industry association (pp.39-41)

The conference participants[3] also established a preparatory committee to pave the way forward for the creation of an industry association. The following is a summary of deliberations from the Conference on Expanding Financial Services in Somalia:

What is the desired position of the Somali remittance sector within next two years?

- All Somali remittance companies registered as legal entities in all countries in which they operate
- The Somali remittance sector projects a clean, trustworthy and professional image to the international community

What do we need to do to achieve that position?

- Establish a professional trade association
- Recognize that the actions of one affect all
- Do not want to be victims and therefore the need for control of the situation

What needs to be done to establish an Association?

- Agree on the need/concept by participants
- Appoint and empower a preparatory committee

What are the objectives of the Association?

- Increase awareness of the Somali remittance sector
- Represent the sector to the outside world and domestic governments
- Function as an information databank, including information about licensing and registration requirements and update members about legal and regulatory developments
- Provide legal services
- Establish basic standards and code of conduct for members
- Ensure compliance with laid down standards
- Resolve conflicts amongst members
- Advocate for members in the international sphere
- Coordinate members' activities where beneficial for the sector as a whole
- Staffing should be independent and supervised by a Board of Directors
- Should be based in Dubai with regional offices in Nairobi, London and Minneapolis
- Develop common standards in auditing, accounting and IT
- Provide access to training

[3] The Somali Financial Services Association (SFSA) was subsequently established later in 2003. It was launched at the Conference on the Somali Remittance Sector in London, United Kingdom at a cocktail reception on the evening of 3rd December 2003.

Recommendations (p.93-95)

5.4.1 Regulation of the Somali remittance sector
Strengthening and supporting the SFSA as a self-regulatory measure. Any support from the donor community is likely to be for an interim period and could include technical advice on:

- Supporting the SFSA in launching the association in key regions globally;
- Appointing advisors and/or support SFSA in areas needed for its establishment and sustainability;
- Assisting the SFSA in developing a high-level organization strategy;
- Assisting the SFSA to design and document a procedure setting out the minimum requirements to become both associate members (not-certified) and members (certified). This would include the development of a SFSA certification system that is acceptable to commercial banks; and
- Assisting the SFSA in strengthening the compliance standing committee comprising compliance officers from member companies. This committee would be responsible for compiling the SFSA AML Compliance Guidelines for members. As part of capacity building, this committee would initially require much guidance and assistance.

Ultimately the SFSA should either become part of a larger association covering remittance companies from other countries in the region (Djibouti, Ethiopia, Eritrea for example) or develop strong ties with remittance associations in these countries. This would significantly enhance its ability to advocate for its members.

5.4.2 Improving transparency
The requirement for legal incorporation and registration could be enforced by assisting the SFSA in its efforts to establish its compliance and certification system. Indeed, the SFSA will be best placed for assisting its members in achieving this, and other, key milestones in a timely fashion. Such technical assistance for the SFSA could include assistance in developing compiling compliance guidelines for the SFSA for both their headquarters and for the countries served by its regional offices. Additional assistance could be provided to the SFSA in training members of its compliance standing committee. Subsequent to or in tandem with the legal incorporation process, the remittance companies should address institutional governance/management issue. Such assistance should be channelled through the SFSA. In line with best practices, particularly those specifically in place for financial institutions, the whole area of corporate governance needs to be improved upon, including:

- Establishment and disclosure of clear shareholder and capital structure;
- Establishment and disclosure of clear management structure, involving appointment of Board of Directors, Management and officers with clear assignment of roles and responsibilities and decision-making authorities;
- Establishment and disclosure of the organization structure;
- Setting of corporate objectives and well-articulated strategic plans, corporate values, codes of conduct, etc;
- Design and implementation of strong risk management and internal control systems; and
- Establishment of internal audit function and appointment of external auditors.

Preparation of financial statements subjected to external audits, and subsequent disclosure of financial and other information, particularly including related party transactions.

<u>The Somali Money Transmitters Association (SOMTA)</u>

Somalia is a poor country that has suffered massive internal conflict. There is no proper government and no banking system. Many Somalis live in other countries and send money home to support their families. Remittance companies provide a service that enables them to do so efficiently and economically. However, there is concern that the mechanisms used for this purpose can also be used for other, illegal, purposes.

