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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a Regulation of the European Parliament and of the Council on interchange fees for card-based payment transactions - Outcome of the European Parliament's first reading (Brussels, 2 to 3 April 2014)

I. INTRODUCTION

The Committee on Economic and Monetary Affairs submitted 55 amendments to the proposal for a Regulation (amendments 1-55). In addition, the EFD political group tabled one amendment (amendment 56).

II. DEBATE

The debate, which took place on 2 April 2014, was a joint debate which covered two Ordinary Legislative Procedure proposals:

- the proposal for a Regulation of the European Parliament and of the Council on interchange fees for card-based payment transactions [2013/0265 (COD) / Rapporteur: Mr Pablo ZALBA BIDEGAIN (EPP - ES)] - *see section III below for the voting results*; and
- the proposal for a Directive of the European Parliament and of the Council on payment services in the internal market and amending Directives 2002/65/EC, 2013/36/EU and 2009/110/EC and repealing Directive 2007/64/EC [2012/0264 (COD) / Rapporteur: Mr Diogo FEIO (EPP - PT)] - *see doc. 8032/14 for the voting results*.

Mr Pablo ZALBA BIDEGAIN (EPP - ES) opened the debate and:

- highlighted a number of his key objectives: transparency, strengthening of the single market, promotion of innovation and consumer protection;
- recalled that the Committee on Economic and Monetary Affairs had narrowly voted to include commercial cards within the scope of the Regulation. He personally thought they should be excluded;
- called for a realistic but ambitious date for the application of limits for cross-border and domestic transactions. These dates should be harmonised; and
- invited the Greek and Italian presidencies to get in contact with him in order to see how the proposal could be taken forward.

Mr Diogo FEIO (EPP - PT):

- recalled the strong cross-party majority found at committee level;
- called for a charter of consumer rights that would be the equivalent of the charter of passengers' rights. This charter should be free of small print and should be easy for ordinary citizens to read; and
- stressed the need for surcharges to be linked to real transaction costs.

Commissioner HEDEGAARD:

- welcomed the support of the Committee on Economic and Monetary Affairs for the Commission's proposal;
- stated that the inclusion of Third-Party Payment Service Providers (TPPs) in the scope of the Directive would ensure that all payment providers are subject to adequate regulation and supervision, and would ensure competition on equal terms between different actors providing payment solutions;
- noted with interest the proposal to provide a mandate to the European Banking Authority for the development of a single interface for communication between TPPs and other payment service providers. This approach would address the security concerns that had been raised by certain banks. It would also ensure a safer level playing field between the different market players;
- welcomed the support of the Committee on Economic and Monetary Affairs for the extension of the scope of the Directive, for example to include the so-called 'one-leg' transactions, meaning that only one part of the transaction has to take place in the EU in order for the Directive to apply. This would particularly benefit citizens who use money remittance services to send money to their non-EU home country. She agreed with the Committee that it may be useful to review the details of this extension after a certain period of time;
- welcomed, with regard to interchange fees for card-based payments, the Committee's support for the proposed Regulation. Whilst some operators had criticised the Commission's proposal, it had been particularly welcomed by consumers and retailers. The proposal would provide the necessary legal certainty which some market operators had been requesting. She hoped that clear rules on interchange fees would encourage new market entrants in the EU card market, which remains dominated by very few actors. She also believed that the proposal would encourage innovation around electronic card-payments and thus make an important contribution to the Digital Agenda and Europa 2020;
- opposed the amendment to limit the rules on interchange fees to cross-border transactions. This would not be effective. The aim is to create a true internal market where there is no difference between a national and a cross-border transaction;

- noted that, with regard to debit cards, the introduction of an additional absolute ceiling of 7 eurocents per transaction (above the initial cap of 0.2% of the transaction amount for debit card transactions) would go beyond the Commission's proposal. As the lower of the two amounts would apply, the interchange fee for transactions exceeding €35 would be no higher than 7 eurocents. Merchants and consumers would benefit from this approach, which would help to encourage the development of large-scale electronic payments. The Commission would therefore be open to revising its opinion;
- noted that the Committee also proposed to extend caps from consumer cards to commercial cards and to some cards issued by three-party schemes. The Commission's proposal had focused on consumer cards only. The Commission believes that commercial cards and three-party scheme cards are of much more limited use and is therefore not convinced that the same type of legal caps should be extended to these cards as well. The Commission is nevertheless willing to consider this further; and
- welcomed the progress made in the Parliament on these files and expressed the hope that the Council would make similar progress in the near future so that both legislators can work towards a speedy adoption.

Speaking on behalf of the Committee on the Internal Market and Consumer Protection, Mr Adam BIELAN (ECR - PL):

- supported the overall objectives of the proposals;
- called for a temporary derogation from Article 7 for newly created payment systems. This would permit fair competition with existing development payment card systems; and
- stressed the need to guarantee market balance through the introduction of provisions relating to domestic and cross-border transactions - at the same time and with a sensible deadline for their entry into force. This would give operators the time to adapt to the new requirements.

Speaking on behalf of the Committee on Legal Affairs, Mr Dimitar STOYANOV (NA - BG) expressed his support for the Regulation because it will promote competition. The opposition of old established operators is telling. New operators are offering services which are more cost-advantageous to ordinary consumers.

Speaking on behalf of the EPP political group, Mr Othmar KARAS (EPP - AT):

- called for action to address the currently fragmented nature of the single market;
- stressed the need for a level playing field; and
- supported a fixed percentage and a cap on the overall charge.

Speaking on behalf of the S&D political group, Mr Marino BALDINI (S&D - HR):

- stressed the need for harmonisation throughout the single market; and
- highlighted the opportunities to reduce costs for ordinary consumers.

