Portfolio Media. Inc. | 860 Broadway, 6th Floor | New York, NY 10003 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Tech Cos. Hold Key To Financial Services For The 'Unbanked'

Law360, New York (March 2, 2016, 11:13 AM ET) --

Christina M. Gattuso

One of the exciting opportunities technology presents is to finally provide financial services to underserved low income consumers. While foreclosed from traditional banking for too long, this group does have access to mobile devices, which may, in part, be driven by the number of low-cost smartphones powered by Android that are available without long-term contracts. The development of financial products and services through mobile devices presents a novel opportunity to address this persistent gap in the marketplace of access to financial services by the underserved.

Federal banking agencies estimate that in 2014 and 2015 more than 25 percent of the U.S. population was unbanked or underbanked. But, mobile phone usage and availability among those segments of the population was prevalent with approximately 65 percent of the unbanked and 73 percent of the underbanked using smartphones. For many of the underserved, their smartphones or similar devices provide an affordable means for them to access the Internet and all the information such access can provide to them. New financial-focused applications available on smartphones enable the unbanked and underbanked finally to take advantage of traditional financial services. Products such as Android Pay, Apple Pay and Samsung Pay are changing the way that consumers make purchases of everyday items, and the applications developed by financial institutions and other third parties for use on smartphones and similar devices that contain the operating software of these technology companies enable consumers to conduct everyday banking transactions over their mobile phones. The types of financial activities that can be accomplished on a mobile device have grown significantly in recent years and include, among other things, mobile remote deposit capture (using your phone to take a photo of a check to deposit in your bank account remotely), checking account balances, making payments, and receiving alerts and reminders about account balances.

There is no question that mainstream banking institutions play a key role in providing financial products and services to all segments of the population and will continue to do so, but various regulatory and other factors have made it difficult for banks to meet the needs of the underserved. A 2011 FDIC survey found that more than one-third of banks surveyed cited customer identification requirements, Bank Secrecy Act and fair-lending compliance risk to be among the top regulatory obstacles to banks serving underserved populations. The solution to this dilemma may be the technology companies, as they are the ones that are providing the ways and the means for the unbanked and underbanked consumers, through operating software and apps, to enable consumers to have access to financial products and services and also to manage their financial resources through the use of mobile financial services.

There are also many prepaid products available today and utilized by the underserved, which provide typical mobile banking features without the administrative barriers posed by traditional banking services. The use of “general purpose reloadable” cards — which are prepaid cards that are loaded with funds by a consumer or third party such as an employer and can be used to make payments, obtain funds from an ATM and send money to others — has grown significantly in the last decade based on various studies. Numerous apps, many of them free, are available that can provide financial literacy education as well as personal financial management tools to help educate the underserved.

Today, use of mobile financial services by consumers continues to rise. But, industry as well as regulatory issues and concerns are preventing some consumers, both banked and underserved, from conducting financial transactions through smartphones. For example, privacy and security of personal and financial information is a concern raised by the regulators and that concern is shared by all consumers, including the underserved.

These concerns are addressable. For underserved consumers, education is an important aspect of utilizing mobile financial services. This is where technology companies are key. The operating systems designed by these companies address many of the data privacy and security issues that financial regulators have identified and provide a framework for educating the consumer on effective use of the financial services applications. By way of example, Google’s website provides a clear, simplified explanation of Android Pay, how it works and how to use it. Google’s website also addresses concerns about security and privacy by explaining how your actual credit/debit card number is never given to a merchant when you shop at a merchant, how you receive reports of your transactions on your mobile device, which can alert you to an unauthorized transaction, and how you can lock your phone from anywhere and, if necessary, even erase the data on your phone if it is lost or stolen. While not every consumer will seek out or read these disclosures, they are readily available and written in a manner that is easily understandable. And, while data and privacy protections are in place in the operating software and apps used on mobile devices, there may be more that needs to be done by all parties involved — the technology companies, financial services companies, and the banking and consumer finance regulators — as the use of mobile devices continues to grow and cybersecurity threats remain an issue.

Tech companies are at the forefront, having developed software that facilitates consumer access to financial services and products from the convenience of a smartphone or similar device, at any time and from any place with safeguards to protect the privacy and security of the data. Given past history, we expect these companies will continue to innovate and evolve their systems in a manner designed to safeguard privacy and provide security while providing ease of use to the consumer. As the number of mobile phone users continues to grow, and as consumers are better educated about mobile financial products by technology companies and financial services companies, there appears to be a great potential opportunity to better serve the financial needs of the underserved through the use of mobile financial services. In order to have the best chance to accomplish this goal, it is important that our regulatory system work with the technology companies and financial services companies to ensure that any regulatory requirements currently applicable or made applicable to mobile financial services in the future do not impede the innovation and development that is necessary to ensure the continued growth of these services and the expansion of mobile financial services to the underserved.

—By Christina M. Gattuso, Kilpatrick Townsend & Stockton LLP

Christina Gattuso is a partner in Kilpatrick's Washington, D.C., office.