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ISO & AGENT WEEKLY

Tips, Tactics and Strategies for POS & ATM Sales Success

SECURITY

Truncation Suits Grow As Merchants Come Under Fire

A new round of lawsuits from consumers that allege some merchants failed to truncate the credit card numbers and expiration dates from receipts were filed last week in federal court in Chicago. The suits allege that too many card numbers or expiration-date digits were printed on customer receipts after Dec. 4, 2006, the deadline for retailers to comply with the Fair and Accurate Credit Transactions Act of 2003, which

requires that card data be truncated on receipts.

Named in the suit were Panera Bread Co., Chicago's O'Hare International Airport parking facility, Jewel-Osco supermarkets, ATA Airlines and Sam's Wine and Liquors. Fines could range from \$100 to \$1,000 per violation, and potentially involve punitive damages in some of the suits.

TRUNCATION cont'd on page 11 ►

MARKETS

ISOs And Trade Groups:
Associating With A Purpose

Marc Warsowe, a consultant working with a distribution company that wants to set up a payment-processing program for its customers, had a simple agenda at this year's Electronic Transactions Association annual conference a few weeks ago: Learn everything about the ISO business and how credit card processing works.

His client, with about 18,000 retail customers who collectively generate more than \$15.6 billion in annual retail sales, gave him the assignment as part of the company's plan to offer credit card-processing services to its merchant base.

Warsowe, who has a manufacturing background and for 20 years was a supplier

ASSOCIATION cont'd on page 6 ►

INSIDE

Making Technology
Work For You

Steve Schwimmer, NAOPP president, talks about emerging technologies and how agents can use them to make money in his latest column.

See story on page 10.

First Data Tackles
Merchant Attrition


First Data's FD 100 terminal is seen as a tool to halt merchant attrition as the processor also accelerates the merchant sign-up process.

See story on page 12.

MasterCard Profits
Soar 70%

Citing strong transaction-processing growth and the continued impact of restructured cross-border pricing, MasterCard Inc. this week announced net income of \$214.9 million for the first quarter ended March 31, up 70% from \$126.7 million a year ago.

Net revenue totaled \$915.1 million, up nearly 24% from \$738.5 million. U.S. credit and charge card purchase volume during the quarter totaled \$124 billion, up 8% from \$115 billion a year ago. Transactions on the cards totaled 1.42 billion, up nearly 7% from 1.33 billion.

U.S. purchase volume on debit MasterCards, which includes PIN-based purchases initiated with competing marks on the plastic, totaled \$63 billion, up 47% from \$43 billion a year ago. 

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INDUSTRY NEWS

Chase Paymentech Names European Chief To Lead Regional Expansion

Chase Paymentech, a Dallas-based provider of merchant payment-processing services, has appointed Shane Fitzpatrick as managing director, European Union, to oversee all of the company's European operations, marketing initiatives and customer-support activities.

Fitzpatrick, who will be based in Dublin, Ireland, previously founded and led Zenith Financial International, a financial-services consultancy. He is a co-founder and co-chair of the European Direct Response Forum, a nonprofit association that provides an educational venue for Europe's customer-not-present merchants.

Though a Chase Paymentech press release about Fitzpatrick's appointment notes a major expansion of the company's European operations, it provides no specifics about the company's goals.

The release states that the announcement is "a major step in comprehensive strategy that will encompass a series of global and cross-border [automated clearinghouse] initiatives."

A spokesperson said earlier this week Michael P. Duffy, Chase Paymentech president and CEO, was in client meetings and could not immediately discuss more specifically what the company's growth plans are in Europe.

Cellular South And Obopay Launch Mobile-Payment Service


Cellular South, a privately held wireless provider that serves 640,000 customers in Mississippi, Tennessee, Florida and Alabama, announced this week that it is partnering with mobile-payment company Obopay to allow customers to send funds directly from their mobile phone to any mobile phone number that accepts SMS text messages.

The service also would enable customers to instantly receive money from other Obopay users.

