

3.3.6 Prepaid cards

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Overview

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74. This Section provides assistance to relevant persons issuing prepaid cards in Jersey (issuers), whether directly or indirectly through an agent or a distributor. It covers:
- > What electronic money is and the features of prepaid cards.
 - > The various operators involved in a prepaid card programme.
 - > Examples of risk factors inherently associated with prepaid cards.
 - > Examples of how prepaid cards have been used in Jersey by money launderers and
 - > The relevant regulatory and supervisory framework in place in Jersey in respect of the provision of prepaid cards.

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3.3.6.1 Electronic money

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75. Electronic money is defined at Paragraph 5(d)(15) of the Schedule to the Wire Transfers Regulations as “electronically (including magnetically) stored monetary value, as represented by a claim on the issuer, which is issued on receipt of funds for the purpose of making a payment transaction, and which is accepted by a person other than the issuer, of the electronic money”.
76. Examples of electronic money products and services include online payment services, card-based products (including prepaid cards), vouchers and mobile payment services.
77. Monetary value will be stored in an online account or held on a stored-value card (where the value is stored on a microchip embedded in the card). Both may be reloadable or non-reloadable. A reloadable account or stored-value card can be recharged after the initial funds have been loaded, usually for an unlimited number of times. A non-reloadable account or stored-value card can be charged only once and does not permit any other funds to be added.
78. Electronic money which is card-based uses the card for authentication in order to permit a customer to access their funds.
79. Where electronic money is not used it can instead be redeemed. Redemption is a process whereby a customer presents electronic money to the issuer and receives money in exchange at par value. Redemption should not be confused with the spending of electronic money when a prepaid card is used for purchase of goods or services from merchants.

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80. Card-based electronic money may be used in an open or closed loop system. In an **open loop system** cards may be used to purchase goods and services from any merchant or withdraw cash at ATMs operated by any merchant that is participating in the payment network. These cards provide access to the global ATM and payment network through logo that the card is branded with (e.g. VISA, MasterCard and American Express). In a **closed loop system**, cards may be used only to purchase goods and services from a single merchant or a limited, closed network of merchants (e.g. gift cards, gift vouchers and gift certificates). These cards typically do not provide access to the global ATM network, cannot be recharged and have no “cash back” function.

3.3.6.2 What is a prepaid card?

Overview

81. Prepaid cards are a type of electronic money. The FATF has classified such cards as a type of New Payment Products and Services (NPPS). These are considered to be new and innovative payment products and services that offer an alternative to traditional financial services. Other types of NPPS include mobile payment services and internet-based payment services.
82. Prepaid cards provide the holder with an authenticated access to pre-loaded funds. These funds can be held in an online account or on a stored-value card.
83. Prepaid cards can be utilised for a range of purposes, including transactions in other countries or territories. Some cards can be funded by cash or other electronic payment instruments and can be used for online shopping or to receive “cash back”. Newer prepaid card features that are becoming increasingly common include making onward transfers of money from a prepaid card account to other accounts (known as person-to-person transfers) and setting up standing orders.
84. Prepaid cards are considered to be a retail product and are mostly used for making small value payments. Despite this, the range of functions which prepaid cards currently offer can make them attractive to criminals.

3.3.6.3 Who is involved in a prepaid card programme?

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85. A number of operators are normally involved in a prepaid card programme include:

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Deleted: <#>Prepaid cards were introduced in the payments market at the end of the 1990s as an alternative to credit cards and debit cards. Originally developed as a device to pay for goods and services where the issuer did not need to evaluate the card holder’s creditworthiness (as required if a credit card was to be issued) nor wish to bear the cost of opening and managing a payment account (in the case of a debit card), prepaid cards nowadays offer a wide range of additional functionalities that can make them attractive to criminals. ¶

<#>The multitude of functionalities offered today by prepaid card issuers include payment network branded prepaid cards that can be used internationally,

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Deleted: <#>The **acquirer** – the person which maintains the relationship with the retailer, provides the infrastructure needed for accepting a card payment (e.g. access to the point of sale (POS) terminal or the payment services supporting an e-commerce website) and normally operates the account in which the proceeds of the sale transaction are deposited. ¶

<#>The **distributor** (including retailer) – the person that sells, provides, or arranges for the sale of, prepaid cards on behalf of the issuer to customers. ...

