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**Hogan  
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**Hogan Lovells Global Payments Newsletter**  
5 June 2013

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## Hogan Lovells Global Payments Newsletter

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### 1. REGULATORY DEVELOPMENTS

#### 1.1 **Europe:** European Commission publishes draft Payment Accounts Directive

- On 8 May 2013, the European Commission announced proposals "to make bank accounts cheaper, more transparent and accessible to all", and published a draft European Union ("EU") Directive containing three proposals to:
  - improve the comparability of payment account fees;
  - allow consumers to open payment accounts with any payment service provider in the EU; and
  - facilitate payment account switching.

See the proposed Directive [here](#), and a note reviewing the impact of the Directive accompanies this newsletter.

#### 1.2 **Europe:** European Commission publishes update on legislative proposals for 2013

- The European Commission has issued its update on proposals it expects to adopt during 2013. In particular, it expects to publish the following on 17 July 2013:
  - a follow up to its Green Paper "Towards an integrated European market for card, internet and mobile payments" (the follow up will address obstacles to market integration in these areas); and
  - a report on its review of the Payment Services Directive (2007/64/EC), including proposals for its revision.

See the update [here](#)

#### 1.3 **United Kingdom:** Treasury consults on special administration regime for payment systems

- HM Treasury is consulting on the introduction of a special administration regime to ensure the continuity of critical services provided by operators of UK inter-bank payment systems recognised under Part 5 of the Banking Act 2009, and third parties providing certain services to such operators. The regime is only to be invoked by a

court order following an application by the Bank of England. The deadline for responses to the Treasury consultation is 19 June 2013.

- The consultation proposes three modifications to the normal corporate administration regime:
  - the Bank of England would have a power of direction over the special administrator to help it to meet its financial stability objectives;
  - powers for a special administrator to transfer all or part of a business on an expedited basis; and
  - restrictions on early termination of third party contracts to ensure continuity of key services.
- The UK proposals are proceeding ahead of an EU consultation on a possible recovery and resolution regime for non-bank financial institutions.

See the consultation [here](#)

#### 1.4 **Italy:** Regulator issues communication on the use of biometric signatures

- The Italian Data Protection Authority (*Garante per la protezione dei dati personali*) has released a communication on the use of biometric signatures for the identification of banking customers.
- More specifically, the Authority has authorised the launch of two projects by Italian banks, including one by UniCredit, allowing the banks to use the biometric signatures of customers on a tablet computer as part of their identification procedure. However, the Authority's authorisation is subject to both projects meeting certain privacy law requirements.
- Both projects require customers to sign on a tablet computer designed for measuring the biometric parameters of the individual's signature (such as the pressure and speed of the signature). The data is then used to identify customers when they are required to provide an e-signature, for instance when logging in to an internet banking service.

See the communication [here](#) (Italian language)

#### 1.5 **Poland:** Proposed overhaul of payment services legislation

- New consolidating legislation has been proposed to further harmonise the Polish Payment Services Act with EU payments legislation and to open up the payment services market.
- The new legislation will require settlement agents to provide merchants with (on request) detailed information of any costs and charges for accepting payment by a particular payment instrument. However, contrary to market expectations, the new legislation does not authorise cash machine operators to impose surcharges relating to cash withdrawals or ban the so-called "honour all cards rule" or "non-discrimination rule".

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

1.6 **Turkey:** Draft code to bring mobile payments within payments regulation

- Turkey's Central Bank is developing a draft code which will bring mobile network operators ("**MNOs**") offering mobile payments within a new payments and e-money regulatory regime, similar to the one existing in the EU, in competition with the banking sector.

See a report [here](#)

1.7 **China:** Government promotion of e-commerce and mobile payments

- Eleven Chinese government departments, agencies and regulators have issued a joint commitment to step up efforts towards developing a legal environment that is conducive to innovation and growth in e-commerce.
- Most notably, the People's Bank of China ("**PBOC**"), which issues payment licences to non-financial institutions in China, will formulate a strategy to develop mobile payments, create a mobile payments system and establish a security framework to protect mobile payments information. As part of this, the PBOC will provide guidance to commercial banks and payment organisations such as China UnionPay, and promote the use of mobile payments across unified interbank networks. The PBOC will also pilot smart cards in mobile payments and explore business models and products to meet market demand. The suggestion is that the PBOC will be playing a dual role of both supporting and pushing the industry in developing mobile payments.
- Other regulatory bodies have also been allocated responsibilities, for example, the State Administration of Industry and Commerce (which issues business licences and acts as the companies registry in China) has been tasked with setting up an online business credit index system to overcome a lack of trust in online business operators, which is a major issue for Chinese consumers and one that has arguably held back the development of e-commerce in China.

The declaration is in the Chinese language: please contact Andrew McGinty in Shanghai ([andrew.mcginty@hoganlovells.com](mailto:andrew.mcginty@hoganlovells.com)) for details and for an unofficial translation.

