

## 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))<sup>1</sup>

(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 States<sup>21</sup> 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.

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<sup>21</sup> Italy, Hungary, Poland and the United Kingdom.

*Amendment*

(7) Preparation of legislation is under way *or already completed* in several Member States<sup>21</sup> 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.

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<sup>21</sup> Italy, Hungary, Poland and the United Kingdom.

### Amendment 2

#### Proposal for a regulation

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

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

*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*

(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 ***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 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

*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*

(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 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.

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

*Text proposed by the Commission*

(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,**

*Amendment*

(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**

*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.*

*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

##### *Text proposed by the Commission*

(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.*

##### *Amendment*

(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

##### *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

*be extended to* cover all, cross-border and domestic payments.

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-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.

(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. ***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 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).

#### *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 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 15

### Proposal for a regulation Recital 30 a (new)

*Text proposed by the Commission*

*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.

***(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

#### *Text proposed by the Commission*

(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.

#### *Amendment*

(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<sup>1a</sup>**, 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.

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<sup>1a</sup> **Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).**

## 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*

(a) *transactions with commercial cards,*

*Amendment*

*deleted*

## Amendment 20

### Proposal for a regulation

#### Article 1 – paragraph 3 – point b

*Text proposed by the Commission*

(b) cash withdrawals at automatic teller machines and

*Amendment*

(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*

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

*Amendment*

(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*

*Amendment*

(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**.

(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*

*Amendment*

(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;

(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*

(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

*Amendment*

(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;

or payment system that supports its operation;

## Amendment 28

### Proposal for a regulation Article 2 – point 15

#### *Text proposed by the Commission*

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

#### *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 **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, **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

#### *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

% of the value of the transaction.

transaction.

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*\* 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* 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.

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

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*\* 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*

*Amendment*

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.

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*

*Amendment*

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.

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.*

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*\* 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*

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.

*Amendment*

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*

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.

*Amendment*

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*

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.

*Amendment*

3. Payment card schemes shall not impose 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

*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

choice of application by the payer when using a co-badged payment instrument.

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.

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*\* 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/EU<sup>22</sup>.

*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/EU<sup>22</sup>.

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

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<sup>22</sup> 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.

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***\* 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*

*Amendment*

***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 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

***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 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.

technology 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.*

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