



Regulatory update – looking back and moving forward

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Agenda



LOOKING BACK



MOVING FORWARD

Looking back – is it a financial service?

Second Payment Services Directive (EU) 2015/2366 (PSD2)

UK: **Payment Services Regulations 2017** and updates Electronic Money Regulations 2011

Came into force in UK
13 January 2018

BUT....

One size
does **NOT**
fit all



Looking back – is it a financial service?

Impact on gift cards

1. Products issued by one legal entity but can be accepted by another legal entity may be **e-money** unless it falls within an exemption.
2. **Limited network exemption:** of service providers or limited range of goods or services.
3. Service providers of limited network products with payment transaction over €1million must **notify** FCA.
4. If e-money product, may need to carry out **Strong Customer Authentication (SCA)** for transactions at point of sale (enhance security).
Up to **March 2021 to implement** SCA.

Also

New type of financial service provider: **Payment Initiation Services**. Another way to make an online payment transaction.

Looking back – managing money laundering risks

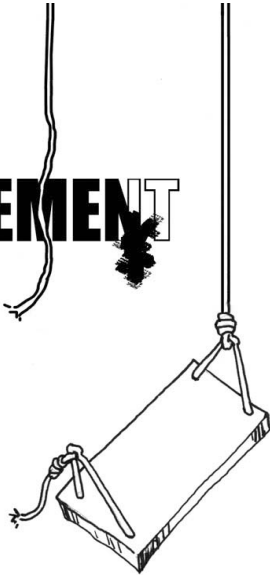
Fifth Money Laundering Directive (EU) 2018/843 (5MLD)

UK: The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

Came into force in UK: 10 January 2020

Managing money laundering and terrorist financing risks to your gift card business

**RISK
MANAGEMENT**



Looking back – managing money

Money laundering risks

Impact on gift cards?

Applicable to e-money products

1. Low risk e-money products can be issued without carrying out ID checks on the cardholder subject to:
 - Maximum value **€150**;
 - Product is can only be used in UK and is (i) not reloadable, or (ii) subject to max limit per month of payment transactions of **€150**;
 - Is used **exclusively** to purchase goods or services;
 - **Not funded** by anonymous e-money;
 - Redemption in cash, cash withdrawal of funds or redemption of a remote payment transaction is limited to max **€50**.
2. Otherwise Customer Due Diligence obligations apply.
3. Ongoing monitoring of transactions continues to apply.

Looking back – What's happening nearby

Republic of Ireland

Consumer Protection (Gift Vouchers) Act 2019 amending
Consumer Protection Act 2007

Came into force: 2 December 2019

Does not apply to certain products:

- e-money,
- promotional schemes connected to a purchase of specified goods/services,
- customer loyalty schemes,
- products not marketed or otherwise made available as gift
- products exchanged for goods/services relating to utilities.



Looking back – What's happening nearby

Impact on gift cards?

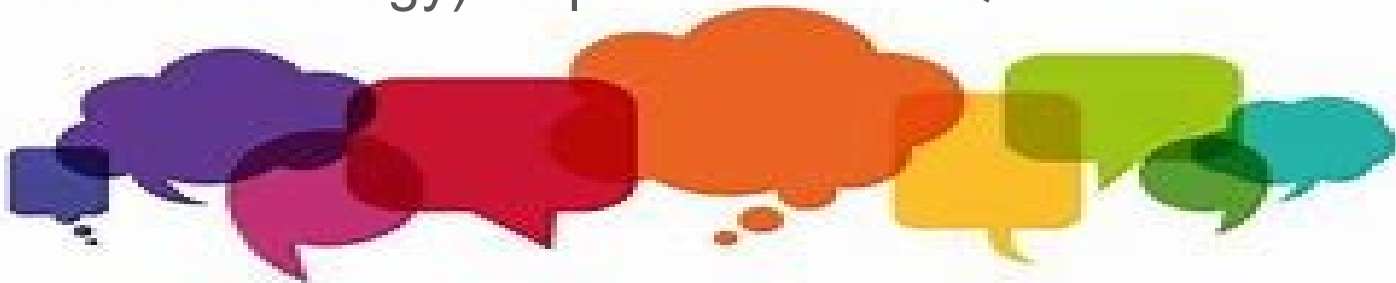
- **Minimum 5 year** expiry period.
- **Validity period** must be stated on the **gift voucher** or on a **durable medium** supplied with the gift voucher.
- Balances must be made reimbursed in cash, electronic transfer or gift voucher.
- No charge for changing/amending a name on a gift voucher.
- **No limit** on number of **gift vouchers** to be used in a **single transaction**.
- Replacement of lost /stolen gift vouchers must not have an expiry date that is shorter than the original voucher.
- Gift vouchers are **transferrable**.

Looking back – Ripple effect

UK discussion on expiry periods

Parliamentary question at House of Lords

- On prohibiting expiry dates on gift vouchers and requiring retailers to publish the proportion of vouchers sold that are not redeemed.
- GCVA provided input to BIES (Department for Business, Energy & Industrial Strategy) response to the PQ.



Moving forward – what's on the horizon

- **Brexit** – impact on existing regulations
- Expect continuing discussion on **expiry periods**
- **SCA implementation** under PSD2 (e-money)



Looking back – moving forward



The Payments Team

Siobhan Moore



Siobhan Moore is the global head for Cards and Payments in Locke Lord's London office. Siobhan works with clients who provide or operate a diverse range of services that touch the cards and payments sector. These clients range from gift card providers, e-money issuers, acquiring businesses and other regulated payment service businesses to technology providers that sit outside and within the financial regulatory framework. She regularly liaises with regulators and drafts and negotiates partner agreements and customer-facing documentation. She advises on product structure, business strategy and runs regulatory workshops.

Siobhan is a non-executive director of the Gift Card & Voucher Association (GCVA) and is also a director of the Prepaid International Forum (PIF). She is a frequent speaker at industry conferences throughout the world.

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Giedre Mitkute



Giedre Mitkute is an Associate in the London office of Locke Lord and a member of the Cards and Payments Team.

Giedre provides financial service and anti-money laundering / terrorist financing regulatory guidance on client's business operations. She runs legal and compliance workshops and drafts B2C and B2B contracts. Giedre also advises clients on their applications to be an authorised e-money institution / payment institution.

Giedre is a co-chair of PIF's Anti-Money Laundering Working Group and represents PIF in discussions with the regulatory and government bodies on the implementation of the Fifth Anti-Money Laundering Directive and the Second Payment Services Directive.

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