

# **Global Payments Newsletter** 8 August 2014

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# 1. **REGULATORY DEVELOPMENTS**

- 1.1 **Europe**: Update on the Payment Accounts Directive (PAD).
  - On 23 July 2014, the Council of the EU adopted the PAD text in its current form.
  - The Directive will now be signed by the European Parliament and then published in the Official Journal of the EU in late August or early September 2014.

See a press release <u>here</u> and a statement from the European Commission <u>here</u>.

- On 11 July 2014, the Council of the EU published an "I/A" item note (11729/14) from the General Secretariat of the Council to the Permanent Representatives Committee (COREPER) and the Council containing criticisms made by the European Commission and the Czech delegation on the PAD text.
- These criticisms will have no impact on the final text or legislative process of the Directive.

See the published criticisms here.

- 1.2 **Europe:** The Presidency of the Council of the EU publishes compromise proposals on PSD 2.
  - The Presidency of the Council of the EU has published compromise proposals relating to the proposed Directive on payment services in the internal market (PSD 2) dated 27 June and 23 July 2014.
  - The second of the proposals is the result of discussions at a meeting of the Working Party on 9 July 2014.

See the compromise proposal dated 27 June 2014 <u>here</u> and the compromise proposal dated 23 July 2014 <u>here</u>.

1.3 **Europe:** European Payments Council (EPC) publishes guidance on reason codes for SEPA direct debit R-transactions.

- The Single Euro Payments Area (SEPA) direct debit schemes streamline exception handling. R-Transactions are the various ways of reversing direct debits (including refunds, returns, rejects, refusals and reversals).
- The guidance:
  - reminds scheme participants to apply the specific SDD R-transaction reason codes when reporting a failed collection;
  - provides guidance about the reason codes to be used to report specific SDD collection issues; and
  - o reiterates the timelines to be observed when handling R-transactions.

See the guidance here.

- 1.4 **United Kingdom:** FCA publishes the corporate governance of the PSR.
  - On 10 July 2014, the FCA published the corporate governance of the Payment Systems Regulator ("PSR"), which was adopted by a resolution of the FCA board on 2 April 2014.
  - The document summarises the corporate governance structure within the PSR, which defines the way in which the PSR is constituted, directed and controlled by its governing body, the board. It specifies the distribution of rights and responsibilities from the board to various committees and other bodies, as well as those matters reserved by the board itself.
  - The document also contains the articles of association of the PSR.
  - The PSR is governed by a board with members comprising a Chair and a Managing Director appointed by the FCA and approved by HM Treasury, and other members appointed by the FCA.
  - The PSR is funded by the industry it regulates through statutory fee-raising powers. It operates independently of government, but is accountable to the FCA and Parliament through obligations set out in the Financial Services (Banking Reform) Act 2013.

See the publication <u>here</u>.

- 1.5 **United Kingdom:** FCA identifies considerations for firms thinking of using third-party technology banking solutions.
  - On 7 July 2014, the FCA published a list of questions for firms to consider before outsourcing the delivery of technology services that are critical to its regulated business operations.
  - The FCA makes it clear that the overall aim of a firm's regulatory obligations when outsourcing in this manner is to ensure:
    - that the firm appropriately manages the operational risk associated with its use of third parties; and

- the arrangements with third parties do not impair the regulator's ability to regulate the firm.
- The FCA also stresses that a firm, notwithstanding any outsourcing arrangement, should be clear that it retains full accountability for discharging all of its regulatory responsibilities.
- The list of questions does not exhaustively set out all the issues which a firm should consider or that the regulator will consider when assessing a firm's application to outsource but will provide a useful checklist for firms to consider as a starting point.

See the FCA document here.

