

EFRI Payvision Report: the role of Dutch payment infrastructure in the fraud structures of Gal Barak and Uwe Lenhoff (dated 15 May 2026)

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## Executive Summary

1. This factual report summarises the payment structures of Payvision B.V. and Acapture B.V. documented in criminal files, contractual documents, chat logs, chargeback records, payment and money-flow analyses, and annual accounts in connection with the Lenhoff/Barak platforms. The legal assessment of the matters described remains reserved for a separate analysis section.
2. According to the evaluated criminal files, platforms such as option888, zoomtrader/global, xmarkets, tradovest, tradeinvest90, optionstars/global, xtraderfx, safemarkets and goldenmarkets offered European consumers apparent investments in financial products. The criminal files classify these platforms as fraud complexes and refer to more than 60,000 affected European consumers and total losses of approximately EUR 340 million.
3. The documents record the ongoing involvement of the Payvision Group in payment, merchant, MID, gateway, reporting, reconciliation, chargeback, reserve, withdrawal and settlement structures. This covers both classic card acceptance via Payvision B.V. and further payment or infrastructure services in connection with Acapture B.V.
4. According to the information provided by Rudolf Booker and/or Payvision, card payments of approximately EUR 77.7 million were processed for the Barak platforms. For the Lenhoff platforms, approximately EUR 55.6 million in card payments were processed. In addition, thousands of chargeback requests and fraud reports, as well as a total of 273 SAR/FIU reports, were documented in connection with the relevant legal entities.
5. Booker identifies the merchants used. The entities named are Payific Ltd, Hithcliff Ltd, Celtic Pay Ltd, Gpay Ltd, Markets Development EOOD, Matching Blue Consulting SLU, Optiumcommerce OU and Cool Markets OU.
6. The criminal files document repeated adjustments to merchant, MID and settlement structures in temporal connection with licensing issues, banking restrictions, regulatory warnings and increased chargeback figures.
7. The use of Merchant Category Code 6211 is documented for several Lenhoff and Barak platforms. The Payific contractual documents provide that Payvision determines the Merchant Category Code.
8. The documents contain internal and external indications of risks and escalations. These include steadily increasing chargeback requests and fraud reports from issuing institutions, VISA/Mastercard penalty payments, due-diligence and licensing queries, alarming events concerning getmyads.com and binex.ru, compliance concerns regarding Gpay Ltd, warnings from European supervisory authorities, the AFM measure against Capital Force Ltd in connection with zoomtrader/global, information on ongoing criminal investigations by AK Vorarlberg, and a Dutch production order served on Payvision in a

- German criminal investigation concerning option888.
9. Personal and business contacts between Rudolf Booker and Uwe Lenhoff are also documented. The documents contain indications of repeated meetings, business touchpoints, a partner or intermediary role of Lenhoff, and chat communication in which Lenhoff acted as a contact person for Payvision access, MIDs, banking matters, approvals and Barak-related escalations.
  10. The documented settlement and third-party payment structures are of particular relevance. According to the money-flow documents, Stichting or settlement accounts of the Payvision structure were used not only to make payments to formal merchants, but also to further recipients in the economic environment of Lenhoff and Barak. The recipients named include Winslet Enterprises EOOD, New Markets S.A., Rockarage Ltd and Street Smart Enterprise Ltd.
  11. The fee documents show that elevated risk levels were reflected in fees, premiums and contractual terms. The records include chargeback and fraud-risk premiums charged to Hithcliff Ltd, a Gpay Ltd agreement with a processing fee of 7%, exclusivity and minimum-volume provisions, and additional charges for early settlement payouts.
  12. ING Bank N.V. is documented in several roles: as the account-holding institution for Payvision/Stichting accounts, as an earlier financing partner, from 2018 as majority shareholder, later as sole owner, and finally as group parent in connection with the discontinuation and liquidation of the Payvision business. The available documents therefore record institutional involvement in account management, financing, governance and subsequent winding-down.
  13. In summary, the documents show an interaction, documented over several years, between payment processing, merchant structures, risk indicators and third-party settlements.
  14. The legal assessment of knowledge, breach of duty, causation, attribution and liability remains to be carried out separately.

## INTRODUCTION

15. According to findings by German and Austrian criminal authorities, in the period from 1 September 2015 to the end of January 2019 European consumers were offered apparent investments in financial products via the online platforms optionstars/global, xtraderfx, safemarkets, goldenmarkets, option888, xmarkets, tradovest, tradeinvest90 and zoomtrader/global.
16. The criminal investigations established that these websites neither held the MiFID authorisation from a European securities regulator required for offering financial instruments to European retail investors, nor were the amounts transferred by retail investors by card or bank transfer ever actually invested in financial products.
17. According to the customer lists seized during searches, the loss arising from the above-

mentioned platforms amounts to approximately EUR 340 million, comprising card payments and bank transfers between September 2015 and the end of January 2019. Approximately 60,000 consumers from more than 24 countries were affected.

18. The payment service provider for the online platforms was the Dutch payment institution Payvision B.V. (“Payvision”), which was supervised by De Nederlandsche Bank (DNB).<sup>1</sup>
19. According to the evaluated documents, Payvision was involved in processing card payments for the named platforms between September 2015 and January 2019.
20. According to the available documents, Uwe Lenhoff appeared in relation to Payvision, at least from 2016 onwards, not only as the economic background actor behind his own platforms, but also as an intermediary and contact person in connection with further high-volume business relationships.
21. This dossier serves to present, in a structured manner, the available documents concerning the role of Payvision and, where relevant, ING Bank N.V. in connection with the payment, merchant, account and settlement structures of the named platforms.

## Natural persons involved

22. Uwe Lenhoff, born on 19 November 1963, economic owner of the platforms option888, zoomtrader/global, xmarkets, tradovest and tradeinvest90, was arrested on 24 January 2019 in St. Johann in Tirol, Austria, pursuant to an arrest warrant issued by the Vienna Public Prosecutor’s Office. Lenhoff died on 5 July 2020 in Saarbrücken prison. According to an extract from the European Criminal Records Information System (ECRIS) dated 18 April 2019, Lenhoff had already been criminally convicted in Germany in 2002 and 2005 for serious fraud (4 LS 5443 Js 685 69/02; 302 Js 577/03 56 Kls 8/05).<sup>2</sup>
23. Azem Spahiu was sentenced by the Regional Court of Saarbrücken on 12 August 2022 to 12 years’ imprisonment for aggravated gang fraud in connection with the operation of the online platforms option888, xmarkets, tradovest, tradeinvest90 and zoomtrader/global (file number 05 Js 221/18).
24. Mohamed Shaker was sentenced by the Regional Court of Saarbrücken on 13 June 2025 to 8 years and 6 months’ imprisonment for aggravated gang fraud in connection with the operation of the online platforms option888, xmarkets, tradovest, tradeinvest90 and zoomtrader/global (file number 05 Js 131/22).
25. Hans Dahlgren was responsible within the Lenhoff organisation for communication with payment service providers. A European arrest warrant was issued for Dahlgren by the Saarbrücken Public Prosecutor’s Office; he remains a fugitive.
26. Gal Barak, known as the “Wolf of Sofia”, economic owner and operator of the platforms optionstars/global, xtraderfx, safemarkets and goldenmarkets, was sentenced in Austria on 1 September 2020 to 4 years’ imprisonment for serious fraud and money laundering in connection with the operation of the online platforms xtraderfx, cryptopoint,

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<sup>1</sup>A. 1. Conviction Gal Barak, Vienna 1 September 2020

<sup>2</sup>Q. 1. Convictions Uwe Lenhoff according to ECRIS

safemarkets and goldenmarkets.<sup>3</sup>

27. Rudolf Booker was, together with Cheng Liem Li and Gijs op de Weegh, a founder of Payvision B.V. and Acapture B.V. and was active in their operational management until the end of April 2020.
28. Gijs op de Weegh signed the contracts with the merchants of the Lenhoff/Barak platforms.<sup>4</sup>
29. According to the statement by Booker/Payvision dated 23 May 2019, the Payvision employees responsible for servicing the Lenhoff/Barak platforms were Cheng Liem Li, Philippe Cabrera Kathusing, Adam Brant, Joris Greeuw and Tony Solomon.<sup>5</sup>
30. The Dutch FIOD announced on 5 April 2024 that, on the basis of a report filed by the DNB in autumn 2020, a criminal investigation had taken place and had established that Payvision, under the leadership of Booker and Cheng Liem Li, had systematically and structurally failed to comply with the provisions of the Dutch anti-money-laundering legislation in the years 2016 to 2020. The Dutch Openbaar Ministerie imposed fines on two former directors of Payvision B.V. in the amounts of EUR 150,000 for Cheng Liem Li and EUR 180,000 for Rudolf Booker; the criminal matters were resolved out of court by way of strafbeschikkingen. Neither the Dutch financial supervisory authority nor the Dutch public prosecutor requested the data from the Vienna or Saarbrücken criminal files in the course of the criminal investigations conducted in the Netherlands.<sup>6</sup>

## Payvision B.V.

31. Payvision B.V., Amsterdam, was founded in 2002 by Rudolf Booker, Cheng Liem Li and Gijs op de Weegh as a provider of technical interfaces between online merchants and payment systems, i.e. as a payment gateway provider.
32. From 2012 to 2023, Payvision B.V. and its sister company Acapture B.V. (“Acapture”) were also active as licensed financial institutions through their foundations, Stichting Trusted Third Party Payvision (STTP) and Stichting Trusted Third Party Acapture (STTA), using third-party funds foundations/Stichtingen. Payvision B.V. was a VISA and Mastercard licence partner and operated as an acquiring institution in the high-risk Card-Not-Present sector. Payvision, Acapture and both foundations were supervised by De Nederlandsche Bank (DNB). On 15 June 2023 Payvision B.V. surrendered its licence.<sup>7</sup>
33. In the first quarter of 2018, 75% of Payvision Holding B.V. was acquired by ING Bank N.V., one of the largest European banks, at a valuation of EUR 360 million.
34. Mark C.A. Buitenhek, Global Head Transaction Services at ING, was appointed chairman of the supervisory board of Payvision Holding B.V.
35. In January 2020, Acapture B.V. was merged into Payvision B.V.
36. At the end of April 2020, ING Bank N.V. completed the full acquisition of Payvision

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<sup>3</sup>A. 1. Conviction Gal Barak, Vienna, 1 September 2020

<sup>4</sup>C. 9. Appendix 1 Service fees Gpay Ltd dated 24 July 2018

<sup>5</sup>B. 1. Booker’s statement dated 23 May 2019

<sup>6</sup>H. 1. FIOD announcement dated 5 April 2024

<sup>7</sup>[https://euclid.eba.europa.eu/register/pir/view/PSD\\_PI/NL\\_DNB!F0014](https://euclid.eba.europa.eu/register/pir/view/PSD_PI/NL_DNB!F0014)

Holding B.V. The founders and former members of management, Booker, Cheng Liem Li and Gijs op de Weegh, left the company.

37. Following an on-site inspection, the DNB filed a report concerning suspected or established breaches of anti-money-laundering obligations.
38. On 27 October 2021, ING Bank N.V., as sole shareholder, decided to discontinue the operations of the Payvision Group; operational payment activities were fully discontinued in June 2022, and the corporate liquidation was expected to be completed by 2023.
39. According to the available annual accounts of Payvision Holding B.V., Payvision was informed in May 2022 that it was the subject of a criminal investigation by Dutch authorities covering the period from 1 January 2015 through April 2020.
40. In June 2023, the company's articles of association were amended. On 31 May 2023 the management board and supervisory bodies resigned. New management was appointed by ING Bank N.V.

## ING Bank N.V.

41. During the investigation period, ING Bank N.V. is documented in two different roles: first, as the account-holding institution for payment, current-account, overdraft and trust accounts in connection with the Payvision structure; second, from the first quarter of 2018 onwards as majority shareholder and later sole owner of the Payvision Group.

### **ING Bank N.V. as account-holding institution of the Payvision structure**

42. In its role as account-holding institution, ING Bank N.V. provided the Payvision Group and its affiliated trust companies, in particular Stichting Trusted Third Party Payvision, with payment, current and overdraft accounts from at least 2016 onwards. According to the available documents, these accounts were used, among other things, to process settlement, trust and payment flows in connection with the Payvision structure.

## Sources used

43. This dossier is based on the source categories listed in Appendix 6. Wherever possible, primary documents were used, whether originals or certified/official copies. Secondary sources, such as press reports, are used solely for the chronological classification of events that became publicly known.

## Purpose of this document

44. This document serves as a structured and chronological compilation of the facts, documents and data contained in the appendices concerning the payment, merchant, account and settlement structures relevant to the named online platforms during the period from 2015 to 2019. Its purpose is to present the available information in an ordered form and to document the underlying events, interconnections and lines of development in a traceable manner. Where necessary for contextual understanding, events outside that period are also mentioned.
45. This factual report does not contain a final legal assessment. Where terms from criminal files, judgments or official documents are used, they are reproduced as official findings or file contents. The questions of knowledge, breach of duty, causation, attribution and liability are addressed in a separate analysis section.

## Description of the fraud and payment model

46. According to the evaluations of the Austrian and German criminal prosecution authorities, the platforms operated by Uwe Lenhoff and Gal Barak were not isolated individual events, but division-of-labour systems organised for the long term and classified by German and Austrian criminal authorities as internationally operating fraud organisations. They were based on the interaction of several functionally different actors and structures, including operating and sales units, call centres, technical platform and software providers, interposed companies, merchant structures and different payment service providers with their account and settlement structures. For assessing the role of payment service providers, the relevant issue is therefore not only the individual payment, but also the function of the payment infrastructure within the overall model.<sup>8</sup>

### **The role of social media and professional online presences of the platforms**

47. According to the documented pattern, the initiation of business relationships regularly took place through professionally designed websites and landing pages as well as paid online advertising, in particular on social media. Interested persons were redirected to registration pages, induced to enter contact details there and subsequently contacted by call-centre employees by telephone. Typically, this registration did not yet constitute an independent investment decision, but served to generate contact data for subsequent telephone approaches by call-centre employees.

### **First payment as the functional beginning of the chain of loss**

48. After registration, a call-centre employee would regularly telephone the person and present himself or herself to the investor/customer as an employee of an allegedly reputable financial services company. As part of this so-called onboarding, credit card data, identity documents and address or other supporting documents of the investor/customer were routinely requested, thereby simulating a professional customer-data collection process. At the same time, during the first-deposit process, the operators attempted to obtain as much information as possible about the person's living circumstances, including income and assets; this served to prepare the subsequent monetisation process. As a result of the initial call, a trading account was regularly opened by making an initial payment of EUR 250 or EUR 350.<sup>9</sup>
49. The description of the modus operandi in the Gal Barak criminal file shows that the initial payment represents only the conversion phase of a single fraud system. This phase was followed by retention and recovery by design, meaning ongoing contact, trust-building,

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<sup>8</sup>A. 1. Conviction Gal Barak, Vienna 1 September 2020, 122 Hv 4/20g; A. 2. Indictment Fitelzon, Bamberg, KLS 730 Js 1545/18, A. 5. Indictment Tzroya, Vienna 14 July 2021, 9 St 9/21m

<sup>9</sup>K. 11. Witness statement of Ilse Noeldeke dated 12 March 2026 (E 30368/22)

follow-up acquisition, prevention of withdrawals and further incentives to deposit. The economic steering took place via the net-deposit model, in which chargebacks and withdrawals were expressly treated as risks of the system. It is therefore clear that the initial payment, also referred to as the First Time Deposit, should not be understood as an isolated individual transaction but as entry into a continuing fraud and extraction architecture.<sup>10</sup>

50. The call-centre instructions found in the Gal Barak criminal file 112 Hv 4/20g expressly instructed staff first to build trust with newly depositing customers through small trades, to address credit cards as the preferred funding instrument and, after one to two weeks, to demand further deposits in a targeted manner. Objections were addressed systematically using prepared scripts. Particularly revealing is the fact that the use of VISA and Mastercard was to be used vis-à-vis customers precisely as a signal of legitimacy, by rebutting negative scam allegations with the argument that a fraudulent company would not work with VISA/Mastercard and the associated banks.<sup>11</sup>
51. In addition, in the secured Skype chat between Uwe Lenhoff (“betsafe”) and Lorenzo, an affiliate manager, on 3 May 2017 at 11:22, remuneration was expressly linked to a “first deposit”, namely “bei 100 Euro FTD, 250 Euro CPA”, with chargebacks, fraud and customers who did not trade being deducted. This shows that, from Lenhoff’s perspective, the initial payment was not merely a minor individual transaction, but the economically qualifying conversion that marked the transition from a mere lead to a monetisable customer and made the subsequent extraction possible.<sup>12</sup>
52. The analysis of the German and Austrian Barak victim lists also quantitatively confirms this funnel function of the initial payment. For 10,028 accounts with at least one confirmed external payment, the first confirmed external payment was made explicitly by credit card in 6,778 cases, or 67.59%. In 7,745 cases, or 77.23%, the first confirmed payment was either explicitly made by credit card or via a payment channel named as Payvision. On a broader view of card- or PSP-based incoming channels, the figure was 9,541 cases, or 95.14%. The data do not prove that every initial payment was invariably a credit card payment. They do, however, show that the card- or PSP-based initial payment formed the typical point of entry into the monetised fraud funnel in the documented payment sequence.
53. This function becomes particularly clear for those accounts where later bank payments followed the first confirmed payment. In Germany and Austria there were 529 accounts where a confirmed bank payment followed a first confirmed payment. In 332 of these cases, or 62.76%, the first confirmed payment was a credit-card payment or a payment expressly identified as Payvision; including further card- or PSP-based incoming channels, the figure was 415 cases, or 78.45%. A substantial share of the later bank-payment volume was attributable to these groups: where the first entry point was credit

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<sup>10</sup>K. 9. How the fraud works (ON 912; LKA NÖ; 122 Hv 4/20g)

<sup>11</sup>K. 1. Call center instructions

<sup>12</sup>K. 2. 03052017 Chat between Lenhoff and Lorenzo reg. Conversion FTD and CPA

card/Payvision, EUR 4,314,025.55, or 65.26% of the total evaluated EUR bank-payment volume; on the extended card/PSP-based view, EUR 5,375,884.55, or 81.33%. The median initial payment in this group was EUR 250, whereas the median later bank payment was EUR 4,000.

54. According to the available documents, the transmission of card data, identity documents, address proofs and other documents requested during account opening had not only a trust-building function towards the persons affected. Rather, the seized CRM records and chat logs of the Lenhoff/Barak organisations indicate that these data and documents were also used for the subsequent technical and operational processing of further payment transactions.

#### **Use of the data requested during the conversion process**

55. According to the chat logs between Uwe Lenhoff and Valentin Sotor, an employee of the Lenhoff organisation, contained in the Saarbrücken criminal file, the identity and address documents were subsequently transmitted to requesting banks as supporting evidence in connection with customer bank payments. Thus, the Know-Your-Customer (KYC) verification carried out during onboarding was used not only as part of the deception of customers, but also for the operational preparation and safeguarding of further payment channels.<sup>13</sup>
56. Card data were also requested in order to make repayments in the event of so-called test withdrawals. In this way, the opacity of card transactions was deliberately used to create an impression of legality and seriousness among investors/customers.

#### **Call-centre employees as supposedly experienced investment advisers**

57. The call-centre employee assigned to the investors/customers upon the initial payment, a supposedly experienced investment adviser, formed the direct communication channel with the affected persons. Through this channel, investors/customers were guided through the opening of the purported trading account, the first credit-card deposit, the transmission of documents, the use of the online account and the further payment sequence. Later deposits were not tied to a single payment method, but could be made by credit card or bank transfer depending on the individual case, investor behaviour and instructions from the platform organisation. What is essential for classification, however, is that these later payments were regularly based on the same platform, communication and payment relationship that had previously been created.
58. In numerous cases, a smaller payout or apparent profit payout, a withdrawal or test withdrawal, occurred during the customer relationship. According to the findings in the criminal files, such withdrawals were processed through the connected payment or acquiring structure. They could give the affected persons the impression that the platform was in fact functioning and that payouts were possible. According to the

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<sup>13</sup>K. 3. Chats between Lenhoff and Sotor regarding KYC for bank deposits.

criminal files, withdrawals were made in order to induce further high deposits by investors or to de-escalate the situation with the respective investor.<sup>14</sup>

### **Multi-layered account, forwarding and settlement structures**

59. According to the available documents, within the Lenhoff/Barak structures there was a multi-layered payment, account, forwarding and settlement structure with interposed companies, merchants, payment service providers and bank accounts. This structure served not only to receive customer funds, but also to record, forward, partially pay out and operationally maintain functioning payment channels. For outsiders, particularly investors/customers, it was therefore regularly not apparent through which payment service provider, which acquirer, which settlement account or which downstream recipient structure their payments were actually processed.
60. Such structures are typically dependent on the ability to replace individual accounts, merchant IDs or companies at short notice when bank reviews, increased complaint or chargeback risks, lack of economic plausibility or cross-border anomalies arise. For the continuation of the model, it was therefore essential whether new merchant, MID, account or settlement structures could be created or adjusted quickly and with as little friction as possible.
61. The accounts of the platform organisation classified in the criminal files as a fraud complex also regularly show a rapid transfer of received funds to downstream recipients. This too served the purpose of avoiding freezing and reversal mechanisms and making access to the funds more difficult.
62. The payment structure therefore had not merely a technical processing function, but was a central component of the economic execution and shielding of the overall model.