Additionally, it would offer an optional Obopay Prepaid MasterCard that can be used to make purchases anywhere MasterCard is accepted and to withdraw cash at roughly 1.1 million ATMs worldwide.

"We are positioning ourselves as a leader in mobile commerce," Jim Richmond, a Cellular South spokesperson, tells *ISO&Agent Weekly* sister publication *CardLine*.

Richmond notes that Cellular South is the first wireless provider to offer mobile payments to its entire customer base.

Richmond adds that in June, Cellular South will launch a wireless wallet-pilot in Memphis, Tenn., and Jackson, Miss., that would allow participants to make purchases at merchants that accept contactless payments. 

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NEWS BRIEFS

>>>Morgan Stanley Sets Discover Spin-Off Ratio

Morgan Stanley, which announced plans to spin off its Discover Financial Services unit to shareholders in December, will issue one **Discover** share for every two Morgan Stanley shares held, according to a U.S. Securities and Exchange document filed this week.

Based on that ratio, Discover estimates there will be roughly 527 million Discover common shares. In an amended filing, Riverwoods, Ill.-based Discover did not set a price range for the shares. In December, Morgan Stanley announced it would issue 100% of Discover stock to its shareholders in a tax-free spin-off that is expected to take place in the third quarter.

>>>Gift Card Growth Fuels Comdata Revenue Increase

Citing strong growth in its gift card business, **Comdata**, a processor and issuer of credit, debit and stored-value cards for trucking fleets and merchants, this week reported first-quarter revenues of \$117.4 million, up 12.5% from \$104.4 million during the same period a year ago.


However, Comdata's profits fell 7.9%, to \$31.6 million from \$34.3 million. "Comdata's growth was

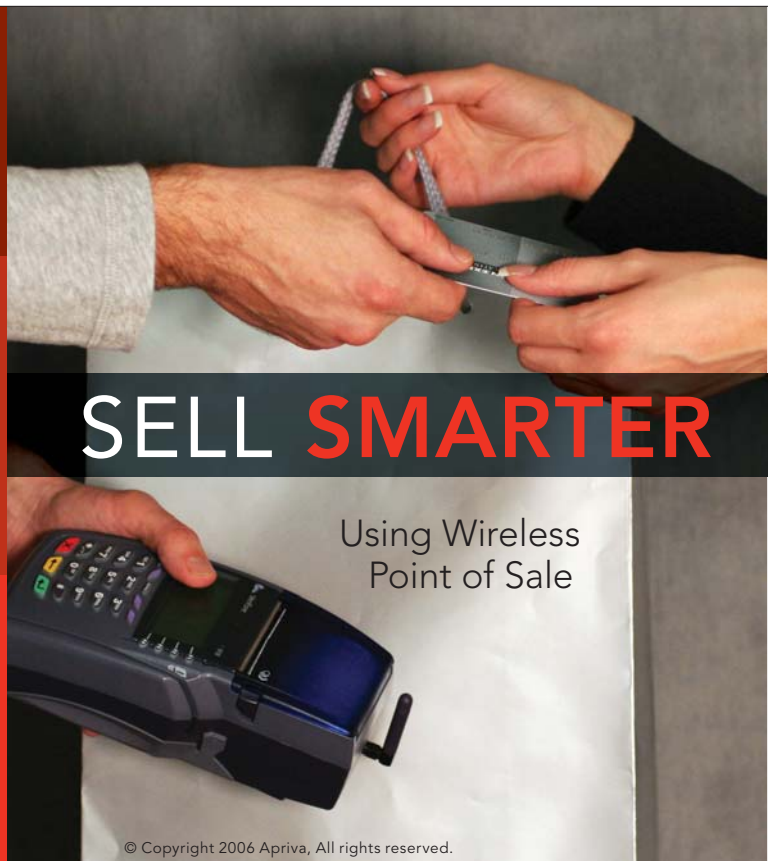
again driven by an impressive performance in the retail-services segment, which grew organically by 20% year over year," Gregory Macfarlane, executive vice president and chief financial officer of **Ceridian Corp.**, Comdata's Minneapolis-based parent, said during a conference call with analysts.

