

Hogan Lovells Global Payments Newsletter
3 April 2013

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1. REGULATORY DEVELOPMENTS

1.1 United Kingdom: Bank of England reports on payments system oversight

- On 25 March 2013, the Bank of England published its annual oversight report on the exercise of its responsibilities for supervising "recognised payment systems" under Part 5 of the Banking Act 2009.
- It reports progress in the following areas.
 - Reduced reliance of indirect participants on settlement banks to access payment systems (which is seen as creating credit and liquidity risks), for example, CHAPS implemented rules to preclude indirect relationships that present high systemic risk.
 - Settlement risk in the BACS and Faster Payments payment systems has been reduced.
 - Improved governance of CHAPS, BACS and Faster Payments.
- It outlines the following future priorities.
 - Ensuring that indirect participants that are systematically important in a payment system become direct participants or settlement banks.
 - A long term plan to remove settlement risk in payment systems – the favoured model being for members to pre-fund their payments with cash reserves held at the Bank of England.
 - Plans to ensure that payment systems have appropriate operational risk controls in place, with an increased emphasis on cyber risk.

See the report [here](#)

1.2 United Kingdom: Government consults on new regulatory regime for payment systems

- On 26 March 2013, HM Treasury published a consultation on *Opening up UK payments*, which proposes the creation of a new regulatory regime for UK retail payment systems and their participants. Responses are invited by 25 June 2013.
- The new proposals include the following.

- The regulator is likely to be either the Financial Conduct Authority or an existing utility regulator, such as Ofcom.
 - The regulatory regime will apply to the cheque clearing systems, automated payment systems (CHAPS, BACS and Faster Payments), the LINK ATM network, and three and four-party card schemes.
 - As and when new retail payment systems are developed, they may also be brought within scope.
 - Operators of payment systems and their direct members (but not providers of payment systems infrastructure) will require a licence.
 - Licensees will have to adhere to principles of efficient and transparent pricing, non-discriminatory access, good governance, maintaining and developing the payments system, and cooperation.
 - The regulator's primary objectives will include promoting the interests of end-users of payment systems, where appropriate by promoting competition and innovation; and ensuring that payment systems are adequately funded.
 - The regulator's powers will include imposition of licence conditions, information gathering and sharing, and competition powers, including the power to make banks divest their ownership stakes in payment systems or to make payment systems change their governance structure to increase independence from their owners.
- We understand the intention is for the new regulatory regime to sit "seamlessly" alongside Part 5 of the Banking Act (see the report above), which already provides for the Bank of England to oversee "recognised payment systems" such as CHAPS, BACS and Faster Payments.

See the consultation paper [here](#)

1.3 **United States:** Treasury clarifies regulatory position on virtual currencies

- The US Treasury's Financial Crimes Enforcement Network ("**FinCEN**") has issued guidance that convertible virtual currency ("**CVC**") is caught by the Bank Secrecy Act.
- In particular, those in the business of exchanging virtual currency for real currency or other virtual currency, and administrators, those that issue or put into circulation and can redeem a CVC, are considered money services businesses ("**MSBs**") unless a limitation or exemption applies. Users of virtual currencies are not MSBs.
- An exchanger or administrator who accepts and transmits a CVC or buys or sells a CVC is also a money transmitter under FinCEN regulations, which do not differentiate between virtual and real currencies.
- Designation as an MSB crucially brings such entities within registration, reporting and recordkeeping regulations. The guidance may capture a number of businesses that had previously thought they were outside the regulatory framework.

See the guidance notice [here](#)

2. PAYMENTS MARKET DEVELOPMENTS

2.1 **Worldwide:** NEC offer cloud-based mobile payments solution

- NEC is launching an 'off-the-peg' prepaid payments service to both its domestic Japanese market and worldwide. Retailers and other merchants can select from a range of services to quickly expand their e-commerce and mobile payments capabilities.
- The prepaid payments service includes cloud-based servers, cards, smartphone apps, near-field communications ("NFC") enabled payment terminals, and support for customer management functions.
- Universal Studios Japan and the Indian cinema chain PVR are among the first retailers to sign up.