### **The special function of merchant and settlement structures**

63. Compared with the direct receipt of bank transfers into bank-side omnibus accounts, technical connection to acquiring and/or other PSP structures such as EMI institutions offers particular advantages. Customer deposits could be processed through the settlement structures provided by the acquirer and thereby initially received in bank accounts, usually trust accounts, of the acquirer. This created an additional technical and economic layer between the cardholder, the formal merchant and the downstream recipient.<sup>15</sup>
64. If such a structure succeeds in concluding a card-acceptance agreement with an acquiring institution or payment service provider, this enables not only the acceptance of card payments. At the same time, it creates an infrastructure for authorisation, descriptor use, gateway connection, reporting, chargeback handling and, where

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<sup>14</sup>K. 4. Summary about Withdrawals (ON 735; LKA NÖ)

<sup>15</sup>K. 12. Card payments were the only ones with technical APIs within the Barak/Lenhoff platforms

applicable, payouts to third parties. These functions can be of considerable importance for the operational stability of such a platform model.

65. For cardholders, issuing institutions and third parties, it is often not readily apparent through which acquirer, which gateway, which settlement account or which downstream recipient structure a transaction is actually processed and forwarded. This applies in particular where descriptors change, where merchant companies are interposed, where multiple MIDs, third-party settlements or onward transfers to economically connected recipients that do not formally appear as merchants are used.<sup>16</sup>
66. For the scalability and continuity of such structures, it can therefore be decisive whether a connected acquirer or payment service provider not only accepts card payments, but also operationally enables settlement payouts, chargeback processes, reserve mechanisms, payout channels and adjustments to merchant or MID structures. This is precisely where the role of payment infrastructure becomes relevant to the overall model.
67. The chat between Dahlgren and Lenhoff of 11 March 2016, 16:41, is a particularly significant document regarding the function of interposed payment service providers. Dahlgren explained that the structure was “more complicated than Payvision” because one had to use “2 or 3 processors along the way” “that pay each other in order to hide the source”. The internal communication therefore expressly describes that multi-layered payment processors were used not merely for technical reasons, but also to conceal the origin of the funds. This passage is relevant for assessing the Payvision structure because it illustrates the functional advantage of a powerful acquiring infrastructure: Payvision could bundle card acceptance, gateway, settlement, reporting and payout processes in such a way that continuing the platforms was simpler and more efficient than using alternative, multi-layered payment routes.<sup>17</sup>

## The role of Payvision according to Booker’s statements

68. Against the background of the above-described, division-of-labour Lenhoff/Barak platform structures, which were classified by German and Austrian criminal authorities as fraud complexes, Payvision’s role in the practical payment processing of the connected platforms must be examined separately.

### **Classification of Booker’s statements as self-reporting and party presentation**

69. The statements made by Rudolf Booker as CEO of Payvision on 23 May 2019 and 12 July 2019 to Austrian criminal prosecution authorities provide an initial frame of reference for Payvision’s role in connection with the Lenhoff and Barak platforms. These statements concern in particular the processed volume, the merchant companies used, the beneficial owners, the product environment, and chargeback, fraud and reporting

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<sup>16</sup>K. 8. Descriptor equals the name of the website, shown on the card statement

<sup>17</sup> K. 10. 11032016 chat explaining why scammers like to work with card companies

data.<sup>18</sup>

70. Booker's statements should not be treated as a complete or neutral presentation of the facts, but as the company-side presentation of a directly affected payment service provider. On the one hand, they contain substantial self-reported information from Payvision concerning processed volumes, merchant structures, beneficial owners, product environment, risk indicators, suspicious activity reports and internal control processes. On the other hand, they contain statements which, according to the file materials, are objectively refutable in individual central points, or at least incomplete, contradictory or subsequently relativising. This concerns in particular the completeness of the listed platforms, the presentation of the services provided by Payvision/Acapture, the actual reseller or partner role of Lenhoff, the FinTelegram timeline and the alleged termination of the business relationships at the end of 2018.

#### **Booker's own operational role at Payvision**

71. According to his own statements, Booker's duties as CEO of Payvision primarily included the day-to-day management of the company. In addition, Booker was involved in the company's strategic direction, was responsible for consultancy and acquisitions on behalf of Payvision, and was legally authorised to represent Payvision externally.

#### **Processed volumes, merchant allocation and platforms**

72. According to Booker, during the period from September 2015 to January 2019 Payvision processed card payments totalling EUR 77,774,013.09 for the platforms operated by Gal Barak, namely optionstars/global, xtraderfx, safemarkets and goldenmarkets. In connection with these transactions, according to the submitted schedules, 4,058 chargeback requests and 2,392 fraud reports were sent to the issuing institutions and forwarded by them to Payvision. The formal merchants according to these statements were Markets Development EOOD, Bulgaria; Gpay Ltd, UK; Optiumcommerce OU, Estonia; Cool Markets OU, Estonia; and Matching Blue Consulting SLU, Spain.<sup>19</sup>
73. For the platforms attributed to Uwe Lenhoff, namely option888, zoomtrader/global, xmarkets, tradeinvest90 and tradovest, Booker stated that total processed card volume from February 2016 to January 2019 amounted to EUR 55,645,595.48. According to these schedules, there were 2,173 chargeback requests in a total amount of EUR 2,050,890 and 1,455 fraud reports.

#### **Product knowledge: binary options, CFDs, crypto and MCC 6211**

74. Booker confirmed that Payvision knew that the connected platforms involved offers in the area of online trading in financial products, in particular binary options and later also CFD- and crypto-related products, aimed at retail investors. In his statement of 23 May

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<sup>18</sup>B. 2. Rudolf Booker statement dated 12 July 2019

<sup>19</sup>B. 3. Die in den Payvision-Unterlagen ausgewiesenen Summen differieren je nach Auswertung, Zeitraum, Währungskonversion und einbezogenen Merchants geringfügig. Soweit im Folgenden unterschiedliche Werte erscheinen, werden diese auf die jeweils zugrunde liegende Quelle zurückgeführt

2019, Booker expressly described that, in connection with a fee increase, Lenhoff and Barak had announced that they would convert the binary-options platforms to CFD and crypto products and that Payvision could in principle agree to continue processing under these changed conditions.

75. Booker also confirmed the authenticity of the agreement for payment processing with Gal Barak platforms dated 27 July 2018 presented by the criminal prosecution authorities, which showed MCC code 6211. The MCC issue is addressed separately below.

### **Chargebacks, fraud reports, SAR/FIU reports and AML/KYC processes**

76. The schedules submitted by Payvision show that the merchants connected to Payvision for the Lenhoff/Barak platforms had chargeback rates of regularly 2% to 20% per month over several years. These figures exceeded by many multiples the thresholds set by the card organisations VISA and Mastercard. In this section, these statements are reproduced as self-reported information from Booker or Payvision; the risk, handling and fee consequences are classified separately below.
77. For the Barak platforms, Booker also confirmed that the later processing fee of 7% was based, among other things, on increased chargeback rates and the passing on of reseller fees. The details of the fee and premium level are set out in the section “Fee structure, risk premiums and economic effects of the business relationship”.
78. Booker further states that, between 23 August 2016 and 11 January 2019, he reported a total of 273 suspicious activity reports to the Dutch FIU for possible money laundering or terrorist financing in relation to the platforms of Barak and Lenhoff.

Celtic Pay Ltd Total	22
GPAY LTD Total	186
Hithcliff LTD Total	16
Markets Development Total	45
Payific Limited Total	4
<b>Grand Total</b>	<b>273</b>

79. In addition, in his statement of 23 May 2019, Booker described Payvision’s internal AML, KYC, sanctions and monitoring processes. These included ongoing sanctions checks, World-Check/OFAC/EU/UN screening, structure reports, regular reviews of beneficial owners, high-risk reviews and the internal SAR process. These statements are relevant for the later assessment because they show that Payvision had institutionalised mechanisms for identifying and escalating anomalies.

### **Knowledge of merchant, UBO and third-party payment structures**

80. Booker confirmed in his statements that the companies with which Payvision concluded the formal merchant agreements were not necessarily identical, from Payvision’s

perspective, with the economically decisive persons. Rather, he stated that he knew that Lenhoff and/or Barak were the beneficial owners of the companies and/or platforms involved. In the Lenhoff complex, he named in particular Payific Ltd, Hithcliff Ltd and Celtic Pay Ltd; in the Barak complex, he named Markets Development EOOD, Cool Markets OU, Optiumcommerce OU, Matching Blue Consulting Ltd and Gpay Ltd.<sup>20</sup>

81. Booker's own statements therefore document knowledge of a multi-part structure consisting of platforms, formal merchant companies and the economic actors behind them. This applies not only to the merchants used, but also to the economic attribution of the business relationships.
82. Booker also confirmed that payments were not made exclusively to the formal merchants, but were also forwarded to other recipients on the instruction of a merchant. This is particularly clear in the case of New Markets S.A., which Booker described in the second questionnaire as a mere beneficiary of a Payvision merchant. In essence, Booker thereby confirmed a settlement model under which funds from the Payvision structure did not necessarily remain with the formal merchant, but could also be forwarded on instruction to other recipients in the economic environment of the platforms.

#### **Lenhoff's reseller/partner role and the contradiction between 23 May and 12 July 2019**

83. According to his own statement, Booker met Uwe Lenhoff in the winter of 2015 and, from the summer of 2016 onwards, also came into direct personal contact with Gal Barak through Lenhoff.
84. On the issue of Lenhoff's reseller or partner role, Booker made divergent statements in his two statements. On 23 May 2019 he stated that Lenhoff became the reseller of Gal Barak's connected accounts in July 2018; on 12 July 2019 he stated that the reseller application form submitted had merely been used to apply for a partner account, but that the application had been rejected and no contract had been concluded.

#### **FinTelegram timeline and termination of the business relationship at the end of 2018**

85. Booker stated that concerns regarding the businesses of Lenhoff and Barak arose at Payvision only after the first reading of an article on the FinTelegram website on 24 September 2018. At the same time, Booker's own statements and the further file materials already contain, for periods before 24 September 2018, information on chargeback and fraud figures, FIU/SAR reports, internal AML/KYC/risk processes and identification of beneficial owners behind formal merchants. This temporal comparison is relevant for the later assessment of Booker's description of when awareness of the problem arose.

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<sup>20</sup>B. 3. Die behördliche Zusammenfassung der LKA NÖ ordnet die von Payvision genannten formellen Unterzeichner zudem ausdrücklich nicht als operative Betreiber ein, sondern als Personen mit treuhänderisch übernommenen Funktionen bzw. als Strohleute; als faktische Eigentümer und Betreiber werden Uwe Lenhoff und Gal Barak beschrieben, die auch die Verhandlungen mit Payvision führten. Damit wird die von Booker bestätigte UBO-Kennntnis durch die strafbehördliche Einordnung der Merchant-Struktur zusätzlich verdichtet.

86. According to Booker, the business relationships were terminated at the end of 2018 after the chargeback rates had not been reduced to an acceptable level despite several warnings. He stated that termination letters had been sent on 6 and 31 December 2018. Further documents, however, record communication between Booker, Lenhoff and the Barak environment after December 2018, as well as discussions about solutions, new structures and the further course of action. The question whether the termination steps described by Booker led to an immediate, clear and complete factual termination of the business relationships therefore requires separate assessment.

### Limits of the Booker presentation: omissions and contradictions

87. The criminal files of the Barak complex show that Payvision also processed card payments for further Barak-attributed platforms, including binex.ru, Easytrade and CMarkets, which were not listed in Booker's statements.
88. This is particularly clearly documented for CMarkets. In a chat extract, a transfer confirmation from Banco de Sabadell was transmitted, according to which on 3 September 2018 an amount of EUR 473,566.62 was transferred from Stichting Trusted Third Party Payvision to Matching Blue Consulting SLU; the booking text expressly refers to "MID 75071753 Trade Name CMarkets." CMarkets was not listed as a platform in the Booker schedules.<sup>21</sup>
89. The same follows from an email from Tsanko Arabadzhiev to Gal Barak dated 21 January 2019. In it, Arabadzhiev transmitted a list of the companies with which Payvision had contracts for platforms operated by Barak. In addition to the platforms named by Booker, binex.ru is also named, with Binex Ltd as merchant. Booker's presentation is therefore in any event not to be understood as a complete list of all Barak platforms processed via Payvision.<sup>22</sup>
90. Booker also did not name the platforms Easytrade and Brokerzunion. Both platforms were connected to Payvision and were processed via Dreamspay, a payment service provider attributable to the Lenhoff/Barak group. Corresponding communication is also available as evidence in the criminal files.<sup>23</sup>
91. The incompleteness of the Booker presentation concerns not only the number of platforms named, but also the functional breadth of the services provided by Payvision and the Payvision Group. The details concerning gateway, reporting, reconciliation and settlement services, as well as the involvement of Acapture B.V., are presented separately below on the basis of the contractual and file documents.
92. The incompleteness of the Booker presentation also concerns the operational depth of Payvision's chargeback handling. Booker essentially presented the high number of chargeback requests as a statistical anomaly, an economic risk factor and a later reason

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<sup>21</sup>B. 4. Payvision also processed CMarkets, ON 543 122 Hv 4/20g

<sup>22</sup>B. 4.2. Binex.ru is also processed by Payvision

<sup>23</sup>B. 4.1. PV also processed Easytrade and Brokerzunion

for termination. The criminal files show, however, that Payvision did not merely know aggregate chargeback rates, but was also involved in the handling of individual chargeback cases. “Payvision Chargeback Notifications” sent by pvchargebacks@payvision.com to the Barak/Lenhoff organisations are documented; they included, among other things, Case ID, ARN, amount, currency, reason code, reason description, first chargeback date, processing date, response deadline, acquirer name, merchant ID and merchant name. In one documented case concerning zoomtrader.info, Payvision was expressly named as acquirer; replies were to be sent to PVChargebacks@payvision.com.<sup>24</sup>

93. The internal communication of the Lenhoff structure also shows that these Payvision notifications triggered operational response processes. On 25 April 2017, Valentin Sotor described that he and Ivan received a notification from Payvision, identified the affected customer account, informed Durim or the call centre of the chargeback request and user ID, had the account blocked and collected documents for chargeback defence. A concrete involvement of Payvision in the handling of individual customer complaints and chargeback cases is therefore documented, which is not reflected accordingly in Booker’s summary presentation.<sup>25</sup>
94. In addition, according to the available documents, Payvision’s sister company Acapture B.V. was also active for the Lenhoff platforms.
95. Finally, the criminal files document that the Payvision structure was also used for payouts to customers. The details of these withdrawals are set out separately below.

## The role of Payvision according to the criminal files

96. The documents secured in the course of the criminal investigations, in particular the chat logs between Lenhoff and Dahlgren, Lenhoff and Barak, and further participants, the contractual and due-diligence documents, the account and settlement documents, and the money-flow analyses, document a functionally broader role of the Payvision Group than emerges from Booker’s statements alone.
97. The further presentation organises this file material into eight factual complexes: merchant and MID structures; gateway, reporting, settlement and Acapture services; withdrawals; MCC/MOTO processing; warning and escalation signals; personal and business interconnections; third-party settlements; and fee and premium arrangements.
98. These complexes are not presented in isolation, but in their temporal and factual context. The records document in particular changing merchant, MID, account and settlement structures, bank freezes, regulatory warnings, chargeback and fraud rates, compliance indications, and events in which Payvision or Payvision employees appear as contracting parties, contact persons, approval points or participants in settlement,

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<sup>24</sup>N. 2.3. 18012017 email example for a chargeback notification from Payvision

<sup>25</sup>N. 2.4. role of Payvision in resolving chargeback complaints

merchant and payout processes.

## Documented merchant structures, merchant changes and allocations

99. The circumstances presented below concern the structure of the contractual merchants, also referred to as merchants in card-acceptance terminology, through which payment processing for the Lenhoff and Barak platforms was organised. The available documents indicate that Payvision was involved in creating, adjusting and continuing these structures not only as a technical processor, but also in a preparatory, coordinating and continuity-enabling function.
100. As early as the beginning of 2016, the documents record involvement in creating, adjusting and maintaining those merchant structures through which the platforms were connected to payment processing. This concerns in particular the selection or acceptance of formal merchants, the establishment of suitable corporate and banking structures, the connection of further platforms to existing merchants, and repeated migration to new merchant and MID structures. According to the available documents, the ongoing changes were connected with warnings from supervisory authorities, bank-account freezes and increasing complaint, chargeback and compliance problems.
101. Since the operating companies displayed on the online platforms were predominantly based in offshore jurisdictions, European companies were interposed that appeared to Payvision as formal merchants.
102. Payvision's use of European companies as merchants is connected with the regulatory and licensing framework, in particular the territorial scope of its authorisation as a payment institution by the Dutch regulator DNB and the geographical requirements of the VISA and Mastercard licence structures, which limited Payvision's activities to payment processing for merchants established in the EU.<sup>26</sup>
103. For the Lenhoff platforms, the formal merchant companies used in succession in relation to Payvision were Payific Ltd, Malta, from January 2016 to March 2017; Hithcliff Ltd, UK, from March 2017 to April 2018; and then Celtic Pay Ltd, UK, from April 2018 onwards. Each of these companies concluded payment-processing agreements with Payvision; separate MIDs were subsequently assigned to the respective platforms.<sup>27</sup>
104. For the Barak platforms, the companies used as merchants were Gpay Ltd, UK, for xtraderfx and cryptopoint; Binex Ltd, UK, for binex.ru; Cool Markets OU, Estonia; Matching Blue Consulting for goldenmarkets; Optiumcommerce OU, Estonia, for safemarkets; and Markets Development EOOD, Bulgaria, for optionstars/global.<sup>28</sup>
105. According to the findings of the Austrian and German criminal authorities, both the operating companies and the formal merchant companies were companies with no own

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<sup>26</sup>L. 1 Affidavit of Maria Alida Johanna Ruijters-Terpstra; (Case 2.20-cv-01405-JCM-VCF; Document 103-2; Filed 11 09 2020)

<sup>27</sup>B. 3. Payvision summary established by the Austrian BKA (ON 324)

<sup>28</sup>B. 3. Payvision summary established by the Austrian BKA (ON 324)

business operations and no own employees. The companies had either been incorporated shortly before onboarding with Payvision, as in the case of Celtic Pay Ltd, Gpay Ltd and Optiumcommerce OU, and/or had no corporate history.

106. At Payific Ltd and Hithcliff Ltd, the merchants of the Lenhoff platforms, the beneficial owners and directors were provided by professional incorporation or corporate-service providers; in the Barak complex as well, the formal officeholders were not independently operating persons. For example, Georgie Komisarov, the director of Gpay Ltd, the merchant for which Payvision processed a total of EUR 37.5 million in investor funds between autumn 2017 and the end of January 2019, could not be located by the Austrian criminal prosecution authorities.<sup>29</sup>
107. According to the authorities' findings, neither the operating companies nor the counterparties used vis-à-vis Payvision held a valid MiFID licence in the EU for offering and selling the financial instruments offered. Nor did the merchants hold a financial-services licence that would have permitted them to receive and forward funds in the EU.<sup>30</sup>
108. According to Payvision's schedules, these companies processed the following volumes from February 2016 to January 2019.<sup>31</sup>

	Sum Transaktionen	Anz Transaktionen	Sum Chargeback	Anz Chargeback	Sum Fraud	Anz Fraud
Payific Ltd	18.272.610,96 €	73.665	613.041,87 €	667	372.237,76 €	650
Hithcliff Ltd	27.547.372,92 €	36.848	1.059.749,17 €	1.162	353.792,57 €	631
Celtic Pay Ltd	9.826.550,91 €	12.104	378.170,62 €	344	58.923,66 €	174
<b>Zwischensumme</b>	<b>55.646.534,79 €</b>	<b>122.617</b>	<b>2.050.961,66 €</b>	<b>2.173</b>	<b>784.953,99 €</b>	<b>1.455</b>
Markets Development	28.101.859,97 €	26.843	2.125.984,71 €	1.252	1.065.605,74 €	971
Cool Markets	1.750.215,06 €	1.427	104.127,50 €	50	18.382,05 €	28
Optiumcommerce	4.806.545,28 €	4.868	819.898,78 €	310	51.485,14 €	103
Matching Blue Consulting	3.487.272,43 €	2.684	384.003,55 €	204	68.850,48 €	83
Gpay Ltd	37.464.887,13 €	34.195	3.849.711,24 €	2.242	1.491.477,50 €	1.144
<b>Zwischensumme</b>	<b>75.610.779,87 €</b>	<b>70.017</b>	<b>7.283.725,78 €</b>	<b>4.058</b>	<b>2.695.800,91 €</b>	<b>2.329</b>

109. Against this background, the repeated creation, adjustment and continuation of new merchant structures in relation to Payvision is of particular importance for the further assessment.
110. It should be noted that, although the merchants and MIDs changed over time, Payvision consistently used the same descriptors for the processing of the platforms, i.e. the designations shown on card statements.