- 1.6 **United Kingdom:** FCA publishes call for input on Project Innovate.
  - Project Innovate is a proposed FCA initiative to help both start-ups and established businesses bring innovative ideas into financial services markets.
  - The FCA states that the Project will enable the regulator to build regulation to support and keep up with innovation. It will also provide those firms that have innovative ideas which will benefit consumers with support.
  - In its call for inputs the FCA proposes to build an Incubator and an Innovation Hub to fulfil the Project's aims:
    - The Incubator will assist innovative financial businesses through the FCA's authorisations process.
    - The Innovation Hub will then provide a dedicated contact for firms which have been authorised with the help of the Incubator. It will also talk to existing regulated and unregulated firms with innovative ideas and engage relevant wider FCA expertise to understand the issues and opportunities raised.
  - Input is requested by 5 September 2014.
  - On the basis of the responses received and the feedback it obtains through its proactive engagement (via stakeholder events), the FCA will finalise its plans for the Project and will make a public statement in autumn about the steps it will be taking.

See the call for input here.

- 1.7 **United Kingdom:** CMA publishes market studies on personal current accounts and SME banking.
  - The CMA's studies continue the work started by the OFT in relation to SME banking and also update the work completed by the OFT in 2013 in relation to personal current accounts ("PCAs").
  - The CMA notes that improvements have been made in relation to both markets in terms of increased competition. Nevertheless, it has provisionally decided to make

a market investigation reference in respect of PCAs and SME banking because both markets still exhibit the characteristics of a market that is not fully competitive. Such characteristics include:

- o high levels of concentration;
- o barriers to entry and expansion;
- o low switching; and
- o lack of transparency.
- The CMA invites comments on its intention to make a joint market investigation reference, by 17 September 2014.
- As part of the SME banking study, the CMA has also conducted a preliminary assessment of the undertakings given following the Competition Commission's investigation into SME banking in 2002.
- The CMA considers that, while these undertakings remain valuable, it is minded to review whether they need to be varied, given recent changes in the current account switching process. It invites comments also by 17 September 2014.

See a press release <u>here</u> and the market studies <u>here</u> and <u>here</u>.

- 1.8 **Italy**: Obligation for merchants and professionals to accept debit card payments comes into force.
  - The obligation originates from Article 15(4) of Law Decree No. 179 of 18 October 2012 and the Ministry of Economic Development Decree of 24 January 2014. The obligation came fully into force on 30 June 2014 and applies to all merchants and professionals.
  - It requires merchants and professionals to accept payments by debit card where the transaction value is greater than EUR 30.
  - The change is aimed at promoting the use of traceable means of payment.

See Law Decree No. 179 of 18 October 2012 <u>here</u> and the Ministerial Decree <u>here</u> (both in Italian).

- 1.9 **Virtual Currencies**: First national trade body for virtual currencies established in the US.
  - The "Chamber of Digital Commerce" aims to promote virtual currencies amongst the US's lawmakers in order to bring about the widespread acceptance of such currencies.
  - A focus of the body is on the education of the general public. It wishes to show people how virtual currencies work, and how their use has particular advantages.
  - The Chamber will target federal agencies, including the US Securities and Exchange Commission, the Department of Justice, the Department of Treasury and the Consumer Financial Protection Bureau.

See a report <u>here</u>.

- 1.10 **Virtual Currencies**: French regulator produces a report on the regulation of virtual currencies.
  - Tracfin, the French AML authority, published the report on 11 July 2014.
  - Virtual currencies do not currently legally qualify as a "currency" or "payment instrument" in France. The report does not address the issue of the qualification of virtual currencies.
  - The report recognises the economic potential of virtual currencies but also raises risks associated with their use, especially in relation to money laundering. The specific risks raised include:
    - o the involvement of unregulated participants;
    - the lack of transparency; and
    - o the extraterritoriality of the participants involved.
  - The French Finance Minister, Michel Sapin, has announced measures which aim to address these risks, for example, by reducing the anonymity of those transacting in virtual currencies. These include the following requirements:
    - firms will need to verify the identity of a virtual currency user before they open an account on that user's behalf;
    - an identity check will need to be performed before customers can use a virtual currency ATM; and
    - the value of payments that may be made using virtual currencies will be limited in the same manner as cash transactions.
  - The French government has also made it clear that it supports at a European level:
    - the development of regulation to deal with the AML risks associated with the use of virtual currency exchange platforms; and
    - the position that virtual currencies should be taxable but not subject to VAT.
  - Tracfin is now in charge of coordinating the various virtual currency market participants.