<u>Operator</u>	<u>Description</u>
<u>acquirer</u>	The person which maintains the relationship with the retailer, provides the infrastructure needed for accepting a card payment (e.g. access to the point of sale (POS) terminal or the payment services supporting an e-commerce website) and normally operates the account in which the proceeds of the sale transaction are deposited.
<u>distributor/retailer</u>	The person that sells, provides, or arranges for the sale of, prepaid cards on behalf of the issuer to <i>customers</i> . Distributors may also offer a separate range of services to these <i>customers</i> .
<u>payment network operator</u>	The person that provides the technical platform to perform transactions with the card at ATMs or points of sale at merchants.
<u>issuer</u>	The person that issues prepaid cards and against which the customer has a claim for redemption or withdrawal of funds.
<u>programme manager</u>	The person responsible for establishing and managing the prepaid card programme in cooperation with a bank or electronic money institution. The programme manager usually markets the prepaid cards and establishes relationships with banks and distributors or customers, and in many cases provides the data processing capability. Some prepaid card issuers manage their card programmes themselves (i.e. without using programme managers).
<u>agent</u>	For the purposes of this section, the agent is any person that issues prepaid cards on behalf of the issuer (the principal), whether by contract with, or under the direction of, the principal.

86. Article 1 of the [EU Electronic Money Directive 2009](#) (defined in this section as the **Directive**) stipulates that the activity of issuing electronic money falls within the scope of the Directive. Categories of electronic money issuers include:

- › Credit institutions
- › Electronic money institutions (defined in Article 2 of the Directive as a legal person that has been granted authorisation to issue electronic money) and
- › [Post office giro institutions](#).

87. An issuer will be considered to carry on a *financial services business* in or from within Jersey where it does so through a physical presence on the island or through a Jersey-based agent.

3.3.6.4 Risks associated with prepaid cards

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88. The FATF issued a guidance paper in June 2013 regarding the application of a risk-based approach towards prepaid cards, mobile payments and internet-based payment services. This paper highlights the importance of taking a more enhanced and focused approach in areas where there are higher risks.
89. Whilst prepaid cards do not automatically present a higher risk of money laundering or terrorist financing, issuers will need to consider the specific risk factors of each card issued and determine its risk assessment based on the same. The risk of a prepaid card being misused will also depend on the product design and use and the effectiveness of systems and controls (including policies and procedures). Issuers are expected to exercise greater caution and apply enhanced CDD measures in instances where there is a greater money laundering or financing of terrorism risk or where a product is designed and used in a way that is similar to a bank account.
90. The risk assessment of a prepaid card issuer will need to cover all relevant risk factors (e.g. customer profile, product design and functionalities, geographical location of main card funding and card spending activities).

Guidance Notes

91. Prepaid cards are mostly used for making small value payments and transactions. They leave an audit trail in the system, unlike cash transactions. However, if certain risk factors are not adequately or effectively managed and mitigated, prepaid cards can become attractive or susceptible to money launderers and terrorist financiers.
92. The risk factors listed below do not constitute an exhaustive and should not be considered in isolation. An accumulation of multiple risk factors will increase the overall risk level – such an accumulation is often seen in cases where prepaid cards have been used to facilitate criminal activities.
- ▶ Prepaid cards are portable and easily transported cross-border. The current definition of cash and bearer negotiable instruments in the Customs and Excise (Jersey) Law 1999 does not extend to prepaid cards and there is no requirement to report mailing or shipping such cards abroad. Furthermore, it can be difficult for law enforcement, customs or border guards to determine and potentially seize the monetary value stored on a prepaid card. This is particularly relevant when prepaid cards have high load limits and are used to transport the proceeds of criminal activities.
 - ▶ Ownership of the card may be transferred to an unidentified bearer (i.e. from the customer to another person)
 - ▶ Prepaid cards may be purchased, and funds loaded, reloaded, redeemed, or withdrawn on a non-face-to-face basis.
 - ▶ Prepaid cards may be funded by cash which could be the proceeds of criminal activity. Cards also provide access to cash by way of ATMs, “cash back” functionality or redemption.
 - ▶ Prepaid cards may be funded by unidentified third parties and by other electronic products.
 - ▶ The card may have a high or no transaction limit at all. Prepaid cards that allow high values to be loaded, have high or transaction value limits and high or no transaction frequency limits increase the risk of money laundering or the financing of terrorism.