#### Support in building the corporate structure used for merchant connection

111. The chat messages on the Apple iPhone 6 between Lenhoff and his employee Hans Dahlgren indicate that Booker and Cheng were involved as early as January 2016 not only in questions of ongoing payment processing, but already in advance of the actual

<sup>29</sup>J. 5.1. CEO of Gpay Ltd can not be found (ON 807)

<sup>30</sup>N. 5. Warnings of the supervisory authorities regarding the offering of financial instruments without a MiFID License

<sup>31</sup>B. 3. Payvision summary established by the Austrian BKA (ON 324)

merchant connection in selecting the corporate and jurisdictional structure to be used for this purpose.<sup>32</sup>

112. This is shown in particular by the communication of 14 and 15 January 2016. On 14 January 2016 Lenhoff first asked Dahlgren whether he could speak with Cheng to clarify “what we need to start with Payvision from Guernsey”. In Cheng’s reply of 28 January 2016, forwarded by Dahlgren, Cheng stated in substance that they had not used a structure in Guernsey before and recommended continuing with the solution already found. Even clearer is Booker’s wording forwarded on 15 January 2016: “Just find a company that can incorporate you there.” On 27 January 2016, Dahlgren then asked further whether it could be clarified with Payvision “which company they used to set up the Guernsey account”. This communication indicates that Payvision was not first involved after a finished merchant structure was available, but already at the stage of its selection or establishment.<sup>33343536</sup>
113. This communication stands out from the previously documented difficulties in obtaining VISA/Mastercard connection for the online platforms via other payment institutions. On 23 October 2015 at 18:08, Dahlgren wrote to Lenhoff that the only uncertainty concerned VISA/Mastercard; every time they thought all requirements had been fulfilled, the bank requested further documents: “The only uncertainty is VISA/Mastercard. Every time it seems we are done, the bank asks for more documents. Hopefully, the ones we sent them this week will be the last ones.”<sup>37</sup>
114. The documented picture also corresponds to the allegations made in claims brought in the United States between 2019 and 2022 against Payvision, in which Payvision was likewise accused of assisting merchants in building European corporate structures to enable card connection.<sup>38</sup>

#### **Booker and Cheng as contacts for bank connections and account openings**

115. The chat messages indicate that Booker and Cheng were repeatedly involved from January/February 2016 onwards as contacts for bank-related matters, in particular possible bank connections and account openings.

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<sup>32</sup>EV BIO, Auswertung Asservate, Handys LENHOFF, Apple iPhone 6 Stichwort “Hans”; Band I – Band IV für den Zeitraum September 2015 bis September 2017, sowie die Skype Chatprotokolle Lenhoff-Dahlgren vom 13.02.2018 bis 23.01.2019)

<sup>33</sup>L.2.2. 14012016 Chat about Cheng and Guernsey, page 241 Bd. I

<sup>34</sup>L.2.3. 28012016 Cheng advises against Guernsey, page 344, Bd. I

<sup>35</sup>L.2. 15012016 Lenhoff forwards communication with Booker, page 279, Bd. I

<sup>36</sup>L.2.4. 27012016 Dahlgren pushes Lenhoff regarding Guernsey, page 343, Bd. I

<sup>37</sup>L.2.1. 23102015 Dahlgren explains the situation with the acquirers, page 40, Bd. I

<sup>38</sup>L. 1.1 Ibuumerang LLC vs. T-Payments LLC, Payvision B.V.; Case: 2:21-cv-01611-JCM-VCF; Document 1; Filed 31 08 2021 und L. 1.2. Gaia Ethnobotanical LLC vs. T-Payments LLC, Payvision B.V. Case: 2:22-cv-01046-CDS-NJK, Document 1-1; Filed 01 07 2022

116. Thus, on 8 February 2016 Lenhoff wrote to Dahlgren: “I spoke with Rudolf today and he will send us 2 banks.” On 11 February 2016 Dahlgren first wrote that he had contacted Cheng but had not yet heard anything regarding the bank accounts. Later the same day he said: “Ok, I just heard back from Cheng... he will give us an introduction to SAXO Bank.”<sup>39</sup>
117. After difficulties arose in connection with Payific Ltd’s bank relationships, including Lensing and Hellenic Bank, Dahlgren told Lenhoff on 29 August 2016 that he would discuss the matter again with Payvision and check whether they could set up an online bank account for him: “they can set up an online bank account for us”.<sup>40</sup>
118. In the message of 30 August 2016 as well, Dahlgren informed Lenhoff that he would come back to Payvision’s offer regarding online banking accounts. Lenhoff replied that he would also call Rudolf regarding banks outside Europe.<sup>41</sup>
119. When Wirecard Bank closed Payific Ltd’s account in early October 2016, Lenhoff again turned to Rudolf Booker for assistance regarding a bank account. Thus, on 13 October 2016 he wrote to Dahlgren: “Okay, and Rudolf has an option in South Africa too”.<sup>42</sup>
120. On 12 September 2017 Lenhoff informed Gal Barak in chat communication that he had had a long meeting with Rudolf Booker and would meet a new bank in Europe the following week that would accept wire transfers from everywhere: “I am okay; had a long meeting with Rudolf and next week with a new bank in Europe which accept wire transfers from everywhere”.<sup>43</sup>
121. The discussion between Lenhoff and Dahlgren of 17 August 2018 concerning the opening of new bank accounts makes it apparent that Rudolf Booker also provided companies to Lenhoff. On 17 August 2018 Lenhoff wrote to Dahlgren: “Is this the company I got from Rudolf?” Dahlgren informed Lenhoff that it was another account at Payment88 for which due diligence had already been carried out: “no, it's another Pay88 account since we have done due diligence with them already”. Dahlgren then informed Lenhoff that he would now also apply for a bank account for the company provided by Rudolf: “will be applying for the Rudolf one now as well”.<sup>44</sup>

#### **Use of Altair Entertainment N.V., Curaçao, as operating company and its subsidiary Payific Ltd, Malta**

122. For the first phase of the Lenhoff structures, the combination of Altair Entertainment N.V., Curaçao, as the operating company displayed on the websites, and Payific Ltd, Malta, as the formal merchant was used. According to Booker’s statement, through

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<sup>39</sup>L.5. Booker helped out with bank accounts; (chats 08022016, page 378; 11022016, page 386; 29082016, page 971; 30082016, page 975; 13102016, page 1066, Gal Barak 12092017, page 196

<sup>40</sup>L.5. Booker helped out with bank accounts

<sup>41</sup>L.5. Booker helped out with bank accounts




<sup>42</sup>L.5. Booker helped out with bank accounts


<sup>43</sup>L.5. Booker helped out with bank accounts (Chat between Gal Barak and Uwe Lenhoff)

<sup>44</sup>L.7. 17082018 Booker provided a company (Skype Chat)

Payific Ltd, option888, getmyads.com, kulbet, lottopalace and later also zoomtrader/global were connected to card processing.<sup>45</sup>

123. According to the available documents, Payvision processed a total of approximately EUR 18.2 million in investor funds via Payific Ltd. The associated bank accounts were maintained at Wirecard Bank AG until the accounts were terminated in mid-September 2016. At the end of November 2016 Payific Ltd opened an account with SATA Bank in Malta.
124. According to the documents, it became apparent as early as 2016 that this structure was not permanently viable. The chats of 31 August 2016 show that the operating company Altair Entertainment could no longer be displayed on the zoomtrader/global and option888 websites following a complaint by the gambling supervisory authority in Curaçao, and that alternatives were discussed taking Payvision's view into account.<sup>46</sup>
125. This was followed in December 2016 by warnings from the Italian authorities against option888 and Payific, which led to discussions within the Lenhoff organisation.<sup>47</sup>

betsafe_de betsafe	14.12.2016 16:59:47(UTC+0)	
i added you in a chat		
Source file: DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x2AE750F (Table: Messages, Size: 69939200 bytes)		
	hans-dahlgren Hans Dahlgren	14.12.2016 17:02:07(UTC+0)
depends if we want to try to fly under the radar for a while now that the italians are aware of O888 etc		
Source file: DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x2AE741A (Table: Messages, Size: 69939200 bytes)		
	hans-dahlgren Hans Dahlgren	14.12.2016 17:02:22(UTC+0)
but easiest by far is to simply use the Hithcliff structure		
Source file: DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x2AE7348 (Table: Messages, Size: 69939200 bytes)		

	hans-dahlgren Hans Dahlgren	27.03.2017 17:04:35(UTC+0)
we've run in to a bit of a problem with the new MID for xmarkets... it basically says xmarkets.com in the application form right next to where it needs to get signed and without a license the Payific directors will not sign it.		
I tried manipulating the form but since (1) it's right next to the signature and (2) we need to send in a hard copy, it's not really possible to do some sort of trick.		
One option is to just sign it (for example as Betim) and see if they are ok with that or to discuss with Cheng/Rudolf about running it without an agreement, so I thought I figured it was best to speak with you before doing either option.		
In the meantime I've pushed forward with the application for Hithcliff/Payvision so that we should be able to get MIDs directly for the unregulated binary shortly... given that they approve the application of course but that we can probably push through.		
Source file: DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x383AC51 (Table: Messages, Size: 69939200 bytes)		

126. A further factor was the refusal by the management of Payific Ltd on 27 March 2017 to sign contractual documents for a new platform with Payvision without a valid MiFID licence. By the end of 2016/beginning of 2017 several factors had therefore accumulated

<sup>45</sup>B.1. Booker statement dated 23. May 2019

<sup>46</sup>L.3.1. 31082016 Dahlgren und Lenhoff discuss Curacao Issues

<sup>47</sup>L.3.2. 27122016 CONSOB warns about Altair Entertainment Ltd, Payific Ltd and Capital Force Ltd (Option888)

that made a change of merchant structure necessary.<sup>48</sup>

### Switch to Hithcliff Ltd, UK, with Capital Force Ltd, Samoa, as operating company

127. As a result of the above circumstances, Dahlgren endeavoured from the end of 2016 or early January 2017 to switch the contracts with Payvision to Hithcliff Ltd, London, UK, as shown by the communication between Dahlgren and Lenhoff of 17 January 2017 and 23 January 2017. Payvision had already had a contractual relationship with Hithcliff Ltd from 2013 to 2015 for processing the online platform zoomtrader/global.com. Even then, there had been repeated VISA penalty payments due to excessive chargeback rates.<sup>49</sup>
128. Hithcliff Ltd was incorporated in 2013. Its shares were transferred to Catherine Ltd, and Stuart Ralph Poppleton acted as director, a person who appears as a formal officeholder in numerous further companies. At the same time, from 2016 onwards Hithcliff came under the scrutiny of the UK companies register because annual accounts had not been filed. This too is relevant to the classification of its function as a formal merchant.
129. In connection with Hithcliff Ltd it is also striking that Stuart Ralph Poppleton, who appeared as director or key representative of Hithcliff Ltd, had already been the subject of negative media reporting before the Payvision relationship at issue. An article by PrintMonthly of 14 June 2013 under the headline “Revealed: the glam ‘Bonnie’ in print farmer case” reported on Stuart Ralph Poppleton or Stuart John Poppleton. The article described allegations in connection with alleged online printing companies, multiple name changes, trading addresses in Companies House records and customers who had paid in advance without receiving the ordered services.<sup>50</sup>
130. The chat logs show that, in April and May 2017, Payvision also reviewed the existence of a MiFID licence in the context of issuing new MIDs for Hithcliff.
131. On 2 June 2017, 13:44, Dahlgren informed Lenhoff that he had received the following information from Philippe at Payvision: “just a quick update regarding the application for Hithcliff. I have managed to make all outstanding items post post compliance, so we can proceed with an approval, Hope to provide with the live details by the mid of next week.”<sup>51</sup>

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hans-dahlgren Hans Dahlgren

02.06.2017 13:44:15(UTC+)

“Just a quick update regarding the application for Hithcliff. I have managed to make all outstanding items post post compliance, so we can proceed with an approval. Hope to provide you with live details by the mid of next week!”

Hurrrraa for Philippe :-)

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<sup>48</sup>L 3.3. 27032017 Payific directors refuse to sign the contracts with Payvision without a MiFID license, page 1442, Bd. III

<sup>49</sup>L.3.4. 23012017 Dahlgren propose that new brands are registered with Hithcliff Ltd, page 1296, Bd. III

<sup>50</sup>J. 2.3. 24072017 negative media about Stuart Ralph Poppleton

<sup>51</sup>L.3.5. 02062017 message from Philippe to Dahlgren displayed in chat message, page 1578, Bd. IV

132. The total volume of investor funds processed via Hithcliff Ltd from August 2017 to May 2018 amounted to EUR 27.54 million; of this, EUR 15.1 million was paid out via MoneyNetInt Ltd. The remaining EUR 12.4 million flowed to Winslet Enterprises EOOD, Bulgaria, a company attributable to Uwe Lenhoff.
133. Hithcliff Ltd was compulsorily struck off the UK register of companies on 17 July 2018 for failure to file annual accounts, apparently unnoticed by the Lenhoff organisation and Payvision. This too underlines that the merchant structures used do not appear as stable, independently operating trading companies, but as continuously replaceable carriers of card connection.<sup>52</sup>

#### **Switch to Celestial Trading Ltd, UK / Celtic Pay Ltd, UK**

134. For several reasons, Dahlgren was forced from January 2018 onwards to work more intensively on a new organisational structure.
135. The triggers were now in particular regulatory and bank-side pressures on the existing Hithcliff/Capital Force Ltd structure.
136. With Celtic Pay Ltd, a new European company was established as the official payment processor of Celestial Trading Ltd in the Seychelles. The chat communication of 10 and 13 April 2018 between Dahlgren and Lenhoff documents that, after the required documents had been signed, a switch from Hithcliff to Celtic Pay was envisaged and new MIDs for Celtic Pay were to go live.
137. On 11 April 2018 Dahlgren informed Lenhoff that he had received the new contracts from Payvision. He pointed out that Payvision apparently believed they were “super high-risk”, since the contract for Celtic Pay Ltd contained a clause under which the beneficial owner had to sign a comprehensive personal guarantee.<sup>53</sup>
138. This is also shown by the statements concerning the treatment of outstanding amounts and the rolling reserve. On 13 April 2018 Dahlgren told Lenhoff that it had been agreed with Payvision that, after the switch to the new MIDs, outstanding amounts would be settled. At the end of May and beginning of June 2018 he then described the planned transfer of parts of the rolling reserve from Hithcliff to Celtic Pay. This communication demonstrates that the merchant switch was connected with an active reorganisation of the existing settlement and reserve structures.<sup>545556</sup>
139. In detail, the following chats are available: on 13 April 2018, 09:56, Dahlgren told Lenhoff that “the UBO ended up signing all the docs after all, so the new MIDs for Celtic Pay will be operational beginning of next week, and as soon as we switch from Hithcliff to the new MIDs, then Payvision would like to settle anything outstanding at that time.” In the

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<sup>52</sup>J. 2.1. Hithcliff Ltd was dissolved on 17 July 2018

<sup>53</sup>L. 4.1. 11042018 (skype chat) Payvision thinks we are super high risk

<sup>54</sup>L.4.2. 13042018 (skype chat between Dahlgren and Lenhoff) about transfer from Hithcliff to Celtic Pay

<sup>55</sup>L.4.3. 29052018 (skype chat between Dahlgren and Lenhoff) Dahlgren explains Lenhoff the MID transfer

<sup>56</sup>L. 4.4. 04062018 (skype chat between Dahlgren and Lenhoff) MID Transfer Rolling Reserve was transferred

message of 29 May 2018, Dahlgren explained to Lenhoff that part of the rolling reserve for Hithcliff would be transferred by Payvision to Celtic Pay and subsequently paid out: “2) move part of rolling reserve from Hithcliff to Celtic Pay so the RR will start to get paid out”. On 4 June 2018, 14:26, Dahlgren provided Lenhoff with further details: “so we are trying to move around 700k to fit Celtic Pays RR and leave around 300k in Hithcliff for future chargebacks and fines.”

hans-dahlgren live:info\_819994 04.06.2018 14:52:56 so we are trying to move about 700k of it to Celtic pays RR and leave around 300k in Hithcliff for future chargebacks and fines

140. It is further relevant that, according to the documents, the customer funds collected for Celtic Pay were paid out to a virtual bank account at Payment88 in the name of Golden Anchor, Hong Kong. In a chat of 5 July 2018, Dahlgren explained that the advantage of this payout route was that the transfer gave “no exposure to Celestial” because the beneficiary was a different company. Irrespective of the later legal assessment, this passage documents that the switch to Celtic Pay involved not only a new merchant, but also, for Lenhoff, a new concealment or distancing logic in the payout path. In a Skype chat of 5 July 2018, 12:10, Dahlgren explained to Lenhoff: “anyways the point is, that sending to the account should not give you any exposure to Celestial etc., since the beneficiary is someone else”.<sup>57</sup>
141. In total, during the period from April 2018 to January 2019, approximately EUR 9.8 million in investor/customer funds was collected through Payvision via Celtic Pay Ltd. According to the available documents, all investor funds were paid out to Golden Anchor, Hong Kong, via virtual bank accounts. The coordinated creation of new MID structures resulted, according to a Payvision schedule of 24 May 2018, in 14 different MIDs for three merchants in connection with six Lenhoff platforms.

### **Repeated due diligence and recurring licensing issue in structure changes**

142. The evaluated documents show that the question of a required MiFID licence was addressed by Payvision not only selectively, but repeatedly, including in connection with merchant and structure changes.

### **Events during the due diligence carried out in February and March 2016 (Payific Ltd)**

143. On 16 February 2016, two weeks after Payvision had gone live with option888, Lenhoff and Dahlgren were still discussing which company would now conclude the contract with Payvision. Dahlgren wrote to Lenhoff at 16:24: “perhaps I will ask them to put the contract on Payific temporarily, and then we switch to Hyper when ready. Ok, I sent all the DD docs to Alex for Payific/Altair.”<sup>58</sup>

<sup>57</sup>L.4.5. 05072018 (Skype chat between Dahlgren and Lenhoff), the money processed via Celtic Pay Ltd was transferred to Golden Anchor, Hong Kong.

<sup>58</sup>L. 7.1. 16022016 Dahlgren and Lenhoff discuss different companies, page 407, Bd. I

144. On 18 February 2016, 10:43, Dahlgren informed Lenhoff that the responsible Payvision employee had answered his email and asked about a licence: “now he answered my email asking about licensing, etc. It looks like he has looked at the docs”.<sup>59</sup>
145. On 1 March 2016, 10:23, Lenhoff informed Dahlgren that Booker had asked for the first time who owned option888 and getmyads.com and that he had named Altair: “they asked me who is the owner of option888 and getmyads let us say Altair”.<sup>60</sup>
146. On 24 March 2016, 10:14, Payvision informed Dahlgren that the payout of funds had been blocked and that Booker would insist that Uwe sign a personal guarantee for the processed amounts: “The funds were placed on hold temporarily as a result of a management decision.... But Rudolf is requesting that Uwe sign a Personal guarantee for the processing of the accounts which are submitted.”<sup>61</sup>
147. In preparation for the upcoming discussion with Booker regarding the requested guarantee, Lenhoff had Dahlgren prepare a list on 24 March 2016, 14:28, of which platforms were still to be processed by Payvision in the future.<sup>62</sup>

hans-dahlgren Hans Dahlgren	24.03.2016 14:28:31(UTC+0)
<b>Now</b>	
option888.com (through Altair)	
<b>Future</b>	
lottopalace.com (through Altair)	
Kulbet.com (through Altair)	
Istbet.com (through Altair)	
bet90.be (through future entity)	
zoomtrader.com (through future entity)	
option888.eu (through future entity)	
Source file: DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x23A8ECE (Table: Messages. Size: 69939200 bytes)	

148. Shortly afterwards, at 15:54, Lenhoff informed Dahlgren that the money at Payvision was free again: “The money Payvision is free.”
149. The issue of the licence is no longer mentioned.
150. The trouble-free integration of the equally unlicensed platform zoomtrader/global with Payvision prompted Dahlgren to state on 1 June 2016, 12:47: “well, I do not think Payvision really cares – it's all just a Binary/Forex transaction from their perspective”.<sup>63</sup>

<sup>59</sup>L. 7. 2. 18022016 Dahlgren informs Lenhoff Payvision is asking for a (MiFID) license, page 418, Bd. I

<sup>60</sup>L.7.3. 01032016 Lenhoff informs that PV asks for the (UBO) ownership information, page 484, Bd. I.

