[Journal of Comparative Urban Law and Policy](https://readingroom.law.gsu.edu/jculp)

Volume 1
Issue 1 *Study Space IX Cape Town, South Africa*

Article 13

2017

Financial Inclusion in South Africa: An Integrated Framework for Financial Inclusion of Vulnerable Communities in South Africa's Regulatory System Reform

Lydie Louis
Hult International Business School, lydie.louis@faculty.hult.edu

Frederic Chartier
Hult International Business School, frederic.chartier@faculty.hult.edu

FINANCIAL INCLUSION IN SOUTH AFRICA

AN INTEGRATED FRAMEWORK FOR FINANCIAL INCLUSION OF VULNERABLE COMMUNITIES IN SOUTH AFRICA'S FINANCIAL REGULATORY SYSTEM REFORM

Lydie Louis and Frederic Chartier[1]

ABSTRACT

Vulnerable communities in developing countries like the poor in South Africa are not included in their country's formal economy because the poor have little or no access to financial services. As such, the poor struggle to survive, and to capture the interests of the banking industry to provide them with access to affordable financial services. Public-private financial inclusion initiatives have been insignificant or proven unsustainable to include the poor into the financial fabric of their domestic country. This is because financial inclusion initiatives have primarily been defined, and designed as a "social responsibility" by the government and the banking industry without a comprehensive, and committed pathway to sustainable financial inclusion. This paper proposes an integrated framework for financial inclusion, which re-imagines financial inclusion as a "business opportunity" for the South African banking industry to joint-venture with the South African Ministry of Finance. The joint-venture is based on the Irish Financial Inclusion Model, one of the few successful public-private financial inclusion initiatives that has been able to grow the participating Irish banks' customer base, increase revenues, and financially include poor communities as a sustainable untapped source of growth and business development into the formal Irish economy. We propose that with modifications to address challenges that are central to South Africa the new "Twin Peaks South African Financial Inclusion Model" will provide a pathway for millions of financially excluded South African's to be included into South Africa's formal economy, and be an integral part of South Africa's continued growth and development.

KEY WORDS

South Africa, financial inclusion, Ireland, financial services, electronic payments, public private initiatives, banking, vulnerable communities, Twitter, poor, business opportunity

---

[1] Hult International Business School, Finance Department, Boston Campus

"On résiste à l'invasion des armées; on ne résiste pas à l'invasion des idées."
Victor Marie Hugo[2]

I. INTRODUCTION

The global Financial Crisis[3] compelled the South African Ministry of Finance to broaden the scope of its assessment concerning its financial regulatory system that had begun in late 2006. The two principal concerns were: 1) market conduct (as it relates to the banking industry's treatment of South Africans to access, and participate in the financial system), and 2) the authority of South African financial regulators to enforce the provisions of the Financial Sector Regulation Bill, and the Financial Sector Levies Bill (collectively FSR), which combined will implement the "Twin Peaks" model (allegedly named for the two majestic mountains; Table Mountain and Lion's Head that rise adjacent to each other at the foot of the Atlantic Ocean in Cape Town) for financial regulation and supervision. The FSR establishes a Financial Sector Conduct Authority (FSCA) with the stated objectives of "promoting fair treatment of financial customers; promoting financial education and capability; enhancing and supporting the efficiency and integrity of the financial system; and assisting in maintaining financial stability against the financial service sector.[4] However, after much discussion, debate, and inability to reach consensus as to the level of the FSCA enforcement authority, the Minister of Finance, Pravin Gordhan, tabled any further discussion concerning the FSR in Parliament in October 2015.

To date there has been no reform, no further discussion or guidance concerning reform of South Africa's financial regulatory system. However, it is profoundly anticipated that the FSR will be enacted in 2017, and implemented soon thereafter.[5] As the decision concerning the FSR remains in a state of suspended animation, this paper focuses on the market conduct aspect of the

---

[2] Victor Marie Hugo, *Histoire d'un Crime*, (New York, N.Y.: Thomas & Crowell & Co. 1852) (Trans. Smith Hungtinton, 1877), https://books.google.com/books?id=1rRUAAAAYAAJ&printsec=frontcover&dq=1852,+Histoire+d%27un+Crime&hl=en&sa=X&ved=0ahUKEwjeu46nzs7PAhXFZj4KHcDAC-gQ6AEITjAI#v=snippet&q=resist%20invasion&f=false (last visited October 11, 2016).

[3] Financial Crisis Inquiry Commission, *The Financial Crisis Inquiry Report*, (New York 2011) (determining that the Financial crisis was avoidable, and caused by human action and inaction not computer models…captains of finance and public stewards of the [American] financial system ignored warnings and failed to question, understand, and manage evolving risks within a system essential to the well-being of the American public…"the fault lies not in the stars, but in us.") Id. at xviii.

[4] Rebecca Jansch, *Twin Peaks-The Financial Services Sector-Pension Law Update,* http://www.lexology.com/library/detail.aspx?g=589e6049-ff4e-4119-881b-a911aaabe3aa (2016), (last visited February 17, 2017).

[5] Mathew Glasser, Presentation at Cape Town University Graduate School of Business, Georgia State University Study Space Conference, *Municipal finance and infrastructure building* (June, 29, 2016).

FSR concerning financial inclusion of South Africa's vulnerable communities, (the poor) and proposes an integrated regulatory financial inclusion model that has had remarkable success in bringing vulnerable communities, in other parts of the financial globe within the scope of financial inclusion. The proposed integrated regulatory financial inclusion model also provides the opportunity for South African retail banks to gain a larger sustainable customer base, which will undoubtedly lead to greater revenues while simultaneously achieving financial inclusion of the poor, and stabilizing continued growth for South Africa.

Global world economies have struggled to achieve full financial market integration of the poor. Arguably financial inclusion of the poor has been at the forefront of local, national, and international debate since 2003, when former Secretary-General Kofi Annan stated in his address before the United Nations General Assembly Council that:

> [t]he stark reality is that most poor people in the world still lack access to sustainable financial services, whether it is savings, credit or insurance. The great challenge before us is to address the constraints that exclude people from full participation in the financial sector. Together, we can and must build inclusive financial sectors that help people improve their lives.[6]

Unfortunately, financial exclusion or the lack of financial inclusion for the poor has emerged and remained as a policy and economic challenge for many global economies. One of the U.N. Millennium Development Goals is the development of global partnerships that include "financial systems that are rule-based predictable and non-discriminatory, which includes a commitment to good governance, development and poverty reduction—nationally and internationally."[7] As such, every G-20 and BRICS nation has attempted to address the problem of financial inclusion of the poor at the national and local level. Many different initiatives with the support and funding of governmental departments, statutory bodies, NGOs, and public-private sector entities have been discussed and implemented. All have failed. The poor remain outside the formal economies of their home countries and struggle to survive.

"The apparent dichotomy between the free competition model and the public good aspects of basic financial services has emerged as a major policy

[6] Kofi Annan, Former Secretary General of the United Nations, Keynote Address at the United Nations General Assembly, (Dec. 2, 2003).

