



STATUTORY INSTRUMENTS.

S.I. No. 550 of 2015

EUROPEAN UNION (INTERCHANGE FEES FOR CARD-BASED
PAYMENT TRANSACTIONS) REGULATIONS 2015

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PAYMENT TRANSACTIONS) REGULATIONS 2015

I, MICHAEL NOONAN, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving full effect to Regulation (EU) No. 751/2015 of the European Parliament and of the Council of 29 April 2015¹, hereby make the following regulations:

Citation and construction

1. (1) These Regulations may be cited as the European Union (Interchange Fees for Card-based Payment Transactions) Regulations 2015.

(2) These Regulations shall come into operation on 9 December 2015.

Interpretation

2. (1) In these Regulations-

“Bank” means the Central Bank of Ireland;

“Interchange Regulation” means Regulation (EU) No. 751/2015 of the European Parliament and of the Council of 29 April 2015 laying 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 located therein;

“microenterprise” shall be construed in accordance with paragraph (2).

(2) For the purposes of these Regulations, a payee shall be regarded as a microenterprise if the payee falls within paragraph (b) of the definition of “consumer” in section 57BA of the Central Bank Act 1942 (No. 22 of 1942).

(3) A word or expression that is used in the Interchange Regulation and is also used in these Regulations has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Interchange Regulation.

Purpose of these Regulations

3. The purpose of these Regulations is to supplement the Interchange Regulation as regards its application to the State.

Scope of these Regulations

4. (1) If the requirement in paragraph (2) is fulfilled, a three party payment card scheme that licenses other payment service providers for the issuance of

¹OJ L 123, 19.05.2015, p.1

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 11th December, 2015.*

card-based payment instruments or the acquiring of card-based payment transactions, or both, or issues card-based payment instruments with a co-branding partner or through an agent, shall, in relation to domestic payment transactions, be exempt from the obligations under Chapter II of the Interchange Regulation until 9 December 2016.

(2) The requirement mentioned in paragraph (1) is that the card-based payment transactions under the three party payment card scheme referred to in that paragraph do not exceed on a yearly basis 3% of the value of all card-based payment transactions made in the State.

Interchange fee limits for domestic debit card transactions

5. Payment service providers shall not offer or request a weighted average interchange fee of more than the equivalent of 0.10% of the annual average transaction value of all domestic debit card transactions within each payment card scheme.

Competent authority for purposes of Interchange Regulation and these Regulations

6. (1) In respect of payment service providers and payment card schemes, the Bank is the competent authority in the State for the purposes of the Interchange Regulation and these Regulations.

(2) The Bank shall monitor, in an effective manner, compliance on the part of payment service providers and payment card schemes with the Interchange Regulation and shall take all necessary measures to ensure such compliance.

Complaints to Financial Services Ombudsman

7. (1) Subject to paragraph (2), a payee may make a complaint to the Financial Services Ombudsman relating to an alleged contravention by a payment service provider of the Interchange Regulation.

(2) Paragraph (1) does not apply to a payee unless the payee was a microenterprise at the time of the alleged contravention.

(3) A complaint made under paragraph (1) shall be determined in accordance with Part VIIB of the Central Bank Act 1942 (No. 22 of 1942) and that Part shall apply accordingly for the purpose of this Regulation.

Bank to inform complainant about available out-of-court redress procedures

8. If a complaint relating to an alleged contravention of the Interchange Regulation by a payment service provider is in the first instance made to the Bank—

- (a) if the payee was at the time referred to in Regulation 7(2) a microenterprise, the Bank shall inform the complainant of the right to make a complaint to the Financial Services Ombudsman and to have the complaint determined in accordance with Part VIIB of the Central Bank Act 1942 (No. 22 of 1942),

- (b) if the payee was not at that time a microenterprise, the Bank shall inform the complainant of alternative out-of-court complaint and redress procedures for the settlement of disputes, such as through mediation or arbitration.

Existence of complaints procedure not to affect right to bring legal proceedings

9. The existence of the complaints procedure provided by these Regulations to deal with complaints arising under the Interchange Regulation does not affect the right to bring proceedings before a court of competent jurisdiction in relation to the matters complained of.

Bank not precluded from investigating matters concerning alleged infringements of Interchange Regulation

10. Nothing in these Regulations precludes the Bank from performing its supervisory functions in relation to information received in connection with a complaint made by a payee under these Regulations.

Consequential amendments of Central Bank Act 1942

11. The Central Bank Act 1942 (No. 22 of 1942) is amended:

- (a) in section 2(2A), by substituting the following for paragraph (u):

“(u) Commission Implementing Regulation (EU) 2015/500 of 24 March 2015 laying down implementing technical standards with regard to the procedures to be followed for the supervisory approval of the application of a matching adjustment in accordance with Directive 2009/138/EC of the European Parliament and of the Council [Note: OJ No. L79, 25.3.2015, p. 18];

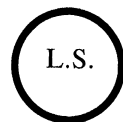
(v) Regulation (EU) No. 751/2015 of the European Parliament and of the Council of 29 April 2015 [Note: OJ L 123, 19.05.2015, p.1].”, and

- (b) in Part 2 of Schedule 2, by inserting after the last item the following:

“

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GIVEN under my Official Seal,
7 December 2015.

MICHAEL NOONAN,
Minister for Finance.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations give further effect in Ireland to Regulation (EU) No. 751/2015, of the European Parliament and of the Council, of 29 April 2015, on interchange fees for card-based payment transactions.

Regulation (EU) No. 751/2015 provides for uniform technical and business requirements for card-based payment transactions carried on within the European Union, where both the payer's payment service provider and the payee's payment service provider are located therein.

These Regulations prescribe interchange fee limits for card-based payment transactions pursuant to discretions conferred on Member States by Regulation (EU) No. 751/2015.

These Regulations also designate the Central Bank as the competent authority in the State for the purposes of Regulation (EU) No. 751/2015 in respect of payment service providers and payment card schemes, and the Financial Services Ombudsman as the body responsible for out-of-court complaint and redress procedures.

Infringements of these Regulations or of Regulation (EU) No. 751/2015 may be prosecuted by the Central Bank under its Administrative Sanctions Regime in accordance with Part IIIC of the Central Bank Act 1942 as amended.

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