



Hogan Lovells Global Payments Newsletter

September 2016



**Hogan
Lovells**

Welcome to the Hogan Lovells Global Payments Newsletter. In this monthly publication we provide an overview of the most recent payments, regulatory and market developments from major jurisdictions around the world as well as sharing interesting reports and surveys on issues affecting the market.

For our latest news and commentary on payments innovation, follow us on Twitter [@HLPayments](#).

For more information on our Payment Services team please click the link [here](#).

For more Financial Institutions resources please click the link [here](#).

Key Developments

Key developments of interest over the last month include:

- **Real time gross settlement system:** The Bank of England published its first self-assessment on its real-time gross settlement (RTGS) system against the Principles for Financial Market Infrastructures. The RTGS service was found to adhere to all the principles.
- **Bitcoin ATM:** Deloitte's Toronto office is now operating a bitcoin transaction machine, which can accept up to 1,000 bills in multiple currencies.
- **Proposed bitcoin regulations in Singapore:** the Singapore Central Bank has proposed new rules for bitcoin startups, under which companies will have to obtain a licence from the Monetary Authority of Singapore.

The EBA consults on RTS specifying requirements on strong customer authentication under PSD2

- As mentioned in August's newsletter, on 12 August 2016, the EBA published a consultation paper (EBA-CP-2016011) on the draft regulatory technical standards (RTS) relating to strong customer authentication and common and secure communication under the Directive on payment services in the internal market ((EU) 2015/2366) (PSD2).

See our briefing on the consultation paper [here](#).

See the EBA consultation paper [here](#).

Regulatory Developments

Global

United Kingdom: Minutes of first meeting of reconvened Payment Services Stakeholder Liaison Group

- On 4 August 2016, the FCA published the minutes of the meeting of the Payment Services Stakeholder Liaison Group that was held on 12 July 2016.
- The FCA has decided to reconvene the group, which last met in July 2013, to assist with the development of an approach to the UK implementation of the revised Directive on payment services in the internal market ((EU) 2015/2366) (PSD2) by 13 January 2018.
- The minutes contain discussion on:
 - HM Treasury's intention to carry out a six week consultation, commencing in August 2016, on the draft regulations implementing PSD2. (Note: HMT have not yet published the consultation)
 - The FCA's plan to consult on the revised guidance for payment services in the first half of 2017, following the February 2016 call for input.
 - The issues raised in relation to article 75 of PSD2 concerning the blocking of funds on card-based payment accounts when the transaction amount is not known in advance.
 - What is captured under the new definition of "acquiring of payment transactions" under article 4(44) of PSD2, and how these changes should be reflected in FCA guidance.
 - The type of statistical data to be collected on fraud under article 96(6) of PSD2. In particular, clarification was sought on how data that is already collected could be aligned with new reporting obligations under PSD2. The FCA intends to follow up on this issue.
 - In relation to articles 65, 66 and 67 of PSD2, the meaning of "accessible online". This concerns the obligations relating to the confirmation of the availability of funds,

payment initiation and account information for account servicing payment service providers (ASPSP). These obligations only apply if the payment account provided by the ASPSP is accessible online.

- The next meeting is on 13 September 2016.

See the minutes [here](#).

United Kingdom: BoE self-assessment of RTGS system against PFMI

- On 1 August 2016, the Bank of England (BoE) published its first self-assessment on its real-time gross settlement (RTGS) system against the Principles for Financial Market Infrastructures (PFMI).
- Although the RTGS is not a payment system, the self-assessment was primarily undertaken against the principles that apply to payment systems.
- Of the principles that were judged to be applicable, the BoE found that the RTGS service fully observed all of them, with principle 2 (governance) and principle 3 (framework for the comprehensive management of risks), only being broadly observed.
- The self-assessment highlights any findings that are relevant to the BoE's on-going strategic review of the RTGS.
- The BoE has also published a service description of the RTGS service.
- The self-assessment was carried out by the BoE in its role as operator of the RTGS service, and not in its supervisory capacity. The BoE plans to update the self-assessment on a broadly annual basis.

See the BoE self-assessment [here](#).

