

**LAW**  
**ON MULTILATERAL INTERCHANGE FEES AND SPECIAL OPERATING  
RULES FOR CARD-BASED PAYMENT TRANSACTIONS<sup>1</sup>**

**Subject matter**

**Article 1**

This Law regulates multilateral interchange fees charged for card-based payment transactions in the Republic of Serbia, where the payment service provider of the payer and the payment service provider of the merchant are headquartered in the Republic of Serbia, as well as special operating rules relating to the issuance and acquiring of card-based payment instruments.

The provisions of this Law do not apply to payment transactions carried out based on specific instruments which may be used only in a limited way and fulfil at least one of the following conditions:

1) instruments allowing the holder to acquire goods and services may be used only on the premises of the entity issuing these instruments or, in accordance with the contract concluded with the entity issuing these instruments, within a limited network of sellers of goods and services, or for a very limited range of goods and services;

2) instruments are issued on request of a legal person, entrepreneur or a public sector entity for the purpose of acquiring goods or services from the supplier or the service provider who concluded a contract thereon with the issuer of these instruments, and are regulated by the act of the competent public authority body in order to achieve social or tax purposes.

**Definitions**

**Article 2**

For the purposes of this Law, the following definitions shall apply:

1) multilateral interchange fee means a fee, including a net compensation and any other agreed remuneration which is paid directly or indirectly (i.e. through a third party) for a card-based payment transaction between the issuer and the acquirer involved in the transaction;

2) net compensation means the total amount of payments, rebates or other types of incentives received by an issuer from the payment card scheme, the acquirer or any other intermediary in relation to card-based payment transaction and related activities, reduced by the amount of payments, rebates or other types of incentives given by the issuer to these payment card schemes in relation to such transactions and activities;

3) merchant service charge means a fee paid by the merchant to the acquirer in relation to a card-based payment transaction;

4) payment transaction means the transfer of funds to the merchant's payment account, initiated by the payer or by other person on its behalf or by the merchant, irrespective of the legal relationship between the payer and the merchant;

5) card-based payment transaction means a payment transaction initiated and carried out based on a payment card by means of any card, telecommunication, digital or IT device or software, in accordance with the business rules of payment card schemes and by using the

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infrastructure of such schemes, which is not considered a credit transfer or direct debit within the meaning of the law governing payment services;

6) domestic payment transaction, payment order, payment account, current account, payment instrument, payment service provider, payment service user, electronic money, payment system in the Republic of Serbia, and processing, netting and settlement of transfer orders have the meaning determined in the law governing payment services;

7) payment card means a payment instrument in the form of a physical or electronic card used to initiate a payment transaction;

8) credit card means a payment card used to initiate a credit card transaction;

9) credit card transaction means a card-based payment transaction where the amount of the transaction is debited in full or in part at a pre-agreed specific calendar month date to the payer, in accordance with conditions stipulated by the contract on credit card issuance, with or without interest;

10) debit card means a payment card used to initiate a debit card transaction, including a prepaid card and other payment card other than a credit card;

11) prepaid card means a payment card on which electronic money is stored and which is used to initiate a debit card transaction;

12) debit card transaction means a card-based payment transaction, other than a credit card transaction;

13) commercial card means a payment card issued to legal persons, public sector entities, entrepreneurs or other self-employed natural persons, which is limited in use for business purposes, where payments made with such cards are charged directly to the account of these entities;

14) payment application means a computer software or equivalent loaded on a computer, mobile phone or any other device enabling a card-based payment transaction to be initiated and allowing the payer to issue a payment order;

15) card-based payment instrument means any payment instrument, including a payment card, computer, mobile phone or any other technological device containing a payment application, which enables the payer to initiate a card-based payment transaction;

16) payment brand means any material or digital name, term, sign, symbol or combination thereof, denoting the payment card scheme under which a card-based payment transaction is carried out;

17) co-branding means the inclusion of at least one payment brand and at least one non-payment brand on the same card-based payment instrument;