>>>JetBlue Employees Use Customers' Cards To Splurge

Four **JetBlue** employees and a New York City Department of Corrections officer were arrested this week for allegedly shopping with credit and debit cards that customers had accidentally left at the airline's ticketing counters.

The defendants used those cards on multiple occasions to buy food, clothing, gas, alcohol, drugstore goods and gift cards, with each shopping spree racking up between \$300 and \$500 per card, the district attorney of New York County alleges in a statement issued this week.

Three of the defendants repeatedly conducted fraudulent transactions from December 2005 until this month, according to the statement. JetBlue has suspended the employees, pending the outcome of the investigation, according to a JetBlue spokesperson, adding that the airline is cooperating with investigators. 



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INDUSTRY NEWS

Florida Senate Bans Gift Card Fees, Expirations

The Florida Senate has approved a bill banning fees and expiration dates on gift cards sold in the state, excluding those that are part of a larger package related to a convention, conference or vacation, and those issued by financial institutions or to money transmitters.

Gift cards given as part of an employee-incentive, loyalty, or promotional or charitable program may expire after three years.

The bill also makes the unredeemed gift card value the property of the issuer and cannot be claimed by any state. The House has not yet voted on a companion bill.

First Data Signs WestJet Deal

First Data International says it will

provide merchant-acquiring services for Canadian airline WestJet.

Loyalty Program Membership Rises, But Most Accounts Are Inactive

Colloquy, a Cincinnati-based loyalty marketing publisher and consultancy, last week reported in its Loyalty Census, a study of 1,000 loyalty programs across 12 industries, that U.S. financial-service sector loyalty-rewards programs have reached 238.7 million memberships, up 164% from 90.5 million in 2000.

However, a number of presenters at the 19th Annual Card Forum and Expo in Boca Raton, Fla., earlier that week noted that most consumers fail to participate in the majority of programs in which they are enrolled.


Kelly Hlavinka, Colloquy senior director, told Card Forum attendees the challenge for card issuers is to provide

differentiated loyalty programs that allocate resources to the right customers instead of to simply offer cash-back rewards.

Though the average U.S. household participates in 12 loyalty programs, it is only active in 4.7 of them, she noted.

During a separate presentation, Harit Talwar, Discover Network executive vice president, cited the same statistic, noting that less than half of loyalty programs are creating active users.

"What we are doing with loyalty is not working," he said. "And we're too nervous to change because we don't know which part isn't working."

Talwar suggested a number of solutions, including better segmentation of rewards programs based on different types of customers, better partnerships with merchants where rewards are earned and redeemed, and better customer service for cardholders. 

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INDUSTRY NEWS

Ingenico Posts Flat First-Quarter Revenue

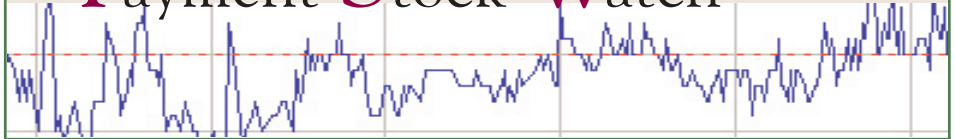
Ingenico, a France-based point-of-sale terminal maker, announced last week first-quarter revenue of \$161.96 million, down 0.9% from \$163.49 million during the same period a year ago. Ingenico did not release net-income figures.

