

Topics of this issue:

- 1. Cash-back in SEPA**
- 2. Brand selection at the POS: A first conflict**
- 3. EAPS - V Pay Co-badging**

## **1. Cash-back in SEPA**

Cash-back or “cash-up” at the POS has been in practise in a number of EU countries for quite a while. In many countries however, it has been little used or not used at all. This is likely to change because SEPA card specifications include cash-back.<sup>1</sup> For instance, the new German ec cash specifications (“TA 7.0”) include cash-back.

### ***Our comment:***

*The new specifications seem to clear the way for cash-back at the POS. However, it has to be noted that cash-back involves a number of regulatory issues that also have to be solved. First, some regulatory work has been done by the EU Commission. In the Payment Services Directive, Cash-back is one of the exempted activities. Thus in theory, a merchant is entitled to offer cash-back without even becoming a payment institution. It remains to be seen, however, how this feeds into regulatory practise of the oversight bodies. In Germany, for instance, the banking supervisor “BaFin” has always argued that cash-back involves a credit of the merchant to the card holder: the merchant pays out cash and is reimbursed only the next day or even later. Therefore, it was seen as credit business. This point applies even more to cash-back via credit card transactions because the lag between the card transaction and the payment of the merchant may be much longer than a day. Based on its interpretation of cash-back as credit business, BaFin allowed merchants to offer cash-back only under restrictive conditions. It remains to be seen whether this regulatory practise will be modified once the PSD has been transposed into national law.*

*Another point is central bank regulation of cash disbursement. The Eurosystem and the EU Commission have set binding rules for banks who have to check bank notes before distributing them to the public. The Eurosystem would like to apply these rules also to merchants.*

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<sup>1</sup> See, for instance, *Financial Application Specification for SCF Compliant EMV Terminals, Part 1: Attended POS Environment Business and Functional Requirements, Version 2.00, 12.12.2007*

## 2. Brand selection at the POS: A first conflict

For the first time, the issue of who selects the brand at the POS has led to disagreement. MasterCard argues that from January 1<sup>st</sup>, 2008 on merchants who accept both Maestro and ec cash should have the choice which brand to accept. The German banks are not pleased. They have commissioned a legal expertise that shows that the new SEPA rules only apply to cards issued from January 1<sup>st</sup>, 2008 onwards. Thus, according to this opinion, for co-branded Maestro/ec cash cards issued before this date, the old contractual agreement still applies that Maestro can only be used outside Germany.

### **Our comment:**

*We are not surprised that the issue of brand selection leads to a conflict. Indeed, the issue has been an evergreen in our newsletter. But what is surprising is the reasoning of the German banks and their legal expert. In our view, the SEPA Cards Framework (SCF) and subsequent documents clearly rule that cardholders and or issuers decide which brand is selected. The new "SEPA FAST" specifications<sup>2</sup> quote the corresponding paragraph from the SCF: "Where several payment applications are contained in the same card and supported by the same terminal, cardholders will have the choice of which payment application they will use. Prevalence at POS or ATM for a particular payment application may not be mandated by a card scheme." (SEPA Cards Framework, Version 2.0, page 15) In addition a reference is made to EMV specifications. As far as we can see, EMV rules that either the card holder decides or a priority list of applications on the card.*

## 3. EAPS - V Pay Co-badging

In June 2007 the central organisation of German banks (ZKA) signed an agreement with Visa regarding co-badging of ec cash cards with V PAY. This agreement also covers EAPS. Thus, Visa Europe allows the co-badging of its cards with a scheme that was set up as competitor in Europe for both Visa (V PAY) and MasterCard (Maestro).

### **Our comment:**

*We have repeatedly taken up the important question of co-badging of competing brands and it was still open whether EAPS would be included in co-badging agreements. This question*

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<sup>2</sup> Financial Application Specification for SCF Compliant EMV Terminals, Part 1: Attended POS Environment Business and Functional Requirements, Version 2.00, 12.12.2007

*has now been settled – at least for V PAY. What does this imply for V PAY's market position? As long as acceptance is still low (and the domestic interchange fee is the same as within the ec cash-system), issuers will be unlikely to issue V PAY-only cards – although ATM fees might provide an incentive for banks with no or only small ATM networks of their own. Thus, co-badging is a way for Visa to get V- PAY branded cards into the market. However, if everything goes by the rules, brand selection at the POS (or ATM) will be carried out by the card holder (and/or issuer). Given the familiarity with the ec cash brand, it will be difficult for Visa to capture significant market share. (However, as acceptance rises, V PAY-only will become an option also with a view to POS payments.)*

*With respect to European usage, V PAY provides acceptance for those (still fairly large) plains on the European map where ec cash/Girocard/EAPS is not accepted. The interesting question is what happens in those areas where both brands are accepted. Given, that banks do not want to spend on marketing and brand building for EAPS, for x-border transactions V PAY may prove the more popular brand whenever customers have a choice. Thus, for the moment, the time honoured division of labour between national and international brands could re-appear. In the long run, however, once V PAY has reached an acceptance level comparable to ec cash, it may be tempting for Visa to increase interchange rates in order to lure issuers to prioritise V PAY on co-branded cards or issue V Pay-only cards. Of course, this will only work if interchange is still permitted.*

Please note:

**9<sup>th</sup> PaySys Breakfast-Meeting in Frankfurt**

Friday, March 14<sup>th</sup> 2008, from 8:00 to 10:00 a.m.

**Edwin Latter** (LINK Scheme Director) will address the topic  
**„The evolving SEPA ATM model: Lessons from the UK “**

Attendance fee: 80,- Euro (includes a breakfast buffet)

To register, please call Ms. Susanne Hollingsworth-Palfrey +49 69 9511 7710  
or send us an email.

**Should you have any questions or comments please contact**

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