

## Progress Report – 20 February 2007

### State of Play of the implementation of the Commission's 2004-2007 Action Plan on Payment Fraud Prevention

This Progress Report<sup>1</sup> intends to provide a state of play of the implementation of the European Commission's 2004-2007 Action Plan to prevent fraud on non-cash means of payment<sup>2</sup>. This report will: (1) provide a short description of the EU Action Plan and the Fraud Prevention Expert Group; (2) present the initiatives undertaken in relation to Communication and awareness raising; (3) describe the activities in relation to particular types of card fraud, notably lost and stolen card fraud; counterfeit card fraud; card not present fraud, and identity theft/fraud; (4) provide information in relation to personal data processing and data protection rules; and finally (5) briefly recall the main outstanding initiatives.

#### **(1) The EU Action Plan and the Fraud Prevention Expert Group.**

On 20 October 2004 the Commission issued an **Action Plan 2004-2007 of non-legislative measures to prevent fraud and counterfeiting of non-cash means of payments**, with a view to foster a more coherent approach to fraud prevention. This Action Plan builds on a previous one of 2001. The ultimate goal, further to preventing fraud, is to contribute to maintain and increase confidence in non-cash means of payments, in particular payment cards which are the most widely used by the consumers at cross-border level.

The Action Plan complements the European future legislation on payment services in the internal market (the so-called "New Legal Framework for Payments"<sup>3</sup>) in underpinning the creation of a Single Payment Area in the EU. It also complements the banking industry initiatives to establish a single euro payments area (SEPA) aiming to enable European citizens to make payments in the euro area as securely, quickly and efficiently as payments within national borders. SEPA should be in place by 2010.

**The key principle of the Action Plan work is cooperation among stakeholders:** e.g. preventative measures are more effective if implemented in partnership. Its **most important actions** consist in: (1) better organising the (already existing) Fraud Prevention Expert Group; (2) establishing a communication plan on the activities of the

---

<sup>1</sup> This Progress Report has been prepared by the secretariat of the Fraud Prevention Expert Group. This secretariat is provided by unit F.2 of the DG Internal Market and Services within the European Commission. However, the views expressed in this report are purely those of the writers and may not in any circumstances be regarded as stating an official position of the European Commission.

<sup>2</sup> Communication from the Commission of 20.10.2004, COM(2004)679. Available at: [http://ec.europa.eu/internal\\_market/payments/fraud/index\\_en.htm](http://ec.europa.eu/internal_market/payments/fraud/index_en.htm)

<sup>3</sup> See the Commission's proposal of December 2005, available at: [http://ec.europa.eu/internal\\_market/payments/framework/index\\_en.htm](http://ec.europa.eu/internal_market/payments/framework/index_en.htm)

Action Plan; (3) contributing to enhancing technological developments in particular in relation to the harmonisation of security evaluation criteria; (4) facilitating the exchange of information among stakeholders (including the evaluation of data protection issues); (5) contributing to increase the performance of national authorities (including training, conferences, seminars, etc); (6) other initiatives in relation to merchants (e.g. educational material, database of original and counterfeit identity documents) and consumers (e.g. single phone number across the EU for lost and stolen cards; prevention of identity theft); and (7) awareness raising initiatives in the EU accession countries. The list of action points, together with its implementation status, is attached as appendix.

A **Fraud Prevention Expert Group (FPEG)** was established under the 2001 Action Plan and continues its work under the 2004 Action Plan. This experts' group at EU level includes representatives of all parties involved in fraud prevention: i.e. national and EU payment schemes, banks, national public authorities, European and international law enforcement agencies (e.g. Europol, Interpol) retailers, consumer groups, network operators etc. The FPEG provides for a platform where stakeholders can effectively exchange information and best practice to prevent fraud. It contributes to intensify cooperation between interested parties, especially at cross-border level. It provides advice to the Commission.

## **(2) Communication & awareness initiatives.**

The Action Plan foresees different awareness initiatives in order to strengthen confidence (in business and consumers) regarding non-cash means of payments. The Commission services, in cooperation with the FPEG, have been working on some of those initiatives:

