THE 19TH EDITION OF THE INTERNATIONAL CONFERENCE
EUROPEAN INTEGRATION
REALITIES AND PERSPECTIVES

A Synoptic Analysis of the Regulation and Use of Mobile Money Services in South Africa

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Abstract: The use of innovative financial technology (fintech) products such as mobile money is increasing in South Africa post the corona virus (covid-19 pandemic). Telecommunications companies and other financial institutions are providing mobile money services to millions of people, especially the poor and low-income earners in South Africa. Mobile money is crucial in aiding financial inclusion for the poor and other economically marginalised persons in South Africa. Any person who has a mobile phone can open a mobile money account and be able to send and receive money. Mobile money allows individuals to, inter alia, pay for products and services in retail outlets, keep money in their mobile wallets and send value to other people using mobile phones. However, despite the numerous advantages of mobile money, it is currently inadequately regulated in South Africa. There is no legislation that expressly regulate mobile money products in South Africa. Consequently, there are concerns that mobile money could be a conduit for illicit financial flows, money laundering and/or terrorism financing purposes in South Africa. Notably, between 2020 and 2021, millions of rands were reportedly channeled out of South Africa through mobile money platforms to fund terrorist activities in some parts of the African continent. In light of this, this article discusses statutes such as the Financial Intelligence Centre Act (FICA) and the Regulation of Interception of Communication and Provision of Communication-related Information Act (RICA) to evaluate their strengths and weaknesses. It is submitted that the current South African financial regulatory framework is not robust enough to effectively regulate fintech products such as mobile money. It is further submitted that the policymakers should to enact a specific statute to effectively regulate and promote the lawful use of mobile money services in South Africa.

Keywords: fintech; mobile money; the poor; regulation; financial inclusion

1. Introductory Remarks

Although the use of mobile money services continues to grow, effective regulation has lagged behind posing significant threats to financial markets integrity and financial stability in the South African financial sector. Mobile money combines telecommunications and financial sector domains, making it difficult for the regulatory authorities to regulate (Molla & Biru, 2023, pp. 5-6; Alexandre & Eisenhart, 2013, p. 287). Nonetheless, mobile money adds diversity to the financial services markets in

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jurisdictions and countries where it is used such as South Africa. While mobile money can be described as a disruptive financial technology (fintech), it brings about affordable, convenient, quick and relatively safe financial services, especially to the poor, unbanked and low-income earners in South Africa (Bu, Li & Wu, 2022, pp. 752-754; Buckley, Greenacre & Malady, 2015, p. 437). Accordingly, mobile money effectively promotes financial inclusion for unbanked and financially underserved persons in developing economies such as South Africa (Klein & Mayer, 2011, pp. 2-4). Financial inclusion refers to the provision of sustainable, convenient, affordable and useful financial services and products to all persons within a safe and adequately regulated environment (Torerai, 2022, pp. 4-5; Mukoka & Chipanga, 2021, pp. 1723-1724; Chitimira & Magau, 2021, p. 2). The World Bank Group provides that financial inclusion occurs when individuals and businesses have access to useful and affordable financial products and services that are delivered in a responsible and sustainable manner (The World Bank Group, 2022).

Financial exclusion is the antithesis of financial inclusion. It occurs and manifests when people, especially the poor and low-income earners, do not have access to cheap, convenient and useful financial services and products (Wentzel, Diatha & Yadavalli, 2016, pp. 204-210). The access to financial services and products for the poor and economically marginalised persons could reduce poverty and stimulate economic activities that can generate jobs (Louis & Chartier, 2017, pp. 177-196). In South Africa, the poor includes vulnerable individuals who are excluded from participating in the country's formal economy (Louis & Chartier, 2017, pp. 181-196). The poor could also refer to persons at the bottom of the socio-economic pyramid of their countries (Wentzel, Diatha & Yadavalli, 2016, pp. 204-210). Put differently, the poor could be individuals that financial institutions such as banks have not found profitable enough to serve or provide them with the necessary financial services and products. The poor may further include economic migrants who often find it difficult to access basic financial services and products in foreign countries (Winn, 2013, pp. 207-208). South Africa has a fairly large community of migrants who are participating in the mobile money value chain.