18) payer means a natural or legal person who holds a payment account and agrees that a payment order be carried out from that account, and/or a card-based payment transaction, or, where there is no payment account, a natural or legal person issuing a payment order for the purpose of carrying out such transaction;

19) merchant means a payee, and/or a natural or legal person who is the intended recipient of funds which are the subject of a card-based payment transaction;

20) acquirer means a payment service provider headquartered in the Republic of Serbia, contracting with the merchant to provide payment services of accepting and carrying out card-based payment transactions for the purpose of transferring funds to the merchant;

21) issuer means a payment service provider headquartered in the Republic of Serbia, contracting with the payer to provide to it payment services of issuance of a payment instrument to initiate and carry out card-based payment transactions;

22) consumer means a natural person concluding payment service contracts covered by this Law for purposes other than the business or other commercial activity of that person;

23) payment card scheme means a single set of rules, practices, standards and/or operational guidelines for the execution of card-based payment transactions, and includes a

specific decision-making body, organisation or entity accountable for the functioning of the scheme;

24) four-party payment card scheme means a payment card scheme in which card-based payment transactions are carried out through that scheme, an issuer and an acquirer;

25) three-party payment card scheme means a payment card scheme in which the scheme directly provides the service of acquiring and issuing a payment card and payment transactions are carried out based on payment cards. When a three-party payment card scheme licenses other payment service provider for the issuance of card-based payment instruments and/or acquiring of card-based payment transactions, or for issuing card-based payment instruments with a co-branding partner or through an agent, it is considered to be a four-party payment card scheme;

26) processing entity means a person providing the technical service of processing and/or transfer of a payment order between an acquirer and an issuer.

### **Multilateral interchange fees**

#### **Article 3**

A multilateral interchange fee may not exceed 0.2% of the value of transaction for any debit card transaction.

A multilateral interchange fee may not exceed 0.3% of the value of transaction for any credit card transaction.

Without prejudice to the caps under paragraphs 1 and 2 of this Article, the National Bank of Serbia may also impose a fixed maximum fee amount which may be charged for card-based payment transactions.

A payment service provider may not charge or offer a multilateral interchange fee contrary to paragraphs 1–3 of this Article.

For the purposes of application of the caps referred to in paragraphs 1–4 of this Article, any agreed remuneration, including net compensation, with an equivalent object and/or effect of the multilateral interchange fee, received by an issuer from the payment card scheme, acquirer or any other intermediary in relation to card-based payment transactions or related activities, shall be considered a part of the multilateral interchange fee.

For the purposes of monitoring the application of the caps referred to in paragraphs 1–4 of this Article, payment service providers shall submit to the National Bank of Serbia data on fees referred to in these paragraphs, while the National Bank of Serbia shall prescribe in more detail the contents, deadlines and method of submission of such data.

Without prejudice to the caps referred to in paragraphs 1–4 of this Article, if due to unfavourable competition in the market of provision of the payment service of acquiring card-based payment transactions in the Republic of Serbia, the level of the merchant service charge is incommensurate with the actual costs of the provision of this service – the National Bank of Serbia, by obtaining the prior opinion of the Competition Protection Commission, may also prescribe the highest percentage and/or fixed amount of the merchant service charge which may be charged for the provision of that service.

The acquirer may not charge or offer the merchant service charge contrary to the regulation referred to in paragraph 7 of this Article.

Provisions of this Article do not apply to the following:

1) card-based payment transactions relating to cash withdrawals at automatic teller machines or at counters of payment service providers;

- 2) payment transactions with commercial cards;
- 3) payment transactions with payment cards issued by a three-party payment card scheme.

### **Choice of payment brand and payment application (co-badging)**

#### **Article 4**

The issuer is entitled to include two or more different payment brands or payment applications on the same card-based payment instrument (co-badging).

Payment card scheme rules or other similar measures may not prevent or hinder an issuer from acting in accordance with paragraph 1 of this Article.

When concluding a payment service contract, the consumer may require two or more different payment brands on a card-based instrument provided that such service is offered by the payment service provider.

In good time before the payment service contract is concluded, the payment service provider shall provide the consumer with clear and objective information on payment brands that the service relates to, including their characteristics, functionality, cost and security.

