

**Financial Inclusion and Consumer Protection in Peru**  
*The branchless banking business*

*Joint assessment report*  
*Superintendence of Banks, Insurance and AFPs*  
*Consultative Group to Assist the Poor*  
*February 2010*

## Executive summary

As part of its Global Policy Initiative, CGAP<sup>1</sup> partnered with the Superintendence of Banks, Insurance and AFPs of Peru in late 2008, with the purpose of enhancing the understanding of the issues and trends in consumer relations when financial services are delivered through branchless banking, particularly through agents, which are used in ever increasing scale in Peru. The product was this joint report.<sup>2</sup>

Three other countries with relevant experience in branchless banking (Kenya, Brazil and India) participated in a similar exercise at approximately the same time. As in the case of Peru, the exercise gave an opportunity for regulators of each jurisdiction to look at their regulatory and institutional framework for protecting branchless banking users, evaluate their regulatory and supervisory actions, and identify areas for improvements.

A forthcoming CGAP Focus Note complements the effort, by making an overall evaluation of the lessons learned in these countries and drawing on the knowledge from other pioneer countries such as South Africa, Mexico, Colombia and the Philippines. The Focus Note will point out and address priority areas of concern and possible regulatory and policy options to address them.<sup>3</sup>

The Superintendence and CGAP coordinated closely on data and information gathering, as well as on writing this report.<sup>4</sup> The first part of the report outlines the financial inclusion efforts currently being undertaken by the Superintendence. The following section summarizes the most important points of the legal and regulatory framework for financial consumer protection, pointing out any specificity of branchless banking. The third part describes the branchless banking business in Peru and describes the issues and problems identified in the relationship between branchless banking clients and providers, and the supervisory and enforcement implications. The last section draws conclusions and makes recommendations for achieving a balance between openness to innovation and protection in a branchless banking environment.

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<sup>1</sup> CGAP is an independent policy and research center dedicated to advancing financial access for the world's poor. It is supported by over 30 development agencies and private foundations who share a common mission to alleviate poverty. Housed at the World Bank, CGAP provides market intelligence, promotes standards, develops innovative solutions and offers advisory services to government, microfinance providers, donors and investors. Its mission is to build efficient and equitable local financial markets that are integrated into the mainstream financial system and that serve all the unbanked, including very poor and harder-to-reach clients with ever more innovative, convenient, and affordable financial services. For more information about CGAP, visit [www.cgap.org](http://www.cgap.org).

<sup>2</sup> The authors of this report are Giovanna Prialé Reyes, Head of Supervision of Services to the User, Superintendence of Banks, Insurance and AFPs and Denise Dias, Policy Specialist at CGAP.

<sup>3</sup> Branchless Banking and Consumer Protection: Issues and Policy Options. CGAP Focus Note, forthcoming.

<sup>4</sup> Unless otherwise noted, data were collected by the Superintendence, analyzed and provided to CGAP in a consolidated basis only. CGAP had no access to information of individual financial institutions.

**Table of contents**

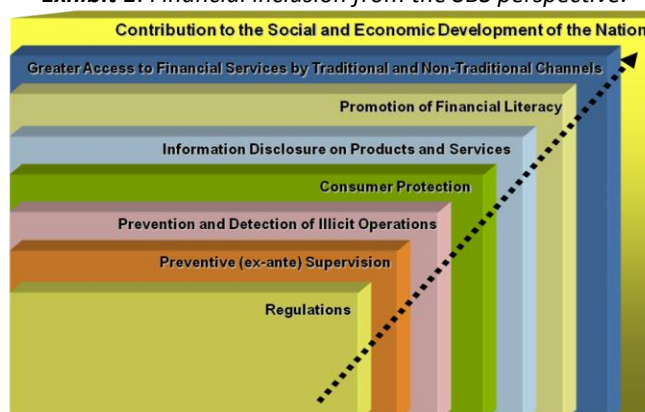
1	Introduction: Financial Inclusion from the Regulator’s Perspective.....	4
2	Regulation and Supervision Focused on Consumer Protection.....	6
2.1	Consumer protection and conduct of business regulation.....	6
2.2	Supervision and sanctioning powers .....	10
2.3	Mechanisms for grievance resolution.....	12
2.4	Main issues for financial consumers .....	13
3	Delivery Channels: The Branchless Banking Business in Peru.....	15
3.1	Retail agents.....	16
3.2	Other branchless channels.....	20
3.3	Regulatory provisions on branchless banking.....	21
3.4	Complaints and observed problems in branchless banking .....	24
	Conclusions and Recommendations.....	25

## 1 Introduction: Financial Inclusion from the Regulator's Perspective

The Peruvian Superintendence of Banks, Insurance and AFPs (SBS) has long recognized financial access as a policy priority, crucial for domestic financial system development and also for the country's social and economic development as a whole. Moreover, in the midst of the global financial crisis, SBS has expressly included financial capability as a powerful tool for pursuing and maintaining systemic stability, while permitting for greater inclusion.

Major measures have been adopted by SBS in the last few years with the purpose of expanding access to finance, including consistently improving the regulatory and supervisory framework for microfinance activities, which is now considered to be one of the most advanced in Latin America and even globally. In this context, the SBS's mission (illustrated by Exhibit 1) includes financial consumer protection and financial capability as perennial strategic goals.

**Exhibit 1:** Financial inclusion from the SBS perspective.



*Source:* SBS presentation prepared for the II Seminar on Global Leadership in Regulating Transformational Branchless Banking, CGAP, Windsor, 2009

Consumer protection and market conduct standards have been fully incorporated into SBS's functions and organizational structure, as they compose the overall risk evaluation of financial institutions. SBS starts from the assumption that consumers have little and sometimes no negotiating powers before financial institutions due to information asymmetries typical of financial services, making it necessary for a central government body to exercise negotiating power on behalf of consumers. This is done through regulation and supervision. Regulation aims at attenuating market failures and improving the behavior of financial services providers as a whole. The purpose of supervision is to ensure compliance with the rules set forth in the regulations, especially those related to transparency, disclosure and service quality.

SBS supports consumer protection by issuing regulations that are extensively discussed both internally and externally with several stakeholders. The focus of the regulatory and supervisory role in this area is ex-ante (i.e., prevention rather than correction) and noninterventionist. The objective is to foster behavior that minimizes the information asymmetry between client and provider and the risks (both moral and financial risks) for the consumer. Transparency and fair treatment are the two pillars of the regulatory and supervisory approach. The Peruvian

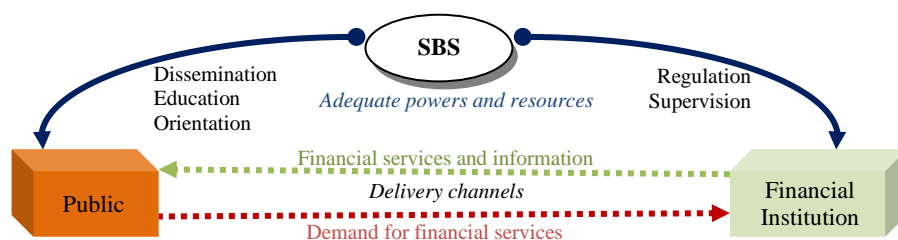
regulatory and institutional framework is well advanced in this area and is considered a reference to other jurisdictions where financial consumer protection is a major policy concern.

SBS has a specialized team of supervisors who are dedicated to ensuring compliance with consumer-focused regulations, particularly those on transparency issues. A variety of supervisory technologies is used, including a rating system that identifies the main risks in consumer protection and specialized onsite branch inspections. As the interface between customers and providers, branch and branchless delivery channels for financial services, such as automated teller machines (ATMs) and point-of-service (POS) devices, play an important role in shaping customer experience and in the level of compliance with consumer protection and transparency rules.

In addition to emanating rules and supervising financial services providers, SBS serves as a central source of information for the public in general, by publicizing prices and fees that are collected directly from providers in a standardized format. The information is posted at the SBS Web site and in newspapers and then used by the local media in a variety of ways, including to discuss market fairness and to create a mechanism of social control over pricing and market conduct.

Information and regulation are rightly complemented by other dissemination tools. Dissemination actions, from SBS's standpoint, have both long- and short-term objectives. New rules are put forth for public consumption and disseminated and commented by SBS in newspaper, radio, and TV interviews and articles. Moreover, SBS has a policy of answering questions posed by the public and the local media, to clarify certain points about regulatory measures and certain practices adopted by financial services providers. In addition to these short-term, low-cost, high-impact actions, SBS undertakes long-term, lower impact, high-cost actions. These include research to better inform regulatory shifts and in-depth analyses that are available to the general public; formal financial education targeting professors of the public educational system, and a new strategic initiative to identify financial capability (*cultura financiera*) needs in different social segments to help shape a national strategy for financial capability efforts undertaken by SBS and other actors.