See a report <u>here</u> (in French).

- 1.11 **Virtual Currencies:** Argentina AML regulator mandates reporting on virtual currencies.
  - On 4 July 2014, the Unidad de Información Financiera announced that financial institutions dealing with virtual currencies will have to file monthly reports which outline all the transactions of theirs conducted involving such currencies.

- The regulator cited the threat of money laundering and criminal financing as the impetus for its announcement.
- The new reporting requirements come into force in August 2014.

See a report <u>here</u>.

- 1.12 **Virtual Currencies:** Ecuador plans new state-run digital currency while banning all decentralised alternatives.
  - The change will be brought about by amendments to the country's existing monetary and financial laws. The amendments will come into effect once they have been approved by the country's President.
  - The result of these amendments is that:
    - the government will be able to introduce an electronic currency backed by the assets of the country's central bank, into its financial system; and
    - o digital currencies, like Bitcoin, will be prohibited.
  - The aim of the new currency is to stimulate the domestic economy and ensure the participation of those without access to payment accounts or payment cards in the economy.
  - The new currency will co-exist with the US dollar, the country's official currency.

- 1.13 **Virtual Currencies:** FATF publishes paper on the money laundering and terrorist financing risks of virtual currencies.
  - The paper, titled "Virtual Currencies Key Definitions and Potential AML/CFT Risks", aims to establish a conceptual framework of key definitions, which can be used to form the basis for further policy development in this field.
  - The paper notes the many legitimate uses which virtual currencies have but concludes that such benefits are not without money laundering and terrorist financing risks. These risks are particularly problematic in relation to virtual currencies because, for example:
    - transactions in such currencies are more anonymous than traditional noncash payment transactions;
    - there is no central regulatory body overseeing the virtual currency industry;
    - transactions in virtual currencies often are international and it is unclear which regulator, in the (sometimes many) jurisdictions involved, should be responsible for monitoring these transactions.
  - The report also summarises factual examples of how virtual currencies have been used to commit criminal offences.

See a report <u>here</u> and the paper <u>here</u>.

- 1.14 Virtual Currencies: The EBA discourages EU banks from dealing in virtual currencies.
  - The EBA has published an Opinion setting out the steps that would need to be taken in order to regulate virtual currencies.
  - It concluded that:
    - there are potential benefits which can be gained from the use of virtual currencies but these are outweighed by the more than 70 risks identified with such use;
    - these risks are caused by, among other things, the fact that virtual currency schemes can be anonymously changed by anyone, scheme participants remain similarly anonymous and IT security cannot be guaranteed;
    - to address the above risks, a substantial body of regulation would be required and would be a long-term project;
    - in the short-term, as that substantial body of regulation has not been put in place, national supervisory authorities should discourage credit, payment and e-money institutions in their territory from buying, holding, or selling virtual currencies.

See a report <u>here</u> and the Opinion <u>here</u>.

# 2. **PAYMENT MARKET DEVELOPMENTS**

- 2.1 **Worldwide:** GoDaddy's (the website hosting company) "Get Paid" app allows its clients to accept mobile payments.
  - Get Paid is the result of a partnership between GoDaddy, Dwolla, Stripe and PayPal.
  - The app allows business owners to:
    - accept all payment types (for example, payment cards, cheques and mobile payments) on any device;
    - o create and send invoices (including recurring invoices) and estimates;
    - o manage weekly sales and expenses; and
    - track billable and non-billable time.

See a report <u>here</u> and <u>here</u>.