Speaking on behalf of the ALDE political group, Mrs Sophia IN 'T VELD (ALDE - NL):

- highlighted the potential gains for SMEs and ordinary consumers;
- welcomed the potential boost for e-commerce; and
- noted with approval the likely impact on the existing duopoly of the two leading credit company charges.

Speaking on behalf of the Greens/EFA political group, Mr Bas EICKHOUT (Greens/EFA - NL):

- welcomed the fact that the Committee on Economic and Monetary Affairs had, after much debate, ultimately followed the main thrust of the Commission's proposals; and
- stressed the need to stop ordinary consumers being saddled with unnecessary surcharges.

Speaking on behalf of the EFD political group, Mr Sampo TERHO (EFD - FI):

- argued that, whilst the market is not perfect at present, it nonetheless works fairly well. He was therefore unconvinced of the need to intervene with a view to harmonising interchange fees;
- expressed his particular opposition to defining the level of MIFs for domestic transactions. This should continue to be decided at the national level;

- stressed the need for sound data protection. Data protection procedures should be in line with the opinions of the European Data Protection Supervisor. The liabilities of third-party payment service providers should be better stated, particularly as regards protection of personal security features; and
- argued the need for a minimum level of checking to prevent fraud in refund claims. Payment service providers should therefore be allowed sufficient time for investigation. Strict time limits would not benefit either consumers or payment service providers.

Mr Claudio MORGANTI (EFD - IT) stressed the importance of cost transparency so that consumers can make an informed choice.

Mr Pablo ZALBA BIDEGAIN (EPP - ES) and Mr Diogo FEIO (EPP - PT) once more took the floor and repeated their readiness to enter into negotiations with the Council with a view to securing a rapid agreement.

III. VOTE

When it voted on 3 April 2014, the plenary adopted the 55 amendments submitted by the Committee on Economic and Monetary Affairs. No other amendments were adopted.

The plenary then postponed its vote on the legislative resolution to a later session - thereby not bringing the Parliament's first reading to a close. The proposal was instead referred back to the Committee on Economic and Monetary Affairs, pursuant to Rule 57(2) of the Parliament's Rules of Procedure.

The adopted amendments are set out in the Annex.

(3.4.2014)

Interchange fees for card-based payment transactions *I**

Amendments adopted by the European Parliament on 3 April 2014 on the proposal for a regulation of the European Parliament and of the Council on interchange fees for card-based payment transactions (COM(2013)0550 – C7-0241/2013 – 2013/0265(COD))¹

(Ordinary legislative procedure: first reading)

Amendment 1

Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) Preparation of legislation is under way in several Member States²¹ to regulate interchange fees, covering a number of issues, including caps on interchange fees at various levels, merchant fees, the Honour All Cards rules or steering measures. The existing administrative decisions in some Member States vary significantly. *In view of the harmfulness* of interchange fees *to retailers and consumers*, a further introduction of regulatory measures at national level aimed at addressing the level or *divergencies of* these fees is anticipated. Such national measures would be likely to lead to significant barriers to the completion of the internal market in the area of cards, internet and mobile payments based on cards and would therefore hinder the freedom to provide services.

²¹ Italy, Hungary, Poland and the United Kingdom.

Amendment

(7) Preparation of legislation is under way *or already completed* in several Member States²¹ to regulate interchange fees, covering a number of issues, including caps on interchange fees at various levels, merchant fees, the Honour All Cards rules or steering measures. The existing administrative decisions in some Member States vary significantly. *To make the levels* of interchange fees *more consistent*, a further introduction of regulatory measures at national level aimed at addressing the level *of or divergences between* these fees is anticipated. Such national measures would be likely to lead to significant barriers to the completion of the internal market in the area of cards, internet and mobile payments based on cards and would therefore hinder the freedom to provide services.

²¹ Italy, Hungary, Poland and the United Kingdom.

¹ The matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0167/2014).

Amendment 2

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) Payment cards are the most frequently used electronic payment instrument for retail purchases. However, integration of the Union payment card market is far from complete as many payment solutions cannot develop beyond their national borders or new pan-Union providers are prevented from entering the market. ***The lack of market integration currently results in higher prices and less choice in payment services for consumers and retailers, and more limited opportunities*** to take advantage of the internal market. There is ***therefore*** a need to remove obstacles to the ***efficient functioning of the card market***, including mobile and internet payments that are based on card transactions ***which still pose barriers to the deployment of a fully integrated market***.

Amendment

(8) Payment cards are the most frequently used electronic payment instrument for retail purchases. However, integration of the Union payment card market is far from complete as many payment solutions cannot develop beyond their national borders or new pan-Union providers are prevented from entering the market. To take ***full*** advantage of the internal market, there is a need to remove obstacles to the ***integration of new card-payment options***, including mobile and internet payments that are based on card transactions.

Amendment 3

Proposal for a regulation Recital 9

Text proposed by the Commission

(9) To enable the internal market to function effectively, the use of electronic payments should be promoted and facilitated to the benefit of retailers and consumers. Cards and other electronic payments can be used in a more versatile manner, including possibilities to pay online in order to take advantage of the internal market and e-commerce, whilst electronic payments also provide retailers with potentially secure payments. Card and card based payments instead of cash use could therefore be beneficial for retailers and consumers, provided the fees for the

Amendment

(9) To enable the internal market to function effectively, the use of electronic payments should be promoted and facilitated to the benefit of retailers and consumers. Cards and other electronic payments can be used in a more versatile manner, including possibilities to pay online in order to take advantage of the internal market and e-commerce, whilst electronic payments also provide retailers with potentially secure payments. Card and card based payments instead of cash use could therefore be beneficial for retailers and consumers, provided the fees for the

use of the payment systems are set at an economically efficient level, whilst contributing to innovation and market entry of new operators.

use of the payment systems are set at an economically efficient level, whilst contributing to ***fair competition***, innovation and market entry of new operators.

