Topics of this issue:

1. **Italian government restricts cash payments**
2. **Restrictions on cash usage in some other countries**
3. **EU court rules against MasterCard**
4. **Thumbs down for Monnet**

1. Italian government restricts cash payments

(by Marco Fava, Luca Grechi and Alessandro Longoni)[1]

In Autumn 2011 the worsening of the financial crisis led to the change of the top roles in Italian political authorities; a "technocracy", the cabinet head of which is Mario Monti, was established in order to bring about those reforms that should be able to relaunch the Italian economy.

In fact the Government issued several norms contained in the Decree "Growth, Equity and Consolidation of the Public Finances" (the so called "Save Italy" Decree), Legislative Decree no. 201, 6th December 2011, then converted into Law no. 214 of 2011.

The Article 12 of the above law ("Reduction of the limit for the traceability of payments (€1,000) and measures to reduce the use of cash") imposes the reduction of the limit of cash payments to EUR 1,000 in transactions among private subjects. Beyond this limit C2B and C2C payments have to be done through electronic means. Thus, when paying for a used car with a value above 1,000 EUR checks, credit transfers or other traceable means of payment have to be used. This new limit does not apply to foreign tourists whose passport will have to be photocopied by the shopkeeper in case of cash payments above EUR 1,000.

Previous provisions limiting the cash payments were contained in the Legislative Decree 143/1991 (Enactment Law 197/1991) aiming to reduce money laundering; this was followed by the Legislative Decree 231/2007 (enacting Directive 2005/60/EC and Directive 2006/70/EC) reducing the limit of cash payments and bearer bonds from EUR 12,500 to EUR 5,000.

[1] Marco Fava (Managing Director) and Luca Grechi (Principal Consultant) of CleverAdvice, an independent business advisory firm (www.cleveradvice.eu) and Alessandro Longoni, Business Analyst at Innopay, an independent consulting firm specialised in payments and related transaction services (www.innopay.com). Innopay and Clever Advice are members of the European Payments Consulting Association (EPCA).

This above limit was maintained for one year only as the Legislative Decree 112/2008 repositioned the limit back to EUR 12,500.
In the last two years the limit of the payment traceability changed again; the Legislative Decree 78/2010 reduced it to EUR 5,000 as for 31st May 2010; the same limit was reduced to EUR 2,500 through the Legislative Decree 78/2010. Now the limit has been reduced to EUR 1,000 (it is possible to perform transaction up to EUR 999.99 with cash).
This provision is part of the large fight against tax evasion which still represents a serious obstacle for Italian economic growth. The law is enforced by the tax police (Guardia di Finanza) together with the ministry of finance.

Our Comment

This new provision has important consequences for financial institutions: since no cash payments are allowed for transactions above EUR 1,000, many unbanked pensioners are now forced to open a bank account or equip themselves with a IBAN-enabled payment card. Government studies show that there are around 450,000 pensioners which fell under this category before the law was applied.
Examples of how Financial Institutions are positively responding to this law are already to be found in the market: PosteItaliane introduced InpsCard: a prepaid payment card with an IBAN code, especially designed for pensioners looking for a solution to receive their money. The card, Maestro branded, is in fact free of charge. The only cost is represented by the ATM withdrawal fees (which are in line with industry's averages).
The same law is also introducing limits to reduce the costs of card based transactions, to a legal maximum of 1.5%. This is definitely a game changer in the Italian industry, as it constantly showed above-the-average transaction fees for the years before the introduction of this rule.
Financial institutions are also requested, by the same law, to offer free solutions to this subset of the population, in the forms of current accounts or prepaid cards without any sort of service fees. Initial estimates show that EUR 3.5 b. per year will flow through these accounts.
Our opinion is that the use of cash has costs which are usually not considered by both merchants and consumers. These costs include the costs of failing to discover counterfeit notes, robbery risks and collection costs. Any law that affects payments in cash is definitely a positive add to the system.
The cost of cash is also relevant for those institutions which make cash payments to consumers, instead of receiving it from consumers, i.e. pensions: the cost of moving cash to

be given to pensioners is not to be underestimated. The cost of maintaining security services around cash is also relevant.