These are intended to minimize the chances of and the appetite for noncompliance with the regulation. However, SBS acknowledges that involuntary or voluntary noncompliance will always happen, and the public needs a channel through which to satisfy queries about financial services and providers, and about the role of the regulator and other government bodies. For that end, SBS has an internal structure to deal with complaints and queries. Other government agencies, mainly the National Institute of Defense of the Competition and Protection of Intellectual Property (Indecopi), complement this service in areas SBS cannot act according to lack of legal competence, such as solving grievances between customers and providers (SBS has legal authority to solve only individual cases related to pension funds).

**Exhibit 2: The role the financial sector regulator in consumer protection**

Source: SBS, presentation at the Global Seminar on Consumer Protection and Financial Literacy, World Bank, Washington, DC, September 2008

Although resulting from an encompassing analysis of the main rules and supervisory practices for consumer protection as a whole, this report focuses on particular delivery channels: those that are outside bank branches (branchless banking), with emphasis on the use of agents. It analyzes the overall regulatory and supervisory framework vis-à-vis innovations in delivery mechanisms and suggests areas for improvement.

## 2 Regulation and Supervision Focused on Consumer Protection

### 2.1 Consumer protection and conduct of business regulation

The basic legal framework for general consumer protection are Law Decree 25868/92 (Consumer Protection Law) and Law Decree 691,<sup>5</sup> establishes many standards for marketing to protect consumers. According to the General Consumer Protection Law, Indecopi, through its Tribunal for the Defense of Competition and Intellectual Property, has enforcement powers over rules pertaining to competition, consumer protection, and intellectual property rights, in all sectors and industries including financial services. Such powers include the authority to conduct investigations, impose corrective measures, and levy sanctions.

By solving disputes between consumers and providers, Indecopi is intended to be an initial step in conflict resolution and an alternative to the judiciary, since consumers can seek the Judiciary only after going through Indecopi's dispute resolution process. Moreover, the Judiciary may be perceived by many customers as slow and unpredictable, and possibly not an efficient manner to solve disputes involving low-value financial services.

Law 26702/96 (Financial System Law),<sup>6</sup> art. 9, 28587/05 (Financial Consumer Protection Law),<sup>7</sup> and Resolution SBS 1765/05 (Transparency Resolution),<sup>8</sup> set the foundation for consumer protection in financial services. The Transparency Resolution is a comprehensive document that regulates in detail how price information must be disclosed to clients and the general public, with emphasis on interest rates. It is based on three pillars: customer service infrastructure, information and disclosure, and fair contractual terms between provider and client. This

<sup>5</sup> "Normas de la Publicidad en Defensa del Consumidor"

<sup>6</sup> "Ley General del Sistema Financiero y del Sistema de Seguros y Orgánica de la Superintendencia de Bancos y Seguros".

<sup>7</sup> "Ley Complementaria a la Ley de Protección al Consumidor en Materia de Servicios Financieros".

<sup>8</sup> "Reglamento de Transparencia de Información y Disposiciones Aplicables a la Contractación con Usuarios del Sistema Financiero".

framework is applicable to institutions licensed by SBS and gives SBS broad regulatory and enforcement authority, as well as sanctioning powers, in a number of issues ranging from transparency to service quality. SBS does not solve individual disputes between consumers<sup>9</sup> and providers (except in the private pension system), but has set up a mechanism for consumers to inform lack of compliance with the Transparency Resolution and related problems, such as misleading advertising.

Indecopi's and SBS's mandates may overlap to a certain extent, but in practice the two agencies have a well-defined division of labor in enforcement and a good level of coordination and information sharing. SBS concentrates its efforts in the preventive, based on the belief that well-regulated and supervised financial enterprises are more transparent and fair to their clients and the general public; Indecopi focuses its attention on corrective actions, that is, solving problems and disputes between a consumer and the financial service provider.

#### 2.1.1.1 Transparency and disclosure requirements

There are no caps on interest rates or fees charged by financial institutions. Instead, SBS believes that the regulatory focus should remain on requiring transparency and complete disclosure of quantitative and qualitative information, rather than on dictating pricing or setting pricing limits. This way, the transparency principle established by the Transparency Resolution (Art. 3) is the overarching rule applicable to relationships among providers and clients, users, and the general public. This rule should be observed before and after a transaction is conducted or a contract is signed. Transparency in the Peruvian context also means clear, explicit, comprehensible, visible, and precise information.<sup>10</sup> According to the Transparency Resolution, financial institutions must report prices and some basic information on a quarterly basis. SBS publishes the information on its Web site and may also publish in newspapers, with the purpose of facilitating price comparison.<sup>11</sup> SBS makes available to the general public an online price comparison tool, called RETASAS,<sup>12</sup> that includes the most commonly used financial services. During the onsite inspections SBS conducts in bank branches, supervisors check if the prices effectively charged are coherent with the prices advertised online by financial institutions and the prices reported for online publication.

SBS believes that disclosing information about interest rates ultimately impacts price levels. The chart below shows credit card rates before and after they started being publicized by SBS. Despite high liquidity in domestic and international financial markets, rates had shown resistance to fall. Decrease in prices are noticeable only after disclosure, in 2003. The average rate fell 1500 basis points in six months. SBS recognizes other factors may have influenced the fall in prices, such as increased competition in the Peruvian financial system, powered by sustained economic growth in the last years.

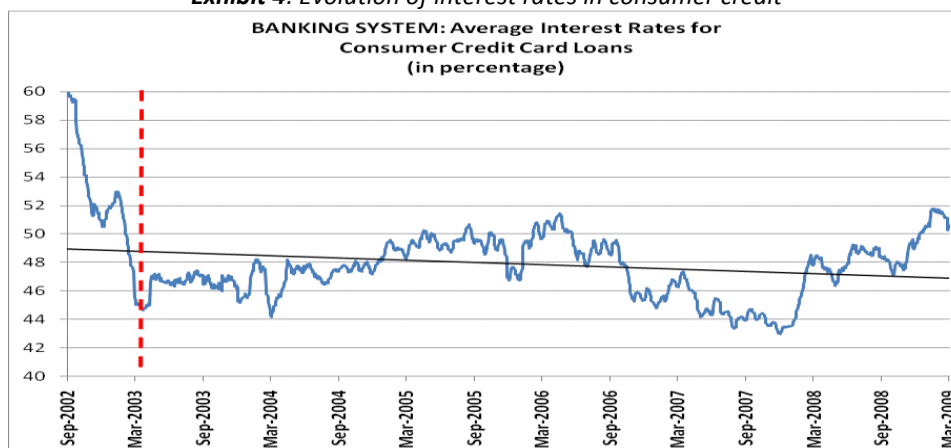
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<sup>9</sup> According to Resolution SBS 1765/2005, art. 2, a *client* is any user with whom a financial institution has a commercial relationship originated by a contract. *User* or *consumer* is any natural or legal person who uses services or buys products offered by financial institutions. This document will use such terms interchangeably, unless otherwise stated.

<sup>10</sup> Transparency Resolution, Art. 9, Art. 40. Note that the Annex 3 of the Resolution gives an example of simple, clear language.

<sup>11</sup> Transparency Resolution, Art. 39.

<sup>12</sup> See SBS Circular B-2149-2005.

**Exhibit 4: Evolution of interest rates in consumer credit**

Source: SBS, presentation at the Global Seminar on Consumer Protection and Financial Literacy, World Bank, Washington, DC, September 2008

Financial contracts must contain all relevant information on how and when a fee will be charged.<sup>13</sup> Any relevant information requested by a customer must be clearly communicated to her by the provider before a transaction is concluded or a contract is signed.<sup>14</sup> (This requirement is considered fulfilled if a contract with all relevant information is physically handed to the customer.) The regulation also requires that institutions provide standardized informative materials concomitantly with the signing of the contract (known as *hoja resumen* and *cartilla de información*) both for asset- and liability-side operations and services. These materials contain very detailed information about the costs and remuneration of each financial product.<sup>15</sup>

Updated prices and terms and conditions (with respective expiration date, if applicable) must be published in well-known newspapers and be permanently and visibly displayed in branches (in legible font size) and on the provider's Web site.<sup>16</sup> Modifications in prices must be communicated to the general public at least 15 days prior to becoming effective. The Transparency Resolution also requires providers to post on their Web sites the most common questions and answers received from the general public regarding services and prices.<sup>17</sup>

Disclosed interest rates (loan rates and remuneration of deposits) must be all-inclusive (effective) and annualized.<sup>18</sup> SBS has recently required institutions to disclose two standardized indicators of remuneration on deposits: the point of equilibrium (the amount a customer needs to deposit to have no gain or loss in a given timeframe) and the effective annual rate paid (after inflation and fees).<sup>19</sup> The objective is to allow price shopping and comparability. Funds transfers (including remittances) also must follow rules set by SBS. The Transparency Resolution sets specific rules for the insurance sector, given the nature and complexity of insurance products.