Amendment 4

Proposal for a regulation Recital 10

Text proposed by the Commission

(10) ***One of the key practices hindering the functioning of the internal market in card and card-based payments is the widespread existence of interchange fees, which are in most Member States not subject to any legislation. Interchange fees are inter-bank fees usually applied between the card-acquiring payment service providers and the card-issuing payment service providers belonging to a certain card scheme. Interchange fees are a main part of the fees charged to merchants by acquiring payment service providers for every card transaction. Merchants in turn incorporate these card costs in the general prices of goods and services. Competition between card schemes appears in practice to be largely aimed at convincing as many issuing payment service providers (e.g. banks) as possible to issue their cards, which usually leads to higher rather than lower interchange fees on the market, in contrast with the usual price disciplining effect of competition in a market economy. Regulating interchange fees would improve the functioning of the internal market.***

Amendment

(10) ***In most Member States***, interchange fees ***are not subject*** to any legislation ***but, rather, to decisions of the national competition authorities***. Interchange fees are inter-bank fees usually ***passed from*** card-acquiring payment service providers ***to*** card-issuing payment service providers belonging to ***the relevant*** scheme. Interchange fees are a main ***component*** of the fees charged to merchants by acquiring payment service providers for every card transaction. Merchants in turn incorporate these card costs, ***like all their other costs***, in the general prices of goods and services. ***Consistent application of the competition rules to interchange fees would reduce transaction costs for consumers and thus*** improve the functioning of the internal market.

Amendment 5

Proposal for a regulation Recital 11

Text proposed by the Commission

(11) The currently existing wide variety of interchange fees and their level prevent the emergence of 'new' pan Union players on the basis of business models with lower interchange fees, to the detriment of potential economies of scale and scope and their resulting efficiencies. This has a negative impact on retailers and consumers and prevents innovation. As Pan-Union players would have to offer issuing banks as a minimum the highest level of interchange fee prevailing in the market they want to enter it also results in persisting market fragmentation. Existing domestic schemes with lower or no interchange fees may also be forced to exit the market because of the pressure from banks to obtain higher interchange fees revenues. As a result, consumers and merchants face restricted choice, higher prices and lower quality of payment services while their ability to use pan-Union payment solutions is restricted. In addition, retailers cannot overcome the fee differences by making use of card acceptance services offered by banks in other Member States. Specific rules applied by the payment schemes require the application of the interchange fee of the 'Point of Sale' (country of the retailer) for each payment transaction. This prevents **acquiring banks** from successfully offering their services on a cross border basis. It also **prevents** retailers from reducing their payment costs to the benefit of consumers.

Amendment

(11) The currently existing wide variety of interchange fees and their level prevent the emergence of 'new' pan Union players on the basis of business models with lower **or no** interchange fees, to the detriment of potential economies of scale and scope and their resulting efficiencies. This has a negative impact on retailers and consumers and prevents innovation. As Pan-Union players would have to offer issuing banks as a minimum the highest level of interchange fee prevailing in the market they want to enter it also results in persisting market fragmentation. Existing domestic schemes with lower or no interchange fees may also be forced to exit the market because of the pressure from banks to obtain higher interchange fees revenues. As a result, consumers and merchants face restricted choice, higher prices and lower quality of payment services while their ability to use pan-Union payment solutions is restricted. In addition, retailers cannot overcome the fee differences by making use of card acceptance services offered by banks in other Member States. Specific rules applied by the **international card** payment schemes require, **on the basis of their territorial licensing policies**, the application of the interchange fee of the 'Point of Sale' (country of the retailer) for each payment transaction. This prevents **acquirers** from successfully offering their services on a cross-border basis. It **can also prevent** retailers from reducing their payment costs to the benefit of consumers.

Amendment 6

Proposal for a regulation Recital 15

(15) This Regulation *follows a gradual approach. As a first step, it is necessary to take measures to facilitate* cross-border issuing and acquiring of payment card transactions. *Allowing merchants to choose an acquirer outside their own Member State ('cross border acquiring') and imposing a maximum level of cross border interchange fees for cross border acquired transactions should provide the necessary legal clarity. In addition, licences for issuing or acquiring of payment instruments should be valid without geographic restrictions within the Union. These measures would facilitate the smooth functioning of an internal market for card, internet and mobile payments, to the benefit of consumers and retailers.*

(15) *In order to facilitate the smooth functioning of an internal market for card, internet and mobile payments, to the benefit of consumers and retailers, this Regulation applies to cross-border and to national issuing and acquiring of payment card transactions. If merchants can choose an acquirer outside their own Member State ('cross-border acquiring'), which will be facilitated by the imposition of the same maximum level of both domestically and cross-border interchange fees for acquired transactions and the prohibition of territorial licensing, it should be possible to provide the necessary legal clarity and to prevent distortions of competition between payment-card systems.*

Amendment 7

Proposal for a regulation Recital 16

(16) As a consequence of unilateral undertakings and commitments accepted in the framework of competition proceedings, many cross-border card payment transactions in the Union are already carried out respecting the maximum interchanges fees *applicable to the first phase of this Regulation. Therefore, the provisions relating to those transactions should enter into force quickly, creating opportunities for retailers to seek cheaper acquiring services cross-border, and incentivising domestic banking communities or schemes to lower their acquiring fees.*

