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Hogan Lovells Global Payments Newsletter
22 October 2013

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You can also click [here](#) to subscribe to our "Global Media and Communications Watch" blog, for topical commentary on TMT related issues from Hogan Lovells lawyers across the world.

1. REGULATORY DEVELOPMENTS

1.1 Europe: European Commission consults on crowd funding

- The Commission has published a consultation on crowd funding in the European Union ("**EU**"). The consultation explores how EU action can promote crowd funding and covers risks, benefits and safeguards against illegal practices.
- As reported in our previous update, the French government is separately consulting on a new legal framework for crowd funding to simplify the regulatory landscape and encourage greater participation.

The consultation closes on 31 December 2013 and is available [here](#)

1.2 Europe: European Payments Council consultation on SEPA rulebooks

- The European Payments Council ("**EPC**") is reviewing the Single Euro Payments Area ("**SEPA**") Credit Transfer and Direct Debit Rulebooks and plans to publish revised rules and guidelines in November 2014 for implementation by members the following year.
- Interested parties can submit suggested changes to the rulebooks up until 28 February 2014.

For more information, see [here](#)

1.3 United Kingdom: Bank cyber security exercise next month

- In November the Bank of England, HM Treasury and Financial Conduct Authority ("**FCA**") will be monitoring 'Operation Waking Shark 2', the simulation of a major cyber attack. This will test whether core financial service providers can withstand attacks by cyber criminals or terrorists.
- Every high street bank and other major financial institutions will be taking part in the most extensive cyber threat exercise in two years. Those with weaker defences will be expected to improve their online controls to protect against a large and growing threat to payment systems.

See a report [here](#)

1.4 **United Kingdom:** Draft new regime for payment systems

- The government has tabled amendments to the Financial Services (Banking Reform) Bill to create a new regulatory regime for payment systems. This includes appointment of a 'Payment Systems Regulator' (being a utility style regulator that is a separate body under the FCA) with objectives to promote competition, innovation and the interests of payment system users.
- The draft legislation follows the government's "Opening up UK payments" consultation. However, rather than introducing a licensing regime as had been proposed, the government has opted for a designation approach, which is expected to catch major interbank systems, such as BACs and Faster Payments, and international card schemes.
- Once a payment system is designated, participants in the system, including members, card issuers, merchant acquirers and infrastructure providers, will be regulated by the Payment Systems Regulator. The regulator will, among other things, be able to:
 - order changes to how payment systems operate, including their terms of access and their fees for participation (for example, to make it cheaper for small banks to access the payment systems); and
 - investigate and impose fines or other sanctions.
- The Bill will also introduce a special administration regime designed for the operators of systemically important interbank payment systems in the event of their insolvency. The regime will ensure that operators prioritise the continuation of their services over the interests of creditors.

See the proposed legislation [here](#) and the response to the "Opening up UK payments" consultation [here](#)

1.5 **Spain:** Temporary exemptions for SEPA migration tabled

- The government has announced plans to take advantage of transitional provisions in the SEPA Regulation (260/2012). Until 1 February 2016:
 - payment service providers ("**PSPs**") will be able to provide free base bank account number ("**BBAN**") to international bank account number ("**IBAN**") conversion services to consumers for national transfers only;
 - PSPs will not need to comply with most SEPA technical requirements for: (i) Direct Debit Payments by Magnetic Media (more information [here](#)) and (ii) electronic bill remittances from customers to financial entities (more information [here](#) (in Spanish)); and
 - customers will not be required to use the ISO 20022 XML standard, the universal financial industry message scheme, in their communications with PSPs.

The Regulation Draft is available [here](#) (in Spanish)

1.6 **Poland:** Progress on proposed cuts to interchange fees

- Amendments to the Payment Services Act to lower interchange rates to 0.5% (from current rates between 0.8-1.3%) have finally been accepted by Sejm (the lower chamber of Parliament). The Bill will be now discussed in Senat (the higher chamber).

- It is expected that the new regulation will be in force from 1 January 2014.

See a report [here](#) (in Polish)

1.7 **Vatican City:** New law to fight money laundering

- The Pontifical Commission has approved Law No. XVIII on financial transparency and the prevention of money laundering. The law consolidates all rules approved since an enquiry of Rome's public prosecutor office into the Institute for Religious Works (Istituto delle Opere Religiose).
- The law is designed to bring the Vatican into line with the Financial Action Task Force ("**FATF**") recommendations to prevent money laundering and the financing of terrorism. It boosts the power and responsibilities of the Vatican's Financial Information Authority (Autorità di Informazione Finanziaria or "**AIF**") to fight financial crime and give it a stronger prudential role.
- It also facilitates information exchange with authorities in other jurisdictions. A Memorandum of Understanding between the AIF and the Bank of Italy's Financial Intelligence Unit (Unità di Informazione Finanziaria) has already been signed.

