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Hogan Lovells Global Payments Newsletter
3 April 2014

A solid yellow horizontal bar spanning most of the width of the page, positioned below the title and date.

Hogan Lovells Global Payments Newsletter

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Given the rapid developments in relation to digital currency, in this edition we cover "Digital currency" stories (both regulatory and market developments) in a separate section.

1. REGULATORY DEVELOPMENTS

China: A directive issued by the People's Bank of China suspends the use of virtual credit card and mobile QR code payments.

- The directive was issued following the announcement on 11 March 2014 by China CITIC Bank that it would partner Alipay and Tencent to issue virtual credit card-based QR code payments.
- The directive also bans financial institutions from setting up accounts on third-party payment platforms.
- The justification for the directive was said to be that developments in mobile payments technology had not yet been fully evaluated by the state authorities. This meant that personal information was at risk when such technology is used.

See a report [here](#).

1.1 **Europe:** Extended transition for SEPA migration regulation.

- The SEPA Migration Regulation, which was adopted in 2012, set 1 February 2014 as the deadline for euro area migration to Single Euro Payments Area ("**SEPA**") credit transfers and SEPA direct debits.
- The European Commission and European Parliament have adopted a proposed regulation to give an extra six months, to 1 August 2014, for payments which differ from the SEPA format to still be accepted to reduce the risk of disruption to consumers and businesses. Formal adoption by the Council of the European Union is expected shortly.

See reports [here](#) and [here](#).

1.2 **Europe:** ECB publishes assessment guide for the security of internet payments.

- Following the ECB's Recommendations for the Security of Internet Payments published in January last year, the European Forum on the Security of Retail Payments has prepared an assessment guide to help regulators overseeing compliance with the Recommendations take a consistent approach once they are in force from February 2015.

- The guide will also assist affected businesses, those who provide or who are involved in the provision of internet payment services as they implement the Recommendations. Although, the Recommendations may change in light of the proposed reform of the Payment Services Directive.

See the ECB's recommendations [here](#) and the assessment guide [here](#).

1.3 **Europe:** The European Parliament and Council agree on the Payment Accounts Directive.

- On 20 March 2014, in triilogue, the European Parliament's Committee on Economic and Monetary Affairs (ECON) reached an agreement with the Council of the EU on the proposed Payment Accounts Directive.
- The Directive aims to facilitate payment account switching, improve transparency of the fees of payment accounts and give those legally resident in the EU the right to open a basic payment account which cannot be denied on grounds of nationality or residence.
- The Directive is expected to be formally approved by the European Parliament, as a whole, early this month.

See a report [here](#).

1.4 **United Kingdom:** Government and regulators co-operate to address cyber threats.

- The Department for Business, Innovation and Skills has published a joint communique from the government and regulator, which identifies cyber security as a "top tier national security priority" and acknowledging the need to strengthen the cyber security of essential services such as financial payments.
- The government and regulators accepts they must help companies responsible for essential services address the challenges posed by increasing reliance on cyber systems and networks and have set out steps to be taken in order to improve safety and resilience. They also agreed that there is a need to work with the European Union and international partners, due to the global nature of cyber systems and networks.

See the communique [here](#).

1.5 **United Kingdom:** Bank of England publishes "Waking Shark II" report.

- The Bank of England has published a report setting out findings from last year's "Waking Shark II" exercise, which was organised by the Securities Industry Business Continuity Management Group. The exercise tested the wholesale banking sector's response to a sustained, intensive cyber-attack, including communication between firms and authorities.
- While there have been improvements since earlier exercises, the report recommends a formal structure to co-ordinate communication between firms and authorities in the event of a cyber attack. The Bank of England, Prudential Regulatory Authority and Financial Conduct Authority will continue to work with the banking sector to test its collective resilience to cyber-attacks in the future.

See a report [here](#).

1.6 **United Kingdom:** City of London Police to give bankers cyber security training.

- City of London Police and the British Bankers' Association have agreed to partner to train bankers to identify and combat cyber-crime to help create a virtual "ring of steel" around London's financial centre. The agreement aims to set up a global centre of excellence to advise banks from all over the world on areas such as latest threats and techniques used to commit fraud, bribery and corruption.

- Banks have already been working with the City of London Police to prevent theft, saving customers £173.9 million during the last nine months.

See a report [here](#).

1.7 **United Kingdom:** The FCA has called for inputs on payment systems regulation.