Any difference in the treatment of issuers or acquirers contained in payment card scheme rules or in licencing agreements, which result from the inclusion of two or more different payment brands or several payment applications of the same brand on the card-based payment instrument, must be objectively justified and non-discriminatory.

Payment card schemes shall not impose upon the issuer and/or acquirer the reporting requirements, obligations to pay fees or similar obligations with the same objective or effect for payment transactions not carried out by using such scheme, which are carried out with a device on which the payment brand of that scheme is present.

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 two or more different payment brands and payment applications on a card-based payment instrument shall be non-discriminatory and shall be applied in a non-discriminatory manner.

Payment card schemes, issuers, acquirers, processing entities and other technical service providers shall not insert automatic mechanisms, software or other devices on card-based payment instruments or at equipment applied at the point of sale which limit the choice of a payment brand and/or payment application by the payer or the merchant when using a card-based payment instrument.

In the equipment used at its point of sale the merchant may use an automatic mechanism which makes a priority selection of a particular payment brand or payment application, but the merchant shall not prevent the payer from choosing a payment brand or payment application different than those selected through the automatic mechanism, on condition that the merchant accepts the selected payment brand or payment application.

### **Unblending**

#### **Article 5**

Each acquirer shall offer and charge merchant service charges against the merchant individually specified for different categories and brands of payment cards with different multilateral interchange fees and/or different payment card scheme fees.

In the event referred to in paragraph 1 of this Article, the acquirer may charge against the merchant a blended charge for all or several categories and brands of payment cards which the merchant accepts only if the merchant requested it from the acquirer in writing after receiving the offer referred to in paragraph 1 of this Article.

An acquirer shall include in the payment service contract concluded with the merchant individually specified information on the amount of all fees under paragraph 1 of this Article (the merchant service charge, multilateral interchange fee and payment card scheme fee) – for all payment brands and categories of payment cards, unless the merchant, after receiving the offer referred to in paragraph 1 of this Article, requested in writing different action of the acquirer.

### **“Honour all cards” rule**

#### **Article 6**

Payment service providers may oblige merchants accepting a card-based payment instrument issued by one issuer also to accept other card-based payment instruments issued within the framework of the same payment card scheme only if the following conditions have been met:

- 1) payment instruments are based on the same payment brand and the same category of payment card (debit or credit card);
- 2) card-based payment instruments are issued to consumers;
- 3) multilateral interchange fees for payment transactions carried out by applying these payment instruments are calculated and charged in accordance with Article 3 of this Law.

Paragraph 1 of this Article is without prejudice to the right of payment card schemes or payment service providers to provide that payment cards cannot be refused on the basis of the identity of the issuer or of the cardholder.

A merchant deciding not to accept all card-based payment instruments of a given payment card scheme shall inform consumers of this, in a clear and unequivocal manner, at the same time as it informs consumers of the acceptance of card-based payment instruments of that payment card scheme.

A merchant shall prominently display the information under paragraph 3 of this Article at the entrance of the shop and at the till.

In the case of distance sales (e.g. e-commerce), a merchant shall display the information under paragraph 3 of this Article on its website or other applicable electronic or mobile medium. This information shall be provided to the payer in good time before the payer enters into a contract with the merchant.

An issuer shall ensure that card-based payment instruments are electronically and visually identifiable, enabling a merchant and payer to unequivocally identify which payment brand and category of payment cards (debit, credit or commercial cards) are chosen by the payer.

### **Forbidden influence on the merchant during the use of payment instruments**

#### **Article 7**

Rules of payment card schemes and contracts entered into between acquirers and merchants or any other manner which involves the influence of payment card schemes or the acquirer cannot prevent a merchant from:

- 1) steering a consumer to use any payment instrument;
- 2) treating card-based payment instruments of a given payment card scheme more favourably than others;

3) informing the payer about multilateral interchange fees, payment card scheme fees, and merchant service charges to be paid.

This Article is without prejudice to the provisions about charges, rebates or other steering mechanisms set out in regulations governing payment services and consumer protection.