[7] United Nations Millennium Declaration, *To Develop a Global Partnership for Development*, Millennium Development Goals (2000), http://www.unfoundation.org/what-we do/issues/mdgs.html?referrer=https://www.google.com/ (last visited Dec. 16, 2016).

and bank strategic challenge."[8] Some scholars have framed the problem of financial inclusion as the inability of the poor to access financial services, and participate in the formal global economy as the challenge of financial inclusion to deliver banking services at an affordable cost to disadvantaged groups.[9] Other scholars have framed the problem as one of financial exclusion where there is an inability, difficulty or reluctance to access appropriate, mainstream, financial services.[10] Financial exclusion is caused by a complex set of factors which includes: geographical exclusion resulting from branch closures; failure to qualify because of problems in supplying appropriate identity document requirements; the cost of financial products and services; and cultural and psychological barriers.[11] Yet other scholars have framed the problem as policy measures in terms of an increase in financial inclusion contributes to financial stability.[12]

The existing academic literature has traditionally assessed financial inclusion as a "social responsibility" that financial institutions, governmental agencies, and NGOs have attempted to resolve. Each initiative was earnestly implemented. A number of varied programs to include the poor populations of various countries into the mainstream economy have been implemented. Most financial inclusion projects have terminated with insignificant measurable results in terms of providing financial access to the poor. Historically the primary driving motivation of "financial inclusion" projects, policies, and public-private initiatives have been from a "social responsibility" imperative to "include the socially marginalized poor" into the respective mainstream domestic financial system. They have either failed or fallen short of their desired outcomes as evidenced by a recent study that determined approximately 56% of adults on a global level are unbanked.[13]

---

[8] Santiago Carbo, Edward Gardener, & Philip Molyneux, *Financial Exclusion in Europe*, Palgrave Macmillan Studies in Banking and Financial Institutions, 98-111 (2005).
[9] S. Mahendra Dev, *Financial Inclusion Issues and Challenges*, Economic and Political Weekly, 41(2006).

[10] Lavinia Mitton, *Financial Inclusion in the UK: Review of Policy and Practice*, (York: Joseph Roundtree Foundation 2008), http://www.jrf.org.uk.com (last visited January 28, 2017).

[11] Id.
[12] Peter Morgan & Victor Pointines, *Financial Stability and Financial Inclusion*. ADBI Working Paper 488 (Tokyo: Asian Development Bank Institute 2014), http://www.adbi.org/working-paper/2014/07/07/6353.financial.stability.inclusion/

[13] Oya Pinar Ardic, Maximilien Heimann & Nataliya Mylenko, *Access to Financial Services and the Financial Inclusion Agenda Around the World*, The World Bank, Financial and Private Sector Development, 3, 8 (2011).

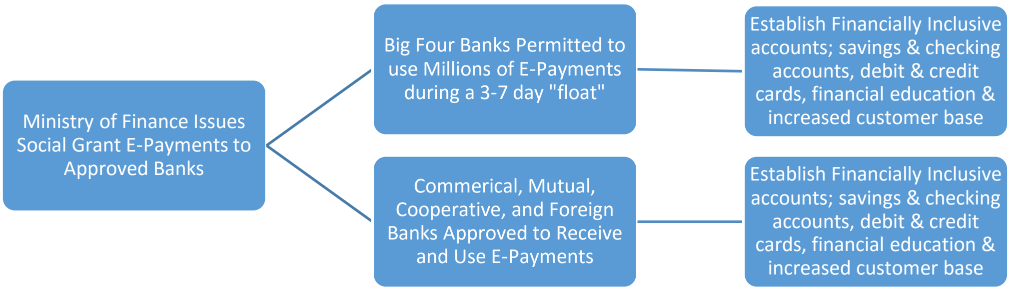
What is missing within the academic literature and the thinking behind public-private financial inclusion initiatives is a reimagining of the financial inclusion of the poor into the mainstream domestic financial services sector. Financial inclusion of the poor should be regarded as a "market integration of the poor into the global financial system." Financial inclusion should not be viewed as a "social responsibility" project for which commitment and funding decreases after some minimal measurable goal is achieved, but rather an integral component of the growth development initiatives in every countries' economic and sustainable strategic plan.

This paper contributes to the literature on this subject by reframing and reimagining the problem of financial inclusion as an untapped business opportunity for the financial services industry. Financial service institutions participating in joint ventures with governmental entities should regard financial inclusion of the poor as a "business opportunity" to increase growth in terms of the banking sectors' customer base, and increase revenue stream by charging affordable fees for accounts, credit, loans, and insurance. And more importantly, it should be an opportunity to "joint-venture" with national governments to continue to receive social transfer (welfare) payments for the poor through the bank clearing system as an integral part of the banking services that are provided as part of public-private structured financial arrangements. It would be similar to the way that banks "partner" with the U.S. Department of the Treasury to receive billions of dollars from the U.S. Department of the Treasury on behalf of the middle class, the upper middle class, and the marginally poor who are "entitled" to a tax refund. Of course, there are banking fees earned in relation to the transaction, that is part of the revenue generating stream that banks welcome and solicit. More importantly, the bank receives "the float" – that is, use of billions of dollars until the social transfer electronic money is cleared through the banking system, which may take one to seven business days. In the interim, banks have unquestioned use of the money. The incentives for banks are the fees, but even more so is the use of the funds, which can be used to generate revenue for the bank via the overnight corporate lending market or simply by generating interest revenue. The possibilities are limited only by the banks' innovative strategies.

The problem concerning financial inclusion of the poor is to reframe and reimagine the problem as one of market integration to "incentivize" the banking industry to calculate financial inclusion as an income generating public-private business opportunity. This form of joint venture structure would deepen the financial commitment of banks to financial inclusion and would eventually untap the economic potential hidden within vulnerable communities within South Africa and beyond. This will require new regulatory procedures and "depoliticization" of the financial system.[14] It will also require a commitment on the part of the banking industry to redefine and reimagine the untapped

[14] Dev, supra, note 8 and accompanying text.

business opportunities that exist in unexpected sectors of the population. A concept map of the proposed South Africa Financial Inclusion Model can be illustrated as:



II. A BRIEF HISTORY OF SOUTH AFRICA'S FINANCIAL RISE TO PROMINENCE

In truth, little is known in North America about South Africa's financial infrastructure, banking regulations, or financial inclusion policy. Arguably the most infamous policy that the South African Government has ever implemented was the reprehensible treatment of non-white South African's under the country's former apartheid legal system. The apartheid system was a legalized "separateness at the macro and micro levels of society: on the macro level, the creation and subsequent separation of different racial and ethnic identities were drafted, adopted, and turned into law through legislative documents; on the micro level, these identities were reinforced through routines with personal documents and public signs...."[15]

It is not until one walks along South Africa's well-manicured and uncrowded streets, stands at the crest of Table Mountain and Lion's Head to view the majestic Atlantic Ocean from its most southeastern corner of the globe as waves crash relentlessly against Cape Town's haggard shoreline several miles below, observes Robbin Island (where Nelson Mandela was imprisoned for 25 years) glistening in the evening sunset, or shares numerous hushed and fervent conversations with Black, Colored (the legal definition for mixed-race individuals), and Middle Eastern South Africans

---

[15] Marc Richard Hugh Kosciejew, *Disciplinary Documentation in Apartheid South Africa: A Conceptual Framework of Documents, Associated Practices, And Their Effects*, Journal of Documentation, 71(1), 96 – 115 (2015).

merchants that one begins to obtain a sense of the raw beauty, deep-rooted inequity, and the untapped potential that remains locked within South Africa's people.