<sup>61</sup>L.7.4. 24032016 PV asks for a personal guarantee, page 540, Bd. I

<sup>62</sup>L.7.5. 24032016 Lenhoff asks Dahlgren to establish a list of websites to be processed by Payvision, page 543, Bd. I

<sup>63</sup>01062016 Dahlgren thinks that PV does not really care about a license, page 769, Bd. II

### **Due diligence in April/May 2017**

151. The communication between Dahlgren and Lenhoff in connection with the due diligence for the new Hithcliff account from April 2017 onwards shows that Payvision also carried out due diligence and asked about a licence in connection with the transfer to Hithcliff.
152. Thus, on 21 April 2017, 16:24, Dahlgren told Lenhoff that Payvision was now also asking about a licence: “The latest update is that we are doing due diligence for the new Hithcliff account. All should be fine, except now they are also asking about a license.” On 21 April 2017 at 16:26 Dahlgren told Lenhoff: “I am pushing Philippe to get us operational asap, but it seems the problem is with their underwriter, who has become more strict recently”.<sup>64</sup>
153. On 25 April 2017, 15:08, Dahlgren again expressed his doubts that Payvision would continue payment processing without a licence: “Sorry, I keep asking about ... but we cannot get the processing accounts for xmarkets or tradeinvest90 without it... at least not with Payvision”.<sup>65</sup>
154. On 10 May 2017, Lenhoff asked Dahlgren about the volume of the transactions processed with Payvision, and after being given a high figure he said: “That's good. Rudolf wants to do business with me in another area where he needs me..”<sup>66</sup>
155. On 15 May 2017, Hans Dahlgren sent Payvision the sub-licence of Global Payment Services Ltd (“GPS”, an unlicensed money-collection point from Montenegro) and wrote to Lenhoff: “will send it to Payvision now to see if they accept it “as” a license”.<sup>6768</sup>
156. On 24 May 2017, 12:06, Lenhoff told Dahlgren that he had had a very good meeting with Booker, including on the issue of the licence. In response to Dahlgren’s question whether Booker had not complained about the high number of chargeback requests, Lenhoff stated that Booker had indeed mentioned the high number of chargeback requests but needed him for other business. “We do other business together.”<sup>69</sup>
157. Lenhoff also told Dahlgren on 24 May 2017 that Payvision would increase the rolling reserve from 10% to 12%.

### **Due diligence for Celtic Pay Ltd in March/April 2018**

158. On 28 March 2018, 15:03, Dahlgren informed Lenhoff that he had submitted the due-diligence documents for Celtic Pay Ltd to Payvision: “by the way, the application and due diligence have been submitted to Payvision now for Celtic Pay Ltd, will start pushing the compliance team”. On the same day Lenhoff informed Dahlgren that Booker had asked

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<sup>64</sup>L. 7.7. 21042017 Dahlgren informs Lenhoff that PV is asking for a license, page 1497, Bd. IV

<sup>65</sup>L.7.8. 25042017 Dahlgren doubts that PV will accept Hithcliff, page 1500, Bd, IV

<sup>66</sup>L.7.9. 10052017 Lenhoff informs Dahlgren that Booker needs him, page 1525, Bd, IV

<sup>67</sup>L.7.10. 15052017 GPS provides a license, and Dahlgren sends it to PV, page 1541, Bd. IV

<sup>68</sup>Wirtschaftliche Eigentümer der GPS waren Lenhoff und Barak.

<sup>69</sup>L. 7.11. 24052017 We do other business together, page 1564, Bd. IV)

him about the new corporate structure.<sup>7071</sup>

159. On 11 April 2018 at 21:10, Payvision sent the relevant contracts for Celtic Pay and requested a comprehensive guarantee from the beneficial owner. Dahlgren told Lenhoff: “besides the usual things, it also includes a Personal Guarantee agreement which basically states that even if the company is shut down, the UBO will be liable for everything that comes up”.<sup>72</sup>
160. Dahlgren commented on this writing: “It seems that they think that the business is super high risk”.

#### **Importance of the merchant structure for continuing payment processing**

161. The events described show that the merchant structures were not a fixed framework, but were continuously adjusted. For the further assessment it is essential that these adjustments occurred in parallel with licensing, banking and chargeback problems.
162. While, according to the available documents, the bank-side incoming and forwarding structures of the Lenhoff/Barak organisation were repeatedly impaired by account freezes, terminations and queries, card processing via Payvision remained in operation for more than three years thanks to the respectively adjusted merchant and MID structures.

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<sup>70</sup>L.7.12 28032018 (Skype chat) Dahlgren submits DD papers to Payvision for Celtic Pay

<sup>71</sup>L. 7.13 28032018 (Skype chat) Booker asks about the new company structure

<sup>72</sup>L. 4.1. 11042018 (Skype chat) Payvision thinks we are super high risk

## The integration of gateway, reporting, settlement and Acapture services

163. The contractual documents found in the criminal files in Saarbrücken show that Payvision acted towards the merchants used not only as an acquiring institution, but at the same time provided technical gateway, reporting, reconciliation and settlement infrastructure. The Payific contract for the Lenhoff platform dated 28 September 2016 already distinguishes between “Payvision Services”, “Gateway Services”, “Acquiring Services”, “Merchant Account”, “Payvision Foundation” and “Settlement”. The Payvision Services were therefore not provided in isolation, but in connection with the Gateway Services.<sup>73</sup>
164. This is additionally confirmed by the Payific appendices. In Appendix 3 of 17 March 2016 the service is expressly described as “E-commerce Credit Card processing (VISA, MasterCard) via the Payvision Gateway”. At the same time, transaction management and reporting via the “Payvision Reporter” were envisaged. The later Payific appendices concerning zoomtrader also show a platform-specific connection via Payvision, including MCC 6211, descriptor, transaction limits, fees, reserve arrangements and settlement account. The documents therefore record not only the formal role as acquirer, but also Payvision’s operational integration into the ongoing payment steering, transaction monitoring, accounting and settlement structure of the platforms.<sup>74</sup>
165. In addition, the Payvision Group was not active for the Barak/Lenhoff platforms only through Payvision B.V. in the area of card acceptance. Acapture B.V. also appears in the criminal files in connection with Lenhoff structures and alternative payment routes or instant payments. According to the available documents, Acapture B.V. was closely connected with Payvision both corporately and personally: both companies were held under Payvision Holding B.V.; there were also management overlaps, in particular through Rudolf Booker, Cheng Liem Li and Gijs op de Weegh. According to the documents found, including chat communication between Lenhoff and Dahlgren from February 2016, Acapture took over the processing of instant payments for getmyads.com in mid-February 2016; on 25 April 2016 a contract was also concluded between Payific Ltd and Acapture B.V. in connection with lottopalace.com.<sup>75/76</sup>

## Execution of withdrawals

166. According to the available criminal files, the Payvision organisation was used not only to receive customer funds, but also for repayments, withdrawals and test withdrawals to customers of the Lenhoff/Barak platforms. In a chat with Uwe Lenhoff dated 25 April 2017, Valentin Sotor, an employee of the Lenhoff platforms, described the withdrawal process as follows: Durim, an employee of the Lenhoff organisation, sent him a list of

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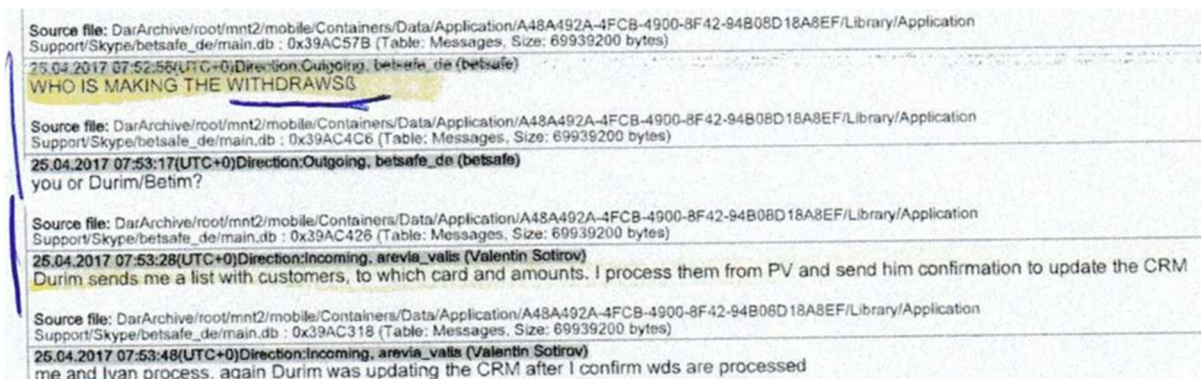
<sup>73</sup>C.1. Merchant contract Payvision und Payific dated 28 September 2016

<sup>74</sup>C. 3. Appendix 3 - Contract between Merchant and Payvision dated 17 March 2016

<sup>75</sup>C. 9. 23022016 Chats showing GMA used Acapture B.V. page 446, Bd. II

<sup>76</sup>C.6. Acapture B.V. contract with Payific Ltd (Lottopalace) dated 25. April 2016

customers, cards and amounts; he then processed these payments with the help of Payvision and subsequently sent a confirmation so that the CRM could be updated accordingly.<sup>77</sup>



167. According to the findings of the criminal authorities, withdrawals on the Lenhoff/Barak platforms were not merely neutral technical repayments. Rather, they served as part of the platform logic: payouts could reinforce the impression among customers that the trading platform was functioning, build trust, defuse complaints and thereby enable further deposits or continuation of the customer relationship.<sup>78</sup>

<sup>77</sup>K.4.1. 25042017 WHO IS DOING THE WITHDRAWALS (Lenhoff/Valentin Sotor)

<sup>78</sup>K.4.2. Summary done by the law enforcement about their findings relating to Withdrawals (ON 735; LKA NÖ)

## Documented use of MCC code 6211

168. The available documents show that Payvision used processing structures for the handling of card turnover of the Lenhoff/Barak platforms that did not accurately reflect the actual regulatory and economic profile of the underlying business.
169. Payvision used Merchant Category Code 6211 for processing the Lenhoff/Barak card payments. According to the card rules, MCC 6211 is allocated to the Securities/Broker/Financial Services sector. The Payific contractual documents provide that Payvision assigns the MCC. According to the cited regulatory warnings, the affected platforms or merchants did not hold the relevant MiFID authorisation. This results in a documented contradiction between card-side categorisation and regulatory authorisation status.<sup>7980</sup>
170. Under the Merchant Agreement Acquiring (v2.1) between Payvision B.V. and Payific Limited, responsibility for assigning Merchant Category Codes (“MCCs”) lies with Payvision. Clause 1.1(u) defines the MCC as the “Merchant Category Code as reflected in the Rules”. The central provision is found in clause 4.4 under “Payvision’s Rights and Obligations” on page 7: Payvision assigns one or more MCCs to the Merchant on the basis of information provided by the Merchant to Payvision regarding its business (“Payvision will assign one (1) or more MCCs to the Merchant”). The same clause expressly clarifies that the specific MCC allocation lies within Payvision’s “reasonable and sole discretion” and that Payvision may change the assigned MCCs at any time following a reassessment of the Merchant. In addition, clause 3.1.19 under “Merchant Undertakings, Representations and Warranties” on page 6 obliges the Merchant to comply with the MCCs assigned by Payvision for each transaction (“adhere to the MCC(s) assigned to it by Payvision with respect to each Transaction”). The contract therefore shows that MCC allocation and later adjustments are carried out by Payvision; Payific, by contrast, is obliged to provide Payvision with accurate information regarding its business and to notify changes so that Payvision can adjust the MCC if necessary.<sup>81</sup>
171. In addition, according to an email of 19 April 2017 and a chat exchange between Dahlgren and Lenhoff, Payvision also carried out MOTO transactions for transactions on the Lenhoff platforms until spring 2018. These are Card-Not-Present transactions without 3D Secure, which, due to their increased fraud and chargeback risk, are subject to special authorisation, monitoring and documentation requirements under the VISA and Mastercard rules. According to the available documents, in practice the card data were entered in this environment by call-centre employees after the investors had transmitted their card data.<sup>8283</sup>

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<sup>79</sup>C. 1. – C. 7 Contracts between Payvision and Lenhoff/Barak platforms

<sup>80</sup>M. 4. 1. 24052018 14 different MIDS for three Merchants and six platforms

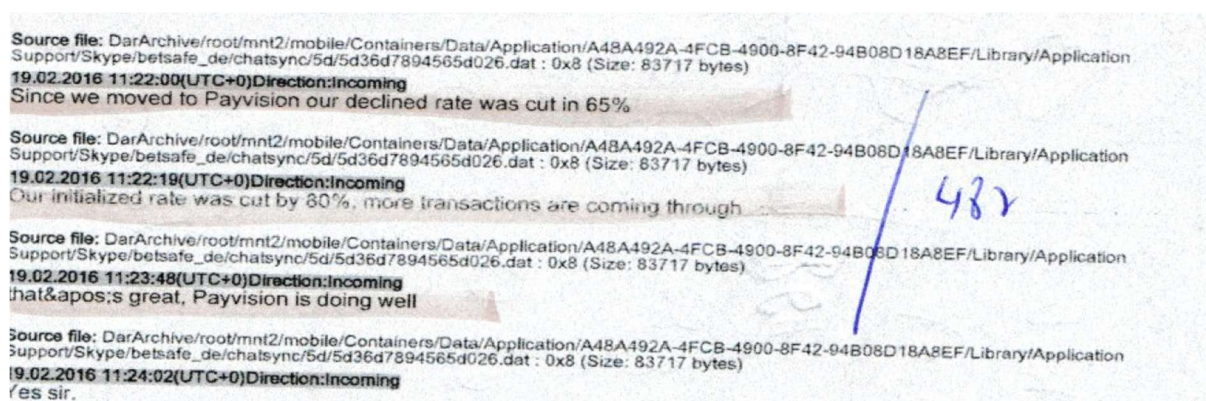
<sup>81</sup>C. 1. 28092016 Contract between Payvision and Payific Ltd.

<sup>82</sup>M. 1.1. 19042017 emails confirming MOTO transactions with Payvision

<sup>83</sup>M. 1.2. 13042018 No Moto transactions any more (chat between Dahlgren and Lenhoff)

### Proven positive effect on the business development of the platforms

172. The operational significance of using MCC 6211 and the MOTO procedure is shown by the secured communication of 19 February 2016 at 11:22. According to this, Lenhoff informed James, the head of the call centre for option888, that through the use of Payvision the decline rate for credit card payments had fallen by 65% and the acceptance rate had increased by 80%. Irrespective of the legal assessment, this communication documents that, from the operators' point of view, the processing setup provided by Payvision was not only functional but also economically particularly advantageous.<sup>84</sup>



173. In the chat communication of 9 December 2015, 15:50, Lenhoff had previously complained to Dahlgren that many customers were being lost because of the 3D procedure, meaning the 3D Secure procedure or 3DS, for card payments: "Hi Hans, we have to shut down 3D for option888; we are losing too many clients".<sup>85</sup>

174. How simple the processing of payment transactions via Payvision was compared with processing through other payment service providers receiving investor funds is also shown by the message from Dahlgren to Lenhoff of 11 March 2016, 16:41: "It is a lot more complicated than Payvision because we use 2 or 3 processors along the way that pay each other in order to hide the source".<sup>86</sup>

175. After the integration of the zoomtrader/global platform with Payvision, Lenhoff expected zoomtrader/global to receive the same boost as option888. In a chat message from Lenhoff to Dahlgren of 1 June 2016 at 13:46, he wrote: "yeah, if they have the same boost we had at option888, it should be amazing".<sup>87</sup>

### Barak platforms also used MCC 6211

176. The use of MCC 6211 is also documented for the Barak complex. In his statement of 12 July 2019, Booker confirmed the authenticity of the agreement of 27 July 2018 concerning payment processing for the platforms safemarkets, xtraderfx, cryptopoint and goldenmarkets presented to him by the criminal prosecution authorities; this

<sup>84</sup>M. 2.1. 19022016 Chat between Uwe Lenhoff and James Lazar

<sup>85</sup>M. 3.1. 09122015 we have to stop using 3D, page 192, Bd. I

<sup>86</sup>M. 3.3. 11032016 It is much easier to use Payvision

<sup>87</sup>M. 2.2. 01062016 zoomtrader integration, page 768, Bd. II

agreement likewise shows MCC 6211.<sup>88</sup>

## Documented escalating accumulation of warning signals

177. According to the available documents, during the course of the business relationships with the Lenhoff/Barak platforms Payvision had both internal and external indications of significant risk, fraud and compliance problems. These were not isolated, easily overlooked anomalies, but a risk situation documented over a longer period and becoming increasingly concentrated.

## Internal indications of significant risk, fraud and compliance problems (chronological presentation)

178. The documented internal risk signals include, first, that even before the immediate cooperation with the Lenhoff/Barak structures Payvision had gained experience with comparable platform and merchant constellations in online trading in financial products. According to the statements submitted by Booker on 23 May 2019 and 12 July 2019, the Cypriot NOVOX Capital Ltd was accepted as a merchant as early as March 2013, before its MiFID licence was issued by CySEC on 4 February 2014. At the same time, Payvision processed payments for NOVOX Capital Ltd not only for regulated platforms, but also for unregulated platforms.<sup>8990</sup>
179. By decision of 5 December 2016, published on 15 February 2017, the Cypriot supervisory authority CySEC imposed a fine of EUR 175,000 on NOVOX Capital Ltd. Of this, EUR 70,000 related to providing investment advice and portfolio management without the required authorisation. A further EUR 10,000 was imposed for failure to ensure continuous compliance with authorisation and operating conditions, in particular because NOVOX did not have adequate internal control mechanisms for approval of advertising materials and did not properly document its business activities. CySEC also imposed EUR 20,000 because the company had not implemented adequate outsourcing policies and procedures in connection with customer support outsourced to third parties. A further EUR 30,000 related to the fact that NOVOX did not act with the required diligence, honesty and professionalism in the best interests of its customers. Another EUR 30,000 was imposed for misleading, unclear and inaccurate information in communications disseminated through sales, customer-service and marketing channels.<sup>91</sup>

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<sup>88</sup>B. 2. Booker's statement dated 12072019

<sup>89</sup>B. 1. Booker's statement dated 23052019

<sup>90</sup>B. 2. Booker's statement dated 12072019

<sup>91</sup>N. 6. 15022017 CySec penalty referring to NOVOX Capital Ltd, <https://www.cysec.gov.cy/en-GB/public-info/decisions/41684/>

180. The merchant accepted by Payvision for operating the unlicensed platform zoomtrader/global was, from 2013, Hithcliff Ltd. Until the acquisition of the zoomtrader/global platform by Lenhoff, Hithcliff Ltd was economically owned by Ilan Tzorya, the principal owner of NOVOX Capital Ltd. From the beginning of the cooperation with Hithcliff in 2013, Payvision was confronted with significant fraud and chargeback anomalies in connection with the zoomtrader/global platform. The records include in particular VISA penalty payments for exceeding fraud thresholds and later charges in connection with excessive chargeback rates.

### Re: Hithcliff Acquirer Monitor Programme Fines

**From:** Martin Mazurek <martin.m@wearezoom.com>  
**To:** Jason Balbuena <j.balbuena@payvision.com>  
**Cc:** Payvision Risk <risk@payvision.com>, ladislav@zoomtrader.com, LironS <lirons@algocharge.com>, martin@wearezoom.com  
**Date:** Fri, 05 Jun 2015 15:30:01 +0200  
**Attachments:** POA.pdf (941,79 kB); letter.pdf (656,93 kB)

Dear Jason,

please find attached letter (supported by POA) which we are going to send by courier to the PayVision Headquarters on Monday. I believe it will help to solve this issue and that you understand importance of this matter.

Best Regards,  
 Martin Mazurek

ZoomTrader  
 mail: martin.m@wearezoom.com  
 phone: +420 725 535 452  
 skype: martin.mazurek

----- Original Message -----

From: "Jason Balbuena" <J.Balbuena@payvision.com>  
 To: "ladislav@zoomtrader.com" <ladislav@zoomtrader.com>; "martin.m@wearezoom.com" <martin.m@wearezoom.com>; "martin@wearezoom.com" <martin@wearezoom.com>  
 Cc: "Payvision Risk" <Risk@payvision.com>  
 Sent: 23. 3. 2015 10:58:03  
 Subject: Hithcliff Acquirer Monitor Programme Fines

To Whom it may concern,  
 During the period September 2013 – September 2014 we have incurred several penalty charges from VISA Europe through their Acquirer Monitoring Programme (AMP).  
 Each month VISA Europe actively monitors levels of Inter and Intra-Regional fraud within the VISA Europe Territory through the Acquirer Monitoring Programme (AMP). This programme is intended to identify high fraud rates and bring them to attention and urgency. Inter-regional fraud is identified as transactions taken place with a cardholder from outside the VE territory, and a merchant within the VE territory. Intra-regional fraud is identified as transactions taken place with a cardholder from within the VE territory, and a merchant within the VE territory.