### **Information to the merchant on individual card-based payment transactions**

#### **Article 8**

After the execution of an individual card-based payment transaction, the acquirer shall provide the merchant with the following information:

- 1) the reference enabling the merchant to identify the individual card-based payment transaction;
- 2) the amount of the individual payment transaction in the currency in which the merchant's payment account is credited;
- 3) the amount of any charges for the individual card-based payment transaction, indicating separately the merchant service charge, the amount of the multilateral interchange fee and payment card scheme fee.

With the merchant's prior consent in writing, the information under paragraph 1 may be aggregated by payment brand, payment application, category of payment instrument and rates of multilateral interchange fees applicable to the payment transaction.

Contracts between acquirers and merchants may determine that the information under paragraph 1 of this Article shall be provided or made available periodically, at least once a month, in the agreed manner which allows the merchant to store and reproduce information unchanged.

### **Issuance of payment cards for the execution of domestic payment transactions**

#### **Article 9**

If it issues to a payment service user a payment card which may be used to initiate current account payment transactions, the issuer shall issue to the user, without a fee, the payment card where in domestic payment transactions, the processing, netting and settlement of transfer orders issued based on its use are performed in the payment system in the Republic of Serbia.

A payment card which may be used to initiate current account payment transactions, where in domestic payment transactions, the activities referred to in paragraph 1 of this Article are not performed in the Republic of Serbia – may be issued only on a separate request of the payment service user in writing, only if the user, for the purpose of initiation of payment transactions from the same current account, was already issued also the payment card referred to in paragraph 1 of this Article.

The provisions of this Article shall apply accordingly also to other card-based payment instruments.

### **Protection of rights and interests of payment service users**

#### **Article 10**

If the issuer or acquirer act contrary to this Law or regulations adopted based on this Law, the user of payment services subject to this Law shall be entitled to protect its rights and interests, in accordance with the law governing payment services and the law governing the protection of financial service consumers.

The procedure of exercising the protection of rights and interests of payment service users referred to in paragraph 1 of this Article shall be subject to the provisions of the law governing the protection of financial service consumers which relate to exercising the protection of rights and interests of financial service consumers (right to complain to the financial service provider, right to complain to the National Bank of Serbia, out-of-court settlement of disputes, measures to eliminate irregularities and right to judicial protection).

## **Supervision**

### **Article 11**

The National Bank of Serbia shall supervise the implementation of the provisions of this Law by banks in the manner and procedure prescribed by the law governing banks.

The National Bank of Serbia shall supervise the implementation of the provisions of this Law by payment institutions, electronic money institutions and the public postal operator in the manner and procedure prescribed by the law governing payment services.

If in the supervision procedure referred to in paragraphs 1 and 2 of this Article it is ascertained that the supervised entity acted contrary to this Law or regulations adopted based on this Law, the National Bank of Serbia shall undertake the measures it may undertake against such entity in accordance with the law governing banks, i.e. measures that it may undertake against such entity in accordance with the law governing payment services, in the manner and under conditions stipulated by these laws, including the imposition of a fine which in accordance with these laws, it may impose on such entity and a member of its managing body, and/or manager or responsible person in that entity.

By appropriate application of the provisions of the law governing payment services which concern the supervision of the entities referred to in paragraph 2 of this Article, the National Bank of Serbia shall be authorised to supervise the implementation of the provisions of this Law in payment card schemes, processing entities and other technical service providers as well, whereby the execution of payment transactions subject to this Law is supported, and/or entities responsible for their operation, while at the same time it shall undertake against those entities the measures that it may undertake in accordance with the law governing payment services.

If the entity referred to in paragraph 4 of this Article fails to act in accordance with measures under that paragraph, the National Bank of Serbia may adopt the decision imposing against such person the measure of prohibition of activity, and/or the decision determining that conditions have been met to launch court-ordered liquidation against a company which failed to act in accordance with these measures.