1.8 **Brazil:** Government moves to regulate mobile payments

- The Brazilian government has introduced a provisional measure to regulate the electronic payments market, creating an authorisation and oversight regime for 'payment institutions' and payment systems. The government is particularly keen to facilitate the growth of mobile wallets to serve the underbanked.
- The Central Bank of Brazil will be the primary regulator, and a wide range of regulatory requirements will apply, including payment institutions having to segregate client moneys, and payment systems needing to meet principles of interoperability, innovation, non-discriminatory access, reliability and security.

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

2. **PAYMENTS MARKET DEVELOPMENTS**

2.1 **Europe:** BNP Paribas launches wholly mobile bank

- Following its May roll-out in Germany and Belgium, BNP Paribas will launch Hello bank! in France on 17 June and in Italy in October this year.

- The service is designed specifically for use on a smart phone or tablet computer and includes a free current account and debit card, savings accounts, consumer loans, mortgage loans and contactless payments. Customers will also have access to the BNP Paribas network of cash machines.
- Existing customers of BNP Paribas cannot bank with both BNP Paribas and Hello bank! and will therefore have to choose between staying at BNP Paribas or opening an account at Hello bank!

See the webpage about the service [here](#) and a report [here](#)

## 2.2 **United Kingdom:** Marks & Spencer ("**M&S**") contactless payments roll out

- British retail giant M&S has announced the installation of near field communications ("**NFC**") terminals at 644 UK stores, processing more than 230,000 contactless payments a week (being around 14% of its card transactions under £20).
- It is also reported that, according to Visa Europe, there are now over 200,000 contactless payment terminals in the UK, and over 750,000 in Europe (increasing at 10,000 a month).
- M&S also recently announced a pilot allowing customers to download a 'Paddle app', scan a QR code and then "Pay with Paddle" using securely stored payment credentials at checkout.

See a report [here](#)

## 2.3 **United States:** Google launches pay by email

- Google is integrating Google Wallet into its email service, Gmail, to allow its customers to attach payments to an email. The functionality will be available to its US customers over 18 in the coming months, at which point Google Wallet users will be able to send payments by clicking on a new '\$' icon in Gmail and selecting an amount up to US\$10,000.
- The service is free if the user has a bank account linked to the wallet or if the wallet balance is used to make the payment. Payments can also be made with linked debit or credit cards for a 2.9% transaction fee. The recipient does not need to be a Gmail user, but must sign up to Google Wallet to receive the funds.

See a report [here](#)

## 2.4 **United States:** Square starts pay by email service

- By a coincidence of timing with the announcement of Google's payments by Gmail offering (above), mobile point of sale provider Square has soft-launched Square Cash.
- The service is invitation only at present, and involves a new page on Square's website whereby users can email money to friends' debit cards for a US\$0.50 flat fee.

See a report [here](#)

2.5 **Germany:** Cooperative bank offers NFC mobile payments with the O2 Wallet

- Dortmund Volksbank, a German cooperative bank, is offering its customers an NFC mobile payments solution using Telefónica's O2 Wallet. This follows a deal last year whereby Telefónica and DG Verlag (the systems integrator owned by cooperative banks in Germany) agreed to cooperate on mobile payments.
- Dortmund Volksbank customers with a Telefónica contract, a Samsung Galaxy ACE2 or S3 phone and related NFC SIM will need to download the O2 Wallet. They can then store a virtual credit card in the wallet to make payments of up to EUR25 at MasterCard PayPass terminals with a tap of their phone. Larger transactions will require users to enter a PIN.
- The launch with a single bank is seen as a trial for DB Verlag, who will monitor its success before deciding whether to launch the solution with other cooperative banks.

See a report [here](#)

2.6 **Italy:** Ryanair fined for credit card surcharge

- The Italian Antitrust Authority has fined European airline Ryanair EUR 400,000 for failing to provide a clear price at the outset of the online booking procedure. In particular, the Authority objected to the charging of additional fees for consumers paying for flights using their credit card. Italian law implementing the Payment Services Directive prohibits such surcharges.
- Ryanair has previously been sanctioned by the Authority in 2011 and last month was fined by the Netherland's Competition Authority for "hidden costs".

See a report [here](#) (Italian language) and [here](#)

2.7 **Poland:** Mobile payment service now available on Euronet cash machines

- In March 2013 we reported that one of Poland's largest banks (PKO BP) had launched a mobile phone-based payment service called "IKO". The service offers cash withdrawals, bank transfers, internet payments and "cheque" payment functionality and works by the user inserting a code generated by the mobile app into a payment device, such as a payment terminal or cash machine.
- IKO users will now be able to use the app at a further 2,000 cash machines in Poland following an agreement between Euronet Polska (the biggest independent cash machine operator in Poland) and PKO BP. This brings the total number of cash machines accepting IKO to over 7,000 nationwide.
- The mobile app will also soon be available on the BlackBerry and Symbian platforms. (it is already available on iOS and Android.)