Marketing materials must include all relevant information on prices, methods, and time of charging. Failure to comply with transparency and disclosure requirements or the disclosure of

<sup>13</sup> Transparency Resolution, Art. 9 and 12.

<sup>14</sup> Transparency Resolution, Art. 10 and 12.

<sup>15</sup> Transparency Resolution, Art. 13–16.

<sup>16</sup> Transparency Resolution, Art. 10.

<sup>17</sup> Transparency Resolution, Art. 12.

<sup>18</sup> Financial System Law, Art. 181, and Transparency Resolution, Art. 9.

<sup>19</sup> Transparency Resolution, Art. 17-A and Art. 17-B. Circular B N° 2149-2005.

false, incorrect, or misleading information is subject to monetary and administrative sanctions by SBS.<sup>20</sup>

#### 2.1.1.2 *Rules affecting fairness and suitability*

Financial institutions are free to set fees, charges and interest rates. However, SBS has legal authority to actively identify and curb/prohibit predatory or abusive practices and to impose sanctions on financial institutions. Contractual balance/equilibrium is an important concept set in the Transparency Resolution.<sup>21</sup> SBS, in the course of its supervisory process, evaluates the technical grounds on which the provider sets its prices and fees.<sup>22</sup>

Providers cannot unilaterally modify contracts and may change prices only after a 15-day notice so the customer is able to withdraw from the contract if he or she chooses.<sup>23</sup> The modification of certain contractual clauses is subject to previous approval by SBS.<sup>24</sup> Moreover, providers are prohibited from charging for unsolicited services.<sup>25</sup>

It is also worth noting that the legislation<sup>26</sup> sets out basic rules and principles against anti-competitive and discriminatory practices in all sectors, being applicable to financial services. By publishing prices, fees and terms of a variety of financial products and services on its Web site, the SBS also expects that abusive pricing and practices may be more easily identified by consumers, reported and, ultimately, avoided.

#### 2.1.1.3 *Service quality*

According to the current regulatory framework, financial consumers are entitled to receive prompt service. Financial institutions must have qualified personnel trained in products and services and applicable regulations to answer questions and consultations from consumers regarding prices and terms and conditions of the services.<sup>27</sup>

#### 2.1.1.4 *Protection of depositor's funds*

All licensed and supervised deposit-taking institutions, with the exception of member-only credit cooperatives, are insured by a deposit protection scheme. Apart from that, the question of fund protection in nonbank-based prepaid instruments, such as e-money services, does not yet receive regulatory treatment neither are nonbank branchless banking schemes currently operating in the country. SBS is working on updating both its regulation on delivery channels and introducing rules for innovative financial services that extensively use electronic channels, including mobile banking offered by supervised entities. In such a framework, the issue of protecting funds collected by a wide array of providers that may not be prudentially supervised by SBS will be addressed.

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<sup>20</sup> Financial System Law, Art. 181.

<sup>21</sup> See Transparency Resolution, several articles.

<sup>22</sup> Transparency Resolution, Art. 7 and Art. 8.

<sup>23</sup> Transparency Resolution, Art. 20 and Art. 21–23.

<sup>24</sup> Law 28587/05.

<sup>25</sup> Transparency Resolution, Art. 6.

<sup>26</sup> Law Decree 1044/2008 (*Ley sobre Represión de la Competencia Desleal*) and Law Decree 1034 (*Ley de Represión de Conductas Anticompetitivas*)

<sup>27</sup> Transparency Resolution, Art. 12 and Art. 27,

#### 2.1.1.5 *Protection of personal data*

Law 27269<sup>28</sup> deals with electronic contracts, authorizing the use of digital certificates and signatures. In addition, the law clarifies that digital signatures can be rescinded if the information it contains is false or modified or if the signature holder does not comply with the rules of the certifying agency. (Certifying agencies are overseen by Indecopi.) Equally, the Civil Code was modified in 2000 by Law 27291 to recognize legal value of electronic contracts and electronically authorized transactions such as those conducted through branchless banking channels. Thus, consumers may enter into various transactions without being physically present at a bank branch or staffed agent.

#### 2.1.1.6 *Recourse and disclosure of complaint information*

All financial institutions must set up a specialized unit to deal with and solve complaints and questions presented by customers, and they must designate a customer care officer to head this unit and be accountable for regulatory compliance and reporting to SBS and the board of the institution. The board is responsible for setting the policies and procedures for customer care and overseeing the activities of the customer care officer. The Transparency Resolution sets minimum requirements for customer care units, which must guard coherence with the level of complexity and size of the institution and must be regularly evaluated by the internal auditor.<sup>29</sup>

Financial institutions must post on their Web sites in a standardized format dictated by SBS statistics about complaints presented to them by their customers (services, motives, number of complaints, resolutions in favor of the customer, etc.).<sup>30</sup> Such statistics are also reported to SBS quarterly following a standardized format for supervisory and regulatory purposes. SBS also posts such information on its own Web site, to allow users to easily identify the most common problems of a certain provider.<sup>31</sup> In addition, financial institutions are required to inform the client, through periodic communications, such as account statements, the different recourse mechanisms where the client can register complaints.

## 2.2 **Supervision and sanctioning powers**

SBS and Indecopi both have supervisory and sanctioning powers with regard to the rules of the financial transparency regulation and the consumer protection law, respectively. There is a good degree of coordination between Indecopi and SBS in this respect and in publicizing complaint information. The functions and responsibilities of each agency are well defined in the legislation, and their roles are complementary. There is also a fair amount of information sharing to enhance the supervisory function.

SBS does not solve consumer complaints: it regulates and supervises the policies and procedures set by financial institutions to receive, manage, and properly solve complaints. SBS has established a specialized unit and a team of supervisors to deal with consumer protection and transparency issues within the regulated market. The foundation of the work developed by this team is the Transparency Resolution and the regulations on price disclosure and redress

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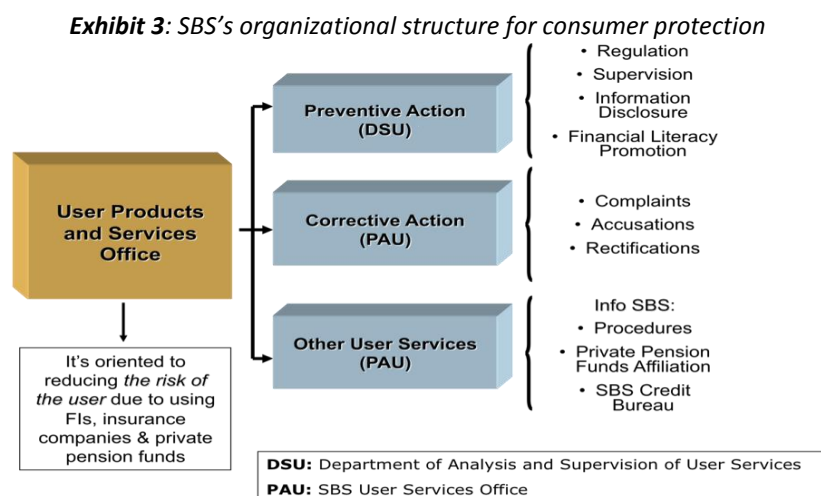
<sup>28</sup> “*Ley de Firmas y Certificados Digitales.*”

<sup>29</sup> Transparency Resolution, Art. 48–55.

<sup>30</sup> Transparency Resolution, Art. 29–30, and Circular SBS G-110/2003.

<sup>31</sup> Transparency Resolution, Art. 39.

mechanisms.<sup>32</sup> SBS oversees the implementation of these regulations by financial institutions and may impose pecuniary and nonpecuniary sanctions in case of noncompliance.