- On 5 March 2014, the FCA published a call for inputs requesting views on the current state of the UK payment systems landscape, and has set out key early milestones for the new regulator.
- The purpose is to enable the new regulator to develop its regulatory approach and identify early priorities for action before it becomes fully operational in April 2015.
- The FCA intends that the responses gathered will lead to formal consultations on the future regulatory framework later in 2014.
- Comments are requested by 15 April 2014.

See the call for inputs [here](#).

1.8 **United Kingdom:** HM Treasury consults on legislating for cheque imaging.

- On 6 March 2014, HM Treasury published a consultation paper setting out its proposals to introduce legislation to allow for cheque imaging.
- The key proposal is to remove the right of paying banks to demand delivery of the original paper cheque before deciding whether to honour payments. This requires all relevant institutions to have facilities allowing them to accept cheque images.
- The consultation paper seeks comments on the preferred cheque imaging model, offering two options. It also outlines the steps that the government expects the industry to take to address security and fraud issues.
- The purpose of the proposal is to enable a faster cheque clearing cycle, reduce the cost of cheque clearing and enable innovations that will deliver wider consumer benefits.
- The deadline for responses to the consultation paper is 7 April 2014.

See a report [here](#).

2. **PAYMENT MARKET DEVELOPMENTS**

2.1 **Worldwide:** MasterCard and Monitise partner on digital payment services.

- MasterCard has announced its intention to enter into a commercial agreement with Monitise PLC with a view to increasing the development and deployment of mobile wallets and digital payment solutions by financial institutions worldwide.
- As part of the proposed arrangements, MasterCard also intends to make a minority investment in Monitise. Monitise already has a strategic partnership with Visa,

See a report [here](#).

2.2 **Worldwide:** Bango Dashboard launched for mobile network operators.

- Bango, a mobile payments firm, has launched Dashboard for Operators, an analytics platform enabling MNOs to improve their understanding of digital purchases made by customers using Bango's operator billing offering.

- The platform allows MNOs to see details about customers and the products which they have bought, providing greater insight into customer behaviour and app store relationships and allowing more targeted engagement with customers. However, app store providers offering Bango's direct billing will be able to control the degree of data that is shared.

See a report [here](#).

2.3 **Worldwide:** Vodafone announces mobile payments deal with MoneyGram.

- From spring 2014, Vodafone customers in 200 countries will be able to transfer funds to users of the M-Pesa mobile payment service using MoneyGram's website and mobile app.
- The service is in response to increasing demand by people working abroad to send funds back to family and friends in countries where M-Pesa is available (namely the Democratic Republic of Congo, Egypt, Fiji, India, Kenya, Lesotho, Mozambique, South Africa and Tanzania).

See a report [here](#).

2.4 **Europe:** Vodafone set to introduce M-Pesa to Europe.

- Vodafone is to introduce M-Pesa in Romania and other parts of Europe after acquiring an e-money licence in Romania.
- M-Pesa (which has proven popular in parts of Africa and India) is a well-known system which facilitates the exchange of money held on mobile phone accounts. It allows those without bank accounts to execute payment transactions otherwise than in cash, and is believed to have over 16 million active customers.

See a report [here](#).

2.5 **USA:** Gmail and Google Wallet integration becomes available to a greater number of Gmail users.

- Increased integration of Gmail and Google Wallet has been announced. The integration involves a user's Gmail account being linked with Google Wallet. Once the two are linked, a "\$" symbol is added to attachment options in Gmail, allowing for funds to be debited from a bank account or credit card (at an additional fee) and be sent to a contact who also has the service.
- Originally the integrated offering was only available to those with a Google Wallet account or those who had already been sent money via Gmail.

2.6 **Luxembourg:** Digicash launches Beacon mobile payments

- Luxembourg startup Digicash Payments has launched a pilot of Beacon mobile payments at the point of sale, enabling consumers to pay merchants via Single Euro Payments Area credit transfers. The Digicash Beacons used in the pilot combine Bluetooth, NFC and QR code technologies.
- Payments are made using SEPA Credit Transfers from the payer's checking account to the merchant's bank account and therefore there is no need for a mobile wallet or linked credit card. A large-scale rollout is planned for the second half of 2014.

See a report [here](#).