- **Website of the FPEG:** It has been created in 2006 and hosts some pages on the main current FPEG initiatives. Its main goal is to serve as a platform for the different stakeholders across Europe in acceding information on this issue available in other Member States. This website is currently hosted by DG Internal Market at: [http://europa.eu.int/comm/internal\\_market/fpeg/index\\_en.htm](http://europa.eu.int/comm/internal_market/fpeg/index_en.htm).
- **FPEG newsletter:** the FPEG subgroup on communication has created a short newsletter with the aim of disseminating information on the activities of the FPEG as well as on other activities in relation to the prevention of payment fraud. Three numbers have been circulated in 2006. They are available at the FPEG Website.
- **The Single Market News article:** on the occasion of the TAIEX seminar, the Single Market News (the newsletter of DG Internal Market) devoted a page to the state of play of the Action Plan on payment fraud in its number 41 issue. Available at: [http://ec.europa.eu/internal\\_market/smn/smn41/docs/payment\\_fraud\\_en.pdf](http://ec.europa.eu/internal_market/smn/smn41/docs/payment_fraud_en.pdf).
- **The FIN FOCUS newsletter:** the December 2006 number of this newsletter briefly refers to the Action Plan. The Fin-Focus Newsletter gives an overview of European Commission initiatives in the field of financial services, while focusing on those aspects of financial services most relevant to users and consumers. It is translated into most of the EU languages and widely distributed to consumer associations in Europe. Available at: [http://ec.europa.eu/internal\\_market/finances/news/newsletter\\_en.htm](http://ec.europa.eu/internal_market/finances/news/newsletter_en.htm).

- **TAIEX seminar on payment fraud:** DG Internal Market and Services of the European Commission, in cooperation with TAIEX (a Technical Assistance Office of DG Enlargement of the European Commission) and the FPEG, organised a seminar on payment fraud on 8/9 March 2006 for the benefit of the applicant and candidate countries to join the EU. It was attended by representatives from the public and private sectors of Bulgaria, Romania, Croatia, Turkey, the former Yugoslav Republic of Macedonia, Serbia and Montenegro and Bosnia-Herzegovina. The aim of the seminar was to enable police officers, prosecutors and regulators from these countries to increase their knowledge and awareness of the issues involved in payment fraud. Further information can be found at: [http://ec.europa.eu/internal\\_market/payments/fraud/taix\\_seminar\\_en.htm](http://ec.europa.eu/internal_market/payments/fraud/taix_seminar_en.htm).
- **The High Level Conference on identity theft and payment fraud.** See below, point (3)(c).

**(3) Activities in relation to particular types of card fraud.**

**(a) Lost and stolen card fraud: the Card Stop Europe project.**

Under the 2004-2007 Action Plan, it was foreseen to continue the discussions with a view to implement a single telephone number in the EU for the notification by users of lost and stolen payment cards. **On 15 February 2007, the Commission has adopted a decision reserving the whole range of phone numbers beginning with "116"**<sup>4</sup>. These numbers should be only used for "harmonised services of social value" in accordance with the definition and conditions set out in the Commission Decision. A single telephone number for declaring lost and stolen payment cards in Europe would add significant value to citizens and could reasonably be considered as a service of social value for the purposes of the draft Decision under preparation.

Following this decision, the Commission will launch in March 2007 a public consultation inviting interested parties to propose specific 6-digits numbers beginning with "116" to be reserved for specific services of social value. It is expected that the German operator of the existing 116116 number will make a request to continue using this number. If the reservation is successful, this will allow for the use of the 116116 number in other Member States for this same purpose.

**(b) Counterfeit card fraud**

Card skimming and other forms of ATM attacks are an increasingly cross-border phenomenon, as well as wire-tapping and hacking of merchants' databases in order to collect and misuse credit card information. The European industry is tackling these threats in particular by the introduction of chip (EMV) and PIN technology and other countermeasures.

The **FPEG has produced a report in 2006 on the security issues related to Automatic Teller Machines (ATMs) and Point of Sale terminals**, in particular in relation to skimming attacks. The report presents some recommendations on how to mitigate these attacks. It is available at: [http://ec.europa.eu/internal\\_market/fpeg/work\\_en.htm](http://ec.europa.eu/internal_market/fpeg/work_en.htm).

---

<sup>4</sup> See Commission's press release IP/07/188 of 15 February 2007.

### (c) Card not present fraud

Remote payment fraud (e.g. card-not-present situations) is also an area of concern, which calls for the use of enhanced authentication techniques (e.g. 3D Secure technology, card security codes etc). With this problem in mind, the Commission has launched in late 2006 **a study on user identification methods in card payments, mobile payments and e-payments**. The objective of this study is to analyse current and prospective cardholder verification methods on card payments, as well as user verification methods on e-payments and mobile payments. It should provide an assessment of the existing or prospective security and user-friendliness of each verification method covered. It should equally analyse the possible regulatory, contractual or commercial barriers to the use of best technologies, whether available or prospective. It should finally provide recommendations to the Commission from a regulatory perspective. The study, undertaken by a consortium led by Siemens, should be finalised by November 2007.

### (d) Identity theft/fraud

Identity Theft (in particular e-fraud and phishing) is a growing problem in connection to payment fraud. This is why the Action Plan aims at strengthening businesses and consumers confidence regarding non-cash means of payment, in particular those used in non-face to face situations. As part of the awareness raising initiatives, **the Commission organised a High Level Conference on 22/23 November 2006** with a view to emphasise the importance of a deeper involvement of policy makers in this connection. This Conference brought together around 170 participants, with an average attendance of 100 persons over two days, from 22 Member States and several third countries. The results of the Conference indicate that more work is needed, at different levels, in order to continue fighting this phenomenon<sup>5</sup>.

