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ECON Bericht - MIF

The Division Bank and Insurance of the Austrian Federal Economic Chamber, as representative of the entire Austrian banking industry, appreciates the possibility to comment on the draft ECON report regarding “proposal for a regulation of the European Parliament and of the Council on interchange fees for card-based payment transactions”.

We acknowledge the progress in adopting specific articles. Nevertheless there are still some sections where further corrections are requested.

Amendment 6 Article 2 - paragraph 1 - point 4

The term “cleared” means the presentment of a financial transaction for settlement. Depending on the software of the POS-devis, the “clearing” process can be started automatically at a pre-programed time schedule, or initiated from the staff any time. Debited means that the amount is deducted from the positive (or even negative) balance of a bank account. The issuing bank don’t know, when the clearing process took place, the merchant don’t know when the bank account is debited. As there is no party who knows both details, we suggest coming back to the former version and use “authorized” instead “cleared”.

Amendment 7 Article 2 - paragraph 1 - point 5

Same comments as under amendment 6.

Amendment 8 Article 2 - paragraph 1 - point 8

Positive change, as this new text mirrors the existing version of cross-border.

Amendment 10 Article 2 - paragraph 1 - point 25 a (new)

Even we are supporting any recommendation to have something else instead the fixed value proposed, this suggestion is not clear. What does “weighted average” mean? Is the calculation done from the Acquirer? Are all scheme products basis for the calculation? What is the time

frame for the calculation? To whom has the result to be reported? For what period will the outcome of a calculation be used?

Amendment 11
Same as amendment 10

Amendment 12
Same as amendment 10

Amendment 13
Same as amendment 10

Amendment 14
Same as amendment 10

Amendment 20 Article 8
We welcome the decision to withdraw this article.

Amendment 21 Article 9 - paragraph 1
We need the option that a merchant can request that blended merchant service charges are used. The former version should be used.

Amendment 26 Article 10 - paragraph 4
The suggested time frame and to withdraw the need that a payment instrument is visible identifiable, is welcomed. Due to the complex nature of this requirement, we still suggest to withdraw this remaining part of Article 10 as a whole.
As there is no identifier stored on the cards magnetic stripe or microchip, the identification has to be managed with BIN (bank identification numbers) tables, stored in any POS-device. The payment process at a standalone POS-terminal requires as first step to key in the amount. After this, the card is inserted and the electronically stored details are read. Only during this step, the terminal can verify the card with the BIN table and identify the product. The remaining part of Article 10 foresees only an information requirement (*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*). Due to Article 9, the merchant will receive detailed information, therefore a supplement information under Acquirer is not necessary.

Article 2, para 4

<i>Text proposed</i>	<i>Amendments by Parliament</i>
(4) 'debit card transaction' means an card payment transaction <i>included with prepaid</i> cards linked to a current or deposit <i>access</i> account to which a transaction is debited in less than or 48 hours after the transaction	(4) 'debit card transaction' means an card payment transaction <i>performed by debit</i> cards linked to a current or deposit account <i>including prepaid card transaction linked to electronic money account to which a</i>

has been authorised/initiated.	<i>transaction is debited.</i>
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Justification: Even some debit card transaction might be debited after 48 hours (e.g. payment made on Friday is debited on Monday). Therefore, it is necessary to delete any time reference.

Article 2, para 5

<i>Text proposed</i>	<i>Amendments by Parliament</i>
(5) 'credit card transaction' means an card payment transaction <i>where the transaction is settled more than 48 hours after the transaction has been authorised/initiated;</i>	(5) 'credit card transaction' means a card payment transaction <i>performed by cards linked to a credit account, loan or similar account to which a transaction is debited;</i>

Justification: see above

Article 2, para 8

<i>Text proposed</i>	<i>Amendments by Parliament</i>
'cross-border payment transaction' means a card payment or card-based payment transaction initiated by a payer or by a payee where <i>the payer's payment service provider and the payee's payment service provider are established in different Member States or where</i> the payment card is issued by an issuing payment service provider established in a different Member State than that of the point of sale;	'cross-border payment transaction' means a card payment or card-based payment transaction initiated by a payer or by a payee where the payment card is issued by an issuing payment service provider established in a different Member State than the point of sale;

Justification: Since interchange fees for cross-border payment transaction should be regulated earlier than interchange fees for domestic payment transaction, proposed definition would lead to the eventuality, that all large merchants will terminate relationships with local acquirers and will switch to the services provided by acquirers located in different member state. It means that local acquirers and issuers will instantly lose major part of their customers, which in first plan will lead to the rise of electronic payments fees for consumers and rise of commissions paid by small and middle sized retailers to acquirers. Besides, it will also mean massive cost cutting on the field of development and internal costs with all side effects such as insolvencies, reducing of staff etc. It can also have effect on the total number of retailers accepting card payments - with rising commissions part of small and middle sized retailers will stop accepting cards and any electronic payments expansion in small and middle size retail segment will be much more complicated.