Ingenico attributes the revenue drop to unusually strong sales in the first half of 2006 and to a carryover of some sales from the fourth quarter of 2005 into the 2006 first quarter. Ingenico called the results this year in line with expectations. ^{ISO}

People & Promotions

The Electronic Transactions Association elected **Jim Baumgartner**, Moneris Solutions Corp. president and CEO, as its president. ^{ISO}

Payment Stock Watch



Company	Symbol	Last Week's Low	Last Week's High	Last Week's Close	% Change From Prior Week's Close
Authorize.net	ANET	No listings available.			
Diebold	DBD	48.06	50.25	48.51	-2.79
eBay	EBAY	33.12	34.58	34.17	1.94
Electronic Clearing House	ECHO	12.45	12.74	12.60	0.80
First Data	FDC	32.44	32.66	32.51	-0.18
Global Payments	GPN	37.90	38.79	38.66	-0.36
Heartland Payments	HPY	25.11	25.81	25.28	-0.08
Hypercom	HYC	5.83	6.18	5.85	-4.72
MasterCard	MA	107.64	114.66	114.10	3.63
Optimal Payments	OPMR	8.95	9.56	8.99	0.56
Sage	SGE.L	5.13	5.31	5.28	1.93
VeriFone	PAY	34.84	35.81	35.49	-0.56

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► **ASSOCIATION** cont'd from page 1

to the distributor, talked to everyone he could.

While not naïve about his lack of knowledge about the acquiring industry, Warsowe found there was a lot more to setting up a card-processing program than simply signing a contract.

"The first thing I did even before going to (ETA) was recognize the vastness of the channel," Warsowe says. "There's so much happening, so many players. I recognized I wasn't going to be able to school myself adequately to make multimillion-dollar decisions in time." Warsowe's client hopes to make a decision within the next couple of months.

Associations and merchant groups could be profitable sources of merchants, who tend to be loyal as long as they perceive value.

The ISO/acquirer that Warsowe eventually recommends stands to gain access to a pool of merchants that support the distributor's \$2.43 billion in annual sales. Warsowe estimates that some of his clients' retailers see between 65% and 70% of their sales made with credit or debit cards.

"Because credit card processing is basically a cold-call business, the merchants, my client's customers, have had some very unhappy experiences with their credit card processing," Warsowe explains. The distributor has won over many customers by offering value-added retail services, such as retailer-branded advertising and merchandise display planning, he says.

Though Warsowe does not run an ISO, his goal is similar to ISOs that have succeeded in working with associations and merchant groups.

CREDIBILITY IS PARAMOUNT

Card-processing deals with trade and merchant groups can be lucrative for ISOs, as Charlie Creamer, president of Midwest Transaction Group, a Lansing, Mich.-based ISO, has learned.

Not long after starting his ISO in



2000, Creamer realized his marketing was not much different from other ISOs. It failed to make his stand out among a very crowded field of ISOs.

"Very candidly, our marketing efforts were not particularly successful," Creamer says.

Within a few months, a former peer in the association industry called Creamer about setting up a processing deal for members of the trade group.

A former association executive himself, Creamer recognized the opportunity. He engineered a deal where the group's members got a lower discount rate through the program than most could get on their own because their accounts came in as a group, which increased the volume of transactions the processor saw.

A guiding principle of any association or affinity group is to bring value to its mem-

bers, Creamer says.

"When members sign their dues checks, they're reminded of all the things they get from their association," he explains.

Creamer says fundamental to working with trade groups is knowing that the group's credibility is para-

ASSOCIATION cont'd on page 7 ►

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► **ASSOCIATION** cont'd from page 6

mount and should never be violated in the pursuit of its members as clients.

Warsowe's client has a similar philosophy.

Because poor credit card processing can make merchants unhappy, Warsowe says his client is requiring "premium" service. And, if that service should fall short, the company wants to be able intervene to keep the retailer and move the processing business to another ISO if necessary.

Warsowe says that is why the food distributor wants full portability of the merchant portfolio.

"In exchange for this, the company is going to offer its partner the prospect of a very long-term, mutually beneficial relationship," he says. "We are going to deliver a very high rate of merchant conversion, long-term relationships and the ability to move into other areas, such as equipment sales and other financial services."

As Warsowe sees the plan now, the distributor's salespeople, as part of

their routine business dealings with retailers, will make the initial card-processing pitch. From there, specially trained sales reps at the distributor will close the sale and follow up on the details of the agreement.

Then that package will be forwarded to the ISO to complete the front-end process.