Source: SBS, presentation at the Global Seminar on Consumer Protection and Financial Literacy, World Bank, Washington, DC, September 2008

To act ex-ante and ex-post with the purpose of reducing the incidence of consumer disputes regardless of channels or products, SBS uses a mix of preventive and corrective actions to pursue its objective of maintaining increasing transparency and fairness, and minimizing the reputational risk of financial institutions:

- monitoring news on the media to inform corrective actions and business conduct trends
- analyzing complaint statistics to inform supervisory and regulatory actions
- creating and deploying a risk-matrix (Consumer Risk Model) that uses a scoring statistical model that combines qualitative and quantitative information about a range of factors linked to consumer protection on all financial institutions, to produce a ranking of all institutions in this specific area
- standardizing disclosed information
- making onsite inspections in branches and headquarters
- promoting financial education and other initiatives linked to financial capability

In 2008, SBS conducted 257 branch visits in 13 departments (equivalent to states) in Peru. This represents 10.4 percent of the total number of branches. Offsite activities focus on checking Web sites of financial institutions regularly, as well as analyzing mass media campaigns and ads, and price lists. It also involves carefully analyzing complaint statistics.

SBS requires financial institutions to report complaint information quarterly in a standardized format established in the regulation.<sup>33</sup> Annual reports from customer care units of financial institutions also are submitted to SBS. Due to the current format of the regulatory reports on consumer complaints, which does not discriminate the channel where the service was provided, SBS is not able to identify trends and exact numbers of complaints originated in agents. Such information will start being collected regularly from April 2010, according to Circular 146/2009.

<sup>32</sup> Circular G-110-2003 (substituted by Circular 146/2009) and Circular B-2149-2005.

<sup>33</sup> Transparency Resolution, Art. 30 and Circular SBS G-110/2003.

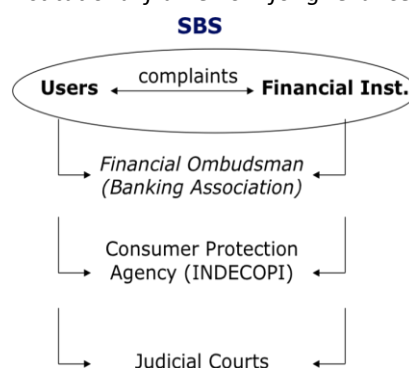
### 2.3 Mechanisms for grievance resolution

There are several channels for grievance redress in financial services, and there is a good level of coordination and information exchange among them. The first and main channel is institutions themselves. All financial institutions are obliged by regulation to have a customer care unit to resolve complaints and questions.<sup>34</sup>

In 2003 the bank association set up an ombudsman, the Financial Client Defender, to offer free arbitration or mediation between clients and financial institutions, when the institution's customer care unit was not able to resolve the complaint within 30 days from the date the complaint was filed. Although most banks have this mechanism in place, it is still not widely used, probably because of lack of public awareness, the need for clients to present complaints in writing, and it does not accept complaints on the quality of service rendered by bank employees. By November 2008, the Defender had received 1,333 complaints in that year, from 259 in 2003. 63 percent of the complaints were related to credit cards and 18 percent to savings accounts. Approximately 51 percent of the cases are solved in favor of the client.<sup>35</sup>

SBS created the Consumer Attention Platform or PAU (*Plataforma de Atención al Usuario*). This is a well-known complaint filing mechanism for financial users. Although SBS does not resolve individual grievances, it receives complaints and consultations through SBS/PAUs, it screens them, and it forwards them to Indecopi when applicable. In cases that fall into SBS areas (issues related to its own regulations), SBS may initiate inspections and impose sanctions on financial institutions for lack of compliance with the applicable rules.

**Exhibit 5: Institutional framework for grievance resolution**



**Source:** SBS presentation prepared for the II Seminar on Global Leadership in Regulating Transformational Branchless Banking, CGAP, Windsor, 2009

In addition, consumers may file complaints with Indecopi. Indecopi receives complaints and provides mediation and arbitration services when consumers feel their rights have been violated. Consumers who are dissatisfied with Indecopi's decision can appeal to the Tribunal for the Defense of Competition and Intellectual Property, an independent body within Indecopi. Most of Indecopi's time and resources are used to answer consumer questions, which are more

<sup>34</sup> Circular SBS G-110/2003

<sup>35</sup> Interview with the Financial Client Defender, December 2008.

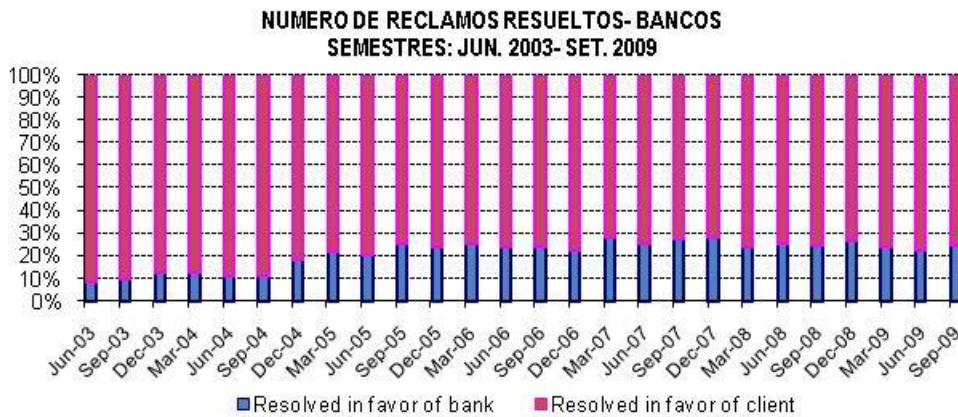
common than complaints. Indecopi publicizes the most important complaint decisions, by posting them on its Web site. In addition, all of the Tribunal’s mandatory precedents are published in the official gazette. Any institution found to have committed a violation is subject to a fine of up to 10 percent of its sales or revenues of the previous tax year.

**2.4 Main issues for financial consumers**

SBS has created a standardized template for financial institutions to report consumer complaints. Its team of specialized supervisors compiles and analyzes this information to enrich SBS’s regulatory and supervisory process. Consumer complaint information is collected by all recourse mechanisms (institutions, SBS/PAU, Indecopi, and the ombudsman). A vast majority (approximately 99 percent) of the complaints are filed directly with the provider and resolved/concluded in that instance. Only a small portion are passed by institutions to SBS/PAU, Indecopi, or registered directly there by customers.

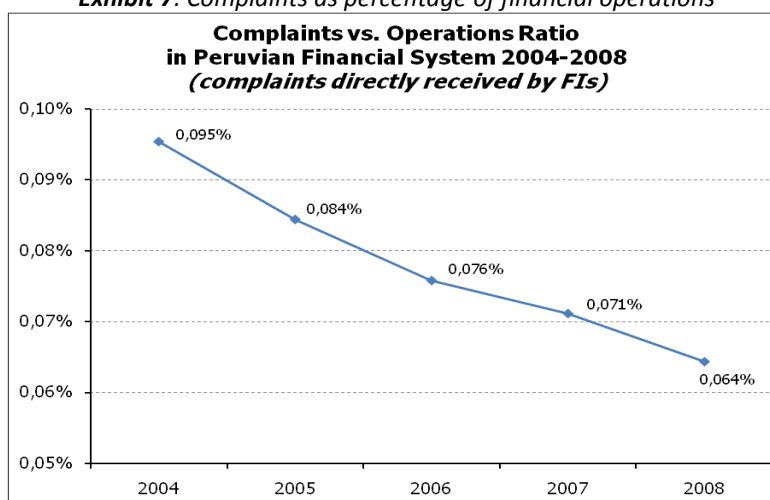
According to SBS statistics, financial institutions received 538,970 complaints from September 2008 to September 2009, representing less than one percent of the total number bank transactions. On average, these complaints were being resolved, in September 2009, in fourteen days, and mostly in favor of the customer (See Exhibit 6; red indicates cases solved in favor of the client). Meanwhile, the SBS/PAU received 23.368 complaints in 2008, only 121 of which were forwarded to Indecopi.

*Exhibit 6: Number of complaints resolved (Banks)*



Source: SBS, as of September 2009

Although the number of complaints has been increasing since 2003, its relevance relative to the number of bank transactions has been falling considerably, as illustrated in Exhibit 7.

**Exhibit 7: Complaints as percentage of financial operations**

Source: SBS, presentation at Global Seminar on Consumer Protection and Financial Literacy, World Bank, Washington, DC, September 2008

Complaints involving credit cards are at the top of the list. In the third quarter 2008, for instance, credit cards issues were responsible for 57.39 percent of the complaints, followed by savings accounts with 15.64 percent. Incorrect charges are the main source of complaints involving credit cards, savings, and current accounts.

Most low-income customers interviewed indicate that existing complaint-filing procedures do not usually dissuade them from filing complaints. These customers say that the procedures are usually user friendly. However, redress mechanisms may not be fully understood or known by poor customers, and this would affect their disposition or openness to register a complaint to resolve problems with financial institutions. Even if there was a good level of awareness of this complaint mechanism, the interviews with poor clients suggest that other factors that limit use of the mechanism are fear of service disruption, distrust in the problem-solving mechanism, and cultural and social aspects.