(16) As a consequence of unilateral undertakings and commitments accepted in the framework of competition proceedings, many cross-border card payment transactions in the Union are already carried out respecting the maximum interchanges fees. *In order to provide for fair competition in the market for acquiring services, the provisions relating to cross-border and to national transactions should apply simultaneously and within a reasonable period after entry into force of this Regulation, taking account of the difficulty and complexity of the migration of payment-card systems, which this Regulation necessitates.*

Amendment 8

Proposal for a regulation Recital 17

Text proposed by the Commission

(17) **For domestic transactions**, a **transition** period is necessary to provide payment services providers and schemes with time to adapt to the new requirements. Therefore, after a **two** year period following the entry into force of this Regulation and in order to provide for a completion of an internal market for card-based payments, the caps on interchange fees for consumer card transactions should **be extended to** cover all, cross-border and domestic payments.

Amendment

(17) **However**, a **transitional** period is necessary to provide payment services providers and schemes with time to adapt to the new requirements. Therefore, after a **one**-year period following the entry into force of this Regulation and in order to provide for a completion of an internal market for card-based payments, the caps on interchange fees for consumer card transactions should cover all, cross-border and domestic payments.

Amendment 9

Proposal for a regulation Recital 18

Text proposed by the Commission

(18) **In order to facilitate cross border acquiring** all (**cross-border and domestic**) '**consumer**' debit card transactions and card based payment transaction should have a maximum interchange fee of **0,20%** and all (**cross-border and domestic**) **consumer** credit card transactions and card based payment transactions based on those should have a maximum interchange fee of **0.30%**.

Amendment

(18) All debit card transactions and card based payment transaction should have a maximum interchange fee of **0,2 %** and all credit card transactions and card based payment transactions based on those should have a maximum interchange fee of **0,3 %**.

Amendment 10

Proposal for a regulation Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) The impact assessment shows that a prohibition of interchange fees for debit

card transactions would be beneficial for card acceptance, card usage, development of the single market and generate more benefits to merchants and consumers than a cap set at any higher level. Moreover it would avoid negative effects on national systems with very low or zero interchange fees for debit transaction by a higher cap due to cross border expansion or new market entrants increasing fee levels to the level of the cap. A ban on interchange fees for debit card transactions also addresses the threat of exporting the interchange fee model to new, innovative payment services such as mobile and online systems.

Amendment 11

Proposal for a regulation Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) In accordance the basic principles of the internal market, acquirers should be able to provide their services to merchants throughout the Union applying the multilateral interchange fees (MIFs) that they apply in their national market. They should not apply higher MIFs to cross-border transactions than they apply to national transactions.

Amendment 12

Proposal for a regulation Recital 22

Text proposed by the Commission

Amendment

(22) Payment card transactions are generally carried out on the basis of two main business models, so-called three party payment card schemes (cardholder – acquiring and issuing scheme - merchant) and four party payment card schemes (card holder- issuing bank- acquiring bank-

(22) Payment card transactions are generally carried out on the basis of two main business models, so-called three party payment card schemes (cardholder – acquiring and issuing scheme - merchant) and four party payment card schemes (card holder- issuing bank- acquiring bank-

merchant). Many four payment card party schemes are using an explicit interchange fee, mostly multilateral. Interchange fees (fees paid by acquiring banks to incentivise card issuing and card use) are implicit in three party payment card schemes. To acknowledge the existence of implicit interchange fees and contribute to the creation of a level playing field, three party payment card schemes using payment service providers as issuers or acquirers should be considered as four party payment card schemes and should follow the same rules, whilst transparency and other measures related to business rules should apply to all providers.

merchant). Many four payment card party schemes are using an explicit interchange fee, mostly multilateral. Interchange fees (fees paid by acquiring banks to incentivise card issuing and card use) are implicit in three party payment card schemes. To acknowledge the existence of implicit interchange fees and contribute to the creation of a level playing field, three party payment card schemes using payment service providers as issuers or acquirers should be considered as four party payment card schemes and should follow the same rules, whilst transparency and other measures related to business rules should apply to all providers. ***Three-party schemes should accept transactions made using their cards from any acquirer based on general card transaction standards and acquiring rules comparable to the merchant rules for the specific three party schemes and with interchange caps in accordance with this Regulation.***

Amendment 13

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) It is important to ensure that the provisions concerning the interchange fees to be paid or received by payment service providers are not circumvented by alternative flows of fees to issuing payment services providers. To avoid this, the ‘net compensation’ of fees paid and received by the issuing payment service provider from a payment card scheme should be considered as the interchange fee. When calculating the interchange fee, for the purpose of checking whether circumvention is taking place the total amount of payments or incentives received by an issuing payment services provider from a payment card scheme with respect to the regulated transactions less the fees paid by the issuing payment services provider to the scheme should be taken into

Amendment

(23) It is important to ensure that the provisions concerning the interchange fees to be paid or received by payment service providers are not circumvented by alternative flows of fees to issuing payment services providers. To avoid this, the ‘net compensation’ of fees paid and received by the issuing payment service provider, ***including possible authorisation charges,*** from a payment card scheme should be considered as the interchange fee. When calculating the interchange fee, for the purpose of checking whether circumvention is taking place the total amount of payments or incentives received by an issuing payment services provider from a payment card scheme with respect to the regulated transactions less the fees paid by the issuing payment services

account. Payments, incentives and fees ***considered could be*** direct (i.e. volume-based or transaction-specific) or indirect (including marketing incentives, bonuses, rebates for meeting certain transaction volumes).