See a report [here](#)

2.2 **Worldwide:** Stripe and Parse partnership to benefit mobile app developers

- Stripe, which offers an online payments system used by app developers so they do not need to deal with merchant acquirer banks, is partnering with Parse, a company whose technology runs the 'back end' of a number of mobile apps.
- Parse's technology, which is iOS, Android, Javascript and Windows 8 compatible, enables app developers to quickly launch mobile apps, supplying them with server maintenance and infrastructure management. Developers can also choose from a menu of code to enable, for example, social integration and data storage to the back end of their apps. Stripe is to be added as a payments option that developers can also add to their mobile app.
- The partnership will provide a more comprehensive back end service for app developers so they can focus on the front end user experience.

See a report [here](#)

2.3 **United Kingdom:** Droplet mobile payments launch in London

- Droplet, the mobile payments firm, has moved on from beta testing in Birmingham and is tackling the London market with a broader UK launch planned shortly. Droplet's mobile app, available on the iOS platform, allows users to load cash on their smartphone and send payments to other users.
- Unlike many other mobile point of sale providers, Droplet does not require a card reader. Users pay by scanning a unique bar code with their phone at the cash register.
- Droplet is also launching a new platform, Droplet Tools, which will allow development of features such as discounts and reward schemes. Droplet will be hoping these added value features will help break into an already crowded market.

See a report [here](#)

2.4 **Africa:** Gemalto's LinqUs mobile wallet unveiled

- Gemalto, the digital security solutions provider, has unveiled a secure mobile wallet, which includes mobile payment, mobile banking, NFC services and loyalty programme capabilities. The platform is aimed at African financial services providers and retailers, who can tailor the product to their needs.
- The company has a "future focused" strategy with products to meet the current needs of consumers, for example by offering money transfer services, whilst also offering services which may prove successful going forward, such as NFC capability for contactless payments.
- To simplify the uptake by businesses, Gemalto is also offering 'on-boarding services', such as testing the mobile wallet on new handsets and operating systems, so saving the need to test compatibility.

See a report [here](#)

2.5 **South Korea:** Clearinghouse launches BankWallet, an NFC payments service

- The Korea Financial Telecommunications and Clearings Institute (a Korean interbank clearinghouse) has launched BankWallet, a mobile wallet allowing customers to make NFC mobile payments, online purchases and person-to-person money transfers.
- Reportedly, a number of South Korean retailers and banks have already signed up for the service, which stores prepaid account holder credentials on a SIM card. The clearinghouse developer also plans to expand BankWallet to include credit cards and coupon storage capability.
- South Korea's top two telecommunications companies, SK Telecom and KT, are going to offer the service.

See a report [here](#)

2.6 **Zimbabwe:** Mobile operator adds virtual debit card functionality to its mobile money service

- Econet Wireless Zimbabwe ("**EWZ**"), Zimbabwe's largest telecoms provider, has added a further feature to its popular mobile money service, Ecocash, allowing the user's mobile phone to act as a virtual debit card.
- At the cash register, the customer will initiate a 'pay merchant' transaction on their mobile wallet by entering the retailer's merchant number and the transaction amount. The EcoCash terminal at the cash register will print out a receipt to be signed by the customer and kept by the retailer.
- To support its new system, EWZ are producing 10,000 EcoCash terminals to be leased to merchants across the country. These will also support Visa, MasterCard, and American Express cards. EWZ's initiative will help the government's call to develop the cashless economy to lessen Zimbabwe's reliance on US dollar notes and coins.

See a report [here](#)

3. **SURVEYS AND REPORTS**

3.1 **United States:** Survey anticipates rise in consumer mobile bill payments

- Western Union's recent Money Mindset Index, which studies how US consumers pay their bills, has found that consumers are increasingly willing to make mobile bill payments.
- Whilst currently only 2% of bills are paid via mobile phone (compared to 46.5% of bills paid via a biller, bank or credit union website and 19.6% of bills paid via an automatic/recurring payment), 14% of respondents intend to make a bill payment on a mobile device in the next six months.

See a report [here](#)

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