SBS and the financial institutions interviewed for this report agree that lack of financial capability may be one of the main obstacles for safe and strong expansion of financial services for the majority of Peruvians who have no access to such services today. Although the actual level of financial capability and awareness about consumer rights is difficult to measure, SBS believes that there are many obstacles financial consumers must overcome to make informed, conscious decisions.

- **Analysis:** *The existing mechanisms for filling and resolving complaints do not seem to create obstacles for unsophisticated and low-income customers. However, this assumption may be tested during the financial capability survey SBS is planning for 2010. It would be a good opportunity to find out whether such mechanisms are really known, understood, and used by financial consumers, as well as the reasons why, if that is the case, they are not used often.*

### 3 Delivery Channels: The Branchless Banking Business in Peru

The branchless banking business in Peru is seen by SBS as an important tool for increasing access and convenience of financial services to a wide variety of target clients, particularly those who do not usually have access to financial institutions. The 2005 regulation enabling the use of third parties (agents) to deliver financial services by banks was the starting point of the agency business that has reached significant scale today.

There are 1,339 bank branches in Peru.<sup>36</sup> In the private sector, BCP leads with 309 branches, followed by Banco Continental with 210. In the public sector, the main player is Banco de la Nación, a state-owned bank that handles the accounts of public institutions, public sector employees and pensioners and distributes welfare payments. BN has 413 branches, of which 347 are outside Lima and 280 in locations where private commercial banks are absent.<sup>37</sup>

*Exhibit 8: Branches per major bank*

Bancos	Lima	Provincia	Total	% Particip.
<b>B. Nación</b>	<b>66</b>	<b>347</b>	<b>413</b>	<b>31%</b>
B. de Crédito del Perú	185	124	309	23%
B. Continental	140	70	210	16%
Interbank	121	52	173	13%
Scotiabank Perú	111	47	158	12%
B. Azteca Perú	59	71	130	10%
Otros (*)	222	137	359	27%
<b>Total Banca Múltiple</b>	<b>838</b>	<b>501</b>	<b>1339</b>	<b>100%</b>

(\*) 11 Bancos, con menos de 100 oficinas

Fuente: SBS, a octubre 2008

Branches are becoming less important over the years for conducting financial transactions. Branchless channels, such as the Internet, ATM, POS and, in particular, agents, have been growing in number and importance. Less than 50 percent of the total financial system transactions are conducted inside traditional brick-and-mortar branches. ATMs and POS are responsible for 36 percent of the total transactions.

*Exhibit 9: Transactions per type of channel*

**Financial System: Number of Monetary Operations (Transactional) by Channel**

	2007	2008	2008 Distribution	Growth Rate 2008/2007
Branches	225 025 337	270 323 730	44,8%	20,1%
ATMs	98 176 967	123 613 902	20,5%	25,9%
Phone Banking	1 057 343	1 326 248	0,2%	25,4%
Mobile Banking	0	29 424	0,0%	N/A
Internet Banking	11 299 611	14 440 444	2,4%	27,8%
Other E-Banking	29 451 792	35 201 446	5,8%	19,5%
Correspondent Tellers	25 276 824	48 083 402	8,0%	90,2%
Point-Of-Sale devices	78 539 831	94 622 592	15,7%	20,5%
Other	14 409 757	15 097 989	2,5%	4,8%
<b>TOTAL</b>	<b>483 237 462</b>	<b>602 739 176</b>	<b>100,0%</b>	<b>24,7%</b>

**Note:** Does not include information requests (like checking the account balance or movements), password changes or other non-value operations

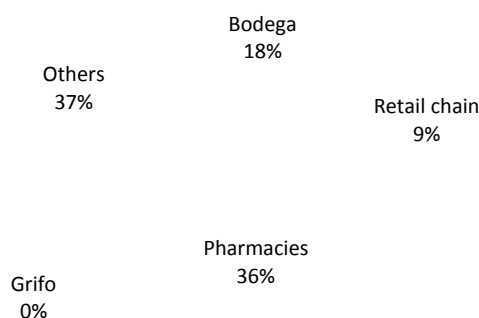
<sup>36</sup> SBS, as of December 2008.

<sup>37</sup> Interview with Banco de la Nación, December 2008.

### 3.1 Retail agents

Peruvian banks have developed a fairly extensive network of retail points outside traditional branches. With 5,241 agents (pharmacies, grocery stores and other retail establishments), approximately 3.8 million transactions are conducted through agents every month, or 45 million transactions yearly. ATMs have 3 times the amount of transactions per month, and the total value is at least 2 times larger than agent transactions.<sup>38</sup> The total volume is equivalent to 5.4 percent of bank transactions.<sup>39</sup>

**Exhibit 10:** Agents by type of commercial establishment



*Source:* SBS, as of September 2009

Agents were established in 2005 following a SBS regulation allowing the use of agents by banks.<sup>40</sup> They are typically small retail establishments, although there are larger agents, such as La Curacao, a large retail chain, that is an agent of ScotiaBank, a large private bank. Currently, the leader in agent banking is BCP, with 2,433 agents, followed by Interbank with 1,019.<sup>41</sup> Agents are commonly staffed by the retailer's employees, but staffing and implementation also may be outsourced. Some banks, such as BCP, hire cash handling companies to provide staff and handle cash for some of their agents. A bank employee also may be placed with an agent, to open accounts on behalf of the bank.

Banks rely on technology to ensure that clients interact with them through agents safely. Customers use a debit card with a personal identification number, and retailers use a POS device controlled by and connected to the bank using a landline or wireless or satellite technology. If customers want to make a deposit at a grocer, swiping their card puts them in direct communication with the bank. The bank automatically withdraws the equivalent amount from the grocer's bank account and credits the customer's account. The transaction is finalized, and the POS issues a paper receipt that identifies the type of transaction, the amount, the agent, the client, and date and time. The store keeps the cash in compensation for the amount taken out of its bank account and may use that cash in its own commercial activities. If the next customer wishes to withdraw cash, the opposite happens: the grocer provides cash from his till, and is compensated by an equivalent credit to his bank account.

<sup>38</sup> Statistics provided by Asbanc, as of November 2008.

<sup>39</sup> Interview with Asbanc, December 2008.

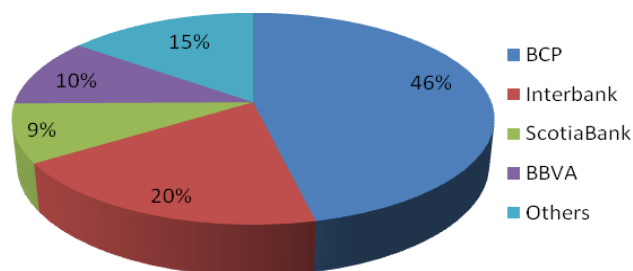
<sup>40</sup> Resolution 0775/2008 on "cajeros corresponsales".

<sup>41</sup> SBS, as of September 2009.

Banks do not charge customers for transacting in agents (and do not allow agents themselves to charge customers either), thus positioning agents as the lowest cost channel. This has become the standard in agent business, although it is not required by regulation.

The four largest banks account for most of the agents. BCP has half the agents in the country; Interbank comes second. According to these two banks, agents account for about 80 percent of their total points of services (branch + agents).

**Exhibit 11: Number of agents**



Source: SBS, as of September 2009

Not all banks have agents. For instance, BN, the state bank that focuses on low-income and rural Peruvians, does not have a large-scale agent business. Many of its clients receive some type of government payment, such as unemployment insurance and other types of welfare transfers. BN is responsible for making such government transfers. However, since BN's payment points are limited to branches (including itinerant branches<sup>42</sup>), those living in remote villages sometimes need to travel far distances to collect their benefits and are likely to face long queues.

Agent networks are concentrated in Lima and other major cities, as Exhibit 12 depicts.<sup>43</sup> On average, 51 percent of agents are in the Lima metropolitan area, and a further 31 percent are in the remaining 24 capital cities. Among the four largest banks, Interbank has a higher relative proportion of agents in Lima (74 percent), whereas BBVA has a higher relative proportion in other departmental capital cities (50 percent). BCP has the highest proportion in other noncapital cities (24 percent) whereas Interbank has the lowest (5 percent). In sum, BCP is relatively more focused on rural areas than other banks with agents.

<sup>42</sup> The bank may install temporary branches in remote locations to provide a wide array of financial services for a few days, including delivering government transfers and opening savings accounts. The frequency with which the *branch* will visit the same location varies, but it is usually not more frequent than once a month.