2. The Definition of Mobile Money

There is no standard definition of mobile money. However, it could be defined as a form of electronic financial service that connects consumers financially through mobile phones (Lawack, 2013, pp. 319). It also refers to electronic money whose value is either stored on a mobile phone or linked to a mobile phone account that a consumer obtains upon registering for mobile money services (Kersop & Du Toit, 2015, pp. 1612-1613). Mobile money generally consists of financial services and telecommunications services (Goldby, 2013, pp. 403). Thus, mobile money is a financial service delivered through the use of mobile phones without the need for bank accounts (Chitimira & Torerai, 2021, pp. 2-3). For the purposes of this article, mobile money refers to electronic financial services delivered through the use of mobile phones or any other hand-held electronic devices that connect to a mobile network through a subscriber identity module (SIM) card, without the need for bank accounts (Chitimira & Torerai, 2023, pp. 241-258). In this regard, mobile money is not the same as electronic banking and/or mobile banking. Electronic banking refers to the use of electronic delivery channels for banking products and services such as using bank applications on a mobile phone to check balances or transact (Lawack-Davids, 2012, pp. 318-319). While electronic banking or mobile banking is available to bank account holders, mobile money provides a primary access point to financial services for the poor and unbanked persons through mobile phones in most developing countries such as South Africa.

3. The Importance of Mobile Money Services

Mobile money is largely driven by innovations in the information communication technologies (ICTs) and the fourth industrial revolution (4IR) (Andrianaivo & Kpodar, 2011, pp. 3-21). Besides promoting financial inclusion for the poor and unbanked persons, mobile money helps people to withstand disasters and socio-economic challenges. For instance, mobile money provided safe and convenient access to financial services and financial products to many people during the coronavirus pandemic (covid-19) (Chitimira & Torerai, 2023, pp. 384-403; Torerai, 2022, pp. 13). People relied on mobile money to transact in the comfort of their homes to avoid the risk of transmitting or contracting the covid-19 virus through the exchange of notes and coins and standing in queues at shopping centres (Chitimira & Torerai, 2023, pp. 384-403; Torerai, 2022, pp. 13; Mann, 2020, pp. 177-182; Kasradze, 2020, pp. 50-61).

It appears mobile money is more utilised in developing countries than in developed countries (Lumsden, 2018, pp. 26-28; Klein & Mayer, 2011, pp. 2-32). In other words, the adoption and use of mobile money takes geo-economic and geo-political dimensions that are more prevalent in the global south than in the global north (Gukurume & Mahiya, 2020, pp. 1205; Klein & Mayer, 2011, pp. 2-32). Accordingly, it is not the financial capitals such as London, New York or Beijing but townships in cities such as Johannesburg, Nairobi and Harare that lead the charge in the use of mobile money services in the global south (Klein & Mayer, 2011, pp. 2-32). In this regard, developing countries provide better lessons on the regulation and use of mobile money than their developed counterparts. There are several reasons for this but for the purposes of this article, we argue that mobile money is possibly the best route towards financial inclusion for the historically economically disadvantaged and financially excluded poor persons (Gukurume & Mahiya, 2020, pp. 1205-1206; Lumsden, 2018, pp. 27-28; Klein & Mayer, 2011, pp. 3-4). The poor and low-income earners in most developing countries such as South Africa have remained on the fringes of the financial services value chain with limited or no access to formal banking services (Lumsden, 2018, pp. 7-8).

In the global north, financial inclusion is not a pressing policy imperative given that there are more people with bank accounts than those without. Thus, the use of mobile banking merely adds convenience to bank account holders rather than the promotion of financial inclusion (Goldby, 2013, pp. 404-405). On the contrary, most countries in the global south are trying to improve financial inclusion through the promotion of both mobile money and mobile banking (Louis & Chartier, 2017, pp. 184-185). South Africa is a case in point through its reliance on the low cost Mzansi account facility that was designed for the poor and low-income earners (Louis & Chartier, 2017, pp. 184-185; Tomilova & Valenzuela, 2018, pp. 42). However, South African mobile money accounts initiatives were not very successful. For instance, the Mzansi account initiative was a monumental flop because it failed to redress financial exclusion in South Africa (Louis & Chartier, 2017, pp. 184-185).