- 2.2 **Worldwide:** New dollar-backed digital currency Realcoin aims to be Bitcoin's less volatile successor.
  - Realcoins are issued by a company also called "Realcoin".
  - Realcoins' price stability is owed to the fact that all the coins are backed one-toone by an auditable reserve of US dollars. Owners of realcoins have the right to redeem them for US dollars.
  - The aim is to use the Bitcoin infrastructure which will assist in keeping transaction fees low, whilst avoiding the price volatility which has adversely impacted Bitcoin use.
  - The company, Realcoin, in the future, also plans to issue currencies backed by yen and euro.

- 2.3 **United Kingdom:** SEQR and Optimal Payments partner to launch in UK.
  - SEQR, a mobile payments company based in Sweden, uses a combination of NFC and QR codes in its payments solution.
  - With SEQR, merchants are able to:
    - take advantage of the lower transaction fees which apply (when compared with traditional payment methods);
    - o connect their own loyalty rewards program to the payments solution; and
    - offer their customers a pre-paid account which, when topped up, can be used to make purchases in their stores.

• An additional advantage for consumers is that they are able to make P2P payments using the app.

See a report <u>here</u>.

- 2.4 **United Kingdom:** EE customers will be able to pay for journeys on London's rail network using compatible phones.
  - The deal between EE and Transport for London, will allow customers with NFC compatible phones to use their Cash on Tap app (developed with MasterCard) to pay for train journeys from 16 September 2014.
  - To be able to use the service and make a payment, customers will have to:
    - o preload money onto the service using a payment card; and
    - o have an available mobile connection at the time of payment.

See a report <u>here</u>.

- 2.5 **China**: UnionPay to offer QR code-based mobile payments platform.
  - The state-backed card issuer and payment processor is developing a QR code based platform which will work both online and offline. It is currently discussing with banks the best way to promote the new platform.
  - In March, the People's Bank of China issued a directive to prohibit the use of QR codes in the country, citing security concerns.
  - However, firms have been offering such services despite the existence of the directive and the People's Bank of China has not taken action against those firms.

See a report <u>here</u>.

- 2.6 **India**: Boku opens India to direct carrier billing.
  - This is the result of the development, by Boku, of the necessary technology and of relationships with mobile network operators. Additionally, the company's acquisition in November 2013 of Qubecell, previously the leading direct carrier billing company in India, made the expansion of direct carrier billing in India possible.
  - The move by Boku is particularly effective because smartphone penetration in India is very high it has the world's third largest smartphone market, and the country has the world's highest internet usage growth rate.

- 2.7 **Russia**: Russian Standard Bank (RSB), Samsung and MasterCard partner to launch NFC payments service.
  - The new service is available on some NFC-enabled Samsung mobile devices (including the GALAXY S4 and Note 3).

 The service utilises RSB's mobile banking app and permits owners of compatible Samsung devices to upload MasterCard prepaid contactless NFC cards (issued by RSB) onto those devices which can then use MasterCard's Tap & Go PayPass technology.

# See a report <u>here</u>.

- 2.8 **South America:** ZipZap expands into South America enabling 170 million unbanked consumers to buy Bitcoin for cash.
  - The digital currency industry in South America is expected to grow rapidly as customers look to avoid traditional retail financial institutions.
  - ZipZap has been processing payments from Brazil since 2013 but will now also be processing payments from Argentina, Chile, Mexico, Peru, Uruguay, and Colombia.

# See a report <u>here</u>.

- 2.9 **United States**: Housetab combines social networking with mobile payments in New York.
  - The app allows users to pay their bill, communicate with friends and reward those friends with "Goodies" (food and drink).
  - It also allows users to "check in" to participating venues. When this is done, servers at the venue are alerted to the arrival of that particular customer and can offer him/her a more personalised service.
  - To gain access to this service, users simply need to download the app, register their details and link a payment card.
  - So far 20 bars and restaurants have signed up to offer the service.

See a report <u>here</u>.