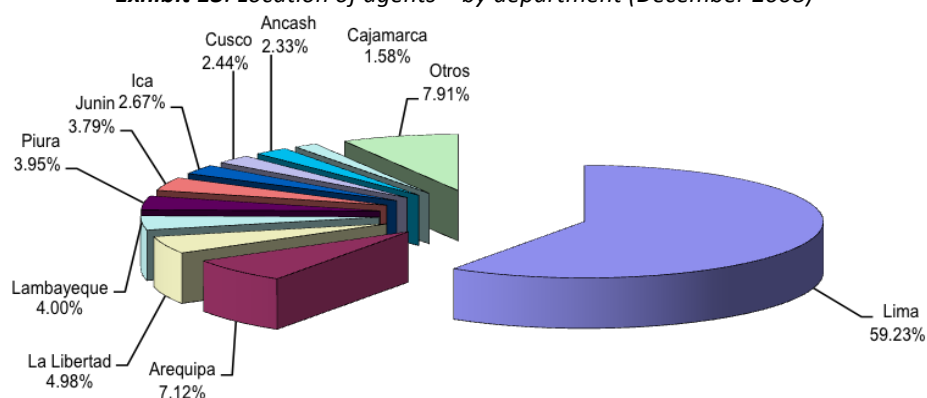
<sup>43</sup> The geographic analysis in this section has been conducted at the district level. There are 1800 municipalities in Peru, grouped into 195 provinces, and in turn composing 25 departments. The analysis was conducted by Ignacio Mas, as a result of a CGAP mission to Lima in February 2008.

**Exhibit 12: Number and geographic distribution of branches and agents, major banks**

	BCP	BBVA	INTER BANK	SCOTIAB ANK	TRBJO	MI BANCO	TOTAL
<b>BANK BRANCHES</b>							
Total	261	198	156	144	96	82	937
In metropolitan Lima	150	129	105	104	42	41	571
In other departmental capital cities	66	45	39	29	32	28	239
In smaller towns / rural areas	45	24	12	11	22	13	127
Population in districts with branches, as % of total population	48%	44%	39%	36%	38%	39%	
<b>BANKING AGENTS</b>							
Total	1220	268	586	299	39	3	2415
In metropolitan Lima	549	75	423	155	34	1	1237
In other departmental capital cities	382	133	131	98	4	2	750
In smaller towns / rural areas	289	60	32	46	1	0	428
Population in districts with agents, as % of total population	64%	45%	46%	44%	18%	5%	
<b>SUMMARY</b>							
Agents as % of total retail (branch + agent) points of presence	82%	58%	79%	67%	29%	4%	72%
% of agents in districts with no branches	58%	41%	43%	35%	22%	0%	

Source: SBS, as of February 2008.<sup>44</sup>

The concentration of agents in metropolitan areas is in line with the strategic use of agents by banks. Agents primarily are used to decongest branches, by pushing low-value transactions away from costly branches. Accordingly, many agents are located within a block or two of a branch of the same bank. This is also observed in other countries where nonbank agents are used, such as Brazil.<sup>45</sup>

**Exhibit 13: Location of agents – by department (December 2008)**

Source: SBS, as of December 2008.

Besides their role in decongesting branches, agents are also a way to diversify geographically, in a more cost-effective manner. According to Exhibit 12, BCP has the highest population coverage with its branch network (48 percent) and the highest population if one adds the agent network (64 percent). Hence, agents represent a 33 percent increase in BCP's population coverage compared to only using branches. Fifty-eight percent of BCP agents are in districts where there is no BCP branch. The other three major banks have a smaller proportion of agents in districts where they do not have branches (35-41 percent).

<sup>44</sup> Data collected by Ignacio Mas, during a CGAP mission to Lima in February 2008.

<sup>45</sup> See "Notes on Regulation of Branchless Banking in Brazil," February 2008, CGAP. <http://www.cgap.org/p/site/c/template.rc/1.11.1772/>.

**Exhibit 14:** Distribution of agents and socioeconomic needs

		Districts with banking agents					
		0	1	2	3	> 3	
Districts with bank branches	0	86% 34% 0.56	4% 6% 0.27	1% 3% 0.22	1% 3% 0.19	1% 4% 0.08	of districts of population Needs index
	1	0% 0% 0.14	0% 1% 0.21	0% 2% 0.13	0% 0% 0.33	0% 1% 0.13	of districts of population Needs index
	2		0% 0% 0.11	0% 0% 0.20	0% 0% 0.06	0% 2% 0.08	of districts of population Needs index
	3			0% 0% 0.03	0% 1% 0.10	0% 0% 0.06	of districts of population Needs index
	> 3				0% 0% 0.15	4% 42% 0.05	of districts of population Needs index

Source: Ignacio Mas, with data provided by the SBS during CGAP mission to Lima in early 2008.

Agents tend to be used in better off districts (lower socioeconomic needs), as illustrated in Exhibit 14. Cell 0,0 shows that 86 percent of districts, accounting for 34 percent of the population, have no branches nor agents. At the other extreme, cell >3,>3 shows that 4 percent of districts (42 percent of the population) have at least three branches and at least three agents. The former presents the highest needs index (0.56), while the latter presents the lower needs index (0.05).<sup>46</sup> Roughly 8 percent of the districts, accounting for 16 percent of the population, now have bank presence exclusively through retail agents. Within this subset of districts, a majority of agents operate in districts with a lower needs index (better off districts).

Despite the relatively high number of agents operating nowadays, the volume of transactions remains fairly low. According to the interviews conducted with banks and SBS, this fact has, in addition to operational reasons on the part of banks, regulatory roots as well. Regulation does not allow banks to acquire new clients through agents, i.e., open bank accounts or offer new loans. This prohibition is based on consumer protection<sup>47</sup> and anti-money laundering concerns.

- *Although having increased access to payment services (for clients and users) and significantly improved convenience for pre-existing clients of all income levels, agents are not currently serving the purpose of extending access to a wide array of banking services to those who do not have an existing relationship with banks (such as a bank account). Agents cannot be used for account opening procedures, even if a fully licensed and supervised financial institution is held responsible and accountable for acts of the agent and is the primary service provider. Regulation should be reformed to allow agents to conduct account opening procedures (receiving, examining and forwarding documentation) on behalf of supervised financial institutions.*

<sup>46</sup> The needs index, which ranges between 0 and 1, is based on the analysis of a range of socioeconomic variables. For a description of the methodology, see <http://www.foncodes.gob.pe/mapapobreza/> and [http://www.foncodes.gob.pe/mapapobreza/docs/Foncodes2006\\_mapapobreza\\_PRES.pdf](http://www.foncodes.gob.pe/mapapobreza/docs/Foncodes2006_mapapobreza_PRES.pdf).

<sup>47</sup> In particular, the assumption that nonbank retail establishments are not fully capable of providing customers with all necessary information before a contract is signed by the customer.

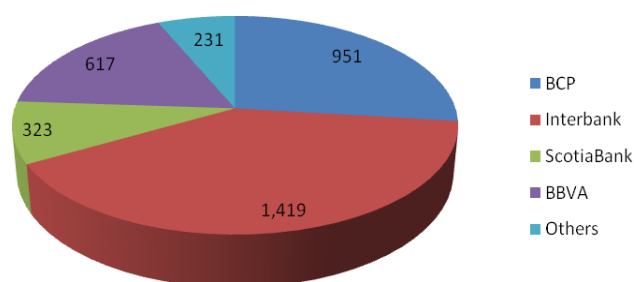
### 3.2 Other branchless channels

In addition to agents, banks have been offering services through mini branches inside retail establishments that are part of their own group. For example, Interbank, a domestic bank, has mini branches inside Supermercados Vivanda; Banco Fallabela has mini branches in Fallabela department stores; Banco Azteca in Elektra stores (white goods); and Financiera TFC in La Curacao stores (white goods). Usually, these mini branches are no more than a counter staffed by bank employees, an ATM, or an Internet kiosk. The main purpose of these mini branches is acquiring new credit card customers.

As mentioned, banks also may use temporary and mobile branches. Mibanco, a microfinance bank, has three campers staffed by bank employees who can sign up new customers. BBVA Banco Continental uses two vans equipped as branches and considers this its main channel to reach the rural poor.<sup>48</sup> Another type of channel that is staffed by bank employees is the shared locale,<sup>49</sup> where two or more licensed financial institutions share the same facility and information systems, with the purpose of pooling costs. Although this scheme is allowed by all financial institutions, BN is the only bank sharing its branches with smaller financial institutions, such as microfinance institutions and credit cooperatives, outside the larger cities.