2.7 Nigeria: Western Union expands mobile money transfer network in Nigeria.

- Western Union has launched a mobile money transfer service to Nigeria. The new mobile money transfer service will integrate with Paga, a Nigerian mobile payment platform with more than 1.2 million users.
- The link-up will enable Paga users to receive Western Union money transfers directly into their Paga account. Users can then withdraw the money by sending it to a bank account and using an ATM, or through Paga's network of agents, as well as by collecting funds from Western Union agents.

See a report [here](#).

2.8 Hungary: Mobile wallet trial expands to include ticketing for live events.

- MobilTárca is a NFC mobile wallet being trialled by MNOs, Magyar Telekom, Vodafone and Telenor, together with MasterCard, OTP Bank and loyalty scheme operator, SuperShop. The service offers NFC payments, loyalty and employee identification card apps.
- The service has now been joined by InterTicket Hungary and Club Recreation to allow customers to access sports facilities and live events using the mobile wallet. The agreement potentially signals a wider roll out after the trial ends in June 2014.

See a report [here](#).

2.9 UAE: MasterCard to roll out digital wallet in the UAE.

- MasterCard has announced plans to roll out its 'MasterPass' digital payment platform across the UAE this year.
- The digital wallet allows users to execute transactions by setting up an account and storing their card details in the wallet.

See a report [here](#).

2.10 Nepal: eServGlobal to provide mobile wallet platform to Nepalese banks.

- eServGlobal, a mobile financial services with a focus on emerging markets, has announced that it will partner with MNepal, a consortium of bank and non-bank entities, to offer a mobile financial service solution in Nepal.
- The shared technology platform will be accessible by all banks and financial institutions in Nepal who can use it to facilitate provision of mobile financial services to their customers.

See a report [here](#).

2.11 China: Alipay announces it completed \$148 billion in transactions in 2013.

- Chinese consumers are starting to embrace mobile payments with Alipay, the payment arm of Alibaba, reporting that over 100 million users made 12.5 billion transactions worth more than 900 billion yuan (£90.42 billion) last year.

See a report [here](#).

2.12 **China:** China sets up a national mobile payment platform with NFC technology.

- The first national mobile payment platform using NFC technology has been introduced in China. Trial operations of the platform only began at the end of last year but the platform has already been connected to seven organisations including China Construction Bank Corp, China UnionPay, and MNO, China Mobile Communications Corp.
- A national integrated ecosystem for NFC mobile payments is a significant step for the technology, which has faced hurdles in other countries as businesses and/or sectors have tended to develop individual solutions. However, take-up of NFC will depend on how eager consumers in China are to use it and the availability of smartphones that offer it (see stories below).

See a report [here](#).

2.13 **Lebanon:** First NFC payments service introduced in Lebanon.

- Lebanon's Bank Audi has partnered with MasterCard and mobile network operators Alfa and Touch to introduce Lebanon's first NFC payments service.
- To support the launch, Bank Audi plans to increase the number of contactless terminals in Lebanon by more than a third, to 3,000.

See a report [here](#).

2.14 **Germany:** MNOs team up with MasterCard for NFC payments

- Deutsche Telekom, Telefónica Deutschland and Vodafone have connected their TSM platforms to MasterCard-owned Trevica's TSM platform for card issuers. The aim is to provide German banks with a single point of entry for deploying NFC payments which is estimate to cover 80% of the population.
- MasterCard plans to offer a similar service in other European countries this year.

See a report [here](#).

2.15 **United Kingdom:** Weve partners with MasterCard for NFC payments in the UK.

- Weve, the mobile commerce joint venture between the UK's three largest MNOs, has partnered with MasterCard to add NFC payments to its offering. MasterCard has agreed to provide technology and integration services to banks and financial institutions who wish to offer NFC payments to customers using Weve.
- The move brings Weve (a joint venture between Vodafone, O2 and EE in the UK) a step closer to offering an integrated industry solution for banks wanting to offer mobile contactless payments.

See a report [here](#).

2.16 **United Kingdom:** Banking industry launches Paym mobile payments system.

- The Payments Council provided system will enable customers to make secure payments to account holders of other participating banks or building societies using their mobile number.
- Customers' account details are stored centrally, with a mobile phone number as a substitute or proxy, such that once a user has registered its bank account to send or

receive money, future payments can be triggered simply by knowing a recipient's phone number. Transactions are effected using a banking app provided by the user's bank.

- The intent is that any payment service provider authorised or registered with the FCA under the Payment Services Regulations 2009 (SI 2009/209) and with access to Faster Payments and/or LINK will be able to participate in the new system.
- Paym is being launched with nine institutions on 29 April 2014, with expansion to other banks and institutions later this year.