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- › Individual customers or groups of customers may hold, have access to, or control **multiple cards**. Multiple cards can be transported or sent across borders in an attempt to circumvent the usual controls of cross-border cash movements.
- › Prepaid cards may be used to make **frequent or high value cross-border transactions**, by allowing customers to use funds loaded on their cards to be transferred onwards to other persons (person to person or business to business transfers).
- › Most prepaid card programmes involve a number of agents which may be based in several different countries and territories. As a result of this division there may be a lack of consistent CDD measures being applied across the issuer's business.
- › Prepaid card operators typically **outsource business and compliance functions** to overseas locations, where the legislation may not necessarily follow international standards.

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3.3.6.5 Case Study – Use of prepaid cards to launder the proceeds of crime

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93. Prepaid currency cards have been used by individuals in Jersey to launder the proceeds of drug trafficking. For example, prosecutions in 2013 were connected with the laundering of criminal proceeds, amounting to £157,000, in Jersey through foreign currency exchange operators and through multiple loadings of criminal funds onto prepaid cards. In the case of the latter method, funds loaded locally were then withdrawn overseas, over a period of 34 months.
94. Evidence identified that individuals hired by the drug dealer were asked to “bank” the proceeds of illicit drugs sales by obtaining prepaid cards (two individuals held two cards each in their own names), loading cash onto these prepaid cards in Jersey, and subsequently withdrawing these funds in the UK and Spain.
95. This case shows that criminals will exploit the different functionalities offered by prepaid cards. The ability to obtain multiple cards and load them with third party cash, the portability of such cards, and the ability to withdraw cash abroad have proved attractive to criminals.

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3.3.6.6 Regulatory framework – prudential and conduct of business

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96. There is currently no prudential or conduct of business regime in place in Jersey covering prepaid card issuers. However, in certain circumstances it is possible that prepaid card activity may fall within other regulatory regimes established, for example under the BB(J) Law (deposit-taking) or the FS(J) Law (where funds loaded on to a card are held by a card issuer in a trustee capacity).

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3.3.6.7 Regulatory Framework – AML/CFT

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97. The activity of issuing prepaid cards is listed in Paragraph 7(1)(e) of Part B of Schedule 2 to the Proceeds of Crime Law: “issuing and administering means of payment (such as credit and debit cards, cheques, travellers’ cheques, money orders and bankers’ drafts, and electronic money)”.

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98. As a result, any person issuing electronic money (including prepaid cards) in or from within Jersey (directly or through an agent) or through a legal person established under Jersey law:

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- › Becomes a *relevant person* for the purposes of the *Money Laundering Order* and is required to apply *CDD* measures, keep records, appoint an *MLCO* and *MLRO*, and to have *policies and procedures* in place to prevent and detect *money laundering* and the financing of terrorism.
- › Is required to register with the JFSC under the *Supervisory Bodies Law* or, where the person carries on a regulated business as defined in the *Supervisory Bodies Law*, to notify the JFSC that it is issuing prepaid cards and
- › Is subject to supervision by the JFSC under the *Supervisory Bodies Law* for compliance with the *Money Laundering Order* and *AML/CFT Codes of Practice*.

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Deleted: same calendar year by the bearer of the device

99. The *Money Laundering Order* therefore applies to prepaid card issuers with no physical presence in Jersey that issue cards through Jersey-based agents.

100. The *Money Laundering Order* does not provide for the application of simplified identification measures to prepaid card *customers*. Prepaid card issuers are required to apply *CDD* measures to each *customer* and each third party on whose behalf the *customer* acts.

101. Where a *business relationship* is established with a *customer*, a prepaid card issuer is required to monitor *customer* transactions undertaken throughout the course of that *business relationship*.

102. By virtue of Article 2(3) of the *EU Regulation*, payment cards (among other methods of transfer) are exempt from the scope of the *Wire Transfers Regulations* where they are used exclusively for the purchase of goods or services and the number of the card accompanies all transfers. However, Article 2(3) of the *EU Regulation* also states that the use of a payment card in order to effect a person-to-person transfer of funds falls within the scope of the *EU Regulation*.

103. This means that where they satisfy the conditions set out in Article 2(3) of the EU Regulation, a person carrying on activities listed in Paragraph 7(1)(e) of Part B of Schedule 2 to the *Proceeds of Crime Law* is exempt from the obligation to include information on the payer in a wire transfer.

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