

**ACT**  
**ON THE IMPLEMENTATION OF EU REGULATIONS GOVERNING PAYMENT**  
**SYSTEMS**

**(Official Gazette 50/2016 and 16/2020 – unofficial consolidated version)**

**I GENERAL PROVISