Card Payment Sweden Newsletter Q1/24

March 2024

Only one month remains before Members of the European Parliament begin campaigning for the EU elections. Ahead of the final Parliament Plenary in the last week of April, EU legislators have been racing to finalise several key files impacting payments. Work on the Instant Payments regulation and the Cyber Resilience Act has been wrapped up. Discussions continue on the PSR/PSD3 and Digital euro but final agreement will happen under the next mandate. In addition, the Commission published an important study which into the Interchange Fee Regulation.

About Card Payment Sweden

Card Payment Sweden (CPS) is an industry association that promotes the use of cashless payments by card in Sweden and in the Nordics. CPS was established in 2017 by card acquirers and card issuers in the Swedish market. We aim to ensure that payments are made securely, efficiently and in a commercially viable way.

The very high use of cards has given Sweden the reputation of having one of the world's most efficient payment markets. CPS strives to ensure that the regulatory framework in Sweden and the EU works effectively and facilitates fair competition among the different payment solutions.

COMMISSION PUBLISHES VVA'S IFR STUDY

On 5 February, the European Commission's Competition Department published a report by VVA, Valdani, Vicari & Associati, entitled 'Study on new developments in card-based payment markets, including as regards relevant aspects of the Interchange Fee Regulation.'
The study finds that, between 2018 and 2022, the weighted average interchange fee for debit and credit card transactions in the sample of 12 EU countries remained below the IFR caps. Nevertheless, the report makes several other findings which could prompt regulatory action.
In addition, the study highlights that issuers experienced an increase in interchange fee revenues over the past 5 years, likely due to the increasing volume and value of transactions.
The report notes a rise in scheme fees over the same period and that these fees have become more complex and less transparent.

It also looked at the evolution of merchant service charges and recognises a mixed picture based on limited data but highlights a small increase. While Card Payment Sweden contributed to the survey, we are concerned that the findings of the study can only offer a partial and limited view of these developments based on the interview participations. While 61 interviews were held with merchants, only 3 interviews were held with issuers and none with acquirers.

MASTERCARD AND VISA COMMIT TO LOWERING US INTERCHANGE FEES

On 26 March, in a landmark settlement to a class-action antitrust lawsuit against the card-payment giants, Mastercard and Visa agreed to reduce interchange fees by at least 0.04 percentage points for a minimum of three years and to hold them at or below the rates posted at the end of last year for the next five years. The agreement will also allow merchants to charge different prices to consumers based on which credit card they use.

"This agreement brings closure to a long-standing dispute by delivering substantial certainty and value to business owners, including flexibility in how they manage acceptance of card programs," said Rob Beard, Chief Legal Officer, General Counsel and Head of Global Policy at Mastercard.

INSTANT PAYMENTS ENTRY INTO FORCE SET FOR 8 APRIL

On 26 February, EU Member States formally adopted the agreement reached on the Instant Payments Regulation, following the European Parliament's adoption in plenary session of the agreement on 7 February.

Now in the Official Journal, the Regulation will come into effect on 8 April, while the first rules – establishing the ability to receive instant credit transfers in Euros – will apply from 9 January 2025. In response, stakeholders have pointed to the unprecedented speed and scale for a payments regulation, and warned of considerable challenge for compliance.

As stated in its position paper on the topic, while Card Payments Sweden (CPS) supports the development of instant payments but recognises they will not replace all current SEPA credit transfers. We encourage the EU to promote greater choice for consumers, without bias for any specific solution, be it instant payments, credit cards, electronic bank transfers or any other. Consumer preferences and competition should continue to drive the evolution of the payments market, as preferences can differ among payment needs and Member States.