Despite South Africa's historical lack of racial and ethnic tolerance, it has been more than twenty years since South Africa's first multi-racial elections in 1994 and subsequent peaceful political transition into democracy marking the end of decades of apartheid. In 1993, the African National Congress (ANC) president Nelson Mandela and prime minister Frederik W. de Klerk earned the Nobel Peace Prize "for their work toward the peaceful termination of apartheid, and laying the foundations for a democratic South Africa," and presumably economic and financial stability for all South Africans.[16] However, that has not been true for the vulnerable communities within South Africa. Allegedly, it is not because of their race, color, or ethnicity but rather because they are poor and lack access to financial inclusion into the mainstream South African economy.

In the last twenty years, South Africa has become a member of the five most influential emerging nations, commonly known as BRICS (Brazil, Russia, India, China and South Africa). Combined BRICS represents almost half of the world's population and approximately a quarter of the world's gross domestic product (GDP).[17] As such, the economies that comprise BRICS are critical global emerging markets that will impact trade, financing, manufacturing, mining, and agriculture on a global level.

South Africa's per capita GDP doubled in purchasing power parity and is the highest on the continent.[18] A recent IMF report reflects projected real GDP for advanced economies growing at 1.8% in 2017; 1.5% in the Eurozone; 1.8% in the United States; and 0.8% in South Africa.[19] South Africa's economic development and financial metrics are excellent for a G-20 developing country especially since the Financial Crisis G-20 nations have primarily focused on fiscal austerity and sustainability. This is because the global economic recovery in the aftermath of the Financial Crisis remains fragile and interdependent on the growth and recovery of each G-20 nation's economy, which is crucial to the stainability of the world economies. As such, South Africa's development and financial stability plays a crucial role on the global stage. There is opportunity for increased exports and GDP in South Africa driven by agriculture,

---

[16] Nobel Prize Committee (1993), http://www.nobelprize.org/nobel_prizes/peace/laureates/index.html (last visited, Dec. 18, 2016).

[17] IMF, World Economic Outlookk Database 2016, https://www.imf.org/external/pubs/ft/weo/2016/02/weodata/index.aspx http://www.imf.org/external/pubs/ft/weo/2016/02/weodata/index.aspx (last visited November 10, 2015).

[18] CIA World Factbook (2016), https://www.cia.gov/library/publications/the-world-factbook/rankorder/2172rank.html (last visited Nov. 20, 2016).

[19] IMF, World Economic Outlook, supra, note 16 and accompanying text.

manufacture, construction and mining, which has historically been the industries in which vulnerable communities are likely to find employment because of the inexpensive labor pool that these communities provide.[20]

"Financial inclusion is an important social and economic policy objective for many developing countries."[21] Financial inclusion of vulnerable communities would include expanding access to financial services to vulnerable communities in South Africa, which "could help to reduce poverty and inequality and stimulate job creation."[22] Access to capital and financial services for marginalized individuals have helped reduce poverty and stimulate job creation in Barcelona.[23]

It can also be done in South Africa. However, it requires a paradigm shift for the financial services sector, in particular, the banking industry to seek greater cohesion of the marginalized vulnerable communities into South Africa's formal economy rather than seeking more profit.

Until the second half of the 19th century, South Africa had drawn relatively little interest from European settlers, mainly because it was deemed to be devoid of tradable natural resources. In 1652, the Dutch East India Company established a small settlement near today's Cape Town, but mainly as a resupply post for its Asia-bound expeditions. In 1820, the British took over the Cape Town settlement, leading to repeated skirmishes between Dutch and British farmers and herders, fighting over land at the expense of local African populations that were either displaced, enslaved, or both.[24] The subsequent discovery of gold and diamonds, however, suddenly made South Africa a very attractive destination for both European settlement and investment. In fact, by the end of the 19th century, the country was attracting more investment from Europe than all the other African nations combined. The flow of investment prompted the establishment of many banks, setting shop in major cities, and providing credit to [European] farmers, merchants, miners, and prospectors alike.[25]

---

[20] World Bank, *South Africa Economic Update Focus on Financial Inclusion*, World Bank Group Africa Region Poverty Reduction & Economic Management. 4 (2013), www.worldbank.org/topic/financialinclusion/ (last visited August 22, 2016).

[21] Jane K. Winn & Louis de Koker, *Introduction to Mobile Money in Developing Countries: Financial Inclusion and Financial Integrity*, 8 WASHINGTON JOURNAL LEGAL TECHNOLOGY & ARTS, WASH. J.L. TECH. & ARTS, 155-63 (2013).

[22] World Bank, *South Africa Economic Update Focus*, supra, note 19 and accompanying text.

[23] Lydie Pierre Louis & Guillem Fernandez Evangelista, *Cooperative banking: as a means of sustainable economic development in the Barcelona housing market,* UNIVERSITÄT DE BARCELONA INTERNATIONAL LAW REVIEW (2015).

[24] Rita M. Byrnes, *South Africa: A Country Study*, 174-177 (Washington, D.C.: Library of Congress, Federal Research Division 1997).

[25] Id.

By the 1950's the banking sector began to diversify, offering services to consumers, such as personal loans, property leasing, and credit card facilities. Banks also expanded into insurance and even invested in manufacturing and commercial industries.[26] South Africa mirrors the most high-income countries in that its banking system is very sophisticated and well regulated. The South African Reserve Bank (SARB), the country's central bank, enjoys a strong reputation worldwide. The South African currency, the Rand (ZAR), is a widely traded currency in the international foreign exchange market with a volume of trade similar to those in Russian Rubles, Indian Rupees, or Brazilian Reals.[27]

The Johannesburg Stock Exchange (JSE), formed in 1887 during the South African gold rush, is currently ranked the within the top 20 worldwide.[28] Arguably, the only stock exchange in a developing or transition economy that has demonstrated such robust interest by foreign investors especially during times of financial crises is the Warsaw Stock Exchange.[29] South African companies' equities, bonds, and derivatives are actively traded.[30] South Africa is, by far, the most developed financial center in Africa.[31]

The South African economy is similarly highly diversified. Aside from the production of mineral and agricultural commodities, the two industries that have placed South Africa on the world's economic map more than a century ago, South Africa has also thrived in sectors such as financial services, tourism, manufacturing, and telecommunications. It is the home of world-class companies, which compete on the African continent and beyond. According to the World Economic Forum, South Africa ranks 47th in the Global Competitiveness Index, and ranks higher than Mexico and Brazil.[32] It is the highest-ranking country among the continental African nations.