provider to the scheme ***and the monetary incentives or equivalent received by a cardholder from a payment card scheme*** should be taken into account. ***All*** payments, incentives and fees, ***whether*** direct (i.e. volume-based or transaction-specific) or indirect (including marketing incentives, bonuses, rebates for meeting certain transaction volumes). ***In checking circumventions of this Regulation providing for the maximum amount of interchange fees, the profit of payment card issuers that results from special programmes carried out jointly by payment card issuers and payment card schemes, and revenue from processing, licensing and other fees providing revenue to card organisations should, in particular, be taken into account.***

Amendment 14

Proposal for a regulation Recital 30

Text proposed by the Commission

(30) ***For the effective functioning of the limitations to the Honour All Cards Rule certain information is indispensable.***

First, payees should have the means to identify the different categories of cards. Therefore, the various categories should be identifiable ***visibly and*** electronically on the device. Secondly, also the payer should be informed about the acceptance of his payment instrument(s) at a given point of sale. ***It is necessary that any limitation on the use of a given brand to be announced by the payee to the payer at the same time and under the same conditions as the information that a given brand is accepted.***

Amendment

(30) Payees ***and payers*** should have the means to identify the different categories of cards. Therefore, the various categories should be identifiable electronically ***and for newly issued card based payment instruments also visibly*** on the device ***or on the payment terminal***. Secondly, also the payer should be informed about the acceptance of his payment instrument(s) at a given point of sale.

Amendment 15

Proposal for a regulation Recital 30 a (new)

(30a) A payment is an agreement between the payer and the payee. In order to ensure that competition between brands is effective, it is important that the choice of payment application be made by users, not imposed by the upstream market, comprising payment card systems, payment service providers or processors. Such an arrangement should not prevent payers and payees from setting a default choice of application, where technically feasible, provided that that choice can be changed for each transaction. If the payee selects an application supported by both, the user should be able to reject it and choose another application.

Amendment 16

Proposal for a regulation Recital 31

(31) In order to ensure that redress is possible where this Regulation has been incorrectly applied, or where disputes occur between payment services users and payment services providers, Member States should establish adequate and effective out-of-court complaint and redress procedures. Member States should lay down rules on the penalties applicable to infringements of this Regulation and should ensure that those penalties are effective, proportionate and dissuasive and that they are applied.

(31) In order to ensure that redress is possible where this Regulation has been incorrectly applied, or where disputes occur between payment services users and payment services providers, Member States should establish adequate and effective out-of-court complaint and redress procedures. Member States, ***following guidelines set up by the European Supervisory Authority (European Banking Authority) ('EBA'), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council***^{1a}, should lay down rules on the penalties applicable to infringements of this Regulation and should ensure that those penalties are effective, proportionate and dissuasive and that they are applied.

^{1a} ***Regulation (EU) No 1093/2010 of the***

Amendment 17

Proposal for a regulation Article 1 – paragraph 1

Text proposed by the Commission

1. This Regulation lays down uniform technical and business requirements for payment **card** transactions carried out within the Union, where both the payer's payment service provider and the payee's payment service provider are established therein.

Amendment

1. This Regulation lays down uniform technical and business requirements for **card-based** payment transactions carried out within the Union, where both the payer's payment service provider and the payee's payment service provider are established therein.

Amendment 18

Proposal for a regulation Article 1 – paragraph 2

Text proposed by the Commission

2. This Regulation does not apply to payment instruments that can be used only within a limited network designed to address precise needs through payment instruments only to be used in a limited way, because they allow the specific instrument holder to acquire goods or services only in the premises of the issuer, within a limited network of service providers under a direct commercial agreement with a professional issuer, or because they can be used only to acquire a **limited** range of goods or services.

Amendment

2. This Regulation does not apply to payment instruments that can be used only within a limited network designed to address precise needs through payment instruments only to be used in a limited way, because they allow the specific instrument holder to acquire goods or services only in the premises of the issuer, within a limited network of service providers under a direct commercial agreement with a professional issuer, or because they can be used only to acquire a **very narrow** range of goods or services.

Amendment 19

Proposal for a regulation Article 1 – paragraph 3 – point a

Text proposed by the Commission

Amendment

(a) transactions with commercial cards,

deleted

Amendment 20

Proposal for a regulation

Article 1 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) cash withdrawals at automatic teller machines and

(b) cash withdrawals *or transactions other than sales of goods or services performed* at automatic teller machines *and cash disbursements at the counter of payment service providers' premises;* and

Amendment 21

Proposal for a regulation

Article 1 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) transactions with cards issued by three party payment card schemes.

(c) transactions with cards issued by three party payment card schemes *where their volume does not exceed a threshold set by the Commission;*

Amendment 22

Proposal for a regulation

Article 1 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Articles 6 and 7 shall not apply to domestic debit card schemes that operate with an average interchange fee or net compensation model which is verifiably below the threshold value in Articles 3 and 4.

Amendment 23

Proposal for a regulation

Article 2 – point 4

Text proposed by the Commission

(4) 'debit **card transaction**' means **an card** payment transaction **included with prepaid** cards linked to a current or deposit access account to which **a transaction is debited in less than or 48 hours after** the transaction **has been authorised/initiated**.

Amendment

(4) 'debit **transaction by card**' means **a card-based** payment transaction linked to a current or deposit access account to which the transaction **is debited immediately upon being cleared, as well as a transaction with a prepaid card**;

Amendment 24

Proposal for a regulation

Article 2 – point 5

Text proposed by the Commission

(5) 'credit **card** transaction' means **an** card payment transaction **where the transaction is settled more than 48 hours** after the transaction has been authorised/initiated;

Amendment

(5) 'credit transaction **by card**' means **a** card **based** payment transaction **which is debited at least two business days** after the transaction has been authorised/initiated.