While the use of mobile money and other fintech products do not change the traditional purposes and security principles of any financial transaction, it could give rise to new potential risks to the proper regulation of the South African financial services sector (Bu, Li & Wu, 2022, pp. 752-754). Such risks include money laundering, terrorism financing, fraud, cyber-attacks, reckless credit lending and other consumer protection challenges (Bu, Li & Wu, 2022, pp. 752; Winn & De Koker, 2013, pp. 156-163; Zhou, Arner & Buckley, 2015, pp. 25-62). These risks have the potential to erode financial markets integrity and stability. Therefore, the South African financial sector should be effectively regulated to combat all systemic financial risks and financial crimes.

Against this background, it is crucial to note that regulating mobile money services using the traditional financial regulatory framework does not effectively address many potential risks innovative fintech products present to financial markets. Thus, the absence of an adequate mobile money statutory regulatory framework poses numerous risks to financial markets stability, financial integrity and consumer protection in South Africa.

4. Overview Background on the Use of Mobile Money in South Africa

A huge factor driving the success of mobile money services in the developing world is the high number of mobile phone subscriptions. The Independent Communications Authority of South Africa (ICASA)'s 2023 report shows that there are over 90 million active mobile cellular phone subscriptions in South Africa (ICASA, 2023, pp. 40-41). This marks an increase from 64 million active cell phones recorded in the previous year (ICASA, 2023, p. 41). Statistics South Africa estimates that there are currently about 62 million people in South Africa (Statistics South Africa, 2023). The number of active mobile phones in South Africa could indicate a high adoption and use of mobile money. Some individuals have multiple subscriptions either with the same mobile network service provider or across networks. Importantly, South Africa has a fairly even distribution and ownership of mobile phones between the rich and the poor, and the urban dwellers and those in rural areas and/or informal settlements (Chitimira & Magau, 2021, pp. 8-22). The number of mobile money subscriptions has also shown an exponential increase particularly since the outbreak of the covid-19 pandemic. It is possible that the growth in mobile phone subscriptions is also driven by the desire to access fintech products and promote financial inclusion in South Africa.

Mobile money services are predominantly offered by mobile network operators (MNOs) or telecommunications companies (telcos) such as Vodacom and MTN in South Africa, Safaricom in Kenya and Econet in Zimbabwe (Kersop & Du Toit, 2015, p. 1615). Such mobile money platforms are usually termed MNO or telco or operator-led models. Other platforms are bank-led or bank-centric models while others are collaborative or partnership arrangements between MNOs and banks (Kersop & Du Toit, 2015, pp. 1615-1617). South Africa has had a fair share of the three mentioned models with varying degrees of success for each of them. Some of the mobile money platforms that were launched but could not succeed in South Africa include WIZZIT and M-Pesa ("M" here refers to mobile and "Pesa" refers to money or payment in Swahili). The WIZZIT platform was used to target the poor and unbanked individuals in South African townships with a view to encourage them to open bank accounts (Kobor, 2013, pp. 308-316; Lawack, 2013, p. 320). Nonetheless, WIZZIT did not succeed. In an attempt to replicate Kenya's M-Pesa, one South Africa's major banks, Nedbank, partnered Vodacom and launched M-Pesa in 2010 (Abrahams, 2017, pp. 653; Lawack, 2013, pp. 321). However, the project failed to attract users despite several relaunches and it was discontinued in 2016.

