

# International Roundtable on the Payments Industry

Payments Law Virtual Bootcamp – June 11, 2020

Scott McInnes, Partner, Bird & Bird  
Evan Minsberg, Counsel, Venable  
Jeffrey Roode, Partner, Gowling WLG  
D. E. (Ed) Wilson, Jr., Partner, Venable

VENABLE<sub>LLP</sub>



## Today's Discussion

- Overview of International Payments
- Key Developments in Cross-Border Payments
- Spotlight on Country/Region-Specific Issues
  - United States
  - Canada
  - United Kingdom/European Union

VENABLE<sub>LLP</sub>



© 2020 / 2

---

## Overview of International Payments

---

VENABLE<sub>LLP</sub>



© 2020 / 3

## Overview of International Payments

- International trade and commerce continue to drive growth in cross-border payments.
  - Global revenue reached \$1.9 trillion in 2018, reflecting 6 percent growth.
  - Focus here is retail.
  - Canada: 21.1 billion transactions (2018). Debit (38% of POS volume) and credit cards (58% of POS volume) constitute the largest portion of total transaction volume.
  - UK (2019): 40 billion transactions, value over £83 trillion (Debit: 42%, Cash: 23%, Credit: 8.75%).
  - EU (2018): 44 billion transactions, value of €34 trillion (Credit: 46%, Debit: 23%).
- Banks and traditional players face structural and other challenges as fintech companies expand to the international payments market.
  - Large technology and social media companies.
  - Clearing and network solutions providers.

VENABLE<sub>LLP</sub>



© 2020 / 4

## Overview of International Payments – Payment Providers

		To	
		Consumers	Business
From	Consumers	<ul style="list-style-type: none"> <li>• Remittances</li> <li>• P2P Wallets</li> </ul>	<ul style="list-style-type: none"> <li>• E-Commerce &amp; Marketplaces</li> <li>• Bill Payment</li> <li>• Loan Repayments</li> <li>• Charitable Donations</li> <li>• Healthcare and Education Payments</li> </ul>
	Business	<ul style="list-style-type: none"> <li>• Payroll Processors</li> <li>• Social Benefits Payments</li> <li>• Dividends and Claims</li> <li>• Refunds</li> <li>• One-Time Distributions</li> </ul>	<ul style="list-style-type: none"> <li>• Trade</li> <li>• Investment</li> <li>• Intercompany transfers</li> </ul>

VENABLE<sub>LLP</sub>



© 2020 / 5

## Overview of International Payments – Challenges

- Complexity and Cost
- Timing and Delays
- Country and Region-Specific Legal and Regulatory Requirements

VENABLE<sub>LLP</sub>



© 2020 / 6

---

## Key Developments in Cross-Border Payments

---

**VENABLE**<sub>LLP</sub> **MAC** © 2020 / 7

## Key Developments in Cross-Border Payments

- Real-Time Settlement
- International ACH Transactions
- Global E-Commerce Retail Remittance and Bill Payment
- Increase in Small / Medium Business Payments

**VENABLE**<sub>LLP</sub> **MAC** © 2020 / 8

---

## Spotlight on Country/Region-Specific Issues

---

VENABLE<sub>LLP</sub>



© 2020 / 9

## United States – Key Payments Regulators

### Consumer Protection/Privacy

- Federal Trade Commission
- Consumer Financial Protection Bureau
- Dept. of Justice
- State AGs
- State Banking Regulators
- Card Brands

### Data Security

- Federal Trade Commission
- Consumer Financial Protection Bureau
- Federal Financial Institutions Examination Council
- U.S. Secret Service
- Card Brands

### AML/OFAC

- Financial Crimes Enforcement Network
- Office of Foreign Assets Control
- State Banking Regulators

### Financial Institutions

- Federal Deposit Insurance Corp.
- Federal Financial Institutions Examination Council
- Comptroller of the Currency
- National Credit Union Admin.
- Federal Reserve

VENABLE<sub>LLP</sub>



© 2020 / 10

## United States – Legal and Regulatory Framework

- Anti-Money Laundering and Sanctions Requirements
- State Licensing Requirements
- Card Network and NACHA Rules Compliance
- Consumer Financial Protection Laws
- Bank Relationships

VENABLE<sub>LLP</sub>



© 2020 / 11

## Canada – Key Payments Regulators

### Consumer Protection/Privacy

- Financial Consumer Agency of Canada (FCAC) – federal
- Provincial consumer protection agencies
- Office of the Privacy Commission of Canada (OPC) – federal
- Provincial privacy commissioners

### Data Security

- OPC and provincial privacy commissioners

### AML/Sanction

- Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) – federal
- Autorité des Marchés Financiers (AMF) – Quebec
- Various sanctions laws

### Financial Institutions

- Office of the Superintendent of Financial Institutions (OSFI)
- FCAC
- Bank of Canada
- Various provincial FI regulators

VENABLE<sub>LLP</sub>



© 2020 / 12

## Canada – Legal and Regulatory Framework

- Federal Anti-Money Laundering and Sanctions Requirements
- Provincial and federal consumer protection laws
- Provincial and federal laws relating to credit cards
- Card Network and Canadian Payments Association Rules Compliance
- Code of Conduct for the Credit and Debit Card Industry in Canada
- New federal regulatory framework for retail payments in the works
- Voluntary interchange reduction undertakings from Visa and Mastercard

VENABLE<sub>LLP</sub>



© 2020 / 13

## EU / UK – Key Payments Regulators

### Consumer Protection/Privacy

- National consumer protection agencies in the EU Member States
- National data protection authorities (DPAs) in the EU Member States
- European Data Protection Board (EDPB)

### Data Security

- National DPAs in the EU Member States

### AML/Sanctions

- National regulators in the Member States
- Financial Action Task Force (FATF)
- EU sanctions lists

### Financial Institutions

- National FS regulators in the EU Member States
- Dedicated payments regulator in the UK: Payment Systems Regulator (PSR)
- European Central Bank (ECB)
- European Banking Authority (EBA)
- European Commission (EC)

VENABLE<sub>LLP</sub>



© 2020 / 14

## EU / UK – Legal and Regulatory Framework

- EU payments “sovereignty” (PSD2 open banking, European Payment Initiative (EPI), French data localization initiative)
- PSD2 strong customer authentication (SCA)
- Dynamic Currency Conversion (DCC) – new transparency requirements since April 19, 2020 (but flexible enforcement due to COVID-19)
- Revision of EU Interchange Fee Regulation (IFR) – or not?
- UK Payment Systems Regulator (PSR) market review of the supply of card-acquiring services

VENABLE<sub>LLP</sub>



© 2020 / 15

## Questions?

**Scott McInnes**

Partner | Bird & Bird LLP | [scott.mcinnnes@twobirds.com](mailto:scott.mcinnnes@twobirds.com)

**Evan Minsberg**

Counsel | Venable LLP | [ermingsberg@venable.com](mailto:ermingsberg@venable.com)

**Jeffrey Roode**

Partner | Gowling WLG | [jeffrey.roode@gowlingwlg.com](mailto:jeffrey.roode@gowlingwlg.com)

**D. E. (Ed) Wilson, Jr.**

Partner | Venable LLP | [dewilsonjr@venable.com](mailto:dewilsonjr@venable.com)

VENABLE<sub>LLP</sub>



© 2020 / 16