Amendment 25

Proposal for a regulation

Article 2 – point 8

Text proposed by the Commission

(8) 'cross-border payment transaction' means a card payment or card-based payment transaction initiated by a payer or by a payee where the payer's payment service provider **and the payee's payment service provider are** established in different **Member States** or where the payment card is issued by an issuing payment service provider established in a different Member State than that of the point of sale;

Amendment

(8) 'cross-border payment transaction' means a card payment or card-based payment transaction initiated by a payer or by a payee where the payer's payment service provider **or the point of sale is** established in **a** different **Member State than that of the payee's payment service provider** or where the payment card is issued by an issuing payment service provider established in a different Member State than that of the point of sale, **including where a payee uses the services of an acquirer located in another Member State**;

Amendment 26

Proposal for a regulation

Article 2 – point 12 a (new)

Text proposed by the Commission

Amendment

(12a) 'payment card' means a debit or credit card which entitles the cardholder to access cardholder's funds, or enables the cardholder to make a payment through the intermediation of an acquirer and which is accepted by a payee in order to process a payment transaction;

Amendment 27

Proposal for a regulation

Article 2 – point 13

Text proposed by the Commission

Amendment

(13) 'payment **card** scheme' means a single set of rules, practices, standards and/or implementation guidelines for the execution of payment transactions across the Union and within Member States, and which is separated from any infrastructure or payment system that supports its operation;

(13) 'payment scheme' means a single set of rules, practices, standards and/or implementation guidelines for the execution of payment transactions across the Union and within Member States, and which is separated from any infrastructure or payment system that supports its operation;

Amendment 28

Proposal for a regulation

Article 2 – point 15

Text proposed by the Commission

Amendment

(15) 'three party payment card scheme' means a payment card scheme in which payments are made from a payment account held by the scheme on behalf of the **cardholder** to a payment account held by the scheme on behalf of the payee, and card based transactions based on the same structure. When a three party payment card scheme licenses other payment service

(15) 'three party payment card scheme' means a payment card scheme in which payments are made from a payment account held by the scheme on behalf of the **payer** to a payment account held by the scheme on behalf of the payee, and card based transactions based on the same structure. When a three party payment card scheme licenses other payment service

providers for the issuance and/or the acquiring of payment cards, it is considered as a four party payment card scheme;

providers for the issuance and/or the acquiring of payment cards, **or issues payment cards with a co-brand partner or through an agent**, it is considered as a four party payment card scheme;

Amendment 29

Proposal for a regulation Article 3 – title

Text proposed by the Commission

Interchange fees for **cross-border** consumer debit or credit card transactions

Amendment

Interchange fees for consumer debit or credit card **based payment** transactions

Amendment 30

Proposal for a regulation Article 3 – paragraph 1

Text proposed by the Commission

1. With effect from **two months after the entry into force of this Regulation**, payment services providers shall not offer or request for **cross-border** debit **card** transactions a per transaction interchange fee or other agreed remuneration with an equivalent object or effect of more than 0,2 % of the value of the transaction.

Amendment

1. With effect from ...*, payment services providers shall not offer or request for debit transactions **by card** a per transaction interchange fee or other agreed remuneration with an equivalent object or effect of more than **the lower amount of 7 eurocents or** 0,2 % of the value of the transaction.

*** OJ please insert date: one year after the date of entry into force of this Regulation.**

Amendment 31

Proposal for a regulation Article 3 – paragraph 2

Text proposed by the Commission

2. With effect from **two months after the entry into force of this Regulation**, payment services providers shall not offer or request for **cross-border** credit **card**

Amendment

2. With effect from ...*, payment services providers shall not offer or request for credit transactions **by card** a per transaction interchange fee or other agreed

transactions a per transaction interchange fee or other agreed remuneration with an equivalent object or effect of more than 0,3 % of the value of the transaction.

remuneration with an equivalent object or effect of more than 0,3 % of the value of the transaction.

** OJ please insert date: one year after the date of entry into force of this Regulation.*

Amendment 32

Proposal for a regulation

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States may maintain or introduce lower caps or measures of equivalent object or effect through national legislation.

Amendment 33

Proposal for a regulation

Article 4

Text proposed by the Commission

Amendment

Article 4

deleted

Interchange fees for all consumer debit or credit card transactions

1. With effect from two years after the entry into force of this Regulation, payment service providers shall not offer or request a per transaction interchange fee or other agreed remuneration with an equivalent object or effect of more than 0,2 % of the value of the transaction for any debit card based transactions.

2. With effect from two years after the entry into force of this Regulation, payment service providers shall not offer or request a per transaction interchange fee or other agreed remuneration with an equivalent object or effect of more than 0,3 % of the value of the transaction for any credit card based transactions.

Amendment 34

Proposal for a regulation Article 5

Text proposed by the Commission

5. For the purposes of the application of the caps referred to in Article 3 **and Article 4**, any net compensation received by an issuing **bank from a payment card scheme** in relation to payment transactions **or related activities** shall be treated as part of the interchange fee.

Amendment

For the purposes of the application of the caps referred to in Article 3, any net compensation received by an issuing payment **service provider** in relation to payment transactions shall be treated as part of the interchange fee.

Competent authorities shall prevent any attempts by the payment service providers to circumvent this Regulation, including the issuance of payment cards in third countries.

Amendment 35

Proposal for a regulation Article 6 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Any restriction of the provision of payment-related services in payment card schemes rules shall be prohibited, unless it is non-discriminatory and objectively necessary to operate the payment scheme.

Amendment 36

Proposal for a regulation Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6a

Cross-border transactions

For cross-border transactions, the interchange fee applicable shall be that of the country of the acquirer.