---

26 Id.

27 Bank for International Settlements (2016).

28 Vincenzo Schioppa Narrante, Ambassador, Embassy of Italy to South Africa, *South Africa. The Hub for a Relieved Continent,* The Magazine: South Africa-Italy Summit II, 4-5. (2015).

29 Lydie Pierre Louis, *Warsaw Rising: The Warsaw Stock a Successful Model for Transition Economies*, STUDIA IURIDICA (63) 47-60 (2016).

30 Johannesburg Stock Exchange. (2016). *History, Market Trading Statistics* (2016), https://www.jse.co.za/about/history-company-overview

31 Bank for International Settlements 2016, http://www.bis.org/statistics/d11_3.pdf (last visited January 23, 2017).

32 World Economic Forum, *Global Competitiveness Report 2016-2017* (2016), https://www.weforum.org/reports/the-global-competitiveness-report-2016-2017-1

GLOBAL COMPETITIVENESS INDEX

United States	3
Ireland	24
China	28
Italy	44
Portugal	46
South Africa	47
Mexico	51
Turkey	55
Brazil	81
Nigeria	127

Source: World Economic Forum, Global Competitive Report

The South Africa's banking sector currently includes seventeen domestic commercial banks, two mutual banks, two cooperative banks, fourteen local branches of foreign banks, as well as representative offices of 43 foreign banks. However, only four major South African commercial banks (Standard Bank, ABSA Bank, First Rand National Bank, and NED Bank,) own and control more than 80% of the banking sector's total assets, approximately 4 Trillion Rands or US$ 285 Billion equivalent.[33] South Africa's banking infrastructure is impressive, with a network of over 5,000 branches and nearly 30,000 ATM's. The volume of electronic financial transactions (EFT) including debit card, credit card, and other on-line payments have increased steadily in recent years, rising by 60% between 2005 and 2013.[34]

However, these numbers mask a high level of socio-economic imbalance that is characteristic of South Africa. The banking infrastructure and personnel are primarily concentrated in the Gauteng province, home of the country's economic capital Johannesburg and political capital Pretoria. Twenty-five

[33] South African Banking Sector Review, *The Banking Association South Africa*, 3-4, (2014), http://www.banking.org.za/docs/default-source/publication/banking-sector-overview.pdf?sfvrsn=6 (last visited January 6, 2017).

[34] Id.

percent of the country's population resides in Gauteng. The corporate headquarters of all major South African banks are located in Johannesburg. Nonetheless, such a high concentration of economic activity in a relatively small geographic area is another road block toward financial inclusion in the country. As Ambassador Vincenzo Narrante recently noted, "South Africa is generally considered by all our competitors as the economic gateway to Africa. Johannesburg, Durban and Cape Town are key locations for overseas companies wishing to set up regional headquarters in terms of logistics, infrastructure, transport and financial resources."[35]

It is not only the corporate interests and future presence of multinationals that draws the world's attention to South Africa, but entrepreneurial tourism based on a work-play mixology has increased visits from domestic (other African countries) and international "working tourists" whose visits hinge on "filming, design, media, publishing, arts and crafts such as jewelry work," and winery.[36] "Cape Town is reputedly the fifth busiest film production venue in the world."[37] This burgeoning artistic entrepreneurial tourism is perhaps why "Cape Town was ranked by Newsweek among the eight most creative cities in the world."[38]

III. South Africa's Two-Tiered Economy And Proposed Financial Regulatory System Reform

South Africa has historically existed as an enigma within an enigma for millions in North America. In terms of its financial policies, banking regulation and financial inclusion of the poor. South Africa is the only African country that is a member of the G-20 nations and a member of BRICS. A powerful global position for sure in terms of South Africa's untapped growth potential. Yet, very little is known or written about South Africa's strategies and innovations regarding its financial structure or its financial inclusion of the poor people within its borders. In South Africa, there is a very clear, wide, and precision sharp socio-economic demarcations, which separates the wealthy, the gainfully employed merchants, domestics, the under-employed, and the poor. South Africa's two-tiered economy consists of a formal economy that is robust and attracts foreign investors and global partners from the far east in China to the far west in the United States. However, there is also a significant informal

---

[35] Narrante, *South Africa. The Hub for a Relieved Continent*, supra, note *27 and accompanying text.*

[36] Gordon H. Pirie, *Urban Tourism in Cape Town*, in Rogerson, & Visser, G. (eds.), Urban Tourism in the Developing World – the South African Experience, 223-244 (New Brunswick: Transaction Press 2007).

[37] Id.

[38] Id.

economy (some refer to it as the dark economy) that consists of those less visible and vulnerable. It is the poor who are "mostly excluded from participating in the country's formal economy."[39]

Despite South Africa's peaceful transmission to a democratic political structure in 1994, several major social and economic problems continue to linger in the South African society. Perhaps the most prevailing problem has been an inability of the government and private sector to integrate the poor into South Africa's formal economy. Recently, the World Bank described South Africa as a "dual economy." One can observe, side by side, a high-end economy that resembles that of any high-income country, and an under-developed economy "functioning mostly in townships and former homelands in rural areas" with very little interaction between the two. It is estimated that approximately one third of the working population remains excluded from the formal South African economy.[40] Despite South Africa's remarkable competitive index, the metrics do not take into consideration the razor sharp distribution of income within South Africa's population.

The Gini co-efficient (or Gini Index) was created to measure the level of income dispersion within a country. The coefficient is between 0 and 1 where 0 represents perfect income equality and 1 represents perfect inequality (all the country's income would go to one person). South Africa ranked second to worse in the world behind Lesotho. In the 2013, South Africa had a Gini Index ranking score of .60.

[39] World Bank, *South Africa Economic Update Focus*, supra, note 19 and accompanying text.

[40] World Bank, *Developing Trends Reports*, World Bank Development Economics Group (2013), www.worldbank.org/topic/developingtrends/

GLOBAL GINI CO-EFFICIENT COMPARISON

Country	Gini Co-Efficient
European Union	.30
Ireland	.32
India	.34
Russia	.42
United States	.45
China	.47
Brazil	.52
South Africa	.60
Lesotho	.63

Source: CIA World Factbook

South Africa's level of income inequality coupled with a two-tiered economy which excludes the poor is unique in the world. What is even more staggering is that recent statistics show that income inequality has increased over the past 20 years despite South Africa's impressive growth and transition into a democratic state. While this issue is in large part the legacy of the apartheid era, there has been a lack of successful public-private initiatives since the mid-1990's to begin closing the gap between South Africans who are financially included within the South Africa's financial system, and South Africans who are financially excluded from South Africa's financial system.