MTN's Mobile Money (MoMo) was another mobile money platform that also failed to attract more customers in South Africa between 2010 and 2016. Nevertheless, in 2019, MTN relaunched the MoMo platform in partnership with Ubank (Torerai, 2022, pp. 141; Shapshak, 2020). The relaunch occurred about the same time when the covid-19 pandemic reached South Africa (McLeod, 2020). Although MoMo is an MTN platform, people who use other mobile telephone networks can still use it, albeit with limited features. Momo subscribers can send and receive money to and from other MoMo users. They can cash-in and cash-out at Momo agents and cash-out at automated teller machines (ATMs). MoMo subscribers can also buy airtime, data bundles, pay for products and services from participating retailers, buy prepaid electricity and paying for digital satellite television (DStv) accounts. A major selling point for the MoMo platform is the fact that it is zero-rated, meaning subscribers can use it without the need for airtime or data. MoMo subscribers have the option to download the MoMo application on their cellphones or dial the Unstructured Supplementary Service Data (USSD) code *120*151# to access its functions and services. Significantly, the use of the USSD allows those without smartphones to access and use MoMo services. Additional services continue to be added on the MoMo platform. In January 2023, MTN reported that it had started offering personal loans to MoMo users ranging from R2 000 to R180 000 (Klein & Mayer, 2011, pp. 5-32, for related comments). These loans are offered in partnership with Lndr Business Credit (Pty) Ltd, a registered credit provider in South Africa. Unlike other credit or loan facilities that take long before processing applications, MoMo users get notified of the outcomes of their loan applications within a 24 to 48 hours period (Klein & Mayer, 2011, pp. 5-32, for related comments). Owing to these and other factors, the MoMo platform has exponentially grown and attracted many customers. At the beginning of 2023, the MoMo had about 6.2 million subscribers. This number of MoMo subscribers it projects a picture that about 10 percent of people in South Africa use mobile money services and this has improved many people's access to financial products and financial services (Klein & Mayer, 2011, pp. 5-32). MTN is forging several partnerships with other role-players to enhance the provision of affordable, inclusive, convenient and fast digital financial services, especially to the poor and small businesses in South Africa (Klein & Mayer, 2011, pp. 5-32).

5. The Regulatory Nexus Between Mobile Money, Financial Stability, Financial Integrity and Financial Consumer Protection in South Africa

The use of mobile money creates a double-edged sword effect on regulators. On one hand, restrictive regulation tends to hinder fintech products such as mobile money from functioning well. On the other hand, relaxed regulation opens up floodgates of adverse risks that affect the integrity and stability of financial markets. The fact that mobile money services comprise a financial service and a telecommunications service creates more regulatory challenges. Accordingly, the financial service element should comply with certain anti-money laundering (AML), know your customer (KYC), customer due diligence (CDD) and transactions record keeping in line with the Basel Committee and the Financial Action Task Force (FATF) recommendations (Goldby, 2013, pp. 403; Chatain, et al, 2011, pp. 9-183). Accordingly, mobile money service providers should have adequate knowledge of their clients (De Koker, 2009, pp. 325). Thus, there is need to verify the identity of their mobile money consumers.

The telecommunications element is regulated separately, making it difficult for effective supervision of mobile money services. Consequently, there are various challenges regarding the best approach that regulators should adopt in order to effectively supervise mobile money services. South African policymakers have been struggling to adopt effective polices and approaches for the adaptation of banking laws and/or regulations to mobile money services (Alexandre & Eisenhart, 2013, pp. 297; Klein & Mayer, 2011, pp. 5-20).

Currently, South Africa does not have a statute that expressly regulate mobile money services (Kersop & Du Toit, 2015, pp. 1617). Using the traditional financial regulatory framework is not enough to effectively combat possible risks that could be caused by fintech products such as mobile money (Bu, Li & Wu, 2022, pp. 752). These risks include money laundering, terrorism financing, fraud, reckless lending and violation of consumer privacy (Kernan, 2018, pp. 1119). Moreover, the aforesaid risks could negatively affect financial stability, financial markets integrity and consumer protection. Leaving mobile money services without adequate regulation could destabilise financial markets in South Africa. While mobile money is critical in promoting financial inclusion for the poor in South Africa, the financial inclusion objective should be carefully balanced with other objectives such as financial stability, financial integrity and financial consumer protection (Tomilova & Valenzuela, 2018, pp. 2-3). International standard-setting bodies have introduced the I-SIP objectives (Chitimira & Torerai, 2023, pp. 241-258; Tomilova & Valenzuela, 2018, pp. 2-3). Put differently, financial inclusion has a symbiotic relationship with financial stability, financial integrity and consumer protection. The regulation of mobile money in light of the other I-SIP objectives is briefly discussed below.

