

# A Smart Wallet

The potential for mobile payments is huge. So are the potential legal and regulatory hurdles

Banks, retailers, and pundits are paying a lot of attention to mobile payments, which typically involve the use of smartphones and tablets to pay for purchases. But a lack of mobile infrastructure has kept the use of mobile payments fairly low in the U.S.

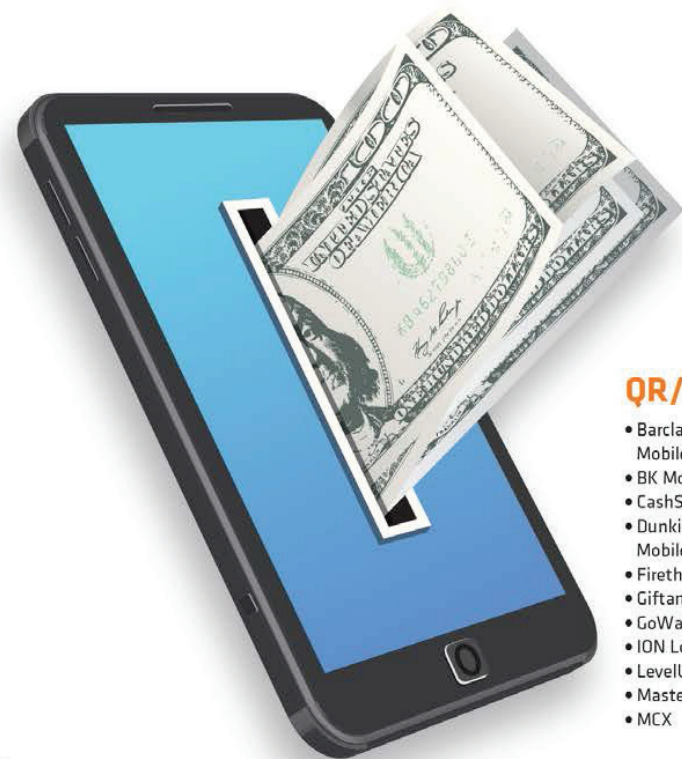
The space is evolving quickly, however. More infrastructure is

being rolled out, while new software and cloud-based solutions are enabling payment processing without the need for a network of specialized in-store terminals. For their part, consumers are already well equipped to take advantage of these developments. Today, 61 percent of American consumers have smartphones or

tablets, up from 48 percent last year, according to a recent study from Vantiv, a provider of payment processing strategies, and the Mercator Advisory Group, an independent research firm.

Many of these consumers are already using these devices as shopping tools—comparing in-store prices with online prices, researching products, downloading coupons, and discussing potential purchases with friends. So it's fair to assume that consumers will adopt mobile payments quickly as they become easier and more widespread. By 2018, Mercator estimates, the value of mobile payments will increase sevenfold, to \$362.8 million a year, up from \$51.4 million today.

There's a great deal of opportunity here. But there's also much to consider from a legal standpoint, because mobile payments represent the convergence of business, technology, and banking. "You have to think about issues like the structure of the mobile payment offering, including the source and settlement of the funds to determine the applicable regulatory framework," says Obrea Poindexter, a partner at Morrison & Foerster who leads the mobile payments group. "There are technology issues relating to cybersecurity and authentication as well as regulatory issues, such as maintaining the privacy of consumer data and complying with anti-money laundering laws."



