Interchange fees for card-based payment transactions

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OPINION OF THE EUROPEAN CENTRAL BANK on a proposal for a regulation of the European Parliament and of the Council on interchange fees for card-based payment transactions.

On 31 October 2013, the European Central Bank (ECB) received a request from the Council for an opinion on a proposal for a regulation which seeks to lay down uniform technical and business requirements for payment card transactions carried out within the European Union where both the payer's and the payee's payment service provider are established in the Union.

The ECB welcomes the fact that the proposed regulation lays down common Union-wide rules on inter change fees and also uniform business rules and technical requirements for card-based payment transactions. The proposals are generally in line with existing Eurosystem positions.

The new rules should **reduce market fragmentation and create a level playing field**, which will make it easier for existing players to compete and for new providers to enter the market for card payments, thus leading to increased efficiency and a greater use of electronic payment instruments overall.

The ECB makes the following observations:

Defined terms: the ECB notes that the definitions have been aligned to some extent, but not fully, with those of the proposal for a second Payment Services Directive. Therefore, the ECB considers that the definitions of a number of key terms such as that of 'payment order', 'payment service provider' and 'payment transaction' should be further aligned with those in the proposed Payment Services Directive (PSD2).

Simultaneous introduction of caps: the ECB welcomes the fact that there is increased clarity regarding interchange fees. If, however, the caps on cross-border interchange fees are introduced before the caps on national interchange fees, small national card acquirers could be put at a disadvantage, because they will not be able to compete with foreign acquirers that benefit from the resulting lower cross-border interchange fees. The ECB would therefore suggest introducing these caps simultaneously.

Cobranding: the ECB supports the proposal that the choice of brand in cases of more than one brand on a card (co-branding) should be made at the point of sale. At the same time, payers may have an incentive to choose card brands that provide them with additional benefits such as reward programmes, which might consequently lead to an increase in the use of expensive card brands. In this regard, the ECB suggests that the choice of a specific brand should be agreed upon jointly by the cardholder and the merchant at the point of sale.

Prohibition on rules forcing merchants to accept all cards of a specific brand: while the ECB welcomes this prohibition, it considers that the decision on whether to accept cards, as well as the particular brands or card products which may be accepted under a certain scheme, should be a commercial decision by the merchant.

Discrimination: the ECB further suggests clarifying that payment card schemes should not discriminate against processing entities by implementing business rules that unduly restrict interoperability between processing entities.

Transitional period: in order for payment card schemes to adapt to the new requirements, the ECB recommends that a transitional period for the separation requirement could be considered.

National authority: for efficiency reasons, the ECB would suggest one single competent authority being responsible for ensuring compliance with the regulation, however being aware that this might prove difficult in practice due to diverging national set ups.