Amendment 37

Proposal for a regulation Article 7 – paragraph 2

Text proposed by the Commission

2. Payment card schemes shall allow for the possibility that authorisation and clearing messages of single card transactions be separated and processed by different processing entities.

Amendment

2. Payment card schemes **and issuers** shall allow for the possibility that authorisation and clearing messages of single card transactions be separated and processed by different processing entities. ***Scheme rules and rules in licensing agreements or other contracts leading to a restriction on the freedom to choose a processor shall be prohibited.***

Amendment 38

Proposal for a regulation Article 7 – paragraph 4

Text proposed by the Commission

4. Processing entities within the Union shall ensure that their system is technically interoperable with other systems of processing entities within the Union through the use of standards developed by international or European standardisation bodies. In addition, processing entities shall not adopt or apply business rules that restrict interoperability with other processing entities within the Union.

Amendment

4. ***By ...**** processing entities within the Union shall ensure that their system is technically interoperable with other systems of processing entities within the Union through the use of standards developed by international or European standardisation bodies. In addition, processing entities shall not adopt or apply business rules that restrict interoperability with other processing entities within the Union.

4a. In order to ensure consistent harmonisation of this Article, EBA shall, after consulting an advisory panel as referred to in Article 41 of Regulation (EU) No 1093/2010, develop draft regulatory technical standards establishing requirements to be complied with by payment systems, payment schemes and processing entities to ensure a fully open and competitive card processing market.

EBA shall submit those draft regulatory technical standards to the Commission by

... **

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

*The requirements referred to in the first subparagraph shall enter into force by ... *** and shall be updated on a regular basis as appropriate.*

** OJ please insert date: one year after the date of entry into force of this Regulation.*

*** OJ please insert date...*

**** OJ please insert date: two years after the date of entry into force of this Regulation.*

Amendment 39

Proposal for a regulation

Article 7 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. Member States may exempt newly established card-based payment schemes from applying this Article for a limited period of time by way of derogation from Articles 1 to 4b after consulting the Commission.

Amendment 40

Proposal for a regulation

Article 8 – paragraph 1

Text proposed by the Commission

Amendment

1. Any schemes rules and rules in licensing ***agreements*** that hinder or prevent an issuer from co-badging two or more different brands of payment instruments on a card, telecommunication, digital or IT device shall be prohibited.

1. Any schemes rules and rules in licensing ***agreements or measures of equivalent effect*** that hinder or prevent an issuer from co-badging two or more different brands of payment instruments on a card, telecommunication, digital or IT device

shall be prohibited.

Amendment 41

Proposal for a regulation

Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. When entering into a contractual agreement with a payment services provider, the consumer may decide to have two or more different brands of payment instruments on a payment card, telecommunication, digital or IT device. In good time before the contract is signed, the payment service provider shall provide the consumer with clear and objective information on all the payment brands available and their characteristics, including their functionality, cost and security.

Amendment 42

Proposal for a regulation

Article 8 – paragraph 2

Text proposed by the Commission

Amendment

2. Any difference in treatment of issuers or acquirers in schemes rules and rules in licensing agreements concerning co-badging on a card, telecommunication, digital or IT device shall be objectively justified and non-discriminatory.

2. Any difference in treatment of issuers or acquirers in schemes rules and rules in licensing agreements concerning co-badging ***or equivalent co-residing of different brands or applications*** on a card, telecommunication, digital or IT device shall be objectively justified and non-discriminatory.

Amendment 43

Proposal for a regulation

Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. Payment card schemes shall not impose

3. Payment card schemes shall not impose

reporting requirements, obligations to pay fees or **other** obligations with the same object or effect on card issuing and acquiring payment services providers for transactions carried out with any device on which their brand is present in relation to transactions for which their scheme is not used.

reporting requirements, obligations to pay fees or **similar** obligations with the same object or effect on card issuing and acquiring payment services providers for transactions carried out with any device on which their brand is present in relation to transactions for which their scheme is not used.

Amendment 44

Proposal for a regulation Article 8 – paragraph 4

Text proposed by the Commission

4. Any routing principles aimed at directing transactions through a specific channel or process and other technical and security standards and requirements with respect to the handling of more than one payment card brand on a card, telecommunication, digital or IT device shall be non-discriminatory and shall be applied in a non-discriminatory manner.

Amendment

4. Any routing principles **or equivalent measures** aimed at directing transactions through a specific channel or process and other technical and security standards and requirements with respect to the handling of more than one payment card brand **or equivalent** on a card, telecommunication, digital or IT device shall be non-discriminatory and shall be applied in a non-discriminatory manner.

Amendment 45

Proposal for a regulation Article 8 – paragraph 6

Text proposed by the Commission

6. Payment card schemes, issuers, acquirers and payment card handling infrastructure providers shall not insert automatic mechanisms, software or devices on the payment instrument or **at** equipment applied at the point of sale which limit the choice of application by the payer when using a co-badged payment instrument.

Amendment

6. Payment card schemes, issuers, acquirers and payment card handling infrastructure providers shall not insert automatic mechanisms, software or devices on the payment instrument or **on** equipment applied at the point of sale which limit the choice of application by the payer **and the payee** when using a co-badged payment instrument. **Payees shall retain the option of installing automatic mechanisms in the equipment used at the point of sale which make a priority selection of a particular brand or application. However, payees shall not**

prevent the payer, for the categories of cards or related payment instruments accepted by the payee, from overriding an automatic priority selection made by the payee in its equipment.

Amendment 46

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

1. Acquirers shall offer and charge payees individually specified merchant service charges for different categories and different brands of payment cards unless merchants request in writing acquiring payment services providers to charge blended merchant services charges.