The National Bank of Serbia shall submit the decisions referred to in paragraph 5 of this Article to the organisation in charge of keeping the business entities register for the purpose of entering the relevant data change and/or for the purpose of implementing the court-ordered liquidation procedure and/or striking the entity from the register.

The entity referred to in paragraph 4 of this Article without a head office or branch entered with the register of the competent authority in the Republic of Serbia – shall inform the National Bank of Serbia about its business name, head office and method of communication, cooperate with the National Bank of Serbia and submit to it, on its request, all requested data and documentation relating to the implementation of the provisions of this Law.

The ministry in charge of consumer protection shall supervise the implementation of provisions of this Law related to merchants, in accordance with the law governing consumer protection, through market inspectors.

## **Fines in the procedure of exercising the protection of rights and interests of payment service users**

### **Article 12**

If determined in the procedure referred to in Article 10, paragraph 2 of this Law that the issuer or acquirer breached the provisions of paragraph 3 of this Article – the National Bank of Serbia shall adopt a decision, ordering this entity to eliminate the ascertained irregularities and submit evidence thereon within the deadline defined by the decision, and shall at the same time impose the fine referred to in that paragraph.

If the issuer or acquirer referred to in paragraph 1 of this Article fails to submit to the National Bank of Serbia, within the deadline referred to in that paragraph, the evidence that it removed the irregularities, the National Bank of Serbia shall adopt a decision imposing a new fine against such entity, in the highest amount of the fine determined by paragraph 3 of this Article.

An issuer or acquirer shall be fined from RSD 50,000 to RSD 800,000 in the following cases:

1) if it charges or offers the multilateral interchange fee contrary to Article 3, paragraphs 1–3 of this Law (Article 3, paragraph 4);

2) if it charges or offers the merchant service charge contrary to Article 3, paragraph 7 of this Law (Article 3, paragraph 8);

3) if it offers the payment service of issuance of a card-based payment instrument with two or more payment brands/applications and refuses to issue the payment instrument to the consumer under the conditions such service is offered (Article 4, paragraph 3);

4) if in good time before concluding the contract on issuance of a card-based payment instrument with two or more payment brands/applications it fails to submit to the consumer clear and objective information about the payment brands that the service of issuance of this payment instrument is related to, as well as about their features, including their functionalities and applicability, costs and protection measures (Article 4, paragraph 4);

5) if it ascertains on a card-based payment instrument or equipment applied at the point of sale automatic mechanisms, software or other devices that limit to the payer or merchant the choice of the payment brand and/or payment application when using a card-based payment instrument (Article 4, paragraph 8);

6) if it fails to offer or calculate merchant service charges individually for different categories and brands of payment cards subject to different multilateral interchange fees and/or different payment card scheme fees (Article 5, paragraph 1), and/or if it calculates against the merchant the blended charge for all or several categories and brands of payment cards accepted by the merchant contrary to Article 5, paragraph 2 of this Law;

7) if, contrary to Article 5, paragraph 3 of this Law, it fails to present in the payment service contract it concludes with the merchant the information about the amount of all fees referred to in Article 5, paragraph 1 of this Law individually for all payment brands and categories of payment cards (merchant service charge, multilateral interchange fee and payment card scheme fee);

8) if it obliges the merchant accepting a card-based payment instrument of one issuer to accept other card-based payment instruments issued within the same payment card scheme, while conditions prescribed by Article 6, paragraph 1 of this Law have not been met (Article 6, paragraph 1);

9) if it fails to ensure that a card-based payment instrument is electronically and visually recognisable, in the manner enabling the merchant and payer to unequivocally identify the payment brand and category of the payment card selected by the payer (Article 6, paragraph 6);

10) if it prohibits the merchant to steer the consumer to use any payment instrument, to treat card-based payment instruments of a particular payment card scheme more favourably than others or to inform the payer about multilateral interchange fees, payment card scheme fees and merchant service charges that are to be paid (Article 7, paragraph 1);

11) if after executing an individual card-based payment transaction it fails to submit to the merchant, within the agreed deadlines and in the agreed manner, the reference enabling the merchant to identify such payment transaction, amount of such payment transaction in the currency in which the merchant's payment account is credited and the amount of all fees relating to that payment transaction, with the designated amount of the merchant service charge, multilateral interchange fee and payment card scheme fee (Article 8);

