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# Top Payment Cos. Embrace Innovation With Fintech Buys

By **Philip Rosenstein**

*Law360 (July 17, 2020, 9:15 PM EDT)* -- This year has seen two notable fintech infrastructure companies, Plaid and Finicity, gobbled up by the world's leading payments behemoths, highlighting the importance of under-the-hood financial technology and signaling a continuing trend of established financial institutions embracing fintech.

In January, Visa Inc. said it would acquire San Francisco-based Plaid Inc. for a robust $5.3 billion, wrapping the fintech company's technology that allows users to easily connect their financial accounts with thousands of online applications into the payment processor's global business. Perennial competitor Mastercard Inc. likewise made a move into the fintech infrastructure space last month, snapping up Salt Lake City-based Finicity in a deal that could be worth just under $1 billion to expand its foray into open banking.

Attorneys who spoke with Law360 see these acquisitions as a sign that legacy financial institutions understand that the future of payments and banking will need to be technology-focused as new generations of consumers force the financial services industry to move largely online.

"Applications are looking for more ways to connect to accounts, and that is ultimately the business in which Finicity and Plaid are in," Thomas Brown, a partner in Paul Hastings LLP's antitrust and competition and global banking and payment systems practices, told Law360. "Visa and Mastercard are fundamentally in the business of supporting applications by financial services companies to meet consumer and small business demand. And so, they need to be able to meet the demands of their prospective customers."

**The Relentless Fintech Trend**

Visa and Mastercard were two notable companies that dropped out of the Libra project, the Facebook-incubated initiative to develop a global digital currency backed by traditional fiat. Forgoing membership in the Libra Association, however, was quickly followed by the two acquisitions squarely in the fintech infrastructure space, underscoring the inevitable rise of fintech.

"I think it is the natural evolution of things traditional financial services companies are acquiring fintechs," Andrew Ray, a partner at Morgan Lewis & Bockius LLP and leader of the firm's interdisciplinary corporate practice in Washington, D.C., told Law360.

"Big financial services companies, in some ways, are a lot more tech-savvy and invest a lot more in technology than is widely realized," Ray said, pointing to JPMorgan Chase & Co.'s extensive investments in financial technology, which have given it a robust patent portfolio.

"Traditional financial institutions have been doing smaller deals like this for several years. And they've been partnering with companies like this for several years," he said. "So I do think it's the natural order of things, and I think you're going to see more."

These investments in fintech are an existential necessity, too, as numerous startups have entered the financial services industry by providing novel and connected services to consumers that threaten the ubiquity of companies like Mastercard and Visa.

Visa has been a pioneer in the banking industry, with its roots in 1958, and Mastercard officially formed in 1967. Newer payments companies like PayPal Inc., which launched in 1998, have sought to break into the payments space with notable success. But the success of modern digital payments companies has prompted a reaction from Mastercard, Visa and other financial institutions.

Over the years, the incumbent financial services companies have been able to keep up with emerging technologies both through research and development and through acquisitions, like those of Plaid and Finicity.

"I definitely think this is a trend that's going to continue and we're going to see more and more both of the established infrastructure companies, as well as the established financial institutions getting a lot of acquisitions over the next couple of years," David Beam, a Mayer Brown LLP partner in the firm's financial services regulatory and enforcement group, told Law360.

**The EU-U.S. Split**

The acquisitions, while focused on underlying fintech infrastructure, are addressing slightly different tranches of the financial services consumer market, according to Ray.

Finicity has a focus on open banking, or the ability for consumers to control and move their personal financial information. Plaid's business allows users to connect their financial accounts across platforms, and provides them with data management tools. Open banking services include determining how and where third parties such as financial technology companies or other banks can access a given customer's financial data.

"Open banking is a growing global trend and a strategically important space for us," Michael Miebach, president of Mastercard, said in a statement on announcing the Finicity acquisition. "With the addition of Finicity, we expect to not only advance our open banking strategy, but enhance how we support and accelerate today's digital economy across several markets."

Ray said the Finicity deal shows a focus on the European market, which has been ahead of the curve in terms of implementing regulations like Payment Services Directive 2 and the General Data Protection Regulation, which widely provides European consumers with control over their own data.

"There are some regulatory developments, notably in the U.K., that make it possible if you were a U.K. banking customer to have all of your data shared, so you can take that data and put it to good use for a lot of other personal finance use cases," Ray said.

"The Visa-Plaid deal, I see as much more informed by what's going on in the U.S.," he added.

While Plaid says it has been used by around 25% of users with U.S. bank accounts, it has an open banking license in the U.K.

"Fintech's innovation has just begun," John Pitts, global head of policy at Plaid, told Law360. "Open banking, while conceptually galvanizing as an initial framework for digital finance, is limited to only some types of financial information and accounts. Plaid's goal is open finance, a digital finance for a person's whole financial picture, from bank accounts to investment portfolios and payroll."

The regulatory structure within which these types of financial infrastructure companies will operate is still developing, Brown said.

Plaid, for example, is facing a class action in California federal court filed by Venmo users alleging that it accessed and sold app their personal banking data without their consent. And Visa's acquisition of the company is facing a probe in the U.K., with the Competition and Markets Authority investigating whether the deal will hinder competition in the industry. Plaid has called the allegations brought in California "baseless," and said it would "vigorously defend itself."

Brown, however, said these acquisitions legitimize the novel business models pioneered by Plaid and Finicity.

"It's just hard to argue that there's something wrong with it if it's a function that is being supported by two of the most valuable companies in the world and companies that we trust to clear trillions of dollars of transaction volume every year," he said.

--Editing by Breda Lund and Brian Baresch.

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