5.1. Mobile Money and Financial Stability

Financial stability is generally a state in which the financial markets are resistant to economic shocks and are fit to fulfil their basic functions such as financial intermediation, risk management and process payments (Tomilova & Valenzuela, 2018, pp. 48). The Consultative Group to Assist the Poor (CGAP) defines financial stability as a situation in which the governance framework of the financial market and its financial infrastructure promote the smooth and sustainable operation of the financial system to promote economic growth (CGAP, 2017). Mobile money predominantly serve the poor and low-income earners who transact relatively small amounts. Consequently, the sheer volume of amounts transacted in mobile money services poses significantly less systematic risk to financial markets integrity and financial stability (Kemp & Buckley, 2017, p. 1541). Thus, despite the extensive use of mobile money, it accounts for a very small percentage of the total value of funds in accounts and electronic payments in South Africa (Kemp & Buckley, 2017, p. 1541). Apart from giving the poor and other financially excluded persons a chance to access the mainstream financial sector, mobile money also provides such persons with a chance to understand sophisticated financial products and financial services better (Kemp & Buckley, 2017, p. 1542). Additionally, mobile money reduces the risk of cash-in-transit heists, muggings and robberies which affect the financial services sector where cash is utilised. Thus, mobile money is a safer alternative to the use of cash (Kemp & Buckley, 2017, p. 1541). Therefore, mobile money may provide consumer confidence, trust and security which are crucial in promoting financial stability (Kemp & Buckley, 2017, pp. 1542-1543). In this regard, the use of mobile money serves as an alternative to cash and its attendant challenges such as corruption, muggings, robberies and cash-in-transit heists which in turn enhance financial markets stability in South Africa.

5.2. Mobile Money and Financial Integrity

Financial integrity refers to good governance of financial markets in order to combat transnational organized crime, corruption, illegal trade in natural resources, money laundering and terrorist financing (Winn, 2013, pp. 200-206; Tomilova & Valenzuela, 2018, pp. 48). Financial integrity requires robust enforcement of AML, KYC, CDD and counter-terrorist financing (CTF) measures mainly through prudential regulation. However, any rigid enforcement of AML, KYC, CDD and CTF measures will hinder the growth and lawful use of mobile money services in South Africa on two fronts. Firstly, mobile money service providers may consider it too costly to continue to operate or expand their services to reach financially excluded persons, especially those who resides in rural areas, townships and informal settlements. Secondly, the majority of mobile money users are poor persons who may not have the necessary documents and financial resources to meet AML, KYC, CDD and CTF requirements. Such persons could continue suffering from financial exclusion. This will force them to resort to unregulated and informal financial services. There is an established nexus between the poor and financial exclusion. For instance, the poor persons are likely to be unbanked, low-income earners and illiterate while the rich persons are banked in South Africa (Wentzel, Diatha & Yadavalli, 2016, p. 205; De Koker, 2009, p. 346). Accordingly, policy makers should carefully balance financial inclusion and financial integrity objectives.