For all the above reasons we expect the government to keep this policy and to further limit cash payments, thus promoting electronic means of payment. We expect the legislator's actions and the higher awareness of final consumers (due to the generational change as well) will improve the use of electronic means of payments in the short and medium term. In fact, we also expect an increase of the number of consumer cards of 10% to 15% and of around 25% in the circulation of business credit cards (mainly concentrated in the segments prepaid and debit cards), in the next five years.

2. Restrictions on cash usage in some other countries

Based on input of some of our EPCA partners we are able to provide a brief overview of restrictions on cash usage in a number of European countries. We hope to add to this list in following editions of this newsletter.

Table 1 Legal limits for cash payments

France	Personal and professional expenses: 3,000 € Persons with tax residence outside France: personal expenses: 15,000 €
Germany	AML regulation based on DIRECTIVE 2005/60/EC Traders must identify customers who pay 15,000 EUR or more in cash
Denmark	Government proposal 1,500 € for payments to craftsmen
Hungary	A limit of approx. 1,000 € for POS and B2B was cancelled due to implementation problems
Poland	AML regulation based on DIRECTIVE 2005/60/EC Traders must identify customers who pay 15,000 EUR or more in cash
Russia	No limits for C2B, but for B2B there is a limit of 100,000 RUR (2,500 Euro)

Based on input of our EPCA partners: deLege (Krakau), Galitt (Paris), eBIT eBusiness Management (Budapest), PlusCON Ap (Kopenhagen), Radian (Moscow)

3. EU Court rules against MasterCard

The General Court has dismissed the appeal of MasterCard and a number of banks against the EU Commission's prohibition of multilateral interchange fees (MIF) and some other network rules.[2]

This decision comes after a long dispute over interchange fees. On 19 December 2007, the Commission published its decision regarding interchange fees and some other scheme rules.[3] In this decision, the Commission ordered MasterCard to repeal the x-border MIFs within six months. MasterCard complied and by the end of June the corresponding rates were reduced to zero.

Subsequently, there was an agreement between the EU Commission and MasterCard to reduce the average x-border fallback MIF to 0.3% for credit card transactions and 0.2% for debit card transactions. Never-the-less, MasterCard proceeded with its appeal before the European Court. This appeal has now been decided by the Seventh Chamber of the General Court in Luxembourg. MasterCard has announced that it intends to appeal this judgment.

For the time being, the rates agreed between the EU Commission and MasterCard continue to apply.

Our Comment

For a payment expert ignorant of the high science of interpreting European law and European court proceedings, the judgment of the General Court looks like a complete victory for the EU Commission. Each and every argument of MasterCard and the banks supporting its appeal are discussed by the court and then rejected.

- *Are MIFs a necessary component of a 4-party payment network? The Court says "no".*
- *Do MIFs restrict competition? The Court says "yes".*
- *Does MIF generate advantages relevant for an exemption under Article 81(3)? The Court says "no".*
- *Is MasterCard (after the IPO) a commercial venture acting independent of the issuing banks? The Court says "no".*
- *Has DG Competition violated procedural rules? The Court says "no".*

[2] Judgment of the General Court (Seventh Chamber) of 24 May 2012, MasterCard, Inc. and Others v European Commission, Case T-111/08.

[3] Decision C(2007) 6474 final.

So for the moment, the issue is settled. The agreement between MasterCard and the Commission will still be valid and the Commission has no reason to change its approach in its negotiations with Visa. However, since MasterCard intends to appeal, final certainty still does not exist. It will be interesting to see, how national anti-trust authorities will react to this judgment. Thus, we may well see some more cases at the national level. However, they may also be another period of indecision until the final ruling comes up.

4. Thumbs down for Monnet

On April 23, 2012 the Monnet banks announced that they had "*decided to stop any initiative to set up a European card scheme*".[4] The Monet project which had the aim to launch a new European card scheme was first known as Falkenstein project.[5] It has been discussed for more than 4 years but did not really seem to get ahead.