WADING THROUGH

Warsowe also hired Holli Hart Targan, an attorney with Jaffe Raitt Heuer & Weiss PC who specializes in the acquiring industry, as the distributor's consultant and attorney.


"Holli is going to help me avoid making serious mistakes," Warsowe says.

ISOs working with associations or

merchant groups often can take advantage of the good will that members have toward the group, Targan says.

"It gives the ISO a leg up in the eyes of merchants that are members," Targan says. "The sales cycle may be a little quicker because the merchant doesn't have to wade through the reputational due diligence."

Besides ensuring the merchant members get the best value from the arrangement, the ISO also should look for ways to get more value from such deals.

"By that, I mean those organizations often hold trade shows that ISOs could participate in," she says. "Arrange to advertise in the association newsletter. Pursue an exclusive marketing relationships with the group." 

"It gives the ISO a leg up in the eyes of merchants that are members."

**Holli Hart Targan,
Attorney,
Jaffe Raitt
Heuer & Weiss PC**

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INDUSTRY NEWS


Transaction Wireless Offers 'Wireless' Gift Card

Transaction Wireless LLC, a San Diego-based mobile-commerce company, announced last week that it and gift and rewards card processor Secure Payment Systems will build a wireless transaction system that allows consumers to redeem and manage prepaid gift cards using their mobile phones.

With the system, consumers will be able to use their phones to buy and send gift cards, request account balances, combine balances from multiple cards and add funds to their cards.

"This is a way to extend the reach of the stored-value card to the cell phone, and by doing so, new revenues can be realized," says Transaction Wireless CEO Steve King.

King notes that retailers could offer promotions and coupons to accountholders when they check their balances, or add or spend funds. To use a wireless gift card, accountholders either enter their cell phone number and a PIN or just their phone number to access the funds on their card account. The system uses merchants' existing point-of-sale equipment.

About six apparel and restaurant chains representing 50 to 60 locations will be participating in the initial rollout, which King expects to launch in the next two months. 

MARKET TRENDS <<<

KEY EVENTS THAT COULD AFFECT YOUR BUSINESS

>>>NFC COULD BOLSTER MOBILE OPERATORS' REVENUES, SAY PAYMENT OFFICIALS

Though the revenue potential for the fledgling Near Field Communication technology remains unknown, an executive for a company that aims to be a major vendor in the space says mobile operators could reap big rewards by charging for NFC-related services. NFC is a short-range wireless technology that allows cellular phones and other devices to initiate contactless transactions. It also allows such devices to download information from posters or other devices that also have NFC chips.

Hans Reisgies, director of NFC business development for Santa Clara, Calif.-based contactless-technology vendor Vivotech, told attendees at the SIMposium 2007 in Berlin last week that a mobile operator with 5 million subscribers could bring in more than \$300 million annually from advertising, electronic card issuance and other activities. NFC technology is being tested in numerous payments and transit-related trials worldwide, though there is no large-scale commercial rollout yet.

One of the main challenges to extending the use of the technology is determining how the various companies involved in the technology—mobile operators, card organizations, banks and handset makers—can organize their relationships, both with each other and with NFC users, as they seek to earn revenue. Operators should not put too much hope in earning fees directly from transactions, Reisgies says.

"There's not a lot of money left to share [in that area]," he says. Rather, operators on whose phones issuers would download electronic versions of payment cards could charge for that service. With NFC-enabled phones serving as de facto cards, operators also could charge for notification and re-issuance when phones are lost. Advertisements downloaded from so-called "smart posters" represent another potential revenue source.

"The advertising industry is dying for interactive advertising," Reisgies says.

>>>DISCOVER ANNOUNCES TWO NEW CARD PROGRAMS


Discover Network last week announced two new card programs for third-party issuers, such as banks, including an affluent card product and a new card rewards program. Issuers either can roll out a ready-to-go or a customized version of Discover's Perks Everyday rewards program, which offers cardholders points toward merchandise, gift certificates, travel, charitable donations or cash back.