See further information [here](#) and a report [here](#) (in Italian)

2. **PAYMENT MARKET DEVELOPMENTS**

2.1 **Worldwide:** Visa, MasterCard and American Express propose new digital payment token

- Visa, MasterCard and American Express are proposing a new global framework based on a digital payment 'token', which would mean merchants, digital wallet operators and others no longer need to store a customer's account number for mobile or online purchases.
- The proposed standard for generating tokens will be based on existing industry standards and, importantly, work with the existing payment ecosystem. Security is also a major focus, with key elements of the proposal including:
 - improved fraud detection and quicker approvals by providing more information about the transaction to issuers;
 - consistent methods for identifying and verifying customers before their account is replaced with a token; and
 - the possibility of limiting the use of tokens to specific environments, for example particular merchants, devices or transaction types.
- The proposals are now being presented and discussed with other stakeholders.

See a report [here](#)

2.2 **Worldwide:** Visa announces enhanced authorisation technology for better security

- Visa has made a number of enhancements to Visa's Advanced Authorisation ("**VAA**") technology to significantly improve its ability to detect potential electronic payments fraud. Account profiles will include more transactional history data and VAA will carry out advanced analysis of transactions using neural networks. This should mean the risk score that issuers rely on when deciding to approve a transaction is much more accurate.

- Visa expects VAA will improve fraud detection by as much as 130% for debit transactions and 175% for credit transactions, potentially reducing fraud costs by billions each year.

See a report [here](#)

2.3 **Worldwide:** *Login and Pay*, Amazon's new online payment service

- Login and Pay allows customers to make purchases using their Amazon credentials, is free and is compatible with tablet, mobile and desktop devices. It does not require any further registration because account details of customers are already registered.
- Login and Pay gives e-sellers global access to customers and offers a payment solution with administration of payments and a built-in anti-fraud system. E-sellers will be charged USD0.30 plus 2.9% of the amount of the transaction for each purchase made by Login and Pay on their website.
- With a reported 215 million active customers worldwide, the new service will provide further competition for other online payment service providers.

See a report [here](#)

2.4 **Worldwide:** PayPal in new mobile payments partnership with Samsung

- Samsung and PayPal have entered a new partnership so that users can pay for apps, e-books and other mobile content by authenticating with PayPal rather than typing in their payment details. The service has been rolled out in a number of countries, such as Australia, Malaysia and the UK, with more to follow soon.
- Developers across the globe, who currently rely on wire transfers for payment, will also be able to receive payments into their PayPal accounts more rapidly.

See a report [here](#)

2.5 **United Kingdom:** Braintree launches Venmo Touch

- Braintree, the global payment platform, is partnering with American Express to offer a one touch mobile check-out service – "Venmo Touch" – to UK merchants and consumers.
- Consumers will be able to save their payment details and pay at check out across a range of apps with one touch. Venmo Touch is expected to become available in other European countries in the next few months.

See report [here](#)

2.6 **United Kingdom:** ValidSoft fraud detection solution for digital wallets and apps

- ValidSoft, a mobile and cloud security solutions provider, has launched Zero Latency Correlation ("**ZLC**") to provide greater security for smart phone based wallets and apps. The technology gives financial service providers a real-time fraud detection solution for cross-border and domestic transactions. It should also help reduce false positives, so improving customer experience.

See a report [here](#)

2.7 **United States:** Silk Road Bitcoin marketplace closed down

- The Federal Government has closed down Silk Road, an online Bitcoin marketplace, alleging that it has been used for drug trafficking and sale of other black market goods and services generating revenue of more than 9.5 million Bitcoins (valued at \$1.3 billion) over the past two and a half years. The Federal Bureau of Investigation has already seized \$3.3 million in Bitcoins, with more seizures expected to follow.
- This follows increased scrutiny by regulators in a number of countries on the use of digital currencies (see our recent updates).

See a report [here](#)

2.8 **United States:** MiiCard identity verification speeds up purchase of Bitcoins

- MiiCard, or My Internet Identity Card, is now being used to reduce the time it takes for people to purchase Bitcoins from sites such as Bittylicious and btcQuick, by verifying customer identity without the need for documentary identification checks. Customers instead need to provide their name, email address, date of birth and (more controversially) their internet banking details to register with MiiCard.
- MiiCard estimates that up to 70% of potential Bitcoin purchasers currently do not complete the process because of the inconvenience of going through a documentary ID check, and feel that use of MiiCard could significantly help the adoption of the digital currency.

See a report [here](#).

2.9 **Poland:** Instant bank transfer service introduced

- Krajowa Izba Rozliczeniowa and Blue Media have introduced a new interbank transfer service which makes funds available to the receiving party instantly, even on weekends. The service is now available to customers of nine Polish banks, including BRE Bank and BZ WBK, with cooperation agreements concluded with a further 15 banks.

See a report [here](#) (in Polish)

2.10 **Germany:** Supermarkets to offer mobile payments based on QR codes

- Retail group REWE is partnering with Yapital Financial AG to offer mobile payments in REWE and Toom supermarkets from November. Once customers have downloaded the Yapital app, they will be able to pay by scanning the Quick Response ("QR") codes displayed at point of sale terminals.

See a report [here](#)

3. **REPORTS AND SURVEYS**

3.1 **Germany:** BaFin report on likely delays in SEPA compliance

- On 1 February 2014, SEPA rules to comply with the SEPA Regulation for payment services will become mandatory. A survey conducted by BaFin has found that while PSPs are making timely and sufficient efforts to meet the challenges set by SEPA, most may not be ready in time.

See the report [here](#) (in German)

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