IV. FINANCIAL INCLUSION OF THE POOR CREATES ECONOMIC GROWTH

It has been documented that "financial inclusion implies that individuals and businesses have access to useful and affordable financial products and services that meet their needs: checking, payments, savings, credit and insurance – delivered in a responsible and sustainable way."[41] When individuals and businesses are part of an inclusive financial system, they benefit from important information provided by the system. Well-informed economic participants will tend to make better choices among available financial products and services,

[41] Id.

which will improve their economic well-being. Having access to a suitable array of savings and loan products, for example, will allow households to better absorb the consequences of unforeseen personal circumstances such as job loss or sickness. When there is not an inclusive system, households need to rely on their own resources or on those of their relatives, which is much less economically efficient. Ironically, global financial inclusion indicators reveal that South Africa's financial system is relatively inclusive.[42]

GLOBAL FINANCIAL INCLUSION COMPARISON

Country	Accounts (% age 15+)	Formal Savings (% age 15+)	Formal Borrowings (% age 15+)
South Africa	70	33	12
Sub-Saharan Africa	34	16	6
Eastern Europe & Central Asia	51	8	12
World	62	27	11

Source: World Bank, Financial Inclusion Data[43]

On the surface, this data illustrates that South Africa's financial system is considerably more inclusive than Sub-Saharan Africa, and more inclusive that Eastern Europe and Central Asia, as well as the world in general. However, this overall data hides a high level of inequalities in South Africa. In actuality, less than 30% of low-income adults (the poorest 25%) own a formal bank account

[42] Id.

[43] Asli Demirguc-Kunt, Leora Klapper, Dorothe Singer & Peter Van Oudheusden, Peter, *The Global Findex Database 2014: Measuring Financial Inclusion Data Around the World*, World Bank Group, Development Research Group, Finance and Private Sector Development Team (2014), http://documents.worldbank.org/curated/en/187761468179367706/pdf/WPS7255.pdf

as compared to 91% of high-income adults (the richest 25%).[44] Other criteria that determine account ownership include residence, age, education level, and gender. Ninety-four percent of adults with a college degree own a bank account as compared to only 43% of those with only a primary education.[45] The problem exists, in part, because the South African banking industry is a highly concentrated source of wealth and limits access to capital to primarily the wealthy.

The highly unequitable access to financial services in South Africa is in part due to the heavily concentrated ownership structure of the banking sector. The original South African banks that were established centuries ago remain the largest South African banks undisturbed by time. They are Standard Bank, ABSA Bank, FirstRand National Bank, and NED Bank (the Big Four).[46] The collective, the Big Four, own and/or control 84% of the entire South African banking industry's assets. This type of ownership and control would be deemed an illegal oligarchy in the United States. This type of anti-competitive market share violates national and state banking laws as well as national anti-trust laws of the United States because it would be viewed as fundamentally unfair for the Big Four to own and control such a super majority of the country's banking assets. It is within this context of unimaginable historical wealth that financial inclusion of the poor is most regarded as a "social responsibility." To be fair, the Big Four has made attempts over the years to implement financial inclusion initiatives. However, all have failed.

For example, in 2004, the Financial Services Charter (FSC) implemented a new low-cost bank account (the Mzansi account) and pledged a higher amount of housing and small business loans in favor of low-income populations. In 2010, private mobile-banking services (M-Pesa wallet) was implemented. Although these initiatives have been encouraging, they have been a disappointment. The Mzansi account and the M-Pessa wallet have not achieved their goal of making financial services access to the poor in South Africa more inclusive.

The reality remains that currently more than 12 million South African adults lack a basic bank account and millions more are underbanked - those with an existing, but inactive bank.[47] It is, in part due, to this incongruity of concentrated wealth of the wealthy and simultaneous limited financial access for millions of poor people that prompted the South Africa National Treasury

---

[44] World Bank, *Data topics* (2016), http://datatopics.worldbank.org/financialinclusion/country/south-africa (last visited Jan. 21, 2017).

[45] World Bank, *South Africa Economic Update Focus*, supra, note 19 and accompanying text.

[46] Id.

[47] Kumalan Naidoo, *The Expansion of Access to Financial Services*, The Magazine: South Africa-Italy Summit 2, 8-9 (2015), https://issuu.com/mediatria/docs/magazineissue2/1

to conduct an in-depth study concerning financial inclusion of the poor in South Africa. The results were disturbing.

In 2014, South Africa National Treasury circulated a report aptly entitled "Draft Market Conduct Policy Framework for South Africa" that documented the need to treat people fairly and broaden financial inclusion of the South Africa's vulnerable communities. The report noted the following: "Financial customers are not adequately protected in South Africa, and more needs to be done to ensure that the providers of financial products and services treat their customers fairly."[48] The report noted several instances of financial abuse to vulnerable customers by the banking personnel. The abuses include but are not limited to:

1) charging unnecessarily high fees;
2) a multiplicity of incomprehensible charges;
3) design and sale of inappropriate products;
4) reckless lending often paired with disgraceful (and illegal) conduct; and
5) overly aggressive debt-collection practices (especially for the most vulnerable borrowers).

Furthermore, the South African National Treasury reported noted that several financial institutions operating within South Africa were:

1) "actively" conducting their businesses in ways that prejudice (prevent) certain individuals from becoming banking clients and customers;
2) amplifying challenges relating to low savings and over-indebtedness; and
3) undermining steps taken by the South African National Treasury to make the financial services sector more accessible to "vulnerable" South Africans to improve financial inclusion of the poor.

South Africa's National Development Plan includes researchers, policymakers, and other financial sector stakeholders who have shown an interest in the transformative power of financial inclusion in South Africa. Indeed, expanding access to financial services could reduce South Africa's persistent income inequality and stimulate growth.[49] The South African National Treasury recognized that a change was warranted but has been unable

---

[48] South African National Treasury, *Draft Market Conduct Policy Framework for South Africa*, (2014), https://www.fsb.co.za/Departments/communications/Documents/2014%2012%2012%20Draft%20Market%20Conduct%20Framework.pdf

[49] Naidoo, *The Expansion of Access to Financial Services*, supra, note 46 and accompanying text.

to find viable alternatives to include poor communities in South Africa's formal economy. Perhaps a solution can be found 5,824 miles away on the island nation of Ireland. "It is important to note that the [Irish] banks are an indispensable and integral part of the response mechanism" to resolve the prevailing problem of financial inclusion of the poor in Ireland.[50]

V. THE IRISH FINANCIAL INCLUSION MODEL

There is a cumulative effect concerning the lack of appropriate financial products for the poor. It creates a desertification affect, wherein disadvantaged poor areas make it more difficult for local poor people to access financial services, which in turn decreases the level of contact that the poor has with financial services, and the decline (or non-existent) one-on-one relationship development with a banking personnel can create psychological barriers among the disadvantaged populations that further alienates the poor from participating the country's formal economy.[51]

In 2008, at the height of the Financial Crisis, the European Union published a report which analyzed, and compared each member nation's income and living conditions for 2007.[52] Ireland had the dubious honor of ranking the lowest when compared to the living conditions of the poor in each European country. The EU-SILC calculated that approximately 18% of the people in Ireland live in households that do not currently have access to a transaction-based bank account—access to financial institutions. However, an independent research group conducted a study during the same time-period and concluded that the percentage of poor living in Ireland during the time of the EU-SILC was approximately 25 percent.[53] The EU-SILC further documented that the poor in Ireland:

1) do not currently have access to a transaction-based bank account;
2) living without bank accounts can be more vulnerable to theft and loss;
3) cannot avail of payment methods that have become the norm in Irish society;
4) may have difficulty paying for certain goods and services;

---

[50] Carbo, *Financial Exclusion in Europe*, supra, note 7 and accompanying text.