Hong Kong: Hong Kong Monetary Authority grants first round of Stored Value Facilities licences

- On 25 August 2016, the Hong Kong Monetary Authority (HKMA) announced a first round of five successful Stored Value Facilities (SVF) licences under the Payment Systems and Stored Value Facilities Ordinance (the Ordinance).
- The Ordinance commenced operation on 13 November 2015 with a one year transition period allowing existing SVF issuers to apply for licences.
- Upon the expiry of this one year period, i.e. from 13 November 2016 onwards, it will be unlawful for any person to issue or operate a SVF in Hong Kong without a licence (or the benefit of an exemption).
- The HKMA has issued an Explanatory Note on Licensing for Stored Value Facilities, which sets out the scope of the licensing regime as well as licensing criteria and particulars of the licensing process.
- Apart from the general and high level supervisory principles and approach summarised by the HKMA, applicants are expected to satisfy certain specific practical regulatory expectations of the HKMA in the course of the application process, including that:
 - the principal business of an SVF licensee must be the issue or the facilitation of the issue of a SVF, and the licensee is not allowed to carry on any money lending services, financial intermediation activities or any other regulated activities; and
 - an SVF licensee must either have paid-up capital of no less than HK\$25 million (or an equivalent amount in any other currency) or other financial resources that are equivalent to or exceed this amount.

- The new SVF regime marks the turning of a new page in the development of retail payments in Hong Kong, and is an important milestone in Hong Kong's advance as a fintech hub.

More information on the SVF regime can be found [here](#).

Singapore: Singapore Central Bank proposes new rules for bitcoin startups

- Under the proposed framework, applicable companies would have to obtain a licence from the Monetary Authority of Singapore (the MAS). The framework would also divide payment activities into several categories.
- The MAS said "*it is likely that under the [Proposed Payments Framework], virtual currency intermediaries which buy, sell, or facilitate the exchange of virtual currencies, such as bitcoin, will also be considered to undertake [money transmissions and conversion services].*"
- The MAS also highlighted the need for a regulatory framework that reflected the changing nature of financial institutions amidst a period of technological change.
- A comment period for the proposal runs through to the 31 October 2016.

The full proposal can be found [here](#).

Payment Market Developments

Global

United Kingdom: HSBC to enable customers to open accounts using facial recognition technology

- The process will be enabled through a mobile application, which will utilise facial tracking technology to capture an image of the customer's face. The image is then assessed against an ID document that the customer uploads. The application will be capable of recognising and verifying documents from up to 150 countries.
- Almost half of new HSBC Business Current Accounts are now opened online, compared to just 10% in 2013, according to HSBC's head of global propositions for commercial banking.

See more information [here](#).

France: Launch of Sharepay, a new payment card to share costs without joint account

- Comet, a French company specialising in innovative means of payment, has launched a new payment card named "Sharepay". The card allows two persons to share costs without having a joint account by collecting money equally on their accounts respectively. It is also possible, if wished, to configure the load distribution on Sharepay's website.

See more information [here](#).

France: Orange Cash launches a new function for minors

- The functionalities of Orange Cash, Orange's contactless payment app, have been specifically extended to young people. Specific Orange Cash accounts have been designed for children and will be administered by parents who already have the Orange Cash app.
- These accounts allow minors to pay with their smartphone through Orange Cash, although it is understood that the app blocks payments in tobacco shops, liquor stores, or pharmacies.

See the press release [here](#).

France: Lydia and MasterCard launched a new payment card

- MasterCard and Lydia (a fee-free payment app) have launched a payment card that can be directly configured by cardholders through the Lydia app. The app allows cardholders to activate or deactivate some of the card's features such as foreign payments, ATM withdrawals or NFC functionalities.

See the press release [here](#).

USA: Baxter Credit Union joins the CU Ledger blockchain project

- CU Ledger has started working with Evernym Inc, a sovereign identity provider, to build an identity-related proof of concept on top of a permissioned blockchain.
- The second track of the CU Ledger project will focus on finding a third-party provider in the blockchain industry that it would be best to work with for the project in the long-term. The work will be consumer-facing, unlike many enterprise blockchain projects.
- Credit unions are also interested in whether blockchain could create a more efficient management of indirect autolending (a retail installment contract originated by an auto dealer and then purchased by a bank).

See more information [here](#).

