Financial sector backs new code for electronic payments

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The Australian financial sector has welcomed the regulator's new code for electronic payments, saying that the standard will provide greater certainty to customers and set out the rules to determine who pays for unauthorised transactions when transacting electronically. The Australian Securities and Investments Commission (ASIC) released a revised ePayments Code yesterday, which covers a broad range of electronic payments including ATM, EFTPOS, credit card transactions, online payments, internet banking, mobile banking and BPAY.

So far the code has received support from PayPal Australia, which has agreed to comply with the revised code by the end of the transition period in March 2013, and the Australian Bankers' Association. ASIC expects that the code will receive further support from credit unions and building societies, many of which are members of the existing version of the code. The regulator said it was also in discussions with "a number of other providers of new payment services" to encourage them to sign up to the new code.

The ePayments Code sets out the rights of consumers in the event of fraud or unauthorised transactions via their electronic payment platforms, such as online banking and credit cards. The release of the revised code follows ASIC's review of the previous Electronic Funds Transfer Code of Conduct (EFT Code), which involved a consultation between ASIC, the industry and consumers. ASIC said the key aim of its review was to extend the code to cover all types of consumer electronic payment products — not just those from traditional banking organisations.

Greg Medcraft, ASIC chairman, said the new code was product neutral and used "plain English" to set out the rights and obligations of consumers when using electronic payment channels. He added that ASIC would be actively encouraging all providers of consumer payment products to subscribe to the code.

"Industry members are important gatekeepers and self-regulation has a role to play in improving industry standards and consumer experiences," he said. "It will encourage consumers to have confidence in our e-payment systems."

Jost Stollmann, chief executive of independent player Tyro Payments, said the revision of the code would be good news for all players in the payments space — both for incumbents and smaller players.

"Tyro is very supportive of this comprehensive revision," he said. "We are very well aware that the industry needs the trust of the consumer in security, reliability and fairness of the electronic payment world."

Within the banking community, there has been strong support for ASIC's decision to expand the code to cover a wider range of payment products. Steven Münchenberg, chief executive of the ABA, said the code would provide certainty for customers and set out clear rules governing who would be liable in the event of fraud.

"It sets out the rules for determining who pays for unauthorised transactions when transacting electronically. The new code has been purposefully written in plain English which will better serve the interests of consumers and banks," Münchenberg said.

The ABA has also welcomed the guidance that the code offers on recovering or reversing mistaken online payments. Münchenberg said that banks and other Authorised Deposit-taking Institutions (ADIs) would have clear obligations depending on whether the institution is the sending or recipient institution of the mistaken payment.

"For example, the sending institution will have important information on-screen for a 'pay anyone' transaction before the customer confirms the transaction. This is designed to alert the customer to ensure the BSB and account number of the intended recipient is correct. A recipient institution will assist in the recovery process of the mistaken payment," he explained.

This will include taking steps to set aside funds in the unintended recipient's account — if sufficient funds exist — while the mistaken payment is investigated and resolved. Banks and other ADIs will have to communicate with each other with reasonable timeframes if they are satisfied a mistaken payment has occurred.

"With the consent of the unintended recipient, banks and other ADIs will facilitate the return of the funds if there is enough money in the account of the unintended recipient. If there's not enough money in the account, banks and other ADIs will use reasonable endeavours to retrieve the funds by instalments from the unintended recipient," Münchenberg noted.

Pragmatic solution

The new code also addresses disclosure on terms and conditions, changes on fees, statements and ATM fees; the liability for losses from unauthorised transactions or system malfunction; conduct on minimum expiry date products, ensuring the security of deposits; and deals with complaints and administration of the code.

Frerk-Malte Feller, managing director of PayPal Australia, said that the code was a pragmatic solution that showed ASIC was dealing with an area of significant technological change. He said the rapid adoption of smartphones and other internet-enabled devices had highlighted the need for a new e-payments code.

"It is imperative that positive advancements in Australia's banking and financial infrastructure are not stifled," Feller said. "The ePayments Code will assist in managing this delicate balance."

ASIC has been responsible for the EFT Code since 1998 and is required to review it on a regular basis. The current review formally began in 2007 with consultation paper 78, entitled "Reviewing the EFT Code". In October 2008 ASIC released a second consultation paper, entitled "Review of the EFT Code of Conduct: ASIC Proposals" (CP 90). During the second consultation phase two working groups were established, one to address the issues surrounding the overall review of the EFT Code and the second to resolve the issues around mistaken payments. In November 2010, ASIC formed a third working group to redraft of the code into "plain English".

ASIC said that the code had been designed to complement other regulatory developments, including financial services and consumer credit licensing, advice, training and disclosure obligations under the Corporations Act 2001 and the National Consumer Credit Protection Act 2009.