[51] Stephen Sinclair, *Financial Exclusion: An Introductory Survey, (*Edinburgh: Centre for Research into Socially Inclusive Services (CRSIS) (2001).

[52] Eurostat, *European Union Statistics on Income and Living Conditions* (EU-SILC), (Luxembourg: European Union 2008), http://ec.europa.eu/eurostat/web/microdata/european-union-statistics-on-income-and-living-conditions

[53] Caroline Corr, *Financial Exclusion in Ireland: An Exploratory Study and Policy Review,* Combat PovertyAgency, 107 (Dublin 2006).

5) are often excluded from the benefits available from everyday banking services; and
6) are prevented from participating in economic development.[54]

Based on the metrics used in the EU-SILC, the "at risk of poverty" rate across the EU in 2007 was 16 percent. Several countries scored below the average "at risk poverty" rate. Several scored above. The key markers were as follows:

EUROPEAN UNION 2008 "AT RISK POVERTY" RATE

Netherlands	10
Czech Republic	10
European Union	16
[Ireland]	18
Greece	20
Spain	20
Latvia	21
[Ireland]	25

Combined Source: EU-SILC 2008 and Combat Poverty Agency

Netherlands and the Czech Republic both recorded the "lowest at risk of poverty" rates in the EU in 2007 at 10 percent. Latvia recorded the "highest at risk of poverty" rate of any Eastern European country at 21 percent. Italy, Greece and Spain tied with "high at risk poverty" rates at 20% percent. Ireland also recorded one of "the highest at risk of poverty" rate of any Western European country at approximately18 percent.[55] However, in addition to the approximately 18% of the Irish population that were living in income poverty as documented in the EU-SILC, a simultaneous study conducted by the Combat Poverty Agency documented an additional 7% of the Irish population that were living in consistent poverty. Thus, Ireland's "at risk of poverty" rate was closer to 25 percent.[56] The Combat Poverty Agency report confirmed that Ireland had

[54] Eurostat, *European Union Statistics on Income and Living Conditions* (EU-SILC), (Luxembourg: European Union 2008), http://ec.europa.eu/eurostat/web/microdata/european-union-statistics-on-income-and-living-conditions

[55] Id.

[56] Corr, *Financial Exclusion in Ireland,* supra, note 52 and accompanying text.

the highest percentage of "at risk of poverty" of any EU member country. It was not a title the Irish Government coveted. Therefore, the Irish Government conducted its own domestic report on the income and living conditions of the Irish people.[57]

The Irish Government report confirmed to a large measure the EU-SILC and the Combat Poverty Agency report with minor variation in methodology, and the EU definition of gross income differs from the national definition of income in that it does not include income from private pensions or the value of goods produced for own consumption.[58] Additionally, employer's social insurance contributions are included in the Irish definition of gross income but excluded from the EU definition.[59] Some scholars may argue that including the social insurance contribution (which the individual never receives) as gross income unrealistically inflates gross incomes and iniquitously shrouds the true income an individual receives. Nevertheless, the Irish Government calculated that in 2007, the average net disposable household income increased from €47,988. The "at risk of poverty" threshold was €11,890.[60] The income disparity between the average household and the "at risk of poverty" had grown in Ireland by approximately 11 percent. It was a substantial increase of "at risk of poverty."

The results compelled the Irish Government to do more to financially include its poor into the mainstream Irish economy. Upon the publishing of the three reports on that status of the poor in Ireland, the Irish Department of Social Protection raised its concern with the Irish Department of Finance as to what initiatives needed to be implemented to financially include the poor into the mainstream Irish economy.

The Department of Social Protection working in cooperation with the Department of Finance established a Financial Inclusion Working Group which developed a bold initiative that would require the collaboration of the private sector to successfully integrate the poor into Ireland's formal economy. The Department of Social Protection envisioned a welfare payments environment that will ultimately be fully electronic. Consistent with the Irish Government's broader government policies and objectives on better public services and more effective e-payments as set out in the Public Service Reform Plan and the eGovernment Strategy 2012-2015.[61] More importantly, banks that do not have

---

[57] Ireland Central Statistics Office, *Survey on Income and Living Condition 2008* (Dublin: Stationary Office 2009).

[58] Id.

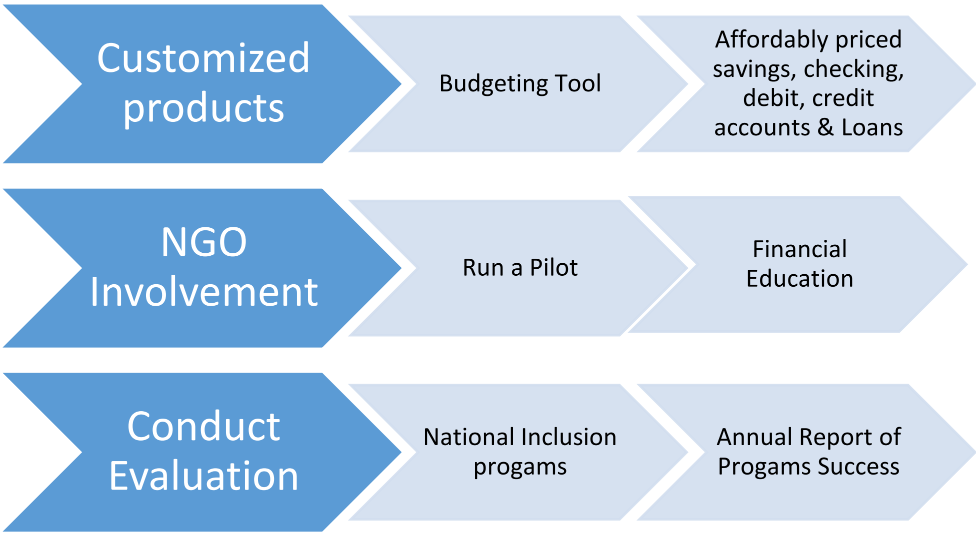
[59] Id.

[60] Id.

[61] Irish Department of Finance, *Report on the Financial Inclusion Working Group: The Standard Bank Pilot Project* (Dublin: Financial Inclusion Working Group 2013).

an existing financial inclusive program for vulnerable communities will not be eligible to participate in the National Payments Plans.

Banks in Ireland that received e-payments of "social transfers" from the Department of Social Protection on behalf of the poor who used the banks' specifically designated debit cards recognized the enormity of the situation immediately, and wasted no time in implementing robust financial inclusion initiatives for the poor that used banks to receive e-payments from the Department of Social Protection. For example, the initiatives included a combination of many of the following innovative strategies:



1) customized product specification for categories of potential customers including the most vulnerable potential customers;
2) include a budgeting tool workshop for vulnerable customers;
3) run a pilot in key urban banking branches;
4) involve NGOs and public utilities to reach vulnerable rural communities;
5) conduct a formal evaluation of each new customer or potential customer;
6) oversee national roll-out of the financial inclusion programs; and
7) monitor post national roll-out with 6-monthly reports.[62]

The results were impressive.