USA: Walmart and MoneyGram launch online money transfer platform

- The new money transfer platform is built on MoneyGram's Money Transfer as a Service platform.
- The site allows customers to use MoneyGram's "Track a Transfer" tool when money is being sent to any of MoneyGram's estimated 350,000

locations, as well as bank accounts around the globe through Walmart.Moneygram.com

See more information [here](#).

Canada: Deloitte operates its first Bitcoin ATM

- Deloitte's bitcoin transaction machine (BTM) is based in the Rubix blockchain division of its Toronto office, and is now ready to exchange digital currency for Canadian dollars.
- The BTM was manufactured by Bitaccess, and can accept up to 1,000 bills in multiple currencies.
- According to Bitaccess' co-founder, Moe Adham, this advances Bitaccess' mission to commercialise blockchain technologies.

See more information [here](#).

China: Xiaomi smartphone owners to boost contactless payments

- Owners of Xiaomi smartphones can now use their phones to pay at contactless terminals in stores and on public transportation in six major cities in China.
- Xiaomi is working in partnership with China UnionPay to ensure extensive coverage. UnionPay has reported five million contactless point-of-sales terminals in China.

See more information [here](#).

Sri Lanka: Visa opens office in Colombo to grow digital payments

- Sri Lanka is a priority market for Visa in South East Asia. The Visa Country Manager, Anthony Watson, will focus on the growth of electronic commerce across the country.

See more information [here](#).

Surveys and Reports

United Kingdom: The irresistible rise of contactless

- A report from the UK Cards Association (UKCA) has revealed that tap-happy Brits have spent more on contactless cards in the first half of 2016 than for the whole of 2015.
- Between January and June of this year £9.27bn was spent using contactless methods, exceeding the 2015 total of £7.75bn.
- The UKCA report states Q1 2016 saw 1.1bn contactless transactions, a rise of 50m compared to the 2015 total.
- The latest monthly card expenditure statistics reveal that contactless card payments accounted for 18% of total purchases in June. The June 2015 figure stood at 7%.
- Barclaycard has recorded a 270% increase in the use of touch-and-go payments already this year. Much of this can be explained by the increase in the contactless spending limit, which increased from £20 to £30 in September 2015.
- The latest Barclaycard Contactless Spending Index, which monitors the shopping trends in the UK market, finds that usage has leapt 173% by value and 112% by volume.

See the report [here](#).

United Kingdom: contactless card use overtakes cheques, but mobile payments have yet to take off

- New research from Mintel has shown that cheques have been used by less than one third (31%) of British people in the past three months, down from 40% of people who made a payment using this method in 2015. Cheques are now the least likely method of payment to be used in Britain.
- However, Mintel also found that mobile payment still has some way to go before it is frequently used as a method of payment. 51% of

smartphone owners think it is more convenient to pay for purchases using other payment methods. Furthermore, a majority of Britons (77%) are concerned about the security of their data if their phone was lost or stolen. 76% said they were concerned about hackers.

- The research revealed that 34% of smartphone owners used their smartphone to make payments between April 2015 and April 2016. However, 46% of smartphone owners said they would be more likely to use their smartphone as a method of payment if they were offered rewards.

See more information [here](#).



Our Global Payments Team

Hogan Lovells' global payments practice is made up of financial services and technology lawyers working closely together as a single team from our network of offices, including offices in all the major financial centres.

The practice covers traditional payment services as well as technology driven innovations that affect products, business structures, services and markets.

Our Clients

The team provides strategic advice to all market participants including:

- lenders
- card issuers (including banks and e-money institutions)
- acquirers
- money remitters
- payment schemes
- mobile operators
- retailers
- payment platforms or technology providers
- payment processors
- networks and settlement services

How we can help

In addition to advising on payment specific regulation, the team:

- advises on all related regulation such as money laundering, data and privacy, technology law and IP, e-commerce and consumer protection
- negotiates commercial contracts
- leads or supports on mergers and acquisitions in the payments sector
- engages with Government on new regulation and implementing new legislation
- advises on multi-party arrangements to develop new payment services or networks and on related loyalty and incentive programmes
- negotiates outsourcing of payments processing and settlement
- drafts related customer and commercial documentation

The global payments practice is part of Hogan Lovells market leading Financial Institutions Group, one of the largest practices of its kind with approximately 200 lawyers worldwide.

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