See a report [here](#) and [here](#).

2.17 **United Kingdom:** Mobile payment security protocols are developed at Oxford University.

- Oxcept, an Oxford University spin-out company, is to create a secure peer-to-peer mobile payment app based on security protocols developed by the University. The protocols could make mobile payments significantly safer and more convenient as reportedly the technology does not require account information or security codes to be transmitted or require cables or network connections, swiping, scanning or card reading.

See a report [here](#).

3. **DIGITAL CURRENCY**

Regulatory developments:

3.1 **Worldwide:** Tax status of digital currencies clarified in various countries.

- In the United Kingdom, HMRC has announced plans to stop charging VAT on digital currency trading, in effect, treating the digital currency almost identically to other conventional currencies. However, HMRC has stated that profits made by digital currency traders and minors will still remain liable for corporation, income and capital gains tax (as appropriate). The stance of HMRC brings further legitimacy to these currencies. See a report [here](#).
- A somewhat conflicting view (to that above) has been put forward by the Bank of England in its recently published [article](#). It argues that as digital currencies do not share the same characteristics as conventional currencies they should be treated as commodities. See a report [here](#).
- The Japanese government intends to treat Bitcoin as a commodity. Further, new rules to be introduced will prevent banks and securities firms handling the currency as part of their main business, influenced in part by the Mt Gox situation (see below). See a report [here](#).
- Similarly in the USA, the Internal Revenue Service has said digital currencies are to be taxed as property. See a report [here](#).
- The Tax Board in Denmark has ruled that gains and losses from casual Bitcoin trading are not subject to taxation. However, businesses whose primary focus is in

the trading of digital currencies must declare their profits and losses to the government. See a report [here](#).

3.2 **Worldwide:** Digital currency regulation continues to be discussed.

- The Bank of Indonesia has refused to recognise digital currencies such as Bitcoin as legal payment instruments and is warning citizens to be cautious with Bitcoin and other digital currencies. See a report [here](#).
- Russian authorities have also taken a strong stance against digital currencies, stating that according to Russian law the rouble is the only official currency and that treating digital currencies as a monetary unit or currency substitute is illegal. See a report [here](#).
- Meanwhile, regulators in other countries are signalling greater monitoring and regulation of digital currencies:
 - New York's Department of Financial Services plans to introduce "BitLicences" for digital currency firms, including consumer disclosure rules, capital requirements and anti-money laundering controls. More details are expected later this year. See a report [here](#).
 - Singapore has said it will regulate digital currencies in a "light touch" fashion. The Money Authority of Singapore will require dealers that buy, sell or facilitate the exchange of virtual currencies for fiat currencies to verify the identities of their customers and report suspicious transactions. The Bitcoin business community appears to have responded positively to this announcement. See a report [here](#).
- The US Treasury has announced it is to appoint a member of the digital currency community to its Bank Secrecy Act Advisory Group. The group makes recommendations to the Treasury on issues to do with the Bank Secrecy Act, which is concerned with the detection and prevention of money laundering. See a report [here](#).

3.3 **Europe:** The head of Europol calls for new powers to clamp down on digital money laundering.

- Rob Wainwright, the current head of Europol, has stated at a security conference that law enforcement agencies are ill-equipped to crack down on those who use digital currencies for illicit means.
- He argued that police should be given new powers that enable them to identify criminals online. He also warned that police do not have the capabilities to operate online and identify criminals operating in "dark areas" of the internet.

See a report [here](#).

Payment Market Developments

3.4 **Worldwide:** Digital currency round-up.

- A number of Bitcoin exchanges, including Mt Gox and Bitstamp, have been forced to close following cyber attacks which prevented transfers to third party accounts from confirming correctly. The price of Bitcoin dropped significantly as a result of the MtGox closure. See reports [here](#) and [here](#). Mt Gox subsequently filed for bankruptcy (see report [here](#)).

- MT Gox has since stated that there is a high probability that the cyber attacks were made possible due to a bug in its own systems. See a report [here](#).
- Flexcoin, the Canada-based Bitcoin bank, announced it was closing after losing \$600,000 in a hacker attack. Its entire stock of Bitcoins stored on-line were stolen, although coins held on servers not connected to the internet were not taken. See report [here](#).
- Citizens in Iceland will reportedly receive Auroracoins, a digital currency, from 24 March in a bid to add some value to the Icelandic krona. The project is reportedly in response to the restrictions on foreign currencies placed on the Krona after Iceland's collapse in 2008. However, these controls may also stop people from changing Auroracoins into more valuable forms of digital currency. See a report [here](#).