See a report [here](#) (Polish language) and [here](#)

2.8 **Poland:** New mobile payments service announced

- Krajowa Izba Rozliczeniowa, a financial institution providing clearing services in Poland, has announced a new project to create a payment system solely for mobile devices.

- The new payment system will be similar in functionality to PKO BP's IKO (see 2.7 above). However, the platform will not be tied to a specific bank and instead will be available to the customers of most banks operating in Poland.

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

#### 2.9 **Brazil:** First mobile payment service launches

- Mobile Financial Service, a joint venture between Telefonica and MasterCard Worldwide, is launching what is claimed as Brazil's first mobile payment service, Zuum, with a national rollout expected by 2014.
- Vivo customers (Telefonica's Brazilian brand) will be able to access a phone-based pre-paid account to transfer money, buy phone credit and pay bills. Alternatively, customers can pay for a prepaid card provided by MasterCard, linked to the same account, to withdraw cash or pay offline. There are no maintenance fees for the service and, although there are transaction fees these are reimbursed to the customer as bonus mobile phone credit.
- Critically, a smart phone is not required, as the service can be set up and used by text message. As such, it hopes to offer millions of Brazilians a cheap alternative payment method to cash.

See a report [here](#)

#### 2.10 **India:** Launch of internet and mobile money transfer service for the unbanked

- Oxigen, a payments solution provider, has launched OxiCash, a mobile wallet and instant money transfer service targeted at those without a bank account.
- OxiCash is available online and on mobile devices across India, allowing transfers between OxiCash and bank accounts in real time through the National Payments Corporation of India's Immediate Payment Service. Transfers use either the payee's account number and IFSC code (the bank branch identifier in India), or the payee's mobile number and "Mobile Money ID". Transfers can also be made between OxiCash wallets. The wallet can be funded either by a transfer or by a top-up at one of Oxigen's 100,000 retail agents.
- As the service targets India's significant unbanked population, it does not require a user to own a smart phone device as it can be used on any mobile phone via SMS message. However, users with an Android smartphone can use the OxiCash app.

See a report [here](#)

#### 2.11 **Kenya:** Google partners with African bank to offer contactless payments

- Google and Equity Bank, the largest bank in East Africa, have launched BebaPay, a free contactless payment card initially targeted at paying for bus fares in Nairobi.
- A user can pre-load money onto their BebaPay card at Equity Bank agents or using mobile money transfer and pay for their bus ticket by tapping their card on the card reader. Users can monitor their usage on the BebaPay site, and every time the card is used the user will be sent an SMS receipt.

- Google is providing the system software, while the card uses NFC technology so payment can take place offline, without power or network connectivity.
- Equity Bank hopes to roll out the solution more widely, beyond transport. It is envisaged that a free BebaPay app will turn an NFC enabled smartphone into an NFC reader. This would allow businesses to accept payment without the need to invest in new point-of-sale hardware.

See a report [here](#)

#### 2.12 **Nigeria:** MasterCard to issue dual identity and payment cards

- The Nigerian government has announced that MasterCard is to issue dual identity and payment cards, with an initial pilot to issue the cards to 13 million people over the next year.
- The pre-paid biometric cards will be linked to bank accounts at Nigeria's Access Bank PLC, allowing users to make deposits and transact with merchants and ATMs accepting MasterCard.
- The government is eager to drive access to banking services and plans to roll out the cards to every resident over 16, approximately 120 million people.

See a report [here](#)

### 3. **SURVEYS AND REPORTS**

#### 3.1 **Asia:** Survey reveals high mobile payments use in emerging Asian markets

- A survey by MasterCard has shown a strong trend towards cashless mobile payments in markets such as China, Indonesia and Thailand.
  - Indonesian consumers lead in the use of mobile for shopping with 54.5% of respondents saying they had made purchases with a smartphone in the last three months.
  - In China and Thailand the figures were 54.1% and 51% respectively.
  - In more mature Asian markets, figures were slightly lower with approximately 40% for each of Hong Kong, South Korea and Singapore.
- Interestingly, only 25% of consumers in the region were aware of NFC mobile payments. By contrast, consumers show strong awareness of mobile banking apps with just under half of respondents aware of such services. This compares to apps that combine social networks and shopping (34%), SMS/MMS payments (31%), and in-game-app shopping (33%).

See a report [here](#)

#### 3.2 **United Kingdom:** Mobile NFC awareness shows dramatic increase

- A survey by eDigitalResearch has revealed that awareness of NFC payment points and payment symbols among British consumers has more than doubled in the past year, from 15% to 39%.



- Also promising for the industry is that the proportion of people with NFC mobile payments technology enabled on their phone who have actually used it has grown from 47% to 53% in the same period.
- The research also suggests that uptake will continue to grow with over half of those surveyed who had yet to make a payment on their NFC enabled phone saying they intend to so and 82% of those who had made an NFC payment saying they intend to use the technology again in the next 6 months.

See a report [here](#)

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