Programme Thresholds:

Acquirers will enter the programme if fulfilling below thresholds at BID level exceeding in one month:

- 3 times the VISA Europe average Inter-regional fraud to settlement ratio and Inter-regional fraud amount greater than €100k

Or

- 3 times the VISA Europe average Intra-regional fraud to settlement ratio and Intra-regional fraud amount greater than €100k


Due to this we lamentably have removed funds totalling \$24,078.19 from balances held by ourselves on your behalf, in accordance with our agreement. This amount corresponds to the amount of fraud charges incurred by yourselves.  
 We appreciate that the time it has taken to action this may be somewhat inconvenient, however we shall endeavour to work closely with you to monitor your fraud levels and prevent any further charges being levied in the future.  
 Should you have any queries regarding this matter please contact us directly and we would be more than glad to assist you.  
 We thank you for your patience and understanding in this matter.

Kind regards,

**Jason Balbuena**  
 Risk Analyst

Tel: +44 (0) 207 796 86 61  
 Direct: +44 (0) 207 796 86 74

Email: j.balbuena@payvision.com

  
 Global Card Processing  
 107 Cheapside  
 London, EC2V 6DN, England

181. By way of example, in an email of 23 March 2015 Payvision informed Hithcliff Ltd of the withholding of USD 24,078.19 as a penalty payment to VISA. The reason stated was repeated exceeding of the limit set by VISA for the number of permissible fraud reports.<sup>92</sup>
182. Evidence that Payvision's management was aware of the problem is also provided by a chat exchange between Lenhoff and Tzorya on 17 March 2016. Lenhoff informed Tzorya

<sup>92</sup>N.2.1. email der Payvision vom 5. Juni 2015 an die Hithcliff Ltd für Tätigkeiten vom September 2013 bis September 2014

that Payvision had drawn his attention to the problems with the zoomtrader/global platform in the past.

Status: Read

Read: 17.03.2016 15:21:27(UTC+0)

Source file: DarArchive/root/mnt2/mobile/Library/SMS/sms.db : 0x815AA (Table: message, chat, Size: 2527232 bytes)

DarArchive/root/mnt2/mobile/Library/SMS/sms.db-wal : 0x2B5A5F (Table: handle, Size: 2855192 bytes)

17.03.2016 15:22:12(UTC+0)Direction:Outgoing,+359894522556(Bulgarian)

We have to speak about the past from zoomtrader. Payvision had really bad experience with them in the past

183. There were also VISA penalties due to excessive chargebacks concerning optionstars/global, which had been spun out of NOVOX from September 2015 and was subsequently operated by Gal Barak. According to the Telegram chat between Gary Shalon (@TrinityUP) and Popov Boyan of 21 January 2019, Payvision reduced the credit balance from the processing of BARAK's platforms by EUR 480,000 for the chargeback penalties imposed by VISA and Mastercard in April 2017, which were expressly imposed for the transactions processed by Payvision for optionstars/global.<sup>93</sup>

#### **GetmyAds.com – one of the Lenhoff platforms proves problematic as early as February 2016**

184. A further early warning signal arises from the events surrounding getmyads.com. In mid-February 2016, Payvision/Acapture took over the processing of instant payments for this platform through Lenhoff's mediation, with Payific Ltd as merchant. Only about two weeks after payment processing began, Payvision discontinued activity on this platform and arranged refunds after negative reports about getmyads became public. The chat communication of 1 March 2016 indicates that Booker had alerted Lenhoff to the negative reporting about the getmyads platform.<sup>94</sup>

#### **High chargeback and fraud figures**

185. Added to this are the consistently high chargeback and fraud figures. According to the schedules submitted by Booker/Payvision to the criminal authorities on 23 May 2019 and 12 July 2019, the merchants connected to Payvision in connection with the Lenhoff/Barak platforms had chargeback rates over several years ranging regularly from 2% up to 20% per month. These figures significantly exceeded the thresholds permitted under the scheme rules. For the Lenhoff platforms, the documents record, among other things, specific rates of 1.89% in December 2017, 4.52% in January 2018 and 7.44% in February 2018. In the Barak complex as well, the documents show chargeback rates of more than 2% after only a few months of payment processing, as well as significant fraud reports.<sup>95</sup>

186. An email schedule within the Lenhoff organisation dated 28 March 2018 records an overall chargeback rate of 4.37% for the preceding six months. In particular, option888

<sup>93</sup>N. 2.6. 21012019 Gery Shalon EUR 480.000 CHF

<sup>94</sup>N. 4.1. 01032016 GMA turns out to be a fraud, page 485, Bd. I

<sup>95</sup>B. 1 Booker's statement dated 23 May 2019 and B. 2 Booker's statement dated 12 July 2019

and TradeInvest90 show significantly elevated VISA and Mastercard chargeback rates, with TradeInvest90 reaching 16.91% for VISA in March 2018. The recurring reasons identified include customer disputes about services or goods, unauthorised transactions, “card-absent fraud”, unrecognised bookings and unprocessed credits. The author also expressly points out that, despite the switch to 3D Secure, numerous fraud chargebacks continued to come in and that the agents were misusing the Moto-deposit option.<sup>96</sup>

187. As acquirer, Payvision knew not only the high number of chargeback requests, but was also responsible for operational handling. The handling of chargebacks lay within its area of responsibility; this follows on the one hand from the industry rules and on the other from the criminal files, for example the email from [pvchargebacks@payvision.com](mailto:pvchargebacks@payvision.com) to the Lenhoff organisation dated 18 January 2017. At the same time, Payvision derived fee increases, premiums and other charges from the excessive chargeback and fraud situation.<mailto:pvchargebacks@payvision.com><sup>97</sup>
188. On 25 April 2017, Valentin Sotor, an employee of Lenhoff, described how chargebacks were addressed in the organisation: “Ivan and I receive a notification from PV (meaning Payvision). Find the account and sent to Durum (CC Betim) notification about the customer, User Id that we have Chargeback.. to block account and provide Ivan with docs for dispute”.<sup>98</sup>
189. As early as 30 March 2016, Lenhoff told Dahlgren that Rudolf Booker had told him that high fraud rates had been reported: “We have a lot of fraud. Rudolf is calling me now”. Dahlgren then explained that the chargeback rate at Mastercard was 4.5% and at VISA 0.12%, meaning VISA was fine: “because it's about 4,5% on Mastercard vs 0,12% on Visa, so Visa is fine”.<sup>99</sup>
190. On 1 May 2017 Lenhoff informed his employee Valentin Sotor that he had received a call from Payvision (Booker); he had a 14% chargeback rate at option888 and they wanted to terminate the cooperation: “We have 14% Chargebacks in 888 and I got a call from Payvision that they want to shut down”.

### **Compliance department raises the alarm**

191. A further internal escalation point is documented for the Barak complex in early 2018. According to the FD reports of 14 October 2022, Joris Greeuw, head of Payvision’s compliance department in London, already had significant concerns regarding Gpay Ltd in January 2018 and recommended to management in Amsterdam that the merchant be rejected for lack of transparency. When further warnings by supervisory authorities against optionstars/global, safemarkets, cryptopoint, xtraderfx and goldenmarkets were published in spring and early summer 2018, the compliance department entered escalation mode and ordered at the end of June 2018 that new transactions be blocked

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<sup>96</sup>N. 2.2. 2802018 CB Chargeback-Breakdown by Ivan Petrov

<sup>97</sup>N. 2.3. 18012017 [pvchargebacks@payvision.com](mailto:pvchargebacks@payvision.com) email about a chargeback complaint

<sup>98</sup>N. 2.4. 25042017 Sotor explains Payvision’s role in chargeback handling

<sup>99</sup>N. 2.5. 30032016 we have a lot of fraud, Rudolf is calling me, page 558, Bd. I

and funds withheld. Nevertheless, the accounts were released again on 19 July 2018; shortly thereafter, on 24 July 2018, Booker concluded a new contract with Gal Barak, under which Payvision processed more than EUR 37 million for the Barak platforms up to the end of January 2019.<sup>100101102</sup>

#### **Repeated bank-account freezes of merchants**

192. During the business relationships between Payvision and the Lenhoff/Barak platforms, which lasted several years, the available documents show repeated freezes, restrictions or changes affecting the bank and payout accounts used by the merchants. These events did not concern isolated individual cases only, but occurred repeatedly in connection with various merchant structures.

#### **Suspicious activity reports to the Dutch Financial Intelligence Unit**

193. The documented internal risk signals include, first, the SAR/suspicious activity reports to the Dutch Financial Intelligence Unit confirmed by Rudolf Booker for Payvision in his statement of 23 May 2019. In the statement of 23 May 2019, in response to the question regarding fulfilment of AML obligations, Payvision expressly set out the number and reporting dates of the “SAR reports” submitted to the Dutch Financial Intelligence Unit. The table lists a total of 273 reports.
194. The reports can be allocated to the platform groups identified by Booker himself. On the Lenhoff side, they concerned Payific Ltd, Hithcliff Ltd and Celtic Pay Ltd. According to Booker’s platform list, Payific was connected, among others, with option888, Lottopalace, Kulbet, GetMyAds and zoomtrader.info; Hithcliff and Celtic Pay were connected, among others, with option888, zoomtrader.info, xmarkets, tradeInvest90 and tradovest. The first Payific report dates from 23 August 2016; the reports for Hithcliff begin on 16 October 2017 and for Celtic Pay on 11 June 2018. On the Barak side, the reports concerned in particular Markets Development and Gpay Ltd. According to Booker’s information, Markets Development was connected with optionstars/global and shows FIU/SAR reports from 14 November 2016. Gpay Ltd was connected with xtraderfx and, with 186 of the total 273 reports, was by far the most affected legal entity; the first Gpay Ltd report is dated 12 March 2018 and the last 1 April 2019.
195. Gal Barak contradicted Booker’s statement of 23 May 2019 that the reason for the alleged termination by Booker/Payvision had been the high chargeback figures, pointing out in his interrogation of 10 February 2020 that Payvision had in fact earned money from the chargebacks.<sup>103</sup>

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<sup>100</sup>D. 2. FD report dated 14 October 2022 and D. 3 of the FD report dated 14 October 2022 (Part 2)

<sup>101</sup>N. 5. Warnings of the supervisory authorities regarding the offering of financial instruments without a MiFID License

<sup>102</sup>C. 7. Appendix 1 Service fees Gpay Ltd dated 24 July 2018

<sup>103</sup>N. 2.7. Interrogation Gal Barak 10022020

Antwort:

Zu den 186 Meldungen kann ich nichts sagen. Was die Chargebacks angeht, war das nie der Grund zumal die Payvision jede Menge Geld mit diesen Chargebacks verdiente. „Toni“, so hieß die Person dort, teilte mir aber mit, dass die Kündigung mit den Berichten auf Fintelegram zusammenhing.

## External indications of significant risk, fraud and compliance problems

### Warnings from European supervisory authorities

196. Parallel to these internal signals, external warnings and interventions also existed. During the investigation period, public warnings and regulatory measures by numerous European financial supervisory authorities, including AFM, FCA, BaFin, FMA and CONSOB, were issued against the platforms processed by Payvision. These warnings were publicly accessible and referred by name to the platforms, their operators and merchants that did not hold a MiFID licence from a European securities regulator.<sup>104</sup>

### The Dutch financial supervisory authority AFM imposes a penalty payment on Capital Force Ltd

197. Of particular importance in this context is the AFM measure against Capital Force Ltd of 24 January 2018 in connection with zoomtrader/global.<sup>105</sup>
198. Capital Force Ltd had not responded to several official information requests by the Dutch financial supervisory authority regarding the services and account types offered in the Netherlands. The official information request was prompted by consumer complaints from Dutch customers of the zoomtrader/global platform. In the publication of 24 January 2018, the AFM found that the company had breached its duty to cooperate under Article 5:20 Awb and accordingly imposed a penalty payment.
199. According to the available documents, Payvision responded to the publication by the supervisory authority by immediately discontinuing its activities for the zoomtrader/global website. At the same time, the secured communication documents show that other Lenhoff platforms running under the same merchant structure were not affected by Booker's decision.
200. A Skype chat log between Uwe Lenhoff and Hans Dahlgren of 15 and 16 February 2018 demonstrates that Booker had informed Lenhoff that Payvision would no longer process payment transactions for the zoomtrader/global platform from February 2018 due to the AFM publication.<sup>106</sup>

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<sup>104</sup>N. 5. Warnings of the supervisory authorities about the missing MiFID license of Barak/Lenhoff-Websites

<sup>105</sup>N. 1.1. AFM announcements regarding Capital Force Ltd, <https://www.afm.nl/~profmedia/files/maatregelen/lasten-onder-dwangsom/2018/capital-force.pdf>

<sup>106</sup>N. 1.2. 15022018 Skype chat between Dahlgren und Lenhoff relating to the AFM announcement

201. On that occasion Hans Dahlgren expressed surprise that Payvision was not taking further measures against the other Lenhoff platforms, all of which, namely option888, tradovest,

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xmarkets and tradeinvest90, were processed under the same MID, Hithcliff Ltd.

202. Thus, on 16 February 2018, 12:50, Hans Dahlgren wrote: “When it comes to zoomtrader/global - I mean PV know already we run the other brands like zoomtrader/global and option888, etc. under them. It’s what the MIDs are called”. At 13:10 he wrote: “It seems they do not give a shit about the article (announcement of the AFM Action against Capital Force Ltd)”. At 13:14 Dahlgren also noted: “Seems Philippe (meaning Philippe Cabrera Kathusing) is more concerned about losing the traffic than about the article”.

#### **Official measures against the platform binex.ru on 30 August 2018**

203. On 30 August 2018, the Ukrainian Cyberpolice published a communication on the uncovering of a large-scale alleged fraudulent online financial exchange in Kyiv. The communication expressly names the platforms binex.ru, binex.ua and binex.kz and describes a model in which customers were allegedly induced to deposit funds, under the appearance of real online financial transactions, particularly in the area of currency pairs and binary options, through demo accounts and subsequent real-money accounts. According to the authority, the search resulted in the seizure, among other things, of a customer database with more than 15,000 persons, a CRM system, approximately 60,000 hours of call recordings, lists of bank accounts and further documents.<sup>107</sup>

#### **The consumer protection organisation AK Vorarlberg informs the card networks of ongoing criminal proceedings in spring 2018**

204. On 27 April 2018, AK Vorarlberg submitted a chargeback request for Horst Bachmann, an investor/customer of the option888 platform, to the issuing institution Paylife and pointed out that a criminal proceeding against the option888 platform had already been pending with the Feldkirch Public Prosecutor’s Office since summer 2016 under file number 2 UT 87/16. When the rejection of the request was communicated, the issuing institution also sent the processing documents to AK Vorarlberg. The email address PVchargeback@payvision.com also appears here.<sup>108</sup> <mailto:PVchargeback@payvision.com>
205. Only a few weeks later, AK Vorarlberg submitted another chargeback request for the consumer Klaus Böhler to the Austrian issuing institution Paylife and again pointed out in this request that a criminal complaint against the trading platform option888 was already pending with the Feldkirch Public Prosecutor’s Office under 2 UT 87/16.<sup>109</sup>
206. Under the VISA/Mastercard industry rules, these indications must be brought to the acquirer through the issuing institutions within the chargeback system.

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<sup>107</sup>N. 8. media report binex.ru raid end of August 2018; <https://cyberpolice.gov.ua/news/kiberpolicziya-vykryla-organizatoriv-masshtabnoyi-shaxrajskoyi-onlajn-finansovoyi-birzhi-4169/>

<sup>108</sup>N. 2.8. 27042018 chargeback complaint from AK Vorarlberg Horst Bachmann

<sup>109</sup>N. 2.9. 28052018 Klaus Böhler information to the issuing bank

### The mutual legal assistance request of 14 December 2017 (bundle N. 3)

207. In the fraud proceedings of the Munich I Public Prosecutor's Office, 313 Js 216815/17, later transferred to the Bamberg General Public Prosecutor's Office/Central Cybercrime Unit Bavaria, a mutual legal assistance step was carried out in the Netherlands on the basis of a European Investigation Order dated 14 December 2017. The German file shows that the proceedings were conducted as an "investigation against Sebastian Morelli for fraud" and were expressly described as "concerning Option 888". The Dutch implementation took place under Luris number EOB-I-2018003747(A) and parket number 13/737202-18.<sup>110</sup>
208. The subject of the request was credit card payments by a German cardholder in connection with the website [www.option888.com](http://www.option888.com). The European Investigation Order requested that Payvision B.V., Operations Department, Molenpad 2, Amsterdam, be investigated as to which account or accounts the amounts from the credit card payments were booked to. The individual schedule lists nine payments in the period from 25 April 2017 to 8 June 2017.<http://www.option888.com><sup>111</sup>
209. The Dutch production order to Payvision of 20 June 2018 obliged Payvision to provide the available historical data within one week. At the same time, the order included a confidentiality obligation: Payvision was instructed to maintain secrecy, in the interest of the investigation, concerning everything that came to its knowledge in connection with the demand. Payvision itself stated in its later reply that it had received the production order by email on 21 June 2018; Payvision was also granted an extension until 19 July 2018.
210. Payvision responded through its legal department on 17 July 2018. The response was essentially limited to an internal CRM extract and a transaction overview. Payvision identified the (account) merchant as Payific Ltd, registration number C 63971, and named the associated websites [option888.com](http://www.option888.com) and [lottopalace.com](http://www.lottopalace.com). Ethem Ibrahim Solakoglu was named as director; Hans Dahlgren, with the email address [hans.dahlgren@gmail.com](mailto:hans.dahlgren@gmail.com), was named as contact person.<sup>112</sup><mailto:hans.dahlgren@gmail.com>
211. The attached transaction data are particularly relevant for the further evaluation of evidence. They identify the transactions as "Payific option888", country Germany, card type MasterCard, transaction type Payment, result OK/Approved. They also contain MCC 6211, MID 75014336 and, as originator, "Basic Operations" or "Basic Operations v2". In the Payvision transaction overview, not only Joachim Uher but also Gertraud Uher

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<sup>110</sup>N. 3.1. 07082018 Confirmation receipt in Munich of Payvision's reply

<sup>111</sup>N. 3.2. Details to the request for mutual legal assistance from Munich 313 Js 216815/17

<sup>112</sup>N. 3.3. 17072018 Reply from Payvision to the request for mutual legal assistance from Munich 313 Js 216815/17

appears as cardholder for several transactions. The Payvision response therefore documents not only the processing of concrete option888 payments, but also their classification within the Payific/option888 merchant structure, including MID and MCC.

212. Payvision was therefore confronted in June/July 2018 with a concrete criminal-procedural investigative step in a German fraud proceeding concerning option888. In addition, the request sought information on the accounts to which the relevant credit card payments had been credited. According to the available response documents, however, Payvision essentially disclosed transaction and CRM data without answering

In our internal Customer Relationship Management ("CRM") system we have found the following details of the account:

Account Name (Legal)	Payific LTD
Registration Number	C 63971
Website	<a href="http://Option888.com">Option888.com</a> , <a href="http://lottopalace.com">lottopalace.com</a>
Legal Address	Palazzo Ca Brugnera, Valley Road Room 1, Level 2 BKR 9024, Birkirkara Malta
Director	Ethem Ibrahim Solakoglu
Director's Address	76 Yenidogan MH Zubeyde 34000, Zeytinburnu, Istanbul Turkey
Contact	Hans Dahlgren <a href="mailto:hans.dahlgren@gmail.com">hans.dahlgren@gmail.com</a>

the central account question.