Six leading Somalia money transmitters have therefore entered into a Memorandum of Understanding. The key features of this are - The adoption of strict membership requirements established an association to help ensure that the industry operates to the highest possible standards. They have been supported by the United Nations Development Program, which recognises the important role that remittance companies play in alleviating poverty and promoting economic development.

The Somali Money Transmitters Association (SOMTA) has the following objective:

- **To secure the future of the Somali remittance industry through a safe and healthy sector comprising of fully compliant money transmitters who are able to operate and compete globally, and to promote the image of the industry.**
-

The members have entered into a Memorandum of Understanding based on compliance with registration and licensing requirements in the countries in which they operate and observation of legal requirements in respect of money laundering. The establishment of compliance standards and an independent compliance audit that companies will have to pass in order to retain membership.

SOMTA has established rules governing membership and compliance arrangements. Other companies willing to comply with the rules are welcome to join.

SOMTA takes the form of a company limited by guarantee, registered in the UK. It is governed by a Council comprising of:

Council Members

- Ali Yassin Farah (Amal Express)
- Mr. Mustafa I. Said (Dahabshiil)
- Mr. Mohamed Ahmed Kadiye (Qaran Express)
- Ahmed Salad Waranle (Al-Mustaqbal Express)

Administration Group

- Mohamed Djirdeh Hussein Chairman and Executive Director of The Council
- Sh. Ciise Ali Wardere Vice Chairman
- Cumar Cali Cabdallah Adminstration Assistant

Membership

Only corporate bodies may be become members. A company applying to be a member must meet the following conditions:

- The member itself and the persons it entrusts with the tasks of management and administration for it in the domain of money transmission business must enjoy a good reputation with regard to their activity as money transmitters.

- It and its agents must be registered or have a valid licence to conduct business as a money transmitter in all jurisdictions where they operate that have such requirements.

- It must not use correspondents that are not registered or do not have licences in jurisdictions where this is required.

- It must have a viable, written and verifiable compliance handbook and programme that meets requirements of all the countries they operate in.

- It must operate in compliance with all applicable legal and regulatory requirements, and cooperate with law enforcement agencies when called upon.

- It must use money transfer technology and procedures and controls that effectively protect the operator and its agents from money launderers and financiers of terrorism.

- Members must use technology, systems and procedures that have been approved for the purpose by the Council.

Application for membership

- The Council may stipulate the manner in which applications may be made.

- An application must contain a written declaration that the applicant agrees unreservedly to comply with the Articles of Association, bye laws and rules and regulations of the Association.

- An applicant for membership shall provide with its application documentation providing information on its organisational structure and business activity. At a minimum, this shall include:
  Registered company name;
  Particulars of its corporate objectives and activities;
  A copy of its memorandum and articles of association or equivalent documents;
  Full contact details of places of business (address, telephone number, email address) and money transmitter networks, including details of all agents;

- The names of the proprietor or beneficial owners, the members of the management and authorised signatories, together with their respective shareholdings; Information on membership of trade associations;

- Details of licences or registration for all jurisdictions in which the member operates.

- The Council shall accept an application if it satisfied itself that the applicant meets the requirements of these Rules. Otherwise, the application shall be rejected.

- If the Council rejects the application, the applicant may appeal to an independent arbitrator as provided for in paragraph 18 of these Rules.

Compliance audits

- The Council shall make Rules governing compliance audits.

- All full members shall have a satisfactory compliance audit not later than 31 October 2006. After 31 October 2006 an applicant for membership must have had a satisfactory compliance audit.

- Members will be required to have a full compliance audit every year.
  A member that fails to have a satisfactory compliance audit in accordance with the Rules made by the Council shall automatically cease to be a member.

Standards for remaining a member

- Members must at all times satisfy and comply with the membership standards as stipulated by the Council.

- A member falling behind more than 30 days in their dues shall lose their membership. Should the member be reinstated within 12 months of such a lapse, the intervening months must be paid up.

- The Executive Director shall periodically check the information available from public sources to ascertain whether members continue to satisfy the conditions for membership.