PAYMENT SERVICES REGULATION AND DIRECTIVE MOVE FORWARD IN PARLIAMENT

On Wednesday, 14 February, the Parliament's Committee on Economic and Financial Affairs (ECON) voted to adopt its position on the Payment Services Regulation (PSR) and Directive (PSD3).
According to the Parliament's position, newly established PSPs will have to apply for authorization under the PSD3, with a minimum capital requirement from EUR 50,000 to EUR 350,000. The Parliament supports a grandfathering provision by which already authorised PSPs will not have to re-apply for authorization but will follow a simpler procedure. The Parliament has also moved to clarify certain definitions, such as 'payment account'. The Parliament has also moved to secure access to cash. The Parliament is also proposing stricter measures around security of payments and liability for PSPs that have not established adequate fraud prevention mechanisms. The reports, by Marek Belka (S&D, PL, responsible for the Regulation) and Ondřej Kovařík (Renew, CZ, responsible for the Directive) must now be approved by the Parliament as a whole, scheduled on 23 April 2024. If adopted, the Parliament's position will be carried over to the next mandate. The Council has begun discussions on the topic, as indicated in the "Progress on financial services legislative files" document dated from 4 March.

EU PROBES OF APPLE PAYMENTS MAY CONCLUDE THIS YEAR

The European Union's Competition commissioner, Margrethe Vestager, aims to conclude proceedings on Apple Pay by the end of this year, according to remarks made in the Concurrences Conference on Competition and Digital Regulation, in Palo Alto on 11 January.

According to a Commission press release, Apple offered to address competition concerns, by allowing third-party mobile wallet and payment service providers to access the NFC functionality on iOS devices free of charge, without having to use Apple Pay or Wallet. That would apply to all third-party mobile wallet app developers, established in the EEA and all iOS users with an Apple ID registered in the EEA. Apple will also apply 'fair, objective, transparent, and non-discriminatory eligibility criteria to grant NFC access to third-party mobile wallet app developers, and also set up a dispute settlement mechanism.

The Commission has asked competitors and stakeholders for feedback as to those measures by 19 February 2024. Following the invitation for feedback, the Commission is assessing the responses before deciding whether to settle.

Meanwhile, the Digital Markets Act's (DMA) obligations also came into effect on 7 March and place new restrictions on six tech giants including Apple. Among these obligations, the DMA requires gatekeepers to give rivals access to the same software and hardware as used by their own services. Overlapping with the antitrust charges, the DMA forces Apple to allow mobile wallets other than Apple Pay to use the iPhone's NFC chip.

Speaking at a conference organised by the Global Competition Law Centre in Bruges, Director for Platforms Policy and Enforcement at DG CNECT Rita Wezenbeek made an important clarification on differences between the DMA, which aims to encourage competition in digital markets, and competition law itself. Ms Wezenbeek stated that remedies that have or might be accepted under antitrust laws will not necessarily be acceptable for the provisions the cases inspired in the DMA. The fact the Commission accepts remedies to settle antitrust charges "does not mean it fits one-to-one under the parallel provisions of the DMA".

EUROPEAN PARLIAMENT ADOPTS CYBER RESILIENCE ACT

On 12 March, the European Parliament approved in plenary session the Cyber Resilience Act, or Regulation on Horizontal cybersecurity requirements for products with digital elements, after an agreement was reached with the Council on 1 December. This latest step in adoption is purely procedural and does not entail changes to the rules.

Among key provisions of the adopted text, the Commission will be responsible for proposing the placing of products on the important and critical product lists and updating them in light of new developments. Conformity assessments and levels of scrutiny will vary according to the level of cybersecurity risk they pose. Products deemed to have a higher risk will be examined more stringently by a notified body, while others may go through a lighter conformity assessment process, often managed internally by the manufacturers. Password managers, identity management systems software including biometric readers, and smart home products including private security cameras all fall within the scope of important products with digital elements.

The last step in the adoption of the new law is formal endorsement by the Council. Once the new rules are in force, manufacturers, importers and distributors of hardware and software products will have

36 months to prepare for compliance with the new cybersecurity requirements. However, manufacturers will have to report on incidents and vulnerabilities within a shorter time frame of 21 months.

ECB CONTINUES DIGITAL EURO TESTING

January saw the ECB's executive leader, Pietro Cipollone, updating the Parliament's ECON Committee on the ECB's rulebook on the digital euro, laying out its operational standards with the caveat that all these could change depending on the legislative framework to be agreed by MEPs and Council.

In the meantime, the ECB is seeking new commercial partners for additional controlled experiments on the digital euro within its Frankfurt-based financial technology lab. The call emphasizes technical aspects like fraud management, risk, and offline services. The ECB is also set to conduct experiments, starting in May and lasting six months, to explore the feasibility of settling a wholesale digital euro on decentralized ledger technology (DLT), commonly known as blockchain. France, Germany, and Italy's central banks will collaborate with the ECB in these trials, involving mock and limited real transactions. This initiative is distinct from the retail digital euro currently under legislative consideration.