12) if contrary to Article 9 of this Law, it fails to issue to the payment service user the card-based payment instrument where in domestic payment transactions the processing, netting and settlement of transfer orders issued based on its use are performed in the payment system in the Republic of Serbia, and/or if contrary to that Article it issues to the payment service user the card-based payment instrument where in domestic payment transactions the processing, netting and settlement of transfer orders issued based on its use are not performed in the payment system in the Republic of Serbia;

13) if it charges or offers the multilateral interchange fee contrary to Article 14 of this Law.

The provisions of the law governing the protection of financial service consumers which relate to the measures to eliminate the ascertained irregularities shall apply to imposing a fine on the issuer or acquirer in accordance with this Article.

### **Infringements by merchants**

#### **Article 13**

A merchant that is a legal person shall be fined for an infringement from RSD 50,000 to RSD 800,000 in the following cases:

1) if it prevents the payer from choosing a payment brand or payment application that the merchant accepts, and which is different than the one that would be selected through the automatic mechanism which the merchant uses at its point of sale (Article 4, paragraph 9);

2) if it fails to inform the consumer in a clear and unequivocal manner that it does not accept all card-based payment instruments of a given payment card scheme, at the same time as it informs the consumers of the acceptance of card-based payment instruments of that payment card scheme (Article 6, paragraph 3);

3) if it fails to prominently display the information under Article 6, paragraph 3 of this Law at the entrance of the shop and at the till (Article 6, paragraph 4);

4) if in the case of distance sales, it fails to display the information under Article 6, paragraph 3 of this Law on its website or other applicable electronic or mobile medium or fails to provide this information to the payer in good time before concluding the contract (Article 6, paragraph 5).

For the actions under paragraph 1 of this Article, the responsible person in the legal person shall also be fined from RSD 30,000 to 150,000.

For the actions under paragraph 1 of this Article, a merchant who is an entrepreneur shall be fined from RSD 50,000 to 500,000.

For the actions under paragraph 1 of this Article, a merchant who is a natural person shall be fined from RSD 30,000 to 150,000.

### **Temporary deviation from the prescribed level of multilateral interchange fee**

#### **Article 12**

By 17 June 2019, a payment service provider may offer and charge a multilateral interchange fee for debit card transactions in the amount higher than prescribed by Article 3, paragraph 1 of this Law, but not above 0.5% of the value of a debit card transaction.

By 17 June 2019, a payment service provider may offer and charge the multilateral interchange fee for credit card transactions in the amount higher than prescribed by Article 3, paragraph 2 of this Law, but not above 0.6% of the value of a credit card transaction.

### **Validity of card-based payment instruments**

#### **Article 15**

Card-based payment instruments issued by 16 December 2018 shall be valid until the expiry of the validity indicated in those instruments, irrespective of whether the issuer acted in accordance with Article 6, paragraph 6 of this Law.

Card-based payment instruments issued by 16 August 2018 where activities referred to in Article 9, paragraph 1 of this Law are not performed in the Republic of Serbia shall be valid until the expiry of the validity of those instruments, regardless of whether the issuer acted in accordance with that Article.

If starting from 17 August 2018 the issuer extends the validity of the payment instrument referred to in paragraph 2 of this Article and/or if it re-issues that instrument or issues a new such instrument, it shall act in accordance with Article 9 of this Law.

### **Secondary legislation of the National Bank of Serbia**

#### **Article 16**

The National Bank of Serbia shall adopt the regulation referred to in Article 3, paragraph 6 of this Law by 16 September 2018.

### **Harmonisation with the provisions of this Law**

#### **Article 17**

Payment service providers shall harmonise their operations and internal acts with the provisions of this Law by 17 December 2018.

### **Entry into force**

#### **Article 18**

This Law enters into force on 16 June 2018 and applies as of 17 December 2018, apart from Article 9 of this Law which applies as of 17 August 2018.