## Personal and business interconnection between Rudolf Booker and Uwe Lenhoff

213. The following circumstances concern the personal and business relationship between Rudolf Booker and Uwe Lenhoff.

### **Close personal and business relationship**

214. According to Booker's own statement, Booker and Lenhoff met in December 2015 through DJ Bakker. The available documents show that from the beginning of 2016 onwards repeated personal meetings are demonstrable, including on 14/15 March 2016, 6 June 2016, 29 August 2016, 11 January 2017, 8 February 2017, 22/24 May 2017, 12 September 2017, 14 and 20 July 2018, and 16 January 2019.<sup>113114</sup>

215. The documents also contain indications of joint holidays or holiday planning and joint investments in start-ups.<sup>115116</sup>

216. Booker also attended Lenhoff's 55th birthday celebration in Austria at the end of November 2018.

### **Lenhoff as sales partner**

217. In addition, within the Payvision structure, Lenhoff appears not only as the economic background actor behind his own platforms. According to the available documents, at the latest from February 2016 onwards he was also actively involved as a de facto intermediary and sales partner for further business relationships. In mid-February 2016 he already introduced getmyads.com; on 29 February 2016 he informed Dahlgren that he had also successfully introduced optile.com to Booker. On 23 May 2017 Lenhoff told Dahlgren that he had introduced a new customer to Rudolf Booker. On 26 March 2018, at Lenhoff's request, Dahlgren also promoted Payvision/Acapture services to a platform.<sup>117118</sup>

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<sup>113</sup>B. 1. Booker's statement dated 23 May 2019

<sup>114</sup>Q. 3. Personal meetings between Lenhoff and Booker are documented in the chats

<sup>115</sup>Q. 10 22012019 Lenhoff and Booker plan to spend the vacation together (Barak was also supposed to join). (recorded call (ON ))

<sup>116</sup>Q. 9 26072018 Booker as an investor für e-sports (TKÜ Bd. 2)

<sup>117</sup>Q. 5.1. 29022016 chat regarding optile, page 476, Bd. I

<sup>118</sup>Q. 5.3. 26032018 Lenhoff urges Dahlgren to resell Payvision/Acapture services

RE: PSP

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**From:** Hans Dahlgren <hans.dahlgren@gmail.com>  
**To:** Holger Hübner <holger.huebner@ics-int.com>  
**Cc:** Winslet <info@winslet.one>  
**Date:** Mon, 26 Mar 2018 14:24:19 +0200

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Hi,

Sure thing!

There are a couple of different options but we primarily work with a company called Payvision that has a product called Acapture (<https://www.acapture.com/>) that includes all kinds of payment options such as Visa/Mastercard, Sofort, Giropay etc.

Otherwise, depending on your industry, it would probably nice to get PayPa since many people have such an account already, although I dont have any contacts there to introduce you to.

If you like I can make an intro to Payvision/Acapture. They probably have the best rates as well.

Kind regards,  
Hans

2018-03-25 16:52 GMT+02:00 Holger Hübner <holger.huebner@ics-int.com>:

Thanx ðŸˆ¸

[https://nextcloud.ics-int.com/s/rMai7LauSY2Nkpr?path=%2FImagebroch%C3%BCren%20\(Deu%2C%20Eng%20%26Esp\)%2F2017%2FEnglisch#pdfviewer](https://nextcloud.ics-int.com/s/rMai7LauSY2Nkpr?path=%2FImagebroch%C3%BCren%20(Deu%2C%20Eng%20%26Esp)%2F2017%2FEnglisch#pdfviewer)

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218. In May 2016, during a trade fair in Amsterdam, Lenhoff organised a meeting between Gal Barak, Ilan Tzorya, Rudolf Booker and Cheng Liem Li. Payvision subsequently also became the main payment service provider for the Barak platforms. According to the available documents, Payvision subsequently significantly expanded its role in the Barak complex as well and processed, among others, binex.ru, cryptopoint, xtraderfx, goldenmarkets, safemarkets, optionstars/global and gxfx (in preparation).<sup>119120</sup>
219. Communication is also documented for May 2018 showing that another platform, 8Crypto, was connected to Payvision.

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<sup>119</sup>Q. 5.5. Witness statement Werner Böhm (ON..)

<sup>120</sup>Q. 5.4. 22012019 Barak's platforms processed by Payvision (ON..)

**Id: 1967709**, Skypechat vom 20.05.2018

KALCHER teilt LENHOFF mit, dass PayVision einen Vertrag geschickt habe, und 8crypt damit Zahlungen annehmen könne. PayVision will jedoch eine Garantie von VELTYCO dafür. KALCHER holt sich die Zustimmung von LENHOFF ein, damit „Marcel“ (NOORDELOOS) dann den Vertrag unterschreiben kann.

Weiters teilt KALCHER LENHOFF mit, dass er Kontakt zu Sami (Mohammed Shakker) hatte und „wenn die Zahlungen im eSports Shop gut anlaufen, könnten sie die von ihm betreuten Plattformen umstellen. Dann wären sie mit 8crypt wirklich operativ – was ihn freue und ihm (KALCHER) wichtig sei“.

220. The secured communication with Gary Shalon of 13 May 2018 shows very clearly that, in relation to Payvision, Uwe Lenhoff appeared not merely as an operator, but as an economically involved actor of individual platforms, and in fact claimed an intermediary and access function for further high-risk business. The chat discussed whether Payvision would open an account or MID for another brand. When asked whether Payvision would open an MID, Lenhoff referred to the fact that he would personally contact Rudolf Booker. His further explanation is particularly telling: “You get the account; Rudolf will give the okay, and Hans can fix it with Philipp.” In doing so, Lenhoff described a concrete operational chain within the Payvision environment: Booker as approval authority, Hans Dahlgren as coordinating person and Philippe Cabrera Kathusing as Payvision contact person. In the same communication, Lenhoff relativised the risk of dependence on Payvision by pointing to his close personal relationship with Booker and further stated: “Gal got his account cause I confirmed it.”<sup>121</sup>
221. The WhatsApp communication of 25 and 30 September 2018 between Lenhoff and Micha Golod/Tradologic documents a further indication of Uwe Lenhoff’s de facto reseller or intermediary function in relation to the Payvision infrastructure. Michael Golod contacted Lenhoff after Dreamspay had blocked funds and one of his larger customers, “eMarkets Trade”, according to him, was stuck without payment processing. Golod expressly asked Lenhoff to allow eMarkets Trade to process “conversion FTDs” via “your MIDs at Payvision” and via one of the brands connected with Lenhoff, such as “xMarkets”. He held out low chargeback rates, willingness to accept settlement limits and an economic participation. Lenhoff’s immediate response was not to reject this as outside his competence, but to ask: “What’s the volume and how much I can earn?” This communication does not by itself document an actual approval by Payvision; it does show, however, that third parties perceived Lenhoff as an access person to Payvision MIDs and that the use of existing Payvision/merchant structures for further platforms was economically negotiated through Lenhoff.<sup>122</sup>
222. This intermediary role received a documented contractual basis on 16 August 2018

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<sup>121</sup>Q. 5.6. 13052018 communication with Gary Shalon about Payvision

<sup>122</sup>Q. 5.7. 25092018 communication between Golod and Lenhoff about processing with Payvision

through a formal partner/reseller agreement with Uwe Lenhoff.<sup>123</sup>

223. According to the ECRIS information in the file, Uwe Karsten Lenhoff had already been convicted several times, including specifically for fraud. The information shows a total of three convictions. Particularly relevant are the conviction by the Peine Local Court on 11 May 2004 for fraud in three cases, with a two-year suspended prison sentence, and the conviction by the Essen Regional Court on 4 May 2006 for fraud in 84 cases, with a three-year prison sentence and a fine of 360 daily rates of EUR 40 each. Lenhoff therefore had prior convictions precisely for offences of direct integrity and AML relevance for the review of payment processing, online trading platforms and high-risk merchant structures.<sup>124</sup>
224. In his statement of 12 July 2019, Booker disputes that Lenhoff's submitted reseller/partner form resulted in a formal contract; the application had been rejected by Payvision. Contrary to this statement, the file material documents a de facto introducer, intermediary and access function of Lenhoff, in which Lenhoff, according to his own presentation, could initiate Payvision access for third parties and relied on his personal relationship with Rudolf Booker as well as operational contacts with Hans Dahlgren and Philippe Cabrera Kathusing.<sup>125</sup>

#### **Lenhoff as factual interface to Payvision**

225. According to the documents, Lenhoff also functioned as the operational link between the Barak organisation and Payvision. When difficulties with Payvision arose, Barak regularly turned to Lenhoff or Hans Dahlgren rather than directly to Payvision.
226. Both portfolios were also serviced by the same Payvision employees, namely Rudolf Booker, Cheng Liem Li and Philippe Cabrera Kathusing. Lenhoff's intermediary role is shown in the communication between Dahlgren and Lenhoff of 6 February 2017, 16:04, in which Dahlgren informed Lenhoff that Gal had just informed him that Payvision wanted to charge him a 3% exchange fee for converting USD to EUR for his platforms. Dahlgren asked Lenhoff to advocate with Rudolf for a lower percentage: "By the way, Gal just called me and mentioned that PV wants to charge a 3% exchange fee to send EUR instead of USD. I'm trying to get a hold of Cheng now to ask what's going on, but I suspect it will require you to call Rudolf." Lenhoff replied that he would see Rudolf the next day.<sup>126</sup>
227. In July 2017, contact between Lenhoff and Booker is also documented in connection with an investor fraud complaint of USD 600,000 concerning Barak platforms. On 20 July 2017, Lenhoff told Dahlgren: "I have to calm down Rudolf, Gal has fraud of 600k US\$".
228. On 12 September 2017, Lenhoff told Ilan Tzorya via WhatsApp that he was "with Rudolf (Payvision) and some other people from the payment sector". In the same conversation,

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<sup>123</sup>Q. 2. Reseller contract between Payvision B.V and Uwe Lenhoff (ON 324)

<sup>124</sup>Q. 1. Lenhoff's convictions Convictions Uwe Lenhoff according to ECRIS

<sup>125</sup>B.2. Booker's statement as of 12072019

<sup>126</sup>Q. 6.1. 06022017 3% exchange fee for Barak's platforms

Lenhoff stated that there was “a hard dispute/fight with Payvision because of Gal”; at the same time he explained in substance that Gal Barak could be glad that Rudolf was a friend, because “any other payment service provider (PSP) would block him”.<sup>127</sup>

Source file: DarArchive/root/mnt2/mobile/Containers/Shared/AppGroup/EA59A14A-3A64-4B05-8262-20E2E1BA0566/ChatStorage.sqlite : 0x33D595 (Table: ZWAMESSAGE, Size: 3653632 bytes)

12:09:2017:13:31:20(UTC+0)Direction:Outgoing;  
I am here with Rudolf PV and some other payment guys

Status: Sent  
Platform: Mobile

Source file: DarArchive/root/mnt2/mobile/Containers/Shared/AppGroup/EA59A14A-3A64-4B05-8262-20E2E1BA0566/ChatStorage.sqlite : 0x33D447 (Table: ZWAMESSAGE, Size: 3653632 bytes)

12:09:2017:13:31:37(UTC+0)Direction:Incoming;380959111002@s.whatsapp.net(Ilan)  
Nice

Status: Read  
Platform: Mobile

Source file: DarArchive/root/mnt2/mobile/Containers/Shared/AppGroup/EA59A14A-3A64-4B05-8262-20E2E1BA0566/ChatStorage.sqlite : 0x33D3DD (Table: ZWAMESSAGE, ZWCHATSESSION, Size: 3653632 bytes)

12:09:2017:13:32:37(UTC+0)Direction:Outgoing;  
It's a hard fight with PV about Gal. He can be a happy that Rudolf is a friend. Every othe PSP would block him

Status: Sent  
Platform: Mobile

Source file: DarArchive/root/mnt2/mobile/Containers/Shared/AppGroup/EA59A14A-3A64-4B05-8262-20E2E1BA0566/ChatStorage.sqlite : 0x33D224 (Table: ZWAMESSAGE, Size: 3653632 bytes)

12:09:2017:13:36:49(UTC+0)Direction:Incoming;380959111002@s.whatsapp.net(Ilan)  
I know

Status: Read  
Platform: Mobile

Source file: DarArchive/root/mnt2/mobile/Containers/Shared/AppGroup/EA59A14A-3A64-4B05-8262-20E2E1BA0566/ChatStorage.sqlite : 0x33D1B7 (Table: ZWAMESSAGE, ZWCHATSESSION, Size: 3653632 bytes)

12:09:2017:13:36:56(UTC+0)Direction:Incoming;380959111002@s.whatsapp.net(Ilan)  
Thanks you

229. In connection with the documented events in July 2018, when Payvision’s compliance department had blocked payouts for the Barak platforms, and the subsequent preparation of new contractual terms, Lenhoff’s important role in the business relationship between Barak and Booker/Payvision is likewise apparent.<sup>128129</sup>

230. In addition, reference should be made in this context to the request by the Austrian WKStA of 29 May 2019 to the Saarbrücken Public Prosecutor’s Office to take over the prosecution of Uwe Lenhoff. In it, Lenhoff is described by the Austrian criminal prosecution authorities as the operator of the platforms option888, zoomtrader/global, xmarkets, tradovest and tradeinvest90. Under the money-laundering suspicion, it is stated that Lenhoff, as factual managing director, forwarded assets derived from the previously described fraud acts through companies controlled by him or not clearly identifiable externally. The request names, among others, Stichting Trusted Third Party Payvision, Velytyco Group PLC and Winslet Enterprises Ltd in this context. The wording is relevant for the interconnection addressed here because it describes Lenhoff not only as platform operator, but also as an actor in downstream payment and forwarding structures.<sup>130</sup>

## Internal role steering








<sup>127</sup>Q. 8. 12092017 Lenhoff calls Tzorya about Barak.

<sup>128</sup>Q. 6.2. 23072018 Barak asks for help from Lenhoff regarding new Gpay Ltd contract

<sup>129</sup>Q.6.3. 20072018 Lenhoff wants to support Barak in relation to PV

<sup>130</sup>Q. 11. Letter from the Austrian prosecutor to Saarbrücken transferring Lenhoff’s prosecution to Saarbrücken, 05 Js 395/19; 6 June 2019



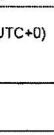

231. The internal role steering documented in the chat logs is of particular importance. In the communication between Dahlgren and Lenhoff of 22 May 2017, Lenhoff reacted to the information that Philippe, the operational Payvision employee, wanted to speak with him about Payific by pointing out that Philippe did not know that he, Lenhoff, was the “Owner” of that company. Dahlgren replied: “Right, you are a marketing consultant, that’s it”. At the same time it was recorded: “Rudolf is involved, but he never will speak to Philippe about this”. This communication indicates that Lenhoff’s role was not openly presented as that of the economic background actor, but was described differently to operational employees.<sup>131</sup>
232. A further message from the same chat sequence is also documented: “apparently Rudolf told them what to write so Philippe will ask the Risk team to fix it”. This passage suggests that Rudolf Booker not only knew of the problem, but also influenced the internal presentation to the operational employee Philippe and the risk team.

betsafe_de betsafe		22.05.2017 09:49:41(UTC+0)	
why Philippe want to speak with me about Payific?			
<b>Source file:</b> DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x3D3C4FB (Table: Messages, Size: 69939200 bytes)			
betsafe_de betsafe		22.05.2017 09:49:58(UTC+0)	
i am not the "owner" of this company+			
<b>Source file:</b> DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x38CC6EE (Table: Messages, Size: 69939200 bytes)			
	hans-dahlgren Hans Dahlgren	22.05.2017 09:54:39(UTC+0)	
right, you are marketing consultant, that's it			
<b>Source file:</b> DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x38CC633 (Table: Messages, Size: 69939200 bytes)			
betsafe_de betsafe		22.05.2017 09:55:21(UTC+0)	
have you told it to him? Rudolf is involved but he never will speak to Philippe about this			
<b>Source file:</b> DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x38CC543 (Table: Messages, Size: 69939200 bytes)			
	hans-dahlgren Hans Dahlgren	22.05.2017 10:06:52(UTC+0)	
apparently Rudolf told them what to write so Philippe will ask the Risk team to fix it			
<b>Source file:</b> DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x38CC45F (Table: Messages, Size: 69939200 bytes)			
betsafe_de betsafe		22.05.2017 10:09:43(UTC+0)	
okay, but Rudolf dont know the different companies			
<b>Source file:</b> DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x38CC398 (Table: Messages, Size: 69939200 bytes)			
betsafe_de betsafe		22.05.2017 10:10:07(UTC+0)	
i will speak with him on wednesday about all of this and he needs also my help			

233. The documents further contain indications that Booker and Lenhoff pursued additional common economic interests besides the ongoing merchant relationship. In a chat

<sup>131</sup>Q. 7. 22052017 special role of Lenhoff is discussed

message of 10 May 2017, Lenhoff told Dahlgren: “Rudolf wants to do business with me in another part in which he needs me”. On 24 May 2017, after a meeting with Booker, Lenhoff told Dahlgren that Booker was indeed not pleased about the high chargebacks, “but we do other business together”.<sup>132</sup>

<p>betsafe_de betsafe <span style="float: right;">24.05.2017 12:06:03(UTC+0)</span></p> <p><b>I had a very good meeting with Rudolf today</b></p> <p><small>Source file: DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x35E0B4E (Table: Messages, Size: 69939200 bytes)</small></p>	
<p> hans-dahlgren Hans Dahlgren <span style="float: right;">24.05.2017 12:06:46(UTC+0)</span></p> <p><b>ok, he is not too worried or pissed off about the chargebacks?</b></p> <p><small>Source file: DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x35E0A85 (Table: Messages, Size: 69939200 bytes)</small></p>	
<p>betsafe_de betsafe <span style="float: right;">24.05.2017 12:07:42(UTC+0)</span></p> <p><b>He is but we do other business together and he needs help in the social media networks which he hasn't</b></p> <p><small>Source file: DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x35E0982 (Table: Messages, Size: 69939200 bytes)</small></p>	

#### Escalation situation around the intended termination at the end of December 2018

234. The documents show the termination of the business relationships not as a uniform, clearly completed event, but as a multi-stage process with a formal termination layer on the one hand and ongoing coordination, escalation and restructuring considerations on the other.
235. By letter of 7 December 2018, Payvision terminated the Merchant Agreement with Hithcliff Ltd with immediate effect. The reason given was more than six months’ dormancy of the account; at the same time, Payvision reserved the right to continue withholding reserves, to terminate Reporter access within 30 days and to preserve all rights and claims. At that time Hithcliff had already been struck off the UK companies register.<sup>133</sup>
236. The events surrounding the intended termination of the business relationship at the end of December 2018 likewise underline the special relationship between Booker and Lenhoff. A chat message between Gal Barak and Uwe Lenhoff of 26 December 2018 shows that Tony Solomon, an employee of Payvision London, had informed both Barak and Lenhoff by telephone that day of the intended termination of all contractual relationships.<sup>134</sup>
237. On the same day, a telephone call between Lenhoff and Booker was intercepted. This conversation documents not only the personal escalation between the two, but also Booker’s concern about what might become public in connection with Payvision. Booker asked in substance what would be written about him “regarding Payvision”; Lenhoff

<sup>132</sup>Q. 4. 10052017, 24052017 “Rudolf wants to make business with me another part”, page 1526, 1564 (Bd. IV)

<sup>133</sup>S. 1. Hithcliff termination letter dated 7 December 2018

<sup>134</sup>S. 2. 26122018 Tony Salomon terminates the contracts

referred to possible allegations concerning business in the “grey market”. It is also noteworthy that at the end of the conversation Booker stated that they would then have to “continue via WhatsApp”. This at least indicates that direct communication between Booker and Lenhoff was not ended despite the termination or shutdown situation, but was to continue by other means.<sup>135</sup>

238. Of particular importance is the fact that, according to the chat logs from the Saarbrücken criminal file, it was communicated to Barak on the same day that Booker would find a solution and that they had to work closely together until new merchants had been incorporated. Lenhoff confirmed to Barak on 27 December 2018 that he had received the same message from Booker. This indicates that the announced termination of the business relationships did not in any event lead to an immediate and final separation.
239. In addition, Booker and Lenhoff still met in London on 16 January 2019 and spoke by telephone again on 22 January 2019. The later telephone call documents that Booker was still obtaining information shortly before the end of the structures regarding responsibilities, platforms and earlier contractual relationships, and that Lenhoff provided him with information.<sup>136137</sup>
240. In parallel, the documents concerning the Barak complex contain concrete indications of restructuring considerations at the end of January 2019. In the internal communication on 22 January 2019, several platforms and companies with reference to Payvision contracts or ongoing Payvision approval processes were listed. It was expressly discussed whether a separate company should be used for each platform; at the same time it was formulated that contracts should be drawn up for each merchant with a Payvision connection in which Gpay Ltd was to appear as buyer. This indicates that the solutions discussed at the end of 2018/beginning of 2019 with Payvision concerned not merely the winding down of already terminated contractual relationships, but also the reorganisation of existing or planned merchant structures.<sup>138</sup>
241. Further communication of 28 January 2019 also speaks against a simple, immediate and fully completed separation. In this correspondence, Philippe is referred to in connection with an update to Payvision; Gal Barak also stated that Payvision had not requested a particular change, but that he had a “3rd way agreement” with Payvision. The exact meaning of this wording remains open to interpretation. It is nevertheless relevant as a further indication that coordination or continuation issues with Payvision were still in play at the end of January 2019.<sup>139</sup>

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<sup>135</sup>S. 3. 26122018 recorded phone call (ON..)