3.5 **China:** Virtual currency exchange Vircorex suspends withdrawals.

- Beijing-based virtual currency exchange Vircorex suspended withdrawals, claiming it did not have the necessary reserves to fulfil customer requests. This was attributed to large fund withdrawals in the preceding weeks.

See a report [here](#).

4. **REPORTS AND SURVEYS**

4.1 **Worldwide:** Two out of three phones to come with NFC in 2018.

- A forecast from research firm IHS Technology predicts that NFC will be enabled in 64% of mobile phones shipped in 2018, up from 18.2% in 2013. This will represent a rise of 325% from 2013 in worldwide shipments of NFC enabled mobile phones.
- However, IHS Technology has warned that this growth will need to be supported by effective mobile payments ecosystems and compelling services to encourage consumer use.

See a report [here](#).

4.2 **Australia:** Wallets could be obsolete by 2021.

- A survey by the Commonwealth Bank has suggested that paying with cash or cards could give way to mobile phones by 2021.
- Some argue the results signify increasing consumer reception to virtual wallets as wallet launches and penetration of smartphones continue to rise. However, other surveys indicate that consumers are still nervous of some aspects and that this has been a barrier to increased take-up and usage.

See a report [here](#).

4.3 **United States:** Report highlights problems in mobile commerce field.

- Payment processing firm Jumio has published a report highlighting continued check-out abandonment, despite a strong performance by mobile shopping platforms recently.

- The report shows that approximately 47% of mobile shoppers abandoned their purchases, losing retailers almost US\$16 billion of potential revenue. Poor mobile shopping experiences may also mean consumers avoid using mobile shopping channels in future.

See a report [here](#).

4.4 **United States and Europe:** Survey of US and European consumers suggests only 25% of consumers willing to use mobile payments.

- A survey of 25,000 consumers by management consulting firm Bain & Company found that mobile payments are not seen as sufficiently secure, private or convenient to merit adoption by many consumers.
- 80% of all respondents remain unconvinced as to the benefits in the face of potential privacy and security risks and 40% of this group stated outright that they see no reason to change their current payment behaviour.
- However, awareness of mobile payment options is increasing with over half of all participants and over 70% of European respondents stating that they are aware of such options.

See a report [here](#).

4.5 **United Kingdom:** One-click process would encourage consumers to use mobile payments.

- A study by Oxygen8 has found that a third of adults have never used their mobile device to make a payment, despite having the ability to do so.
- According to the study's findings, consumers are put off by the multi-step process of making a mobile payment. 55% of respondents said they would be more likely to make a mobile payment if it was a simpler process. 56% said multiple steps to complete a mobile purchase were off-putting and a single-click method would encourage them to use mobile payment solutions.

See a report [here](#).

4.6 **United Kingdom:** Non-bank electronic payments more trusted than contactless payments.

- Research by Mintel, a market research firm, has found that consumers still have concerns about the security of mobile payments. 65% of consumers showed some concern about mobile payment security compared to only 33% being concerned about using cards and just 27% of internet users being concerned about using non-bank payment services such as PayPal.
- Mintel also found that 25 to 34 year olds were the most likely to have used mobile payments and digital currencies, and Londoners were the most likely to support a cashless society, with 30% of people prepared to stop using cash.

See a report [here](#).

4.7 **United Kingdom:** The fear of fraudulent attacks is growing alongside the growth of m-commerce.

- The second Mobile Payments and Fraud Survey from Kount, The Fraud Practice and CardNotPresent.com has indicated that:
 - 66% of merchants surveyed now actively support mobile, representing a 30% year on year increase;
 - 32% see mobile as riskier than standard e-commerce, up from 24% last year;
 - 32% say fraud prevention specific to mobile is increasingly necessary.

See a report [here](#).