**ATM and cards.** The ATM market is fragmented. There are 12 ATM networks managed by different companies or banks, and a total of 3,541 ATMs.<sup>50</sup> Interbank is the leader, with 1,419 ATMs (branded GlobalNet), followed by BCP with 951 (branded ViaBCP). The ATM networks are not entirely interoperable, although Visa and MasterCard are accepted in most ATMs. Most bank account holders have a debit card and are familiar to card transactions. However, the POS network in Peru is not yet ubiquitous, especially outside major cities and in smaller commercial establishments.

**Exhibit 16:** Number of ATMs by bank



Source: SBS, as of September 2009

<sup>48</sup> Interviews conducted by Ignacio Mas in a CGAP mission to Lima in early 2008.

<sup>49</sup> Resolution SBS 0775/08.

<sup>50</sup> SBS, as of September 2009.

**Mobile banking.** There is no relevant mobile banking business in Peru, either bank-based or nonbank-based.<sup>51</sup> Some banks provide access to Internet banking through mobile phones for pre-existing customers. Usually mobile banking targets high-end clients, since the current technological platform being used by banks requires more sophisticated handsets, which are usually more expensive. There are no examples of mobile phones being used as a channel for account opening, since completely remote account opening would not be permitted by current regulation.

There is no example of nonbank-based branchless banking. Visanet has a project with Telefonica to create a network of portable POS devices, which could be used to accept card payments while on the road or at the customer's site.

### 3.3 Regulatory provisions on branchless banking

#### 3.3.1.1 *Basic framework for branchless banking*

According to Resolution SBS N° 775-2008, any licensed financial institution may use third parties to delivery services on its behalf, subject to SBS's prior authorization. Agents—locally known as *cajeros corresponsales*—are defined as natural or legal persons operating out of proprietary or third-party establishments distinct from those of the financial system. From this, we derive that a financial institution may not act as an agent of another financial institution. The regulation does not impose any constraints on the type of agents financial institutions may choose.

Agents are permitted to conduct the following transactions:

- a) loan payments
- b) withdrawals
- c) transfers
- d) deposits to a customers or a third party's account
- e) payments on goods or services
- f) other functions permitted by SBS.

Agents are not permitted to receive account opening or loan applications. In addition, the regulation clearly states that transactions conducted at agents cannot require from the customer additional forms of identification compared to what would be required in other electronic channels such as an ATM. Agents are, according to the regulation, no more than an electronic channel, regardless of the fact that, contrary to an ATM or the Internet, agent transactions involve a person (usually the agent employee, the cashier). So, banks cannot open new accounts or give new loans at agents, even if agents are limited to receiving, examining and forwarding documents to bank personnel who would then authorize (or not) the new account. The only way to conduct these activities at agents is to staff agents with bank personnel, which would increase costs for banks considerably.

- *Potential significant contribution to the financial inclusion and capability efforts taken by SBS so far if the regulation was changed to allow agents to conduct account opening procedures—i.e. receiving account opening and loan applications on behalf financial*

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<sup>51</sup> For definitions of bank-based and nonbank-based branchless banking business models, see “Regulating Transformational Branchless Banking: Mobile Phones and Other Technologies to Increase Access to Finance.” January 2008, Focus Note 43. <http://www.cgap.org/p/site/c/template.rc/1.11.1772/1.9.2583/>

*institutions. The responsibility for the services and the acts of the agents would still fall on the financial institution. This also includes responsibility for anti-money laundering procedures, meaning that financial institutions would need to ensure agents conduct customer due diligence accordingly. The experience in other countries shows that proper agent training can keep the risk of large-scale agency schemes at low levels, while increasing access to a wider array of services without requiring clients to visit a bank branch.*

### 3.3.1.2 Provider's liability

SBS believes that holding the provider fully liable for services delivered through third parties is one of the most important regulatory provisions in branchless banking from a consumer protection standpoint. Although the regulation does not expressly state it, the current wording is interpreted by SBS as keeping the provider responsible for its agents' acts, deeds, and misdeeds. Hence, financial institutions are liable for the services provided through agents, ensuring compliance of agent transaction with all applicable regulation, and responding to agent fraud and misuse of client's information, or other potential problems caused by agent's misbehavior. This, of course, does not affect the bank's ability to redress against the agent, as is usually set forth in the service agreement between the two parties.

- *There is no evidence that the current regulatory approach of not stating clearly that the provider is legally liable for its agents is being abused by agents or financial institutions. If SBS, through its supervisory process, identified abuses (for instance, a bank avoiding responsibility for fraudulent actions of its agent—actions that resulted in losses for the consumer), SBS could consider clarifying this regulatory provision, as done in some other countries, such as Brazil, Colombia, and Mexico. To gather evidence on this topic, SBS would need to create supervisory procedures with special focus on agency schemes.*

### 3.3.1.3 Minimum operational standards

Operational standards are important from a consumer protection point of view since they reduce the probability of service disruption, operational failures, and fraud that may negatively affect many customers. They may also reduce the number of financial crimes that could be committed with or without the customer's knowledge. The regulation should require providers to impose limits on agent-enabled transactions (maximum transaction volumes and values), consistent with cash movements related to each agent's commercial activity and risk factors identified for each agent, such as location and incidence of robberies. The bank's systems should be able to immediately block transactions that are above such limits.

This approach intends to keep the level of cash used in financial transactions coherent with the cash balance of the agent's main activity, decreasing the accumulation of cash at the agent, and hence the risk of robbery, which may affect the credibility of the agent model. Operational limits also are important from a consumer protection perspective as it ends up limiting the attractiveness of the channel for frauds and unauthorized transactions.

In addition, agent operations follow exactly the same accounting rules as any other banking transaction, according to the rules in place. Ideally, accounting settlement is in real time, so as to protect the consumer's funds and avoid excessive operational risk in the financial institution.

The transactions conducted by the client at an agent are immediately registered against the client's account, producing a receipt that indicates the agent, the type of transaction, the amount, the time, and the bank. The receipt is the client's proof that the transaction was conducted and may be used to resolve grievances if necessary.

#### 3.3.1.4 Transparency

The regulation requires agents to post panels or other visible signs indicating its condition of a service provider for a financial institution and the services provided by the agent. In reality, agents in Peru usually are identified by a subbrand created by the financial institution, which does not necessarily include the word *agent* or *cajero correspondiente* as defined in the regulation. Agents are usually furnished with printed material containing small print and standardized information prepared by the bank. It seems that this scheme has been working well, and people, particularly those in the urban area of Lima, do recognize agents as commercial establishments providing additional services—i.e., services from a financial institution. However, some improvements may be pursued regarding transparency of the agency relationship. Agents could be required to post some useful information, such as the following:

- the bank's customer service number in case of customer complaints about agent transactions
- if liquidity becomes a problem at agents, the regulation could require a disclaimer at each agent informing clients that the agent may refuse transactions if it does not have sufficient cash to back the transactions<sup>52</sup>
- clear information if fees are charged for agent transactions and if there is any difference between transactions conducted at branches and agents<sup>53</sup>

Knowing the services each agent provides can be challenging for customers, particularly low-income customers. It seems to be clear to the general public in Peru that bills can be paid at agents. However, since the retail payment system in Peru is highly fragmented, with several proprietary networks that are not connected, some agents may receive some types of bills (depending on the creditor bank), while they may refuse others. This creates confusion among customers.

- *Although not being an issue of agency regulation, there may be actions that could be taken by the appropriate department in SBS to address this inefficiency in the retail payment system.*

Since the regulation requires financial institutions to post prices only at their branches (not in agents), and also given that agents mostly conduct bill payments, agents usually do not post price lists for banking transactions that can eventually be conducted there, or other fees such as monthly maintenance fees for savings accounts or fees for withdrawals.

- *This issue could be dealt with through specific regulatory provisions requiring banks to post (at agents) lists of prices of the services mostly commonly provided through agents.*

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<sup>52</sup> Such requirement would only be justified if the SBS supervision team concluded that lack of liquidity at agents was a problem worth addressing.

<sup>53</sup> If agent transactions are charged by the bank, ideally the charge should be individualized in the transaction receipt, and in the client's account statement, if that's the case.

### 3.3.1.5 Price suitability

The regulation does not state any condition on the pricing of agent transactions. Competition and the need to attract low-value transactions to this cheaper channel have made most banks (if not all) avoid charging any additional fee from the clients transacting in agents compared to branch transactions. Transacting in a bank branch costs the same as or more than transacting at an agent.

### 3.3.1.6 Service quality and protection of client's information

The regulation requires banks to provide agents with adequate training that includes at least client identification, client attention, confidentiality of client's information, and bank secrecy. Banks also are required to give agents operations manuals that can help them offer quality and prompt service. Such manuals should include information about any applicable operational/transactional limits. Although not explicitly written in the agency regulation, bank secrecy and privacy rules apply to all bank transactions, regardless of the channel where such transactions were conducted.