## Mobile Wallets: Shake-Out Coming

Mobile wallets are a key element in mobile payments, acting as a single point of access to an individual's credit cards and accounts. There are many companies offering wallets today, and different wallets are designed for different uses. Looking at wallets designed for use at the retail point of sale (POS), Mercator estimates that consumers currently have more than three dozen to choose from. In addition, there are several competing technologies for capturing POS payments,

### QR/Bar Code

- Barclaycard Mobile Wallet
- BK Mobile
- CashStar
- Dunkin' MobileApp
- FirethornPay
- Giftango
- GoWallet
- ION Local
- LevelUp
- MasterPass
- MCX
- NCR Mobile Shopper
- Payair
- Paycloud
- Paydiant
- PayDragon
- QP QuickPay
- ShopSavvy
- Square Wallet
- Starbucks
- UChoose Rewards
- Vibe

### NFC

- Atos
- Google Wallet\*
- Isis
- Level Up
- MasterPass\*
- mFina Touch
- Microsoft Wallet\*
- Moneto
- Paydiant
- QP QuickPay
- TapTransact
- Visa/Samsung

### Card Account on File\*\*

- Hailo\*
- InstantCab\*
- Order Ahead\*
- Pango\*
- ParkMobile\*
- PaybyPhone\*
- SmartPay\*
- TaxiMagic\*
- Uber\*

### Geofencing

- BarTab
- Dwolla†
- NCR Mobile Shopper
- Square Wallet
- Tabbed Out

### Phone and PIN

- Looped In
- PayOne\*
- PayPal Wallet\*†
- Sprint Mobile\*

### Ultrasound

- ShopKick

\*Can be used for online payment and settlement.  
\*\*Payment may be online but receipt presented in person.  
†Can be used for P2P payment.  
Source: Mercator Advisory Group

## The Growing Compliance Challenge

Mobile payments are poised for rapid growth, and that is attracting the attention of regulators from several quarters. "Some laws are being discussed at the federal and state levels, and there is already a fair amount of activity coming from agencies that are updating their guidance to adapt to mobile payments," says Rick Fischer, a senior partner at Morrison & Foerster. He explains that mobile payments can fall under a variety of federal banking laws and agencies ranging from the Federal Deposit Insurance Corp. to the Consumer Financial Protection Bureau. "And depending on the type of company involved, it could also involve agencies like the Federal Communications Commission and the Federal Trade Commission," he says. "So this is a complicated and changing field."

### The Regulatory Landscape

**Privacy**  
Policymakers are concerned about protecting consumer, financial, and geo-location data.

Bill in Congress would require mobile app developers to notify users of personal data collection.

FTC report recommends best practices for mobile privacy disclosures.

California's attorney general has proposed a "decision path" for building privacy into mobile apps.



**Financial Regulation**  
Different rules apply depending on underlying payment source.

**Credit cards**—Federal Truth in Lending Act and Regulation Z cover disclosure of credit terms; state laws govern extension of credit by retailers.

**General purpose reloadable prepaid cards**—CFPB is working to extend electronic funds transfer rules to these cards; Treasury mandates compliance with federal anti-money laundering laws.

**Money Transmission Licensing**  
Most states require a license to engage in money transmission, which can include mobile payment activities.

States have been requiring emerging payment providers to obtain licenses.

Licensing process requires highly detailed business plans and personal information about the individuals involved.

Source: Morrison & Foerster

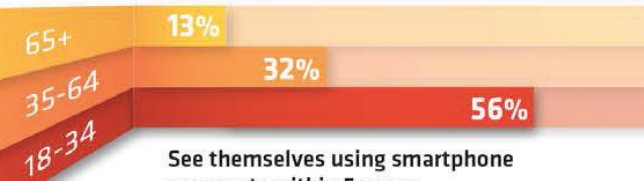
## Younger Consumers Are Bullish on the Growth of Mobile Payments

Consumers still have reservations about mobile payments. In the Vantiv/Mercator research, for example, they ranked security issues as a key barrier to mobile usage. They also seem to question whether mobile payments offer a real advantage over current methods: only 15 percent said they would prefer to use mobile payments over a credit, debit, or prepaid card today. But they are more optimistic when looking a few years ahead. Many think that mobile payments will be widespread within five years, and that they themselves will be using them. These views are most pronounced among younger consumers age 18-34—a group that is something of a bellwether of future consumer attitudes.

Expect smartphone payments to be common within 5 years



See themselves using smartphone payments within 5 years



Source: Vantiv/Mercator Insight Series