Contacts

London:

Hogan Lovells International LLP

Atlantic House
Holborn Viaduct
London EC1A 2FG
Tel: +44 (0) 20 7296 2000

Jonathan Chertkow

Partner
Tel direct: +44 (0) 20 7296 2191
Email: jonathan.chertkow@hoganlovells.com

Julie Patient

Of Counsel
Tel direct: +44 (0) 20 7296 5790
Email: julie.patient@hoganlovells.com

Emily Reid

Partner
Tel direct: +44 (0) 20 7296 5362
Email: emily.reid@hoganlovells.com

Mark Taylor

Partner
Tel direct: +44 (0) 20 7296 5370
Email: mark.taylor@hoganlovells.com

Roger Tym

Partner
Tel direct: +44 (0) 20 7296 2470
Email: roger.tym@hoganlovells.com

Amsterdam:

Keizersgracht 555
1017 DR Amsterdam
Netherlands
Tel: +31 (20) 55 33 600

Victor de Vlaam

Partner
Tel direct: +31 (20) 55 33 665
Email: victor.devlaam@hoganlovells.com

Beijing:

31st Floor, Tower 3
China Central Place
No. 77 Jianguo Road
Chaoyang District
Beijing 100025
China
Phone +86 10 6582 9488

Roy G. Zou

Partner
Tel direct: +86 10 6582 9596
Email: roy.zou@hoganlovells.com

Dubai

19th Floor, Al Fattan Currency Tower
Dubai International Financial Centre
PO Box 506602
Dubai
United Arab Emirates
Phone +971 4 377 9377

Imtiaz Shah

Partner
Tel direct: +971 4 377-9222
Email: imtiaz.shah@hoganlovells.com

Frankfurt

Untermainanlage 1
60329 Frankfurt am Main
Germany

Tel: +49 (69) 962 36 0

Richard Reimer

Partner
Tel direct: +49 (69) 96236 414
Email: richard.reimer@hoganlovells.com

Hong Kong

11th Floor, One Pacific Place
88 Queensway
Hong Kong, China

Felix Dare

Senior Associate
Tel direct: +852 2840-5626
Email: Felix.Dare@hoganlovells.com

Madrid:

Paseo de la Castellana,
51 Planta 6ª
28046 Madrid
Tel : +34 91 3498 200

Joaquin Ruiz Echauri

Partner
Tel direct: +34 (91) 3498 295
Email: joaquin.ruiz-echauri@hoganlovells.com

Moscow

Summit Business Centre
22 Tverskaya Street, 9th Floor
125009 Moscow
Russia

Alexander Rymko

Partner
Tel direct: +7 (495) 9333009
Email: alexander.rymko@hoganlovells.com

Paris:

17, avenue Matignon
Paris 75378
France
Tel: +33 (1) 53 67 47 47

Sebastien Gros

Partner
Tel direct: +33 (1) 5367 1623
Email: sebastien.gros@hoganlovells.com

Rio de Janeiro

Hogan Lovells
Rua Santa Luzia, 651
26° andar - Centro
20030-041 Rio de Janeiro, RJ
Brasil

Claudette M. Christian

Partner
Tel direct: +55 21 3550 6672
Email: claudette.christian@hoganlovells.com

Rome:

Piazza Venezia 11
Rome 00187
Italy
Tel: +39 (06) 675823 1

Jeffrey Greenbaum

Partner
Tel direct: +39 (06) 675823 28
Email: jeffrey.greenbaum@hoganlovells.com

Shanghai:

Park Place, 18th Floor
1601 Nanjing Road West
Shanghai 200040
China
Phone +86 21 6122 3800

Andrew McGinty

Partner
Tel direct: +86 21 6122-3866
Email: andrew.mcginty@hoganlovells.com

Singapore:

50 Collyer Quay
#10-01 OUE Bayfront
Singapore 049321
Singapore
Phone +65 6538 0900

Andrew Carey

Partner
Tel direct: +65 63022-433
Email: andrew.carey@hoganlovells.com

Warsaw:

ul. Nowogrodzka 50
Warsaw 00695
Poland
Tel: +48 (22) 529 29 00

Beata Balas-Noszczyk

Partner
Tel direct: +48 (22) 5292 920
Email: beata.balasnosczyk@hoganlovells.com

Washington

Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004
Tel: +1 202 637 5600

Daniel Keating

Partner
Tel direct: +1 202 637 5490
Email: daniel.keating@hoganlovells.com

Timothy Tobin

Partner
Tel direct: +1 202 637 6833
Email: tim.tobin@hoganlovells.com

Mark Brennan

Partner
Tel direct: +1 202 637 6409
Email: mark.brennan@hoganlovells.com

www.hoganlovells.com

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