Article 4, para 3

<i>Text proposed</i>	<i>Amendments by Parliament</i>
<p>3. 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.</p>	<p>3. With effect from two years after the entry into force of this Regulation, <i>a phase of gradual reduction of the interchange fee shall be implemented so that, subsequently,</i> payment service providers shall not offer or request a <i>per transaction</i> 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. <i>For this purpose and based on the calculation by an independent European institution, the interchange fee will converge gradually to the 0,2% level in relation to the increase of Point of Sales volumes within national jurisdictions.</i></p>

Justification: The proposed cap is based on a non-representative assessment of prevailing interchange fees. According to the Commission Memo „the figures have been developed using data from the central banks of Belgium, the Netherlands and Sweden”. To maintain the viability of schemes and the further development of card infrastructures especially within the new Member States a step-by-step approach shall be used in order to safeguard a smooth transition period.

The calculation shall be done by an independent European body (ECB, Eurostat, etc). The following procedure could be implemented: The results of the calculation , e.g. undertaken by the ECB and based on figures from the previous year, could be made available to banks every 1st of July and subsequently, be applied on the following 1st of January. The IF, which shall be applied by 1st of January 2016 shall be calculated on the basis of 2014 volumes compared to 2013 volumes.

Article 4, para 4

<i>Text proposed</i>	<i>Amendments by Parliament</i>
<p>4. 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.</p>	<p>3. With effect from two years after the entry into force of this Regulation, <i>a phase of gradual reduction of the interchange fee shall be implemented so that, subsequently,</i> payment service providers shall not offer or request a <i>per transaction</i> 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</p>

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Article 8, para 14

<i>Text proposed</i>	<i>Amendments by Parliament</i>
<p>Any schemes rules and rules in licensing agreements that hinder or prevent an issuer from co-badging two <i>or more</i> different brands of payment instruments on a card, telecommunication, digital or IT device shall be prohibited.</p>	<p>Any schemes rules and rules in licensing agreements that hinder or prevent an issuer from co-badging two different brands of payment instruments on a card, telecommunication, digital or IT device shall be prohibited.</p>

Justification: It is questionable whether more applications on a card bring usage comfort for the consumer. If a consumer needs to choose the application, it will slow down the payment process (speed of payment process is one of the main requirements of the retailers). Therefore number of application on a card should be limited to two.

Article 9

<i>Text proposed</i>	<i>Amendments by Parliament</i>
<p>20. Acquirers shall offer and charge payees <i>individually specified</i> merchant service charges <i>for different categories and different brands of payment cards</i> unless merchants request in writing acquiring payment services providers to charge</p>	<p>20. Acquirers shall offer and charge payees <i>blended</i> merchant service charges unless merchants request in writing acquiring payment services providers to charge <i>individually specified</i> merchant service charges <i>for different categories and</i></p>

<p>blended merchant services charges.</p> <p>21. Agreements between acquiring payment services providers and payees shall include individually specified information on the amount of the merchant services charges interchange fees and scheme fees applicable with respect to each category and brand of payment cards.</p>	<p>different brands of payment cards.</p> <p>21. Agreements between acquiring payment services providers and payees shall include individually specified information on the amount of the merchant services charges interchange fees and scheme fees applicable with respect to each category and brand of payment cards. <i>The agreements already concluded between services providers and payees must be amended with effect from two years after entry into force of this Regulation.</i></p>
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Justification: Based on experience the retailers prefer same fee for all types of transactions. Therefore it is suitable to change proposed scheme - blended service charge will be charged unless the merchant does not request individual specification of service charges.

There must be stated transition period for necessary amendments of concluded agreements. It is not possible to make required changes right after the regulation shall enter into force

Article 10, Honour all card rule

<i>Text proposed</i>	<i>Amendments by Parliament</i>
<p>22. 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.</p> <p>23. The restriction of Honour all card rules referred to in paragraph 1 is without prejudice to the possibility for payments schemes and payment service providers to provide that certain cards may not be refused on the basis of the identity of the issuing payment service provider or of the cardholder.</p>	<p>22. Payment schemes and payment service providers are entitled to 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.</p> <p>23. to be deleted</p> <p>24. to be deleted</p>

24. Merchants deciding not to accept all cards or other payment instruments of a payment card scheme shall inform consumers in a clear and unequivocal manner at the same time as they inform the consumer on the acceptance of other cards and payment instruments of the scheme. That information shall be displayed prominently at the entrance of the shop, at the till or on the website or other applicable electronic or mobile medium, and shall be provided to the payer in good time before he enters into a purchase agreement with the payee.

25. 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.

25. **With effect from two years after entry into force of this Regulation** 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.

Justification: Rule „Honour All Cards Rule“should be kept. Cancellation of this rule could lead to the rise of cash payment transaction. The consumer will not usually know beforehand if his type of credit/debit card is accepted by the merchant and therefore he would opt for cash payment (typically it can happen at the gas stations - customer do not normally check, what types of cards are accepted and service himself. If his card is later not accepted, such customer will in future always opt for cash anytime he buys gasoline).

Since validity of the electronic payment instruments issued before the regulation comes into force will overlap to the period after it comes into force, we propose, that obligation to make such instruments visibly and electronically identifiable will affect only newly issued cards. Otherwise all valid cards would have to be reissued, which is operation bearing considerable costs.

Kindly give our remarks due consideration.

Yours sincerely,

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Austrian Federal Economic Chamber