Customization options include choosing how credit, debit or prepaid cards look and whether rewards are

based only on the use of one card, multiple cards or other banking products, such as deposit accounts and mortgages. "There's more focus on the issuers' brand than ours," Beth Horowitz, Discover vice president of product management, tells *ISO&Agent Weekly* sister publication *CardLine*. "Our whole strategy is making things easy for our customers, issuers and merchants."

Discover also plans to begin offering a new premium card program in November that third-party issuers will be able to use as-is or to customize. Discover will stipulate a minimum income for applicants and determine baseline rewards and services, which issuers will be able to augment, according to a Discover spokesperson. Discover is pursuing affluent cardholders for its third-party issuers because the affluent are less affected by economic change and are "highly engaged" with products that they choose, says Horowitz.

Gwenn Bézard, research director at Boston-based Aite Group, notes that since the 2004 U.S. Department of Justice ruling that Visa USA and MasterCard Worldwide cannot prohibit banks from issuing other card brands, American Express Co. has been more successful than Discover at signing up new issuers.

"I view Discover's introduction of a card for affluent cardholders as an attempt to gain more momentum with bank issuers," says Bézard. 

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VENDOR BRIEFS

Lightbridge Changes Name to Authorize.Net

Payment-transactions manager Lightbridge Inc., based in Marlborough, Mass., has changed its name to Authorize.Net Holdings Inc. It also changed its NASDAQ ticker symbol to ANET from LTBG.

Tasq Expands North American Deal With Ingenico

Tasq Technology, a subsidiary of First Data Corp., and Ingenico, a France-based point-of-sale terminal maker, have struck a deal for Tasq to distribute Ingenico products in Canada and the United States.

The deal comes on the heels of First Data's Feb. 1 acquisition of Canadian POS-services provider Solika Solutions Inc., a Tasq spokesperson tells *ISO&Agent Weekly*. "Ingenico

owns the majority of the market share [in Canada], so it was imperative that we had a good, strong presence with Ingenico up there to reach the customers," she says.

The two companies have an existing deal to sell Ingenico terminals in the United States.

Vivotech Claims 75% Share Of Contactless Reader Market

Vivotech has shipped at least 270,000 contactless readers to 22 countries and claims a 75% share of the contactless-reader market, Hans Reisgies, the Santa Clara, Calif.-based company's director of NFC business development, said at the SIMposium 2007 conference in Berlin.


Reisgies said many of Vivotech's readers are devices added to existing payment terminals, which generally saves merchants money and hassle.

"Most of what we do is retrofit," he says. Reisgies said the company's readers support the major contactless brands.

One of the next big areas for contactless payments is the vending-machine market, he added. "It's going to explode," Reisgies said.

American Express Unveils Special-Occasion Gift Cards

After a successful pilot last fall, American Express Co. is launching three new special-occasion gift cards, including Especially for Dining, Especially for the Bride and Groom, and Especially for Movie Lovers.

AmEx is selling the themed gift cards, which come with special offers at participating businesses, online and says it will make them available at supermarket and drug store chains nationwide later this year. 



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AGENT KNOWLEDGE

Making Technology Work for You

BY STEVE SCHWIMMER



Steve Schwimmer, president of the National Association of Payment Professionals and the Long Island director of sales for Renaissance Merchant Services, can be reached at thevisaguy@516phoneme.com.

We don't just process transactions, we make transactions happen. And we make this possible through

technology and our knowledge of how it can deliver or make business happen under almost any environment or setting.

Businesses no longer have to perform transactions tethered to a terminal or rely on the central office to make a transaction happen. Here is an overview of some of the latest technologies—sales agents should be aware of them.

VOICE OVER IP

Considered “a clever reinvention of the wheel,” voice over IP (Internet protocol) turns a standard Internet connection into another transmission line that bypasses the phone company's old copper dial lines. A VoIP connection carries voice signals over the Internet. VoIP reduces bandwidth, is priced economically and offers great flexibility. It is the “gold standard” for carrying information such as data and video.