<sup>136</sup>S. 5. Meeting in London on 16 January 2019

<sup>137</sup>S. 6. 22012019 recorded call between Lenhoff und Booker

<sup>138</sup>S. 4. 22012019 Barak is restructuring the organization

<sup>139</sup>S. 7. 28012019 Barak tells his people that he has a third party arrangement with Payvision

## Settlement payments, third-party payments and recipient structures

242. This complex is particularly significant because the available documents show that Payvision's role was not limited to receiving card payments and making regular settlement to formal merchants. Rather, the documents record repeated payouts to recipients not registered as merchants but directly attributable to the beneficial owners, as well as payments to service providers of the Barak/Lenhoff platforms in situations where the underlying organisations were, according to the documents, confronted with liquidity shortages.
243. The starting point of this complex is the position of the trust or settlement accounts of Stichting Trusted Third Party Payvision and Stichting Trusted Third Party Acapture at ING Bank N.V. (NL97INGB0660731428) and at Deutsche Bank (NL09DEUT0265137020). Through these Dutch accounts, funds received from card transactions were pooled, used for purported profit payouts or withdrawals to customers and, after deduction of transaction fees retained by Payvision and other charges, forwarded to merchants or third-party companies.
244. Under Dutch supervisory and payment-services law, third-party funds structures of payment institutions do not serve the ordinary own-funds management of the payment institution, but the safeguarding and separate administration of customer funds. In the relevant period before the introduction of the kwaliteitsrekening in 2022, this segregation of assets in the Netherlands was typically achieved through a Stichting Derdengelden or comparable third-party funds structure. The purpose of such structures is to separate customer funds from the assets of the payment institution and, in particular in the event of insolvency, to protect them from access by general creditors.
245. The documents from the criminal files show that, of the total volume of EUR 131,257,314.60 processed through these trust accounts for the Barak/Lenhoff platforms, at least EUR 24.8 million was transferred to companies that had no corporate relationship with the merchants. According to the available documents, the payments, or "third-party settlements", were made on corresponding instructions from the Lenhoff/Barak environment and required approval by Rudolf Booker.

### **Events in November 2016**

246. A corresponding event is documented for November 2016 in connection with the Lenhoff organisation. After the accounts of the then-used merchant Payific Ltd at Wirecard Bank had been closed from mid-October 2016, the organisation was, according to the chat documents, cut off from ongoing income. In this situation, alternative forwarding of payouts was initially discussed with Payvision, including via Xtrabit or Transexpress. Since such a solution would have involved considerable costs, it was subsequently considered to leave the money temporarily with Payvision until a new account in the name of the merchant became available. On 2 November 2016, 08:56, Dahlgren informed Lenhoff that, because of the high costs of onward transfer, he now

advocated leaving the money with Payvision until a new account was opened.<sup>140141</sup>

247. Because of the Wirecard account freeze, Payvision could no longer pay out to the merchant Payific Ltd; at the same time, under the circumstances, Dahlgren was unable quickly to open a new bank account. During November 2016, liquidity shortages therefore arose within the Lenhoff organisation. The pressure from an important marketing service provider was particularly relevant. By letter of 10 November 2016, Payvision was instructed to transfer EUR 95,500 to Street Smart Enterprise Ltd, Seychelles. The related chat communication shows that there was initially reluctance within Payvision and that Cheng pointed out that such a payment would have to be approved by Booker. On 14 November 2016, a payment of EUR 95,500 was then made from the omnibus account of Stichting Trusted Third Party Payvision to Street Smart Enterprise Ltd or the marketing service provider behind it. The transfer receipt sent by Tomer Media, the economic owner of Street Smart Enterprise Ltd, to Lenhoff for verification contained the following text.<sup>142143144145</sup>

Traffic Payment  
By order of: 95500  
Stg.Trusted Third Party Payvision  
Molenpad 2 1016 GM Amsterdam NL  
Reason:  
Paycific Ltd Payment Arrangement  
Payvision  
Wire transfer fee -119.38  
Credit

248. By letter of 21 November 2016, Payific Ltd instructed Payvision to make a further payout of EUR 200,000 to the marketing company Hithcliff Ltd in the same way. Here too Dahlgren pointed out that Payvision was causing difficulties because Hithcliff was not in any ownership relationship with Altair/Payific. On 21 November 2016, after Lenhoff had again asked Dahlgren whether more invoices could not be paid directly by Payvision, Dahlgren replied: "That depends on what Rudolf agrees... would you mind having another chat with him to see if we can send a few more payments from there?" On 21 November 2016 Dahlgren again wrote to Lenhoff: "they were very reluctant to do it before, but if you managed to get Rudolf to agree to sending money to a 3rd party

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<sup>140</sup>O. 4.1. Wirecard closes down the bank account of Altair and Payific Ltd. Vgl. Chatnachricht vom 13. Oktober 2016 auf Seite 1065 Dahlgren an Lenhoff in der Dahlgren eine E-Mail von Martin Osterloh, Wirecard Bank, mit folgendem Inhalt in die Chatnachricht hineinkopiert: „Dear Hans, unfortunately this situation cannot be changed and I cannot elaborate on the issue. All I can say is this has nothing to do with the process nor the interaction.. Dahlgren führt weiters aus ... so as I understand this... "we 13102016ff Wirecard closed down the accounts", page 1065ff, Bd. III

<sup>141</sup>O. 4.1. (S. 7) Wirecard closes down the bank account of Altair and Payific Ltd.

<sup>142</sup>O. 4.2. 10112016 Payvision is reluctant to transfer money to third parties, page 11.09, Bd. III

<sup>143</sup>O. 1. (S. 2) 10112016 instruction to send EUR 95.500 to Street Smart Enterprise Ltd, Seychelles

<sup>144</sup>O. 4.4. 10112016 Rudolf has to approve, page 1110, Bd. III

<sup>145</sup>O. 4.3. 15112016 Discussion between Lenhoff and Tomer Media

before, perhaps he is willing to do it again.. especially if the alternative is to pay a bunch of invoices for us".<sup>146147148149</sup>

249. It is noteworthy that in this context Payvision insisted on the signatures of the formal directors of the companies used, although, according to Booker's later statements, he knew Lenhoff's economic role. In addition, Payific Ltd's payment instruction for EUR 200,000 referred to marketing services, although Hithcliff had already been documented since 2013 as a longstanding merchant of Payvision.

**Third-party settlements in favour of Winslet Enterprises EOOD after the loss of the payout option for Hithcliff Ltd**

250. For 2018, this complex is particularly clearly documented in connection with payouts to Winslet Enterprises EOOD. After MoneyNetInt Ltd had refused from January 2018 onwards to continue acting as payout point for Hithcliff Ltd's funds, payouts from the Stichting Payvision accounts to accounts of Winslet Enterprises EOOD occurred according to the available documents. Dahlgren summarised the facts again in a Skype chat with Lenhoff on 4 June 2018.<sup>150</sup>
251. Winslet Enterprises EOOD in Sofia, Bulgaria, was a company whose director and official beneficial owner was Uwe Lenhoff.
252. Thus, from the trust account of Stichting Trusted Third Party Payvision at ING Bank NV (NL97INGB0660731428), a total of EUR 3.1 million flowed to Winslet Enterprises EOOD between 20 February 2018 and 4 April 2018.<sup>151</sup>
253. A further EUR 3.7 million was paid out between 20 April and 29 September 2018 from the Payvision Stichting account at Deutsche Bank (NL09DEUT0265137020) to accounts of Winslet Enterprises EOOD, Sofia, Bulgaria.<sup>152</sup>
254. For every individual transfer, there was an instruction from Hithcliff Ltd to Payvision, signed by the director Stuart Poppleton, to transfer the corresponding amounts to Winslet Enterprises EOOD; see the bundle of annexes concerning the Hithcliff instructions.

VII	30	Hithcliff Ltd CN: 8527923	Capital Force Ltd	Stuart Ralph POPPLETON Roger Stuart POPPLETON	83 Ducie Street M1 2JQ Manchester Lancashire Vereinigtes Königreich
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<sup>146</sup>O. 1 (S. 3) 21112016 instruction to send EUR 200k to Hithcliff Ltd.

<sup>147</sup>O. 4.5.10112016 Dahlgren explains Lenhoff that Hithcliff is not legally part of Altair/Payific, page 1109, Bd. III

<sup>148</sup>O. 4.6. 21112016 "it depends on what Rudolf agrees", page 1135, Bd. III

<sup>149</sup>O. 4.7. 21112016 everything depends on Booker, page 1125, Bd. III

<sup>150</sup>O. 5.1. 04062018 Hithcliff has no bank account therefore we did the payments to Winslet

<sup>151</sup>O. 1. Settlements from 20. Februar 2018 bis 04. April 2018

<sup>152</sup>O.1. Settlements from 20. April 2018 bis 29. September 2018

255. At the time of individual payouts, Hithcliff Ltd had already been struck off the UK companies register.<sup>153</sup>
256. From June 2018 onwards, Winslet also changed the Bulgarian recipient account used. The chat messages between Dahlgren and Lenhoff of 22 June 2018 show that the previously used account at STS had been blocked on suspicion of money laundering. Nevertheless, the payouts continued to a new account.
257. In addition, a discussion between Dahlgren and Lenhoff of 19 June 2018 is documented for a transfer of EUR 1.2 million. Dahlgren pointed out that this amount had been transferred back and forth between Payvision and MoneyNetInt Ltd because MoneyNetInt Ltd had refused to accept further payments for Hithcliff: “so this 1.2m is basically old rolling reserve which was removed from our account and transferred to Moneynet every month but kept bouncing back and forth again”.<sup>154</sup>
258. These payouts were therefore not made to the formal merchant, but to a company attributable to Lenhoff according to the available documents. A settlement model is thus documented in which collected card funds from the Payvision pooling were also forwarded directly to the economic operators of the platforms.

#### **Transfers to New Markets S.A., Samoa, and Rockarage Ltd., Marshall Islands**

259. Third-party settlements to companies not registered as merchants but economically attributable to Barak are also documented in the Barak complex. A money-flow analysis by the Vienna Public Prosecutor’s Office shows that more than EUR 15.4 million was transferred from the trust account of Stichting Trusted Third Party Payvision at Deutsche Bank from February 2017 onwards to a Bulgarian bank account of New Markets S.A., Samoa. According to the documents, these transfers were preceded by an account freeze. Lenhoff informed Dahlgren on 17 January 2017 that Gal Barak needed help because Piraeus Bank had frozen all accounts. On 25 January 2017, an account for New Markets S.A. was then opened at the Bulgarian Investbank.<sup>155156157</sup>
260. It is further significant that the “Transfers of Funds” letter submitted by Payvision regarding the payouts to New Markets S.A. was allegedly signed by the then director Rumen Gogov. However, in a court examination on 19 October 2022 in the civil proceedings Rudolf Stadler v Payvision, Gogov denied ever having had personal contact with Payvision or having signed the letter presented to him.<sup>158159</sup>

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<sup>153</sup>J. 2.1. Hithcliff Ltd was dissolved on 17 July 2018

<sup>154</sup>O. 13. 19062018 more details for €1,2 Mio paid out end of June 2018 to Winslet

<sup>155</sup>O. 3.1. New Markets SA bank account showing the cash intake from PV (ON..)

<sup>156</sup>O.3.2. 17012017 Lenhoff informs Dahlgren that Barak needs help, page 1278, Bd. III, (ON..)

<sup>157</sup>O.3.2. Bank account with Investbanka in Bulgaria is opened (ON..)

<sup>158</sup>O. 3.3. New Markets S.A. Samoa Transfer of Funds – letter signed by Gogov (ON..)


<sup>159</sup>O. 3.4.1. und O. 3.4.2 Gogov denies to have signed this letter in court case in Austria and criminal interrogation

261. A further money-flow analysis by the Vienna Public Prosecutor's Office shows that more than EUR 2.3 million was transferred from the STTP trust account at Deutsche Bank to Rockarage Ltd, Marshall Islands, also to an account in Bulgaria at Investbank, between 4 October 2017 and 17 April 2019.<sup>160</sup>


#### Classification of the significance for the operational liquidity of the structures


262. Further escalation signals also arose from relationships with other payment service providers and banks. The documents record ongoing account freezes, terminations, queries and restrictions affecting the accounts and payment service providers used by Lenhoff/Barak structures.

263. In the communication between Lenhoff and Dahlgren, the lack of a licence is repeatedly addressed in connection with problems at bank accounts and payment service providers.

	hans-dahlgren Hans Dahlgren	29.08.2016 17:30:53(UTC+0)
Yes but the ones we have approached so far have said no. Problem is we operate the binary without the license so as soon as the new license is ready we can apply again		
<b>Source file:</b> DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0xC00911 (Table: Messages, Size: 69939200 bytes)		





264. SATA Bank provided Payific Ltd with a bank account in Malta from the end of November 2016 onwards. According to the available documents, in 2016/2017, similarly to the earlier situation at Wirecard Bank, there were repeated account blocks or restrictions of payment traffic and bank queries in connection with conspicuous or high incoming and outgoing payments.

	hans-dahlgren Hans Dahlgren	12.05.2017 09:08:54(UTC+0)
Payific's bank, SATA, has started asking question about the incoming settlements from Payivision given they are rather large so we need to send at least some of the money somewhere else. We can either send it to Money.net or to Montenegro - what would you prefer?		
<b>Source file:</b> DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x3A6F341 (Table: Messages, Size: 69939200 bytes)		

	hans-dahlgren Hans Dahlgren	09.01.2017 10:00:02(UTC+0)
SATA requested some additional documents for Altair which were sent over last week and should arrive this week. Nonsense papers really and normally not something they require for established companies but no point fighting them so just sent it over.		
As soon as I can see the the docs have arrived Ill harass them some more.		
<b>Source file:</b> DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x30C9D65 (Table: Messages, Size: 69939200 bytes)		

<sup>160</sup>O. 12. Rockarage Ltd bank account showing the cash intake from PV (ON..)

265. As early as 24 February 2017, in response to Lenhoff's question, Dahlgren stated that SafeCharge, also a payment service provider, had already restricted payment processing for bank transfers in previous years because the platforms did not have a licence. SafeCharge finally terminated the business relationship on 23 March 2017.<sup>161</sup>

	hans-dahlgren Hans Dahlgren	24.02.2017 13:52:25(UTC+0)
I'm taking to safe charge but cannot commit to anything at the moment since both brands are unregulated and they already stopped processing some payment solutions for option888		
Source file: DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x3233297 (Table: Messages, Size: 69939200 bytes)		
Support/Skype/betsafe_de/main.db : 0x318E262 (Table: Messages, Size: 69939200 bytes)		
★		hans-dahlgren Hans Dahlgren
14.03.2017 14:45:43(UTC+0)		
amazing they left it open for almost 6 months...		
Source file: DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x318E462 (Table: Messages, Size: 69939200 bytes)		
★		betsafe_de betsafe
14.03.2017 14:45:51(UTC+0)		
Amit told me and he knows the owner very well		
Source file: DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x318E3A0 (Table: Messages, Size: 69939200 bytes)		
★		hans-dahlgren Hans Dahlgren
14.03.2017 14:46:40(UTC+0)		
yeah, but I think it's still a bit of a long shot since they need to be compliant with <b>Sofort</b> etc or they risk losing processing for their customers which I doubt they would		
Source file: DarArchive/root/mnt2/mobile/Containers/Data/Application/A48A492A-4FCB-4900-8F42-94B08D18A8EF/Library/Application Support/Skype/betsafe_de/main.db : 0x318E262 (Table: Messages, Size: 69939200 bytes)		

266. Upaycard, another payment service provider, also rejected cooperation with the Lenhoff platforms by letter of 22 March 2018, referring to the warnings of the UK Financial Conduct Authority.<sup>162</sup>
267. Further examples are the documented account closures of B2G GmbH and P2P GmbH in Germany. Both companies acted as unlicensed money-collection points for bank transfers of the Lenhoff/Barak platforms.
268. B2G GmbH maintained accounts with five German credit institutions between October 2016 and December 2018. According to the available documents, all participating banks filed suspicious activity reports within a few months and successively froze or terminated the accounts.

<sup>161</sup>O. 7.1. 23032017 Safecharge terminated the processing contract, page 1434, Bd. III

<sup>162</sup>O. 8. 1. 07012018 Dahlgren asks Upaycard for a processing contract (Skype Chats)

## Tabellarische Zusammenfassung

Bank	Kontoeröffnung	SAR- Erstmeldung	Sperrung/Schließung	Auslöser
Kölner Bank eG	25.10.2016	15.08.2017	30.10.2017	Bankeigene Entscheidung
Deutsche Bank Bonn	18.07.2017	20.10.2017	07.02.2018	BaFin-Anfrage + SAR-Eskalation
Südwestbank AG	~Aug. 2017	25.01.2018	~20.02.2018 (gesperrt) / 22.02.2018 (BaFin-Bescheid)	BaFin Verfügungsverbot § 7 ZAG
UniCredit HypoVereinsbank	08.09.2017	16.10.2017	28.02.2018	Vermögensarrest StA München I
Sparkasse Koblenz	14.07.2017	12.06.2018	Kündigung 20.07.2018 / Auflösung 19.12.2018	Beschlagnahme StA Köln 23.07.2018

269. A comparable pattern can be seen at P2P GmbH. On accounts at Sparkasse Aachen, Raiffeisenbank Fech, Volksbank Bonn and later the Dutch BUNQ, double-digit million amounts were received for the Barak/Lenhoff platforms; these account relationships also ended within a short time, with the exception of the BUNQ accounts.
270. The continuation of card processing via Payvision therefore occurred in parallel with increasing warnings from supervisory authorities and repeated restrictions affecting other payment and banking structures. According to the available documents, Payvision remained in this environment a continuously used processing channel.

### Indications of knowledge of banking problems at merchants

271. As a possible indication of knowledge of banking problems, it can be noted that the account balances transmitted by Payvision to Dahlgren on 2 March 2018 include the note "Pending Balance".
272. It should also be noted that account freezes were recognisable for the various payment service providers because payouts to the merchants' banks were returned, as shown by

Im Reiter „Blocked Funds“ sind zu jedem PSP die jeweiligen Beträge angeführt, welche gesperrt oder sonstige Probleme bestehen:

OSG				
PSP name:	Amount:	Currency:	Contact:	Note:
Payvision	881.158,91	EUR	Phillippe Cabrera Kathusing <P.Cabrera@payvision.com>	waiting for new entity - settlement bounced back from our bank acc
	16.672,51	GBP		waiting for new entity - settlement bounced back from our bank acc
Fibonatix	89.665,65	EUR	Hai Shmool <hai.shmool@fibonatix.com>	waiting for new entity - settlement bounced back from our bank acc
	5.717,90	GBP	cri.levy@fibonatix.com	waiting for new entity - settlement bounced back from our bank acc
Astech	239.118,30	EUR	Chris Pavlicu <chris@astechprocessing.com>	expected early January 2019; new entity will be required
	11.350,79	GBP		expected early January 2019; new entity will be required

XFX				
PSP name:	Amount:	Currency:	Contact:	Note:
Astech	1.655,71	EUR	n/a	non-confirmed amount; fees not included; I have no connection with the PSP
TransactWorld	66.034,32	EUR	karuna.seechurn@paymentz.com	PSP's funds blocked in their bank - amount will be slightly less after the fees.
BPAY	180.039,64	EUR	support@howtopay.com	Follow up sent to them, no reply.
Wiropay	15.733,31	EUR	Skype: live:support_35542	Settlement upon request.
UPayC	347,06	EUR	Anastasia - Skype: live:ar_2885	Amount to be used for client's payouts (wires)
VoguePay	26.930,61	EUR	Skype: live:ovlnabdul	Settlement upon request.

Im Falle von OPTIONSTARS GLOBAL wird überwiegend angeführt, dass auf eine neue Gesellschaft gewartet wird. Zu jedem weiteren Brand sind die jeweiligen Notizen betreffend der gesperrten Beträge angeführt.

various analyses from the criminal files.<sup>163</sup>

## Fee structure, risk premiums and economic effects of the business relationship

273. The available documents record that elevated chargeback, fraud and risk values at Payvision were not only the subject of internal handling, but also flowed into fees, risk premiums, unfavourable contractual terms and additional charges imposed on the affected merchants.

### Monetisation of chargeback and fraud risks

274. By letter of 27 March 2018 (“Chargeback and Fraud Risk Premiums”, Amsterdam), Rudolf W. Booker as CEO of Payvision informed Hithcliff Ltd that “Excessive Activity” existed in particular where chargebacks and/or reported fraud transactions within one month amounted to more than 1% of sales transactions. In that event, Payvision claimed the right to charge an increased service fee retroactively from the first day of the relevant month. This fee was to be charged in the form of “Chargeback and Fraud Risk Premiums”, namely as an additional charge of EUR 1.00 per EUR 1.00 of the relevant chargeback or fraud volume.<sup>164</sup>

275. The related tables show, among other things, chargeback rates of 1.89% in December 2017, 4.52% in January 2018 and 7.44% in February 2018. The charges derived from these figures were EUR 95,419.38, EUR 239,336.17 and EUR 164,624.77; the sum of the chargeback charges therefore amounted to EUR 499,380.32. Fraud premiums of EUR

<sup>163</sup>O. 12 Blocked Funds (ON 539, page 81)

<sup>164</sup>R. 3.1. 27032018 Fraud and Chargeback Premium of EUR 658k for December 2017 to February 2018

78,449.01 and EUR 80,227.98 were added, so that Payvision sought to collect a total of EUR 658,057.31 through the billing system.