Amendment

1. Acquirers shall offer and charge payees individually specified merchant service charges for different categories and different brands of payment cards ***with different interchange fee levels*** unless merchants request in writing acquiring payment services providers to charge blended merchant services charges.

Amendment 47

Proposal for a regulation Article 10 – paragraph 1

Text proposed by the Commission

1. Payment schemes and payment service providers shall not apply any rule that may oblige payees accepting cards and other payment instruments issued by one issuing payment service provider within the framework of a payment instruments scheme to also accept other payment instruments of the same brand and/or category issued by other issuing payment service providers within the framework of the same scheme, except if they are subject to the same ***regulated*** interchange fee.

Amendment

1. Payment schemes and payment service providers shall not apply any rule that may oblige payees accepting cards and other payment instruments issued by one issuing payment service provider within the framework of a payment instruments scheme to also accept other payment instruments of the same brand and/or category issued by other issuing payment service providers within the framework of the same scheme, except if they are subject to the same interchange fee ***which, moreover, complies with the caps set under this Regulation.***

Amendment 48

Proposal for a regulation Article 10 – paragraph 4

Text proposed by the Commission

4. **Issuing** payment service providers shall ensure that their payment instruments are **visibly and** electronically identifiable, enabling payees to identify unequivocally which brands and categories of prepaid, debit, credit or commercial cards or card based payments based on these are chosen by the payer.

Amendment

4. **By ...*, issuing** payment service providers shall ensure that their payment instruments are electronically identifiable, **and, in the case of their newly issued card-based payment instruments, also visibly identifiable**, enabling payees **and payers** to identify unequivocally which brands and categories of prepaid, debit, credit or commercial cards or card based payments based on these are chosen by the payer.

*** OJ please insert date: one year after the date of entry into force of this Regulation.**

Amendment 49

Proposal for a regulation
Article 11 – paragraph 3

Text proposed by the Commission

3. Paragraphs 1 and 2 are without prejudice to the rules on charges, reductions or other steering set out in Article 55 of **the proposal COM (2013)547** and in Article 19 of Directive 2011/83/EU²².

²² Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights...

Amendment

3. Paragraphs 1 and 2 **of this Article** are without prejudice to the rules on charges, reductions or other steering set out in Article 55 of **Directive 2014/.../EU [PSD]** and in Article 19 of Directive 2011/83/EU²².

²² Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, **amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council.**

Amendment 50

Proposal for a regulation

Article 12 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. When entering into a contractual agreement with a payment services provider, the consumer shall also be provided with clear and objective periodical information about the payment characteristics and payment fees applied to payment transactions.

Amendment 51

Proposal for a regulation

Article 14 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall lay down rules on ***the sanctions*** applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are applied. ***Such sanctions shall be*** effective, proportionate and dissuasive.

1. Member States shall lay down rules on ***penalties*** applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are applied. ***EBA may issue guidelines in accordance with Article 16 of Regulation (EU) No 1093/2010 in order to ensure that those penalties are*** effective, proportionate and dissuasive.

Amendment 52

Proposal for a regulation

Article 15 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall establish adequate and effective out-of-court complaint and redress procedures for the settlement of disputes arising under this Regulation between payees and their payment service providers. For those purposes, Member States shall designate existing bodies, where appropriate, or establish new bodies.

1. Member States shall establish ***independent***, adequate and effective out-of-court complaint and redress procedures for the settlement of disputes arising under this Regulation between payees and their payment service providers. For those purposes, Member States shall designate existing bodies, where appropriate, or

establish new bodies. ***Payment service providers shall adhere to at least one alternative dispute resolution body.***

Amendment 53

Proposal for a regulation Article 15 – paragraph 2

Text proposed by the Commission

2. Member States shall notify the Commission of those bodies by ***two years after the entry into force of this Regulation.*** They shall notify the Commission without delay of any subsequent change concerning those bodies.

Amendment

2. Member States shall notify the Commission of those bodies by ... *. They shall notify the Commission without delay of any subsequent change concerning those bodies.

**** OJ please insert date: two months after the date of entry into force of this Regulation.***

Amendment 54

Proposal for a regulation Article 15 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that payment service providers participate in complaints procedures pursuant to paragraph 1.

Amendment 55

Proposal for a regulation Article 16 – paragraph 1

Text proposed by the Commission

Four years after the entry into force of this Regulation, the Commission shall ***present*** to the European Parliament and to the Council a report on the application of

Amendment

By ...*, the Commission shall ***submit*** to the European Parliament and to the Council a report on the application of this Regulation. The Commission's report shall look in

this Regulation. The Commission's report shall look in particular at the appropriateness of the levels of interchange fees and at steering mechanisms such as charges, taking into account the use and cost of the various means of payments and the level of entry of new players *and* new technology on the market.

particular at the appropriateness of the levels of interchange fees and at steering mechanisms such as charges, taking into account the use and cost of the various means of payments and the level of entry of new players, new technology *and innovative business models* on the market. *The assessment should, in particular, consider:*

(a) the development of cardholder fees;

(b) the level of competition among payment card providers and schemes;

(c) the effects on costs for the payer and the payee;

(d) the levels of merchant pass-through of the reduction in interchange levels;

(e) the technical requirements and its implications for all the parties involved;

(f) the effects of co-badging on user-friendliness, in particular for the elderly and other vulnerable users.

The report by the Commission shall, if appropriate, be accompanied by a legislative proposal that may include a proposed amendment of the maximum cap for interchange fees.

** OJ please insert date: two years after the date of entry into force of this Regulation.*