### 3.3.1.7 Redress mechanisms

There are no specific requirements with respect to redress in the agency regulation as it stands today. Agents do not usually display information about the complaint filing channels and process with the financial institution or other means, such as PAUs.

- *Considering that clients transacting at agents may be far away from a bank branch and may not even be clear about the bank's identity (especially in cases where an agent works for several banks), it is necessary to require banks to post at agents the number for existing redress mechanisms (banks, PAU, bank ombudsman), and brief information on how to file a complaint about the service provided by the agent.*

### 3.3.1.8 Taxation

There is a financial transactions tax (*Impuesto a las Transacciones Financieras*) of 0.06 percent, imposed on every debt/deposits in a bank account. Transactions through the agent channel may bear this tax twice: by the customer when he undertakes the transaction at the agent and by the agent if it has excess cash and deposits such excess at a bank branch. A similar situation existed in Colombia, until the government exempted transactions between agents and banks.<sup>54</sup> This also could be considered in Peru, with the purpose of expanding the agency business, making it attractive both to agents and banks.

## 3.4 Complaints and observed problems in branchless banking

The standardized report that financial institutions produce to be submitted to SBS quarterly does not generate specific information on agents. Accordingly, banks are not able to promptly identify and monitor trends or major problems for consumers in specific channels. According to anecdotal accounts provided by banks, the most common problem that may trigger complaints from customers are technical failures, such as lack of communication with the bank branch and

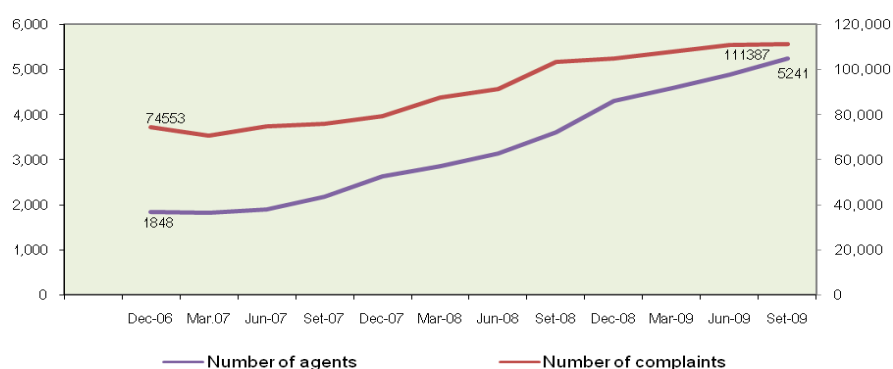
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<sup>54</sup> In Colombia the transaction tax is 0.4 percent, and hence its impact on the agent business was much more significant. The problem was resolved by creating a special account (agent account) that was then exempted from the financial transaction tax.

malfunctioning equipment. Some cases of fraud conducted by agents and commercial establishments pretending to be agents were also reported, although banks emphasize these are isolated cases.

It is not known how much agents represent in the total number of registered complaints from financial consumers. An indirect measure would be the total of complaints in relation to the total number of agents. While the number of agents increased an average of 10.13 percent each quarter between December 2006 and September 2009, the number of complaints increased only 3.82 percent each quarter in the same period.

**Exhibit 17:** Registered complaints versus number of agents



Source: SBS, as of September 2009

Taking the case of a single bank that could identify a total of 125 agent-related complaints in the last three months of 2008, we notice that savings accounts represent a majority of such complaints (70.4 percent). Fraud represents 40 percent of these, while the agent's "attitude" claims 33 percent of the complaints. The service receiving the second highest number of complaints was credit cards, with 15 percent of total complaints. However, these data are not representative of the sector, or even of this particular bank, since it covers only three months and was manually identified.

- *Since agents are the only branchless channel that is staffed (contrarily to an ATM, for example) and given its importance for achieving SBS's goal of fomenting financial inclusion, keeping track of complaints related to agents is important to inform proportional and timely policy and regulatory action in the area of consumer protection. Currently issued Circular 146-2009 is a very positive step which will allow SBS to monitor the trends in service quality and necessary adjustments in the agent business. Specific supervisory procedures and regulatory requirements to complement current rules could therefore be designed based on evidence.*

## Conclusions and Recommendations

The regulatory and supervisory framework for financial consumer protection in Peru is well advanced. It focuses on increasing and maintaining market discipline and decreasing information asymmetry, through clear legal and regulatory provisions that give SBS a range of powers to enforce such rules and impose sanctions in the case of noncompliance. Consumer

protection is an important area of work for SBS, which seeks to continually improve the regulation and the supervisory process in this area. It is seen as one of the preconditions for an inclusive and healthy financial sector, as well as a tool to maintain financial stability.

With regard to regulatory measures affecting branchless banking, there is room for improvements through regulation on transparency (about prices at agents and the agency relationship between merchants and financial institutions, as well as about complaint filing channels and processes available to the user). It is also necessary to gather better complaint information to effectively identify and deal with problems faced by users. This would allow SBS to continually improve its regulation and supervision while building public confidence to allow more services to be conducted at agents.

It is important to recognize that current regulation both on branchless banking and consumer protection is quite open and supportive of growth of the agent channel and financial inclusion, especially if one compares it with the majority of countries in which financial access is still an issue, where important regulatory obstacles remain. However, an extremely important opportunity is being overlooked in the Peruvian market: using agents to increase access to bank accounts. The regulation does not permit banks to offer these services to new clients, even if agents were limited to collecting, examining, and forwarding documents to bank personnel. The experience in other countries shows that, with proper training (which is already required by regulation), agents are able to perform know-your-customer procedures and properly provide basic information to customers wanting to open an account. SBS should consider lifting this prohibition, a measure that could potentially contribute to the financial inclusion efforts already underway.

Subject to better evaluation by the relevant areas of SBS, there are some additional measures that could be adopted to improve protection of branchless banking users. Specifically, financial institutions should be required to post at agents the following:

- (i) its customer service number
- (ii) (if liquidity became a problem at agents) a disclaimer informing clients that the agent may refuse transactions if it does not have sufficient cash to back the transactions<sup>55</sup>
- (iii) a disclaimer informing if fees are charged for agent transactions and if there is any difference between fees at branches and agents<sup>56</sup>
- (iv) a price list for transactions most commonly conducted at agents.

All these possible measures must be widely discussed internally and with financial institutions. Ideally, a stronger base of evidence would better inform regulatory changes. To produce such evidence on an ongoing basis, SBS would need to develop specific supervisory procedures focusing on the agency business, and require and analyze complaint information in this particular channel. The supervision team should evaluate both operational risk of the activities (including fraud) and consumer protection issues. Such processes would help SBS to design new rules to fix existing or emerging problems. SBS could also use the results of the financial capability baseline survey it plans to undertake to assess the level of understanding and satisfaction with this branchless banking channel. The evidence may indicate that there is no

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<sup>55</sup> Such requirement would only be justified if the SBS supervision team concluded that lack of liquidity at agents was a problem worth addressing.

<sup>56</sup> If agent transactions are charged by the bank, ideally the charge should be individualized in the transaction receipt, and in the client's account statement, if that's the case.

need to improve the regulatory framework after all (for instance, that there is no need to increase transparency at agents) or it may unveil a wide range of issues, whether or not mentioned in this report.

There is still a long way to go with regard to financial capability and awareness, but SBS is currently taking considerable steps. As mentioned, SBS will soon undertake a survey to assess financial capability gaps to design a national-level strategy for financial capability. By promoting and facilitating financial education and participating in education programs targeted at professors of the state educational system, SBS is effectively helping to reduce market failures. This is expected to produce better consumer decisions in the long run and a healthy financial inclusion process.

With regard to areas that are not directly related to consumer protection, more efficiency and interoperability in retail payment systems would facilitate the use of agents and the ease of access to payment services by users from all income levels. If there were interoperability of agents, POS, and ATM networks, a client could enter any POS from any bank, to pay different bills irrespective of the creditor bank. Considerations regarding the efficiency of retail payment systems in the country and possible measures to address weaknesses are a necessary step for faster and effective financial inclusion.

Last, although not a responsibility of SBS, it is important to stress that a financial transaction tax reduces price transparency to the customer, and is particularly burdensome for low-income customers and smaller agents. It may also nurture informality and the use of cash instead of electronic (therefore traceable) financial transactions. Exempting low-value transactions from this tax would benefit financial inclusion efforts embraced by SBS and other government branches.