- 2.10 **United States:** LoopPay secures funding from VISA.
  - LoopPay is pioneering technology that allows existing POS hardware (magnetic stripe reader POS systems) to accept mobile payments.
  - These magnetic stripe readers are still widely used in the US.
  - LoopPay provides its customers with a smartphone app and a fob/mobile phone case that can read and store payment card information. When wanting to make a purchase, users select a specific payment card on the app and hold the fob/phone case against the magnetic stripe reader to initiate the payment transaction.
  - The amount of funding given has not been made public.

See a report <u>here</u>.

2.11 **United States:** Coinbase introduces savings account concept to its digital wallets.

- A vault's additional optional features include:
  - time delayed withdrawals (i.e. withdrawals can be cancelled within a 48 hour period);
  - multiple approver withdrawals (i.e. more than one person is required to initiate a withdrawal); and
  - o offline storage of Bitcoin.
- Primarily, it is designed to be a more secure account than Coinbase's standard digital wallet. The standard wallet is still to be used for lower value day to day transactions.
- Coinbase plans to add multi-signature technology to further increase the security of its vault product.
- A vault will be free to acquire but Coinbase will charge a 1% fee (or less in some circumstances) when users buy or sell Bitcoins.

See a report <u>here</u> and <u>here</u>.

- 2.12 **United States:** Snapchat files trademarks indicating a possible entrance into the payments market.
  - The company has filed two trademarks which prevent others using the "Snapchat" name in association with payment services.

See a report <u>here</u>.

- 2.13 **United States:** Dell to accept Bitcoin in the US.
  - Dell follows Expedia in accepting Bitcoin as a means of payment.
  - It is the largest company to decide to accept Bitcoin so far.

# 3. **REPORTS AND SURVEYS**

3.1 **Worldwide:** PayPal study indicates that security concerns are one of the biggest hindrances to the uptake of mobile payments.

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- PayPal surveyed 15,105 adults with banking facilities in 15 countries to gather their views on mobile payments.
- Not surprisingly, the survey found that people want technology to make life simpler, more connected and faster. But 57% of people stated that the fear of theft of payment data was the major factor which prevented them from using mobile payments.
- Other factors included:
  - o fears regarding online data sharing;
  - o having to register with a website used for a one-off purchase;
  - o finding added taxes or hidden charges at the checkout screen;
  - having to enter payment card details every time a transaction is conducted;
  - o websites timing out before a transaction is finished; and
  - having to remember passwords and PINs (34% of people surveyed in the UK found this the most annoying aspect of current payment methods).

See reports here and here and PayPal's summary of its survey here.

- 3.2 **United Kingdom:** eMarketer report predicts growth in mobile payments in the UK.
  - Mobile sales are expected to be 65% higher this year compared with 2013. Mobile sales include those made online as well as those completed in a physical store using a mobile device.
  - Tablets are expected to play a big part in this increase with consumers preferring to use these devices to make purchases online instead of smartphones. The report predicts sales made via tablet to reach nearly \$30 billion by 2018.
  - The increase in popularity of mobile payments has also been the result of the development of more secure mobile payment platforms and merchant systems. This has started to address a key consumer concern with such payments.

- 3.3 **United States**: Bank of America survey shows that American consumers are still wary of mobile payments.
  - 1,300 adult American smartphone owners were surveyed.

- The results show that online banking facilities (used by 90% of consumers) are still far more popular than mobile banking facilities (used by 62% of consumers) but the gap is shrinking with the use of mobile banking facilities on the rise.
- Within the group of mobile banking facilities, popularity varied depending on the particular function concerned, with the checking of account balances being the most popular facility (used by 81% of consumers).
- Only 38% of users said they would be willing to use their phone to pay in-store, with 60% stating that they would be uncomfortable with this concept. The survey found that men are more likely than women to be comfortable using their phone to make a purchase at checkout (39% vs. 30%).

See a report <u>here</u> and the survey <u>here</u>.

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