Indirectly related to identity theft in the financial sector, the so-called Third **Anti-Money Laundering Directive** was adopted in October 2005<sup>6</sup>. It contains obligations related to customer due diligence, which include the obligation for banks (and other financial institutions) to identify their customers and verify their identity. The systematic application of this policy is an effective tool against identity theft/fraud in this sector. In this area, the Commission conducted a survey in 2006 in relation to **non-face to face transactions** in the financial services area<sup>7</sup>. This work is specifically supplemented in the payment area by the study on user identification methods in card payments, mobile payments and e-payments, currently under preparation (see above point (3)(c)).

## (4) Personal data processing and data protection rules

---

<sup>5</sup> The presentations of the conference are available at the Commission's website: [http://ec.europa.eu/justice\\_home/news/information\\_dossiers/conference\\_integrity/index\\_en.htm](http://ec.europa.eu/justice_home/news/information_dossiers/conference_integrity/index_en.htm)

<sup>6</sup> Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing; OJ L 309, 25.11.2005, p. 15. Available at: [http://ec.europa.eu/internal\\_market/company/financial-crime/index\\_en.htm](http://ec.europa.eu/internal_market/company/financial-crime/index_en.htm)

<sup>7</sup> Commission Staff Working Document of 19 December 2006, on the Application of Directive 91/308/EEC on the prevention of the use of the financial system for the purpose of money laundering in relation to the identification of clients in non-face to face transactions and possible implications for electronic commerce, SEC(2006)1792. Available at: [http://ec.europa.eu/internal\\_market/company/docs/financial-crime/non\\_face\\_to\\_face\\_en.pdf](http://ec.europa.eu/internal_market/company/docs/financial-crime/non_face_to_face_en.pdf)

The FPEG subgroup on data management has prepared a report on the barriers to the sharing of personal data for fraud prevention purposes. On the one hand, an efficient exchange of data among payment service providers and between payment service providers and the public sector facilitates effective payment fraud prevention across the Community, in particular in the context of the creation of the Single Euro Payment Area. On the other hand, data protection legislation at EU level provides for strict safeguards when processing personal data. The report is available at: [http://ec.europa.eu/internal\\_market/fpeg/work\\_en.htm](http://ec.europa.eu/internal_market/fpeg/work_en.htm).

It is also noted that, in December 2005, the Commission presented its proposal for a new payment services directive. Draft Article 71 of this proposal provided for an obligation for Member States to allow the processing of data where this is necessary to prevent payment fraud. The introduction of this legal obligation constitutes an important step in furthering the processing of fraud related personal data. The draft payment services directive is available at: [http://ec.europa.eu/internal\\_market/payments/framework/index\\_en.htm](http://ec.europa.eu/internal_market/payments/framework/index_en.htm).

#### **(5) Outstanding initiatives.**

Several initiatives will be completed in 2007. First, the FPEG will normally finalise three reports on: (1) the possible harmonisation of security evaluation procedures; (2) the possible benefits of establishing at national level specialised or dedicated units in fighting payment fraud; and (3) the modus operandi and technical means used by fraudsters, at all the levels of the payment chain, to compromise personal data (i.e. identity theft/fraud).

Also in relation to identity theft, the Commission will continue its work as a follow up to the High Level Conference of November 2006. The study in relation to user identification methods in card payments, mobile payments and e-payments should be finalised in November 2007 (see above point (3)(c)). Additionally, the Commission will most likely: (1) adopt a Communication in 2007 in relation to cybercrime; and (2) study the possible harmonisation of criminal law sanctioning identity theft related conduct. Finally, considerable funding opportunities will be available later in 2007 under the new Financial Framework 2007-2013, notably within the Programme "Prevention of and fight against crime", where identity theft and fraud on non-cash payments will be priority areas (see [http://ec.europa.eu/justice\\_home/funding/intro/funding\\_intro\\_en.htm](http://ec.europa.eu/justice_home/funding/intro/funding_intro_en.htm)). The Commission is also funding a number of research initiatives that cover identity theft issues: see <http://www.fidis.net/home>.