In the press release, the participating banks are accusing the European Commission of having killed the business case for a new card scheme. Since this is an important point, it is worthwhile to quote the press release at some length:

"*At the end of the feasibility study, participating banks clearly communicated to the Commission that they were ready to launch the Monnet card and scheme provided clarification on two major issues:*

- *legal certainty and sustainability of a 4 corner payment scheme ensuring interoperability and universality of the payment service.*
- *long term certainty for their business model.*

The position of the Commission stating any European scheme would have to comply with its agreement with Visa and MasterCard interchange levels does not enable a viable business model."

Thus, the EU Commission which has been pushing for a European scheme is accused of having killed a viable plan to create one.

Our Comment

Falkenstein/Monnet has been discussed for many years. Many announcements were made, feasibility studies undertaken and many deadlines missed. In the end, the decision not to

[4] See: The Monnet Project: The major European banks associated to the Monnet project announce the end of the project, Press Release, April 23, 2012.
[5] See „SEPA for Cards: Next stop Falkenstein?" in our January 2008 newsletter.

proceed with the project does not come as a surprise. Indeed, this decision has hardly caused any ripples in the card press.

*An interesting point, however, is why Monnet did not fly. The press release points at the European Commission and its interchange agreements with Visa and MasterCard. It flatly states that compliance with the agreed interchange levels "*does not enable a viable business model". *This does not come as a surprise. Time and again, the participating banks had demanded clarity with respect to the level of multilateral interchange fees (MIF) acceptable by the authorities.*[6] *In essence, they wanted a level of interchange fees higher than the rate agreed with Visa and MasterCard. They did not get it and so the plug was pulled. This is one reading of the story. However, there are also rumours that Monnet would have been viable with 0.2% (the SEPA debit card rate) and that the true problem are the higher MIFs of domestic schemes in a number of European countries (inter alia France). Apparently, it was not possible – for whatever reasons – to introduce national Monnet interchange fees.*

However, as long as schemes with higher domestic MIFs exist, it is difficult for a new European scheme with a low SEPA-MIF to attract issuers. So far, we have a European interchange regulation only for x-border card transactions. However, as long as there is no common European interchange, it will always be difficult for newcomers who want to introduce a single SEPA rate.[7] *If it is higher than the domestic rate, they will not attract merchants*[8] *and if it is lower, they will not attract issuers.*

The fate of Monnet points to the wider issue of the much desired "European card scheme". Monnet is dead, PayFair seems to be fairly stagnant and EAPS also does not impress the market with a flood of new announcements. Lately, there have been some promising news regarding eufiserv and if the European savings banks and their cooperators get their act together, eufiserv may well become a serious contender. Otherwise, there still is Visa Europe, which sees itself as European card scheme, as Peter Ayliffe (CEO, Visa Europe) has just reminded us once again.[9]

[6] See, for instance: The Monnet Project: 24 grandes banques européennes participant au projet Monnet demandent le soutien de la Commission européenne, Communique de presse, June 15, 2011.
[7] Even an established player like MasterCard ran into trouble when a single SEPA Maestro rate was announced. See "National SEPA interchange rates?" in our May 2007 newsletter.
[8] The Monnet banks would have encountered this problem if the EU Commission had granted them a higher MIF.
[9] Statements at the Public Hearing on the European Commission's Green Paper "Towards an integrated European market for card, internet and mobile payments", Brussels, May 4, 2012.

Should you have any questions or comments please contact

Dr. Hugo Godschalk (hgodschalk@paysys.de)

Dr. Malte Krueger (mkrueger@paysys.de)

Christoph Strauch (cstrauch@paysys.de)

PaySys Consultancy GmbH

Im Uhrig 7
60433 Frankfurt / Germany
Tel.: +49 (0) 69 / 95 11 77 0
Fax.: +49 (0) 69 / 52 10 90
e mail: info@paysys.de
www.paysys.de

PaySys Consultancy is German member of

epca
european payments consulting association

Subscription info: The PaySys SEPA-Newsletter is published 10 times a year in English in electronic format (pdf) and contains about 4-6 pages. The price is

- 250 EUR per year (single user license)
- 500 EUR per year (company license)

To order, please send an email to Sepa-newsletter@paysys.de indicating the type of license you wish to purchase and the method of payments (credit transfer or credit card).