Many of your clients have or will switch to this digital service and still use dial terminals without understanding they are exposing themselves and their transactions to possible compromise. Data transmissions become compromised when digital technology is mixed with old dial technology, exposing non-encrypted data to hackers.

As processors we need to educate our clients on Internet-protocol products that will fix these gaps to keep data safe, regardless of their companies' level of technology.

MULTI-CURRENCY CONVERSION

This is an idea whose time has come. This service provides users who travel or who possess payment cards from other countries the ability to see the conversion rate alongside the dollar value when making purchases. It is great for businesses that cater to international customers. This can be used for brick-and-mortar and online transactions.

WIRELESS TRANSACTIONS

Wireless terminals have opened new markets for ISOs.

Contractors who provide in-home services, delivery services and festival vendors are a few of the new markets that have opened up.

Wireless terminals offer a safer and less expensive transaction with fraud protections built into the terminals, making them very attractive to potential customers.

Plus, with real-time connectivity, the merchant gets a live authorization code to quickly know whether the transaction is approved. This is an area of the industry to really embrace.

CONTACTLESS

While contactless technology has been available only a couple of years, it has become popular with certain vendors, such as convenience stores, quick-service restaurants and movie theaters.

This technology allows users to merely pass a contactless card or key fob across the face of a terminal to initiate a transaction.

Cellphone manufacturers also are

beginning to provide a chip inside the phone that can hold credit card information. When equipped with a contactless chip, the phones can be waved in front of card readers. It provides another area of revenue growth.

According to industry research, this technology can increase purchases by upwards of 20%. Related to contactless is the no-signature rule for purchases of less than \$25, which makes this a great option for low-ticket and quick, on-the-fly transactions at high-traffic locations.


TRIPLE-DES

As an industry, we have spent a lot of time keeping the security fences strong. Part of my responsibility to clients includes notifying them of ways they can better comply with the various card data regulations.

The threat posed by hackers is not going away as they are very persistent. It has been reported that their activities include going down a list of IP addresses, readily available on the Internet, by using software to scan for the less-secure IP addresses. Protection is available.

Triple-DES is a data-encryption system that uses algorithms and digital keys to guard against hackers gaining access to sensitive card data.

Used on a large scale in the payments industry, Triple DES continues to be refined and improved, with stronger encryption mechanisms, to thwart fraudsters.

Knowledge increases our sales capacity and our productivity. Our knowledge of how technology works for our customers will fuel our continued growth and make us an invaluable resource that brings technology and processing together. 

► TRUNCATION cont'd from page 1

FACTA prohibits printing the expiration date and more than five digits of a customer's credit or debit card number on a receipt. It is one measure to prevent identity theft. Many merchants, however, continue to print the complete card number and expiration date, as one consumer who talked to *ISO&Agent Weekly* discovered while taking the household recycling to the curb.

In it, she found a receipt from a pizza restaurant that contained the full card number and expiration date. She removed it so it could be destroyed.

GAUGING WILLFULNESS

Dan Lynch, an attorney representing Stephen Cicilline Jr. in a suit against Jewel-Osco, tells *ISO&Agent Weekly* that most of the violations were for allegedly failing to truncate the expiration date. Similar lawsuits have been filed in California, and the *Wall Street Journal* reports suits also have been filed in Pennsylvania and Kansas. Many seek class-action status, potentially enlarging the number of plaintiffs.

Central to many of these suits is the notion of willfulness. Merchant have had three years to comply with FACTA. Did their inaction constitute a lack of willfulness to do so?

A ruling in one case pending in California might shed some light.

In *Pirian vs. In-N-Out Burgers*, a federal judge denied In-N-Out's motion to dismiss the case. The restaurant said it could not have willfully violated FACTA because the prohibition is vaguely worded and the plaintiff suffered no actual harm.

Judge David O. Carter disagreed.

"The fact that the statute could have been drafted with alternate wording that may have been even clearer is of no consequence because the statute as written is not vague and ambiguous," reads the court decision. Carter also wrote that the FACTA statute does not require that the

consumer suffer actual damages.