**APPENDIX - List of Action Points of the EU Action Plan 2004-2007 to prevent fraud on non-cash means of payments**

	<b>Action Points identified in the Action Plan</b>	<b>Implementation so far</b>
1	The membership of the FPEG will be streamlined by identifying fraud prevention experts in each sector and/or country who will have the responsibility to act as effective contact points within their countries and multipliers of the work carried out in the Group.	The FPEG secretariat has done an effort in identifying experts from the underrepresented sectors, notably consumers. The number of consumer associations invited to the meetings is progressing.
2	A steering group will be established within the FPEG in order to carry out more effectively the envisaged actions. The steering group will prepare the works of the FPEG and supervise the sub-groups activities.	The steering group has been created.
3	At least two meetings of the FPEG will take place each year.	One meeting was convened in 2005 and two in 2006.
4	The FPEG will be responsible for the preparation of a communication plan addressed to EU citizens and professionals on the progress and effectiveness of the measures of the new Action Plan.	The FPEG and the Commission have been implementing several initiatives aiming at increasing awareness in relation to fraud prevention.
5	Two FPEG sub-groups on security issues and on user issues will be established. The subgroups will meet according to the timetable and topics indicated by the FPEG. New subgroups may be established by the FPEG.	Several subgroups have been created: ATM security, communication, commerce, data management, identity theft, law enforcement issues and security evaluation,
6	Within the EU Fraud Prevention Expert Group, a Sub-Group on Security Issues will be established. The Sub-Group will include different stakeholders according to the topics covered.	The subgroup has been created. Its report is in the process of being prepared.
7	The Commission will launch a study covering cardholder verification methods on card payments and user verification methods on e-payments and mobile payments.	The Study has been launched at the end of 2006.
8	The Commission will, in co-operation with national data protection authorities in the Article 29 Working Party, clarify the limits and conditions for exchange of information related to fraud prevention. Alternatively, if adequate clarification cannot be achieved, the Commission will propose legislation to amend existing EU data protection rules.	A group on data management was created. Its secretariat prepared a report on the barriers to data processing, with the cooperation of the data protection authorities. In its proposal for a Payment Services Directive, the Commission has integrated a specific article in connection to the processing of personal data for fraud prevention purposes.
9	The Commission will expand the existing EU Fraud Prevention Webpage with information on initiatives by other organisations active in fraud prevention.	Specific FPEG webpages have been created. They are provisionally hosted by the Commission website.
10	The Commission will organise, in cooperation with the payment industry, Europol and other stakeholders, pan-European training sessions for specialised law enforcement officers to grant them the status of certified experts, as well as update training sessions for already certified officers.	Some training initiatives have been organised by Europol and the international card schemes, and funded by the Commission.
11	The Commission will organise a second high-level conference for senior police officers, magistrates and prosecutors, to raise awareness on payment fraud and its impact on the financial systems. Consideration will be given to organise such event periodically.	A High Level Conference on identity theft and payment fraud took place in November 2006.
12	The Commission will assess the possible benefits of establishing at national level specialised or dedicated units in fighting payment fraud.	A group on law enforcement issue was created within FPEG. Its report is in the process of being finalised.

13	The Commission will promote the involvement of national competent authorities (created to fight against fraud and counterfeit in relation to the Euro bank notes) in the prevention of payment fraud.	No policy has been developed yet. This is a matter of cooperation among the relevant administrative authorities of Member States.
14	The Commission will organise a seminar on fraud prevention for representatives of the private sector and public authorities of the new Member States.	A seminar for candidate countries was organised in March 2006.
15	Within the EU Fraud Prevention Expert Group, a Sub-Group on User Issues will be established. The Sub-Group will allow discussion at pan-European level within the retail sector and consumer associations and include different stakeholders according to the topics covered.	A subgroup on commerce issues was created. Discussions on users' issues are integrated into the other subgroups, where appropriate.
16	The Commission will continue to discuss the implementation of a single phone number in the EU for the notification of lost and stolen cards.	The Commission has reserved in February 2007 the numbers beginning with 116 for services of social value. European Card schemes may apply for the use the same number across Europe for the notification of lost and stolen payment cards.
17	The payment card schemes should prepare common educational tools for merchants covering all types of cards.	No deliverables yet. To be implemented by the payment card schemes and the retail sector.
18	The Commission will assess the merits of establishing an EU single contact point for citizens and businesses on identity theft, which could include a register of bodies engaged in the prevention of identity theft.	A working group on identity theft was created. Work has not yet been finalised.
19	The Commission will promote the creation of a database of original and counterfeit identity documents accessible to both public authorities and the private sector.	The Commission is still evaluating the appropriateness of creating a new database and follows the discussions among Member States on the feasibility of creating a public version of the Council FADO database (security features of identity documents) available via the Internet.
20	The Commission will organise, together with the payment industry, awareness raising initiatives on payment fraud for the authorities of the candidate countries for EU accession and other European countries.	A seminar for candidate countries was organised in March 2006.
21	The Commission will continue to cooperate with other countries, bilaterally and in multilateral fora such as the G8, in order to help combat and prevent fraud.	No specific international policy for fraud prevention has been developed. However, fraud prevention is integrated in the bilateral and multilateral discussions with third countries in the area of financial and economic crime.