However, the reality is the average weekly household social transfers to the poor from the Irish Department of Social Protection were €233.90 in 2007.[63]

[62] Id.

[63] Ireland Central Statistics Office, supra, note 56 and accompanying text.

This calculates to approximately €420 million of social transfers on a monthly basis from the Irish Department of Finance to the Irish Department of Social Protection and then to participating e-payment approved banks who then credit previously issued debit cards to the social transfer recipients. The Irish Government has noted that its progression to electronic payments of social transfers is a critical element of the wider National Payments Plan aimed at removing the very high levels of cash usage in the Irish economy.[64] It is expected that electronic payments will make the process of issuing and receiving government entitlement payments more efficient methods and will thereby contribute to improved national competitiveness.

The Irish Department of Finance and Department of Social Protection used its financial leverage to incentivize the banks to do more to financially to include the poor or else the bank would not be approved to receive e-payments on behalf of the Irish Government. It was simple and effective. Additionally, Irish banking regulations were modified to require banks operating in Ireland that were approved to received social transfer e-payments to report on the success of the bank's financial inclusion program on annual basis as part of the bank's required financial status report to the Irish Department of Finance.[65]

It is import to note that the Department of Finance and the Department of Social Protection worked with a large consortium of partners including several banks both domestic and internationally based as well as NGOs to realize their goal of financial inclusion of Ireland's poor. Their partners include the Central Bank of Ireland and the Irish Banking Federation whose membership includes internationally based banks. Their partners also included the following NGOs: Social Finance Foundation, AIB, ptsb, Society of St. Vincent de Paul, OneFamily, MABS, CUDA, ILCU, An Post, and the National Consumer Agency.[66] The results were impressive and promising on a global level:

[64] Irish Department of Finance, supra, note 60 and accompanying text.

[65] Id.

[66] Id.

IRELAND'S FINANCIAL INCLUSION COMPARISON

Key Financial Indicators in 2004	Key Financial Indicators in 2014
Number of "Active" Accounts (% age 15+) 22%	Number of "Active" Accounts (% age 15+) 65%
Formal savings (% age 15+) 17%	Formal savings (% age 15+) 49%
Formal borrowing (% age 15+) 7%	Formal borrowing (% age 15+) 18%

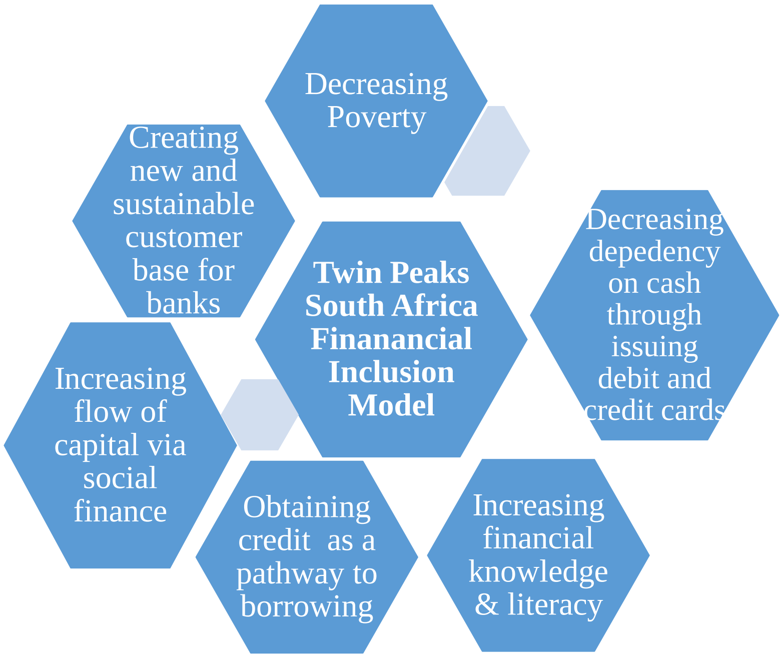
Source: Irish Department of Finance

VI. RECOMMENDATION

Our recommendation is simple, and presumably in its simplicity rests its effectiveness. The South African Ministry of Finance should collaborate with all the private financial institutions operating in South Africa beyond the Big Four including the seventeen domestic commercial banks, two mutual banks, two cooperative banks, and fourteen local branches of foreign banks to implement the Irish Financial Inclusion Model with modifications to address challenges that are central to South Africa into the "Twin Peaks South African Financial Inclusion Model."

The Twin Peaks South African Financial Inclusion Model would allow social transfers (welfare-entitlement) recipients to receive their payments electronically through a reloadable debit card or mobile device, which supports the use of financially inclusive accounts.[67] The advantages to implementing the Twin Peaks South African Financial Inclusion Model would include:

[67] Bankable Frontier Associates, *Designing and Implementing Social Transfer Programmes*, 209 (2014), http://epri.org.za/wp-content/uploads/2011/01/EPRI_Chapter13_4.pdf



The challenges with implementing the Twin Peaks South African Financial Model are complicated but not insurmountable.

We have provided some suggestions for overcoming certain challenges that may arise during the implementation of the Twin Peaks South African Financial Inclusion Model. They include:

1. <u>Adopting Legislation Permitting More Banks to Participate in E-Payments Transfers</u>

There are only four large banks that are based in South Africa; the majority are foreign banks with branches in South Africa. Although there are approximately 50 banks in South Africa, only the Big Four are approved to receive social transfer E-payment. The South African Ministry of Finance should: 1) broaden the pool of banks that are approved to receive social transfer E payments to include (a) the 17 commercial banks, (b) 2 mutual banks, (c) 2 cooperative banks, (d) 14 local branches of foreign banks; and 2) use its financial leverage to "incentivize" social transfer E-payment banks to do more to financially to include the poor "or else" the banks would not be "approved" to receive E-payments social transfers on behalf of the South African Ministry of Finance. This would mean that the millions of dollars that flow through the approved banks on a monthly basis, which allows the banks the float, that is, free use of money (in any manner beneficial and legal to the banks) until the social transfer recipient withdraws the money would no longer be available to the banks. It is a simple and effective strategy. Additionally, South African banking regulations should be modified to require banks operating in South Africa, and who are approved to receive social transfer E-payments to report on the success of the bank's financial inclusion program twice a year at the end of the second and fourth quarter as part of the banks requisite reporting on its financial status to the South African Ministry of Finance.

The proposed Twin Peaks South African Financial Inclusion Model provides the opportunity for South African banks to gain a larger sustainable customer base, which will undoubtedly lead to greater revenues while simultaneously achieving financial inclusion of the poor and stabilize continued growth for South Africa.

2. Social Transfer E-Payment Methods Should Fund Financially Inclusive Accounts

National governments of developing countries use one of three main methods to make payment of social transfers (welfare payments): 1) cash payment; 2) special purpose transfer accounts; and 3) financially inclusive accounts.[68] Cash payments require the recipient to travel to a specified government operated location at a specific time to receive the payment in cash. Special purpose transfer accounts are electronic payment transfers made to a particular service point. The recipient can only withdraw the full amount one time at specified service point at specified time-period.