The absence of an adequate statute that expressly regulates mobile money services has negatively affected financial markets integrity in South Africa. The current AML requirements in South Africa exempt all relevant persons from reporting cash transactions below R50 000 (section 28 of the Financial Intelligence Centre Act 38 of 2001 (FICA); section 22B of the Amendments to the Money Laundering and Terrorist Financing Control Regulations under the FICA "FICA regulations"). Owing to these FICA regulations, unscrupulous individuals who want to illegally process high volume transactions of money using mobile money services may simply divide their money into smaller amounts using many mobile money accounts and/or mobile phones to commit financial crimes such as money laundering and terrorist financing. In other words, criminals "split" or "smurf" the amounts they want to transact in order to circumvent the FICA regulations (De Koker, 2009, pp. 330-331). The use of mobile money in international remittances has increased greatly in recent years. For instance, it is reported that between 2020 and 2021 about R6.3 billion was sent out of South Africa using about 57 000 cellphone numbers (Hyman, Hosken and Makhetha, 2023). Of the said amount, about R400 million is reported to have been illegally syphoned out of South Africa between 2020 and 2021 through mobile money and other fintech-induced transactions (Hyman, Hosken & Makhetha, 2023). Some of the money is alleged to have been used to fund several terrorist attacks that killed eleven people and left 39 others wounded in Uganda in 2021 (Hyman, Hosken & Makhetha, 2023). This could have been exacerbated by the current R50 000 reporting threshold which creates loopholes for smurfing in South Africa. Accordingly, the weaknesses in the regulation of mobile money services could have contributed to the grey-listing of South Africa by the Financial Action Task Force (FATF) in 2022. Policymakers should consider revising the current R50 000 transaction reporting threshold limit under FICA in order to discourage smurfing. This revision should be carefully done in a way that does not stifle financial innovation, financial integrity and financial inclusion of the poor and low-income earners in South Africa.

5.3. Mobile Money and Financial Consumer Protection

Consumer protection entails that financial consumers should have relevant and sufficient information to make informed decisions to curtail unfair practices by service providers and ensure that consumers have access to effective recourse mechanisms to resolve disputes (Chitimira & Torerai, 2023, pp. 241-258). Financial consumer protection refers to the utilisation of measures that promote the rights of all clients to empower them to make informed decisions and protect them from any actions that hinder them from enjoying the benefits of financial products and financial services such as credit, payments, deposits, insurance, savings and remittances (CGAP, 2017). South Africa has several statutes that guarantee consumer protection to all individuals. The Protection of Personal Information Act 4 of 2013 (POPIA) provides for the constitutional right to privacy by setting up parameters upon which the individual's personal information may be obtained, accessed used (section 2 of the POPIA). Moreover, the Consumer Protection Act 68 of 2008 (CPA) also protects consumers from rogue service providers, unfair business practices, deception, misleading and fraudulent business conduct (section 3(1)(d)(i)-(ii) of the CPA).

6. The Mobile Money Regulatory Framework in South Africa

There is no statute that expressly regulates the use of mobile money in South Africa. This and other aspects are explored below to investigate the legal use of mobile money services in South Africa.

6.1. The Regulation of Mobile Money Under the FICA

As stated above, the FICA regulations provide that the minimum amount of R50 000 cash transaction should be reported to the Financial Intelligence Centre "FIC" (section 28 of the FICA; section 22B of the FICA regulations). This R50 000 reporting threshold leaves room for criminals to transact in smaller amounts in a bid to avoid detection of their illicit financial activities. Some unscrupulous persons used mobile money transactions to illegally move huge sums of money (smurfing) without being detected by the FIC (Hyman, Hosken & Makhetha, 2023). It appears South Africa is becoming a haven for criminals and terrorists that illegally move money through mobile money services in amounts below the prescribed reporting threshold of R50 000 under the FICA (sections 30 and 31).

The FICA requires financial institutions and mobile money service providers to establish and verify the identity of their customers for KYC and CDD purposes (sections 21, 22 and 22A of the FICA). Nonetheless, the FIC and other financial institutions have so far struggled to consistently provide a rigorous enforcement of KYC and CDD measures, especially on mobile money users. This could be exacerbated by the fact that South Africa has a lot of poor people such as asylum seekers and undocumented foreigners who do not have documents required for KYC and CDD processes (De Koker, 2006, pp. 42). The poor, unbanked and low-income earners are often forced to use informal financial services and engage in identity fraud in a bid to access financial services and financial products (Chitimira & Magau, 2021, pp. 1-20). For example, the requirement to produce proof of residence as part of AML/CTF measures is very difficult to comply with for the poor and low-income earners who stay in informal settlements and rural areas in South Africa (sections 22 & 22A of the FICA; De Koker, 2006, pp. 42-43). Moreover, the reliance on identity documents and/or passports to determine the identity of financial consumers is not enough to enhance the detection of money laundering and/or terrorist financing activities by the FIC and financial institutions in South Africa (De Koker, 2004, pp. 723). Accordingly, more needs to be done by the FIC, banks and other financial institutions to detect and ascertain the source of all their financial consumers' funds to curb financial crime activities such as money laundering and terrorist financing (De Koker, 2004, pp. 723). The FIC and other role-players should adopt and enforce adequate measures to detect and combat smurfing.

