

# Mobile and Digital Solutions

A View from the US

1 December 2011

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## Checklist of some key developments

- NFC contactless offerings
- Customer acquisition (I): Authentication
- Customer acquisition (II): BSA/AML
- Online payments and “Data Pass”
- Pending cross-border rules

# NFC contactless offerings

- Major investments in **Google Wallet** and **Isis** for 2011/12:
  - “Open wallet” concept
  - Key deal and legal issues
    - Multiple players and customer relationships
  - Role of “offers” platforms (Groupon, Google Offers)
- Potential alternatives:
  - “Cloud-based” and “remote” mobile payments (PayPal Mobile, AisleBuyer, Pago)
  - Rise of mobile acceptance for mag stripe (?) - Square

# Customer acquisition (I): Authentication

- **New banking agency guidance:**
  - 2011 FFIEC supplement to 2005 guidance on *Authentication in an Internet Banking Environment*
  - Increased concern with threat environment (“corporate account takeover”) and failure of institutions to keep pace in risk assessments
  - Reaffirms need for “layered security” and “multifactor authentication” for higher-risk transactions
  - Applies to banks and credits unions, but effectively sets a standard for reasonable controls on account access and monitoring

## ■ New Bank Secrecy Act rules:

### – “prepaid access rule” final July 2011

- Establishes AML obligations for “providers” and “sellers” of “prepaid access” (formerly “stored value”)
- Specific customer verification [sellers for persons >\$10K/day]
- Suspicious activity reporting (“SARs”) [transactions >\$2,000]
- Record retention [verification: both; transactions: only “providers”]
- FinCEN registration [“providers” only]
- Exceptions: “closed loop” <\$2,000/day, access to gov’t funds, healthcare, payroll, OR <\$1,000 max value and /day with no int’l, no P2P, and no loads from non-depository sources

# Online payments and “Data Pass”

- **Restore Online Shoppers’ Confidence Act:**
  - Became law December 2010
  - Prohibits “data pass,” which was a practice of “third party sellers” who interrupted the online checkout flow with offers and leveraged payment information provided to the initial merchant on the site
  - Sellers may not charge unless they obtain full payment information directly from the consumer
  - Initial merchant also prohibited from providing such information to “third party sellers”
  - Similar to certain protections in Telemarketing Sales Rule (“express verifiable consent” and “negative option” rules)

# Pending cross-border rules

- **Regulation E/Electronic Fund Transfer Act:**
  - Dodd-Frank Act mandated disclosures for cross-border transfers (“remittances”) – first federal regulation of remittances for consumer protection
  - Proposed rule issued May 2011 would apply to “remittance transfer providers”
- **FinCEN/Bank Secrecy Act:**
  - Cross-Border Electronic Transmittals of Funds
    - Proposed rule issued September 2010 would require reporting of all CBETFs by banks, all >\$1,000 by MSBs
  - Currency and Monetary Instruments Report
    - Proposed rule issued October 2011 would require person crossing U.S. border to report “tangible prepaid access device” (such as mobile phone) with other “monetary instruments” (currency, etc.) if aggregate >\$10K

# Questions and Answers

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