Financially inclusive accounts are electronic payments transfer made to a range of financial sector service points. The recipient can withdraw the payment in full or in part and can also receive other payments into the same account. The recipient can withdraw the payment at any time at which financial service point operates.

South Africa uses the special purpose transfer accounts to make social grant (welfare) payments to recipients. On approximately the first of every month, millions of South Africans living in rural areas arrive at a stand-alone ATM in a remote public square as early as 7 AM to stand in line for hours in the unforgiving South African sun to withdraw their monthly social grant electronic payment. They know that if they do not arrive early enough and stand in line by a particular time, the ATM will run out of cash. The ATM will not likely be serviced (replenished with cash) for a week or so, which means the social transfer recipients will not be able to receive the desperately needed funds for an additional week or two.[69] The special purpose transfer accounts should be redesigned to financially inclusive accounts to allow the recipients flexibility to receive and use the social transfer payments.

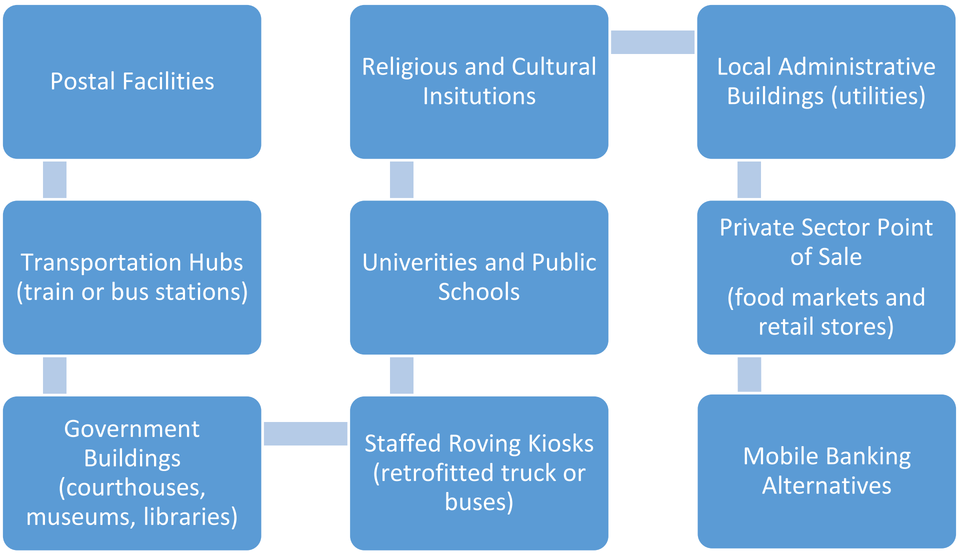
---

[68] Id.

[69] Pierre Louis, *Discussions with numerous South African Social Grant Recipients* (Names Requested to Remain Confidential), Cape Winelands District Municipality, South Africa, (June 25, 2016).

3. Financial Desertification and Expanding Financial Initiatives to Rural Areas

In certain rural areas in South Africa, brick and mortar banks are non-existent. The stand-alone ATM becomes the primary, if not only source of banking, for the poor that live in the remote areas of South Africa. Financial access and inclusion of poor South Africans living in remote areas without a brick and mortar bank facility can be provided in a variety of innovative methods. They include using financial services kiosks staffed by a "live person" in urban and rural locations at untraditional locations such as:



4. Mobile Banking Alternatives

Mobile money is an attractive viable alternative. Scholar have proposed the use of mobile banking, which has been defined as "the use of a mobile phone handset to deposit, withdraw or transfer funds;" it holds great promise as a policy instrument for promoting financial inclusion. It provides a practical and cost-effective channel to extend basic banking services to many currently unbanked people in urban as well as remote rural areas."[70] For example, in Brazil, the creation of "banking correspondents," which are often retail vendors

[70] Winn, *Introduction to Mobile Money in Developing Countries*, supra, note 20 and accompanying text.

authorized to serve as cash-in/cash-out points for traditional bank accounts for financial inclusion, has worked very well.[71] Enveloping mobile banking into the South African financial system regulatory reform will be an important step towards financial inclusion of the poor.

5. Cultural Divides May Hinder Involvement and Inclusion

The success of this program will require all constituencies to work together, including government, NGOs, representatives of local communities and all the banks operating in South Africa. NGOs and international organizations who are dedicated to reducing financial exclusion anywhere in the world particularly should be invited to share their experiences and viable solutions. The proposed Twin Peaks South African Financial Inclusion Model must be viewed as a business opportunity for all the banks involved in terms of both the ability to use the E-Payment float at their discretion for fixed period and the ability to grow its customer base with a sustainable group of customers, not as a social responsibility.

Irrespective of the challenges, innovative and sustainable solutions that are not the sole basis of profitability for financial services but rather based on access to financial services to the poor can be a transformative for South Africa. The transfiguration of the financially excluded poor into financially included customers into South Africa's formal economy can be achieved. However, it requires a true commitment and will to see beyond the historical record and inter-actively create an inclusive future for all South Africans. This will create a financially inclusive economy that will make South Africa and the world proud.

VII. CONCLUSION

"The poor in South Africa are extremely poor…they borrow to eat, they borrow to go to work, they borrow to pay rent, they borrow to live…."
--Zackie Achmat, South African Activist[72]

People that live-in poverty are struggling to survive. The Irish Financial Inclusion Model has proven how impact dedicated public-private financial inclusion initiatives can make a difference in the lives of millions of poor people. We recommended that the Irish Financial Inclusion model be implemented in South Africa to bring approximately 12 million poor South

[71] Gilberto Martins de Almeida, *M-Payments in Brazil: Notes on How Country Background May Determine Timing and Design of Regulatory Model*, 8 WASHINGTON JOURNAL OF TECHNOLOGY & ARTS, 347-360 (2013).
[72]Zackie Achmat, South African Activist, Keynote Address at Cape Town University Graduate School of Business, Georgia State University Study Space Conference, *The Survival of the Poor in South Africa*, Cape Town, South Africa (June, 28, 2016).

Africans within the formal South African economy. There will be challenges to the implementation of the Twin Peaks South African Financial Inclusion Model. However, we believe those challenges can be overcome. There simply needs to be a willingness to modify existing conceptual, business, and legal frameworks, whether they are statutory or contractual in nature, to address all the relevant issues concerning financial inclusion.[73]

Lastly, financial inclusion initiatives should be vetted by committees that represent a broad spectrum of the South African society including: financial services, other industries, government, labor, consumer, and local community members. It is only with this type of inclusive mindset that South Africans can hope to resolve their country's dire problem of financial exclusion and eventually unleash the large untapped economic potential that exists within South Africa's vulnerable communities. The impact will be felt not only within South Africa but also on the shores of other emerging and developed economies that are grappling with how to financially include the poor within the formal economy.

[73] Luca G. Castellani, *The Role of UNCITRAL Texts in Promoting A Harmonized Legal Framework for Cross-Border Mobile Payments*, 8 WASHINGTON JOURNAL OF LEGAL TECHNOLOGY & ARTS, 265-280 (2013).