6.2. The Regulation of Mobile Money Under the RICA

Mobile money refers to financial services and financial products that are accessed and processed through cellphones or other hand-held devices that are connected to a mobile telephone network. All persons may lawfully utilise a mobile network service after subscribing to it in terms of the RICA. This subscription is a form of licensing that enable service providers to know their subscribers. In this regard, everyone who holds a subscriber identity module (SIM) card should be registered in South Africa (sections 39-40 of the Regulation of Interception of Communications and Provision of Communication-Related Information Act 70 of 2002 "RICA"). Thus, when an individual purchase a new mobile phone or SIM card, that person's details such as cell phone number, full names, device identity number and residential address are captured before the phone or SIM card is activated (sections 39-40 of the RICA). Furthermore, upon losing the SIM card through destruction, theft or any other means, the owner is obliged to report such information to the police and/or network provider (section 41 of the FICA). However, there are several challenges and loopholes in the SIM card registration process which gives rise to, *inter alia*, identity fraud and corruption in South Africa (Chatain *et al*, 2011, pp. 56-183). Consequently, the inconsistent enforcement of the RICA provisions will cause individuals to buy activated SIM cards which might be used to commit financial crimes in South Africa (De Koker & Jentzsch, 2013, pp. 271). Policymakers should come up with mechanisms to strengthen the RICA provisions in order to curtail illegal activation of SIM cards which could be used to commit financial crimes in South Africa. They should also consider adopting artificial intelligence (AI) measures that detect fraudulently registered SIM cards that are used to commit financial crimes.

7. Concluding Remarks

Mobile money is mostly used by the poor and low-income earners in South Africa. However, the regulation of mobile money has remained problematic to regulatory bodies and other related enforcement authorities in South Africa to date. For instance, as indicated before, about R400 million was syphoned out of South Africa through mobile money services to fund terrorist activities in countries such as Uganda between 2020 and 2021. Nonetheless, no arrests and/or prosecution of the perpetrators has been made by the relevant authorities to date. This is exacerbated by the absence of an adequate statute that expressly regulates mobile money in South Africa. In light of this, it is submitted that the South African policy makers should carefully consider enacting an adequate mobile money statute to promote the lawful use of mobile money services among all persons in South Africa. This approach could also enable the regulatory bodies and/or enforcement authorities to detect, investigate and curb money laundering, terrorist financing and other illicit financial crimes. The stated mobile money statute should be consistently and carefully enforced to avoid overregulation and the proliferation of financial crimes in the South African financial sector. Another option is for policymakers to amend the FICA in order to enact adequate provisions that expressly regulate mobile money services.

The FICA and other relevant statutes should be effectively enforced to encourage the lawful use of mobile money to promote financial inclusion of the poor, unbanked and low-income earners. This should be well implemented to ensure that the objectives of financial stability, financial integrity and consumer protection are protected at all times. These I-SIP objectives should be equally promoted together with the policy goal of financial inclusion.

Policymakers should consider applying AI and other related technologies to enhance the regulation of mobile money services in South Africa. AI technology should be effectively employed to curtail the use of unregistered SIM cards when processing mobile money transactions. The RICA should be consistently enforced to ensure that all people use SIM cards that are registered in their names in order to eradicate ghost mobile money accounts that are normally used to perpetrate financial crimes. Policymakers should also consider changing the R50 000 transaction limit for FICA reporting purposes in order to curb smurfing. This can be achieved by amending the FICA to introduce provisions that specifically deal with the continuous monitoring of mobile money transactions in South Africa.

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