Expulsion from membership or imposition of conditions

- The Council may expel a company from membership if it fails to comply with the Articles of Association or rules, regulations or bye laws made by the Council.

- The Council will notify a member of any proposal to expel it and the reasons for doing so and shall invite the member to make representation to the Council at the meeting when the expulsion is considered.

- The Council, as an alternative to expulsion, may impose conditions which a member must meet in order to retain membership.

- If the Council resolves to expel a member or to impose conditions which must be met in order to retain membership, the member may appeal to an arbitrator as provided for in paragraph 18 of these rules.

Arbitration

- The Council shall appoint an independent arbitrator who will be empowered to hear appeals against decisions of the Council on membership, expulsion or the imposition of conditions on membership.

- The decision of the Arbitrator will be binding on the Association and the company.

Composition of the Council

- The Council may determine its size.

- The Council may determine its quorum subject to this being no fewer than half the members of the Council.

- The founder members of the Association and any other members paying the maximum subscription shall each be entitled to nominate a member of the Council.

- The Council may co-opt additional members of the Council.

- The Council shall appoint a Chairman from among its members.

Powers of the Council

- The Council shall decide on all matters which are not wholly reserved to the general meeting of the Association.

- The Council may delegate any of its powers to another committee or to an individual.
  The Council shall, where necessary, issue rules laying down the powers of the other committees and organisational units.

- The duties of the Council include, in particular:
  laying down, coordinating and supervising the various functions;
  issuing and amending the Rules; formulating compliance, training and development plans and arranging for their implementation;

- Deciding on the appointment of auditors for verifying compliance with the membership requirements;

- Taking decisions to accept or to expel members or to impose conditions on membership;

- Appointing and terminating the contract of the Executive Director and any other staff; appointing the members of committees;

- Selecting and appointing the auditor to the Association;
  managing the assets of the association;

- Drawing up the annual budget at the proposal of the Executive Director and fixing the membership subscription;

- Preparing and presenting motions to be put to a general meeting.

- The Council shall also determine which persons are authorised to represent the Association and the manner in which the legally binding signature of the Association is to be exercised. The Council shall determine when and where its meetings shall be held, including holding meetings by electronic means.

Executive Director

- The Council shall appoint an Executive Director, to be responsible for the management of the Association, and shall determine the terms and conditions of the appointment. The Council may delegate any of its functions to the Executive Director.

Associates

- The Council may make rules allowing companies and other organisations that do not qualify for full membership to become associates of the Association, and to determine the fees to be paid and the rights and obligations of associates.

- An associate will have no membership rights and may not describe itself as a member of the Association.

Meetings of members

- The Association shall hold an annual general meeting not later than six months after the end of each financial year.

- At least one third of the members of the Association, or the Council, may at any time require the Executive Director to convene a general meeting.

- In convening such a meeting the Executive Director shall give not less than 21 days' notice to members of the business to be transacted.

- At general meetings of the Association each member shall have one vote for each $1,000 of subscription income.

- The Council shall present an annual report of its activities to the annual meeting.

A meeting of members shall have the following **powers:**

- To expel a member for non-compliance with these Rules where the Council has failed to act of a recommendation of the Executive Director to do so.

- To remove a member of the Council.
  To amend these Rules and any other rules, regulations or bye laws made by the Council.

<u>Enhanced due diligence – compliance initiative</u>

SAMSA counterparts in Minnesota considered the issue of how to demonstrate enhanced due diligence through a certification scheme. They compiled the list below with Sunrise Bank and the American Refugee Committee during early 2012:

- Ability to produce suspicious activity reports on a regular basis (on transaction amounts, frequency of transactions, recipients who receive money from multiple sources and senders who remit to multiple receivers)

- Documented beneficial ownership structure (including within US and links to international partners/counterparts)

- Documented spot checks of agents

- Documenting and functional training program for agents that covers topics of compliance and due diligence

- Evidence of 'know-your-agent'

- Participation in certification training on an annual basis
- Proof of registration
- Proof that the organisation meets audit requirements and uses auditors approved by the bank
- Willingness to collect specific information about each remittance transfer, including purpose of transfer, full name and birthdates of senders and recipients
- Willingness to provide banks or regulators with detailed transaction reports that include these elements