276. A “Release Form” also exists in which Payvision was expressly authorised to debit EUR 658,057.31 from the merchant account. The declaration is countersigned by “Rudolf W. Booker on behalf of Payvision B.V.”. The documents therefore record not only the quantitative recording of extraordinary chargeback and fraud situations, but also their monetisation and the attribution of this measure to the decision-making level.
277. The documents further indicate that Payvision linked the release of concrete payouts to acceptance of such charges. In the individual case, it was merely conceded that the charge would not be deducted immediately from current payouts, but from the rolling reserve.<sup>165</sup>
278. That such charges did not arise merely selectively is supported by further documents. An internal email chain of 18 July 2018 concerning “Hithcliff LTD – Chargeback Premium – April 2018” expressly describes the charge as a “fine” and names an amount of approximately EUR 68,000 for 45 chargebacks. At the same time, operational steering of key figures, in particular the shifting of turnover to a new MID, is addressed in connection with the chargeback ratio.<sup>166</sup>
279. A further file indication arises from the interrogation record of Gal Barak of 10 February 2020 in the Vienna criminal file. When confronted with Booker’s claim that termination had occurred because of increased chargebacks, Barak replied that chargebacks were “certainly not the reason”, because Payvision had earned “a lot of money” from them. Irrespective of the later legal assessment, this statement corresponds to the documented premium and fee mechanisms.<sup>167</sup>
280. Further chat communication between Dahlgren and Lenhoff of 14 May 2018 indicates that the Lenhoff group estimated the charges paid to Payvision up to that point at around EUR 1 million for the previous six months.<sup>168</sup>

#### **Classification of the term Excessive Activity**

281. The judgment of the Rechtbank Amsterdam of 15 March 2016 in Payvision B.V. v Lopoca Gaming Limited documents that Payvision asserted contractual rights of suspension and retention in relation to events classified as “Excessive Activity”. According to the judgment, the merchant agreement in that case provided that Payvision could take measures in the event of “Excessive Activity”, breach of contract, dishonesty or fraud by the merchant and changes in the merchant’s financial situation, including suspension of the Payvision Services and withholding of payouts. “Excessive Activity” was defined, among other things, as exceeding the expected monthly volume by more than 10% and exceeding certain thresholds for returns, credits or refunds. In the specific case,

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<sup>165</sup>R. 3.2. 10042018 Lenhoff agreed with Booker's handling of the fine

<sup>166</sup>R. 3.3. 18072018 Fraud and Chargeback Premiums of EUR 68k for April 2018

<sup>167</sup>N. 2. 7. Interrogation Gal Barak 10022020

<sup>168</sup>R. 2.1. 14052018 We have penalties amounting to EUR 1 Mio.

Payvision suspended payments to Lopoca on 29 September 2015 and relied, among other things, on transaction volume significantly above the expected forecast, lack of transparency of the business model, preliminary criminal proceedings in Austria and a possible chargeback risk. The Rechtbank Amsterdam provisionally considered it justified that Payvision had postponed payments on the basis of Article 4.2 of the merchant agreement pending further review; at the same time it was found that an amount of EUR 16,414,118.73 had been reserved on the STTP account for Lopoca.<sup>169</sup>

### **Increased fees for the Barak platforms**

282. For the Barak platforms, Booker confirmed the conclusion of a new contractual arrangement on 24 July 2018. This provided for a processing fee of 7% in the relevant area for Gpay Ltd at an approved monthly volume of EUR 4 million, i.e. EUR 1 million per platform; at the same time, a three-year exclusivity and a monthly minimum volume of EUR 4 million were agreed. According to Booker's statement of 12 July 2019, the increased fee was based on increased chargeback rates and the passing on of reseller fees.<sup>170171</sup>

283. Compared with the processing model agreed with Payific Ltd in March 2016, which provided for a processing fee of 0.8% plus interchange, scheme fees and mark-up at an approved monthly volume of EUR 500,000 per platform, the later Gpay arrangement documents a significant economic tightening. This concerns both the level of fees and the agreed minimum volume as well as the other contractual terms.<sup>172</sup>

### **Additional charges for early liquidity**

284. According to the available documents, from summer 2018 onwards repeated early settlement payouts occurred at Lenhoff's request, meaning payouts of investor funds on the STTP accounts before the regular due date. For these early payouts Payvision retained an additional charge of 5% of the amount paid out early in each case.

285. Among other things, an event of 25 September 2018 and another of 10 December 2018 are documented, each in the amount of EUR 250,000. These events show that Payvision not only made regular settlement payouts, but also provided liquidity early at the merchant side's request and charged a separate fee for doing so.<sup>173174</sup>

286. The early payout therefore had a dual economic function: on the one hand, it served the short-term liquidity supply of the underlying structures; on the other hand, it opened an additional revenue source for Payvision.

### **Economic significance of the business relationship**

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<sup>169</sup>I. 1. Lopoca Gaming Limited vs. Payvision B.V.;  
<https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:RBAMS:2016:2019>

<sup>170</sup>C. 7. Appendix 1 Service fees Gpay Ltd dated 24 July 2018

<sup>171</sup>B. 2. Booker's statement dated 12072019

<sup>172</sup>C. 2. Appendix 1 Service fees option888 dated 17 March 2016

<sup>173</sup>R. 1.1. 25092018 25092018 Payvision charges 5% for early cashout

<sup>174</sup>R. 1.2. 10122018 10122018 chat showing early cash out in December 2018

287. In terms of timing, the expansion of the portfolios introduced or serviced by Lenhoff coincided with a phase of significant growth at Payvision. The turnover and earnings developments of Payvision at the time are therefore also of interest for assessing the economic significance of these business relationships.
288. At the end of January 2018, the acquisition of 75% of the shares in Payvision by ING Bank N.V. at a valuation of EUR 360 million was announced. The then shareholders Rudolf Booker, Cheng Liem Li and Gijs op de Weegh therefore participated directly in a high company valuation.
289. According to ING's 2020 annual report, the earn-out component for the management board members was also linked to revenue and earnings for 2018.
290. Payvision's economic development in the 2018 financial year was characterised by substantial growth. According to the profit and loss account, revenues increased from EUR 103.278 million in 2017 to EUR 165.896 million in 2018, an increase of approximately EUR 62.6 million or around 60.6%. Gross margin on revenue also rose from EUR 28.803 million to EUR 47.056 million. Operating profit increased from EUR 6.254 million in 2017 to EUR 15.029 million in 2018, more than doubling. After tax, Payvision achieved a result of EUR 12.052 million in 2018 compared with EUR 3.723 million in the previous year. At the level of Payvision Holding B.V., gross revenues increased from EUR 119.392 million to EUR 192.649 million; EBIT rose from EUR 886,000 to EUR 11.488 million, and net result turned from minus EUR 465,000 to plus EUR 8.081 million. Despite increased personnel, operating and intra-group expenses, the profit and loss account for 2018 therefore shows a significant expansion of turnover, gross margin and profitability. This is relevant for classifying the business relationship with high-risk merchants insofar as, in the year of the ING acquisition and of the documented contractual relationships with the Lenhoff/Barak structures, Payvision was not in a shrinking or winding-down phase, but showed a strongly growing and profitable business model.<sup>175176</sup>
291. The consolidated financial statements of Payvision Holding 2018 show that Payvision received not only merchant service fees and transaction fees. Under "Other fees", the group recorded, among other things, mark-ups on settlement volume, refund, chargeback and pre-arbitration fees, recurring fixed fees, non-recurring scheme charges and bank fees for settlements. These "Other fees" amounted to EUR 24.666 million in 2018, compared with EUR 13.056 million in the previous year.<sup>177</sup>
292. The result for 2019 showed, after the arrests of Barak and Lenhoff, significant declines in gross margin and EBIT. Gross margin fell from EUR 47 million in 2018 to EUR 40.5 million in 2019; EBIT fell over the same period from EUR 15 million to EUR 2.2 million. This development coincides in time with the loss of the business with the Lenhoff/Barak structures.<sup>178</sup>

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<sup>175</sup>E. 4 Annual Report of Payvision B.V. 2018

<sup>176</sup>E. 3. Annual Report of Payvision Holding for 2018

<sup>177</sup>E. 3. Annual Report of Payvision Holding for 2018

<sup>178</sup>E. 5 Annual Report of Payvision BV for 2019



## ING Bank N.V. in the context of the Payvision structure

293. Building on the introductory overview of roles, the ING documents are brought together below from four perspectives: account management in the environment of trust and payment accounts; earlier credit or financing partnership; majority and later sole-shareholder position in the Payvision Group; and group parent role in connection with the subsequent discontinuation of the payment-services business and intra-group restructurings.

### **ING as lender to Payvision B.V. in 2016**

294. The annual accounts of Payvision B.V. for the 2016 financial year show that ING Bank N.V. maintained a credit or overdraft relationship with Payvision B.V. at least until November 2016. Payvision stated that, in November 2016, an existing revolving credit facility of EUR 5 million with ING was replaced by a new revolving credit facility from Deutsche Bank. In addition, the overdraft facility with ING was terminated in 2016.<sup>179</sup>

### **ING as account-holding institution for the payment accounts of the Payvision Stichting**

295. Building on the settlement and third-party funds structures described above, ING Bank N.V. is documented as the account-holding institution of the Payvision/STTP payment structure.

296. A judgment of the Rechtbank Amsterdam of 15 March 2016 in Payvision B.V. v Lopoca Gaming Limited already documents that ING Bank N.V. appeared in the payment-account environment of the Payvision/STTP structure in 2016. In that proceeding, Lopoca had obtained a provisional third-party attachment or preservation attachment against several third parties to secure a claim asserted by it against Payvision, including Stichting Trusted Third Party Payvision (“STTP”), Stichting Payvision and ING Bank N.V. The judgment states that STTP was Payvision’s third-party funds foundation, which Payvision used to fulfil the statutory safeguarding obligation under Article 3:29a Wft. It was also established that an amount of EUR 16,414,118.73 had been reserved on the STTP bank account for Lopoca. Payvision argued in that proceeding that the attachment at ING in particular had effect and blocked its daily payment traffic. The Rechtbank Amsterdam lifted the preservation attachments imposed, among others, at STTP, Stichting Payvision and ING Bank N.V. The judgment therefore shows that ING was documented in court records as a bank in the environment of the Payvision/STTP payment structure not only from the 2018 acquisition of the shareholding, but already in March 2016.<sup>180</sup>

297. In 2018, the use of the account of Stichting Trusted Third Party Payvision (NL97INGB0660731428), through which the card payments of investors/customers of the Lenhoff and Barak platforms were received and subsequently forwarded to

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<sup>179</sup>E. 1. Annual report Payvision B.V. 2016

<sup>180</sup>I. 1. *Judgment Lopoca Gaming Limited vs. Payvision*

<https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:RBAMS:2016:2019>

operating companies and affiliated companies, is documented.<sup>181</sup>

298. In the investigation period, double-digit million amounts from card transactions of the Lenhoff/Barak platforms were recorded as incoming amounts via the VISA and Mastercard card networks from customers of the Barak/Lenhoff platforms from more than 30 different countries on these accounts in Amsterdam.
299. The documented account movements on the STTP account concerned, among other things, high incoming amounts from similar or related business models, regular payouts from the Payvision Stichting to the merchants, and repayments in the context of chargeback requests.
300. According to the documents described above, withdrawals and payments to third-party companies were also made through these accounts.

#### **ING bank accounts for other licensed and unlicensed financial service providers that received investor funds for the Barak/Lenhoff platforms**

301. According to the available documents, the ING Group was not touched only through Payvision in payment structures in the environment of the Barak/Lenhoff platforms. Rather, ING account relationships also existed at further actors through which investor funds were received or forwarded. This concerns in particular MoneyNetInt Ltd as a licensed financial service provider through which investor funds were processed, as well as further payment and forwarding structures not clearly regulated. Celtic Pay Ltd, a merchant in the environment of the Barak/Lenhoff platforms, also held an account at the Romanian branch of ING Bank N.V. These account relationships are relevant to the further classification because they show that ING-related banking infrastructure appeared at several points in the payment processing and not exclusively in the immediate Payvision context.<sup>182183</sup>

#### **ING as majority shareholder and later sole owner of the Payvision Group**

302. In the first quarter of 2018, ING Bank N.V. acquired 75% of the shares in Payvision at a valuation of EUR 360 million and thereby became majority shareholder; in 2020 the remaining shares were fully acquired. Through this transaction, Payvision was integrated into ING's group structure; at the same time, the governance structures were strengthened, among other things by appointing Mark C.A. Buitenhek as chairman of the supervisory board of Payvision Holding B.V.<sup>184</sup>
303. The 2018 annual accounts of Payvision Holding B.V. document that, in the year of the majority acquisition, ING was not only shareholder, but also financing partner of the Payvision Group. In 2018 Payvision opened financing facilities with ING Bank N.V. totalling EUR 25 million; these included an overdraft facility of EUR 5 million for Payvision Holding B.V. and an overdraft and guarantee framework of EUR 20 million for Payvision

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<sup>181</sup>J. 5.3. Summary of Gpay Ltd bank account in 2018 (LKA NÖ ON xx)

<sup>182</sup>K. 7. 2. ING Poland bank account MoneyNetInt Ltd.

<sup>183</sup>K. 7.1. ING bank account for Celtic Pay

<sup>184</sup>F. 1. 29 January 2018 ING ad-hoc-announcement about the acquisition of Payvision

B.V. and Acapture B.V. The facilities were secured by outstanding receivables of Payvision at the bank. The overdraft facility previously existing with Deutsche Bank was terminated in 2018.<sup>185</sup>

304. Payvision's 2017 annual accounts do not present ING's investment as a mere financial investor acquisition. Rather, the partnership with ING is described as a strategic cooperation intended to accelerate Payvision's growth, expand the product portfolio and enable a combined provision of payment and banking products. Among other things, faster remittance, pre-financing, a broader offering for merchants and access by ING customers to Payvision's omnichannel payment solutions are named.<sup>186</sup>
305. ING later publicly communicated that, already in connection with the acquisition, arrangements had existed to gradually reduce certain customer segments and align Payvision with the group's risk profile. This suggests that questions concerning the customer portfolio and risk profile were in any event addressed in the acquisition context. At the same time, ING and Payvision recorded strong growth in transaction volume in the first year of the majority shareholding and described the combination of bank and fintech in external communications as an "unstoppable combo".<sup>187188</sup>
306. The acquisition phase must also be placed against the background that, in September 2018, ING Bank N.V. accepted an out-of-court settlement with the Dutch public prosecutor in the so-called Houston proceedings and in that context paid a total of EUR 775 million to the Dutch State, consisting of a EUR 675 million fine and EUR 100 million disgorgement of unlawfully obtained benefits. According to the Houston documents, the findings concerned serious, structural and long-standing deficiencies in the implementation of AML/CTF and FEC-CDD obligations, in particular in the areas of customer due diligence, risk classification, ongoing monitoring, transaction monitoring, FIU reporting and termination of risky customer relationships in the period from 2010 to 2016; the settlement agreement's scope of resolution related to FEC-CDD-related facts and circumstances from 2010 until signature of the settlement in September 2018.<sup>189190</sup>

#### **Initiation of the liquidation of Payvision B.V.**

307. According to the FD media reports, significant supervisory findings by the DNB already existed before the later discontinuation decision. According to the FD reconstruction, a strictly confidential DNB report was present at Payvision's Amsterdam offices on 8 October 2020. According to the FD, the DNB accused Payvision therein of breaches of the Wft, the Wwft and the Sanctions Act; at the same time, a previously obtained Kroll report was said to have concluded that the compliance situation at Payvision was so problematic that new business could no longer be responsibly undertaken. According to

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<sup>185</sup>E. 4. Payvision B.V. Annual Report 2018

<sup>186</sup>F. 2. Annual report Payvision 2017; ING partnership is reported

<sup>187</sup>F. 10. 14 October 2022 ING ad-hoc-announcement Payvision have recently been mentioned in media

<sup>188</sup>F. 6. 15 May 2019 Payvision media release: partnership between Payvision and ING

<sup>189</sup>G. 2. Houston Report 09/2018

<sup>190</sup>G. 1. AML Settlement Agreement ING 09/2018

- the same report, a customer stop was imposed. According to the FD, the later criminal matter was triggered by a DNB report from 2021 or May 2021.<sup>191</sup>
308. As early as 13 November 2020, ING publicly responded to media reports concerning Payvision. ING stated at the time that, already when acquiring the 75% participation, it had been known that part of Payvision's customer base did not correspond to ING's desired risk profile; in the course of the acquisition, arrangements had therefore been made to gradually reduce certain customer segments, in particular adult entertainment and gambling, and not to take on new customers in these areas. Reuters reported on the same day that ING had already sold part of Payvision's business, including the adult portfolio, in September 2020; it also reported a goodwill impairment of EUR 188 million in the second quarter of 2020.<sup>192193</sup>
309. By communication of 28 October 2021, ING then announced the phased discontinuation of the Payvision business. In this public communication, ING did not justify the phase-out by reference to the criminal investigation, but stated that, following a comprehensive review, it was no longer realistic in the increasingly competitive and capital-intensive e-commerce merchant market to achieve the ambitions pursued with Payvision. The discontinuation was to be completed by the second quarter of 2022; in ING's later communication of 14 October 2022 it was stated that the winding-down of activities and the transfer of customers to a new payment service provider had already been completed earlier in 2022, and that the corporate liquidation was expected to be completed by 2023.<sup>194</sup>
310. In the course of the winding-down, ING provided, according to the available annual accounts, a capital-strengthening contribution or share premium contribution of up to EUR 30 million to finance the orderly liquidation. At the same time, according to the available annual accounts, no provisions were recognised for claims by injured parties or for the criminal investigation.<sup>195</sup>
311. On 14 October 2022, two FD articles concerning Payvision/ING appeared. The first article reported on a criminal investigation against Payvision for alleged money-laundering breaches and on searches or seizures by FIOD. The second article reconstructed the history of the acquisition, the high-risk customer base, internal warning signals, the DNB report and the later winding-down of Payvision. On the same day, ING published an ad hoc announcement in which it expressly referred to current media reports, confirmed the investigation against Payvision, but emphasised that ING itself was not treated as a suspect/accused and that, according to ING's understanding, the investigated events pre-dated the acquisition. The ING announcement was therefore an immediate reaction

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<sup>191</sup>D. 2. und D. 3. FD media reports October 2022, <https://fd.nl/bedrijfsleven/1454674/ing-opnieuw-verstrikt-in-strafzaak-wegens-witwassen>, <https://fd.nl/financiele-markten/1454725/ferrari-s-fintech-en-foute-klanten-hoe-ing-dochter-payvision-het-witwasspook-nieuw-leven-inblies>

<sup>192</sup>F. 7. 13. November 2020 ING ad-hoc-announcement high-risk business is sold

<sup>193</sup>F. 8. 13 November 2020 Reuters reports about ING ad-hoc announcement

<sup>194</sup>F. 9. 28 October 2021 ING ad-hoc-announcement about phasing out Payvision

<sup>195</sup>E. 7. Annual report Payvision B.V. 2021

to the FD reporting of 14 October 2022.<sup>196197198</sup>

312. This chronology is relevant to the later assessment of the asset situation and group structure. It shows that the discontinuation of the Payvision Group was preceded by a longer phase in which DNB and Kroll findings, a customer stop and offboarding measures were first documented, followed by ING's public response in November 2020, then the DNB report from 2021 and finally the phase-out announcement in October 2021.

#### **Summary classification**

313. In summary, the documents record a multi-layered institutional connection between ING Bank N.V. and the Payvision Group. This connection concerns account management, financing, shareholding, governance, winding-down and intra-group asset structuring; it therefore goes beyond a merely isolated point of contact.

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<sup>196</sup>D. 2. FD report dated 14 October 2022, <https://fd.nl/bedrijfsleven/1454674/ing-opnieuw-verstrikt-in-strafzaak-wegens-witwassen>

<sup>197</sup>D. 3. FD report dated 14 October 2022, <https://fd.nl/financiele-markten/1454725/ferrari-s-fintech-en-foute-klanten-hoe-ing-dochter-payvision-het-witwasspook-nieuw-leven-inblies>

<sup>198</sup>F. 10. 14 October 2022 ING ad-hoc-announcement: Payvision have recently been mentioned in media