PARLIAMENT TAKES FIRST STEPS ON DIGITAL EURO FILE

On 12 February, the Parliament's Rapporteur on the Digital Euro, Stefan Berger, (European People's Party, DE) published his reports (for eurozone and non-eurozone countries). The report focuses on governance issues with a view to ensuring the separation of the ECB's monetary, supervisory and payments systems and its digital euro work, also via the creation of an independent unit within the ECB. In addition, the report adds provisions aiming to allow the digital euro to be used for conditional payments on 'permissionless distributed ledgers' where, until now, the text points out, "only privately issued assets like crypto-assets or stable coins are available as a means of payment". The report also aims to amend the Commission's proposal to allow for PSPs to use services developed by PSPs themselves or by the ECB. It also mandates the ECB to develop a testing facility for authorised PSPs, in order to ensure functionality. An important point in the Parliament's draft report is the holding limit. As a reminder, the ECB had initially proposed a EUR 3,000 cap on the holding limit of digital euro currency for users. The Rapporteur's draft report proposes that PSPs define and agree upon holding limits with their customers, while "the daily limit of cash withdrawal defined for the customer's debit and credit cards may be considered as a reference threshold". A recent paper by the French banking lobby FBF, says the digital euro project "must be reconsidered", arguing any distribution of digital euros should be via existing banking apps and not a centralized ECB app, and with a holding limit of €100 only.

The Parliament is now expected to vote in the ECON Committee on 8 April 2024 and a vote in plenary session was scheduled for 22 April but subsequently taken off the agenda.

COUNCIL DEBATES GO-NO-GO CLAUSE ON DIGITAL EURO

Brussels media reports suggest that during Council meetings on the digital euro, Germany and France have pushed to include a "go-no-go" clause. The so-called "go-no-go" clause would give the Commission the power to stop the electronic minting of the currency, an idea that MEPs have previously discussed. Another topic raised in discussions is the suggestion of including clauses that would prohibit the ECB from minting the digital euro before the regulation comes into force. The suggestion has raised scepticism from some governments, who argued a digital euro cannot exist without the regulation in the first place. Others are suggesting instead enforcing a minimum period, likely of around 18 months between the decision to issue the digital euro and the actual issuance.

THE SWEDISH RIKSBANK'S PAYMENT REPORT 2024

The Swedish Riksbank presented the Payment Report 2024 in mid-March and states that digitalization in the Swedish payment market has contributed to faster, smoother, and more efficient payments. At the same time, they point out that the development has also brought several challenges. Several groups in society experience digital and financial exclusion, and there are serious problems with fraud.

The payment system needs to be developed so that Sweden remains at the forefront. The report mentions that eight out of ten people use cards for payment or mobile payments. It is also mentioned that Swish, Apple Pay, and Google Pay are increasing in popularity. Furthermore, it emphasizes the need for cash in a resilient payment system.

The Governor of the Riksbank, Erik Thedéen says, "Payments must work for everyone. In the longer term, all payments may be digital – but until then, cash plays an important role. We need legislation to ensure that cash can be used to pay. Banks must also ensure that more customers have access to payment accounts. These are important prerequisites for everyone to be able to pay today and in the future".

In Sweden, more and more people choose to pay with their mobile phones. Services that integrate cards into mobile phones are being used more often instead of physical cards, and almost all Swedes have access to Swish. At the same time, the use of cash continues to decrease. The digitalization of the payment market is a global trend. Sweden was an early adopter of Swish, and now the central bank notes that our neighbouring countries have gone further by offering more immediate payment methods. They also have a higher proportion of immediate payments than we do in Sweden.
Digitalization is also expressed in the fact that most central banks are now exploring a digital complement to cash – what the Swedish Riksbank calls e-krona.

In addition, the central bank continues to develop the preparedness in the payment system and points out that the government and parliament should introduce new laws regarding cash handling.

***

Wishing you all a lovely start of the springtime with family and friends.

Michael Hoffmann
MANAGING DIRECTOR/CEO/VD