While no ISOs are named in the suits, that does not mean the suits can be ignored, says Adam Atlas, an attorney who specializes in the acquiring industry. The prospect of this consumer dissatisfaction ricocheting and snaring ISOs is real, he says, thus creating a financial and reputational risk.

WHO'S LIABLE?

"The average ISO has an obligation to the acquirer to educate the merchant, in particular on security issues," Atlas says. "Yes, there is a right of action by the merchant against the acquiring institution, but a more likely scenario that would engage ISO liability is the acquiring institution going after the ISO."

Point-of-sale equipment installers also could be ensnared in these cases, Atlas says. POS equipment and software that does not adhere to FACTA standards should not be installed, he says. If they are installed, the merchant might have a case against the equipment supplier.

Atlas says he has seen cases where a merchant experienced a breach and was unaware that credit card information was stored on POS equipment.

The equipment supplier should have ensured security updates were installed. Failure to do so opened up a legal move by the merchant against the supplier, Atlas says.

But just as much depends on simply getting the merchant to care about compliance with these types of mandates, says Deana Sellens, chief operating officer of Take Charge Business Consulting of Houston that specializes in risk and operations for acquiring.

"It just seems to me (merchants) won't listen until they see someone get burned bad," Sellens says.

Though large merchants, such as TJX, operator of TJMaxx stores, sustained the largest card-data breach yet, smaller ones tend to discount that.

"The attitude I've always gotten is, 'Ho-hum, they're big and I'm little,'" Sellens says of merchant reactions she has heard.

One merchant, a bar owner, discovered her POS system was hacked when the hacker generated a pop-up window that said "I own you," Sellens recalls.

The merchant thought her business was so small that no one would bother attacking her system. But it happened, Sellens says, fortunately

without a breach of card data.

Merchant attitude toward compliance issues will take force or persuasion, Sellens says.

Sellens doubts force will do it. Instead, some sort of sales tactic needs to be devised, such as, "Your card is safe here" sticker to put on a merchant door, she says.

MUCH DEPENDS ON THE CONTRACTS

Whatever happens in these cases alleging FACTA violations, Atlas says they are good reminders of the importance of talking to merchants about security and the Payment Card Industry data-security standards.

The PCI standard mandates what types of card data can be retained, how they should be encrypted, if allowed, and when they must be destroyed.

"A lot of merchants running older equipment don't even know what it's doing with the credit card number," Atlas says. "An ISO could be held liable for this," though much depends on the wording of contracts involving merchants, ISOs and acquirers. **ISO**

"It just seems to me (merchants) won't listen until they see someone get burned bad."

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INDUSTRY NEWS

First Data Tackles Merchant Attrition Issue


When Edward A. Labry III took over as president of First Data Commercial Services in January 2006, one of his chief priorities was to reduce merchant attrition. In 2006, First Data reduced the loss of merchant customers by 7% from the previous year, says Labry, who earlier this month was named Executive of the Year by *ISO&Agent Weekly* sister publication *Cards&Payments*.

Whereas previously it took First Data perhaps two weeks to activate a merchant because it used a paper-based system, today many of the processor's new merchants can start accepting payment cards much faster, often within two days, through an electronic, automated merchant-activation process, says Labry. "If we take two weeks to activate a merchant, it will go somewhere else," Labry says.

To further quell attrition, First Data last year rolled out a proprietary payment terminal, the FD 100, which enables independent sales organizations to more easily reach out to smaller merchants.

The basic, relatively low-price terminal is packaged with one rate, one settlement and one statement for all Visa, MasterCard and Discover transactions.

The proprietary terminal and software prevents "slamming," which occurs when another processor takes over a merchant-processing contract without switching terminals simply by changing the software.

Today, about half of the terminals First Data sells are proprietary, Labry says. Later this quarter First Data plans to roll out the FD 300, which will feature a more sophisticated touch-screen device, he adds, noting that a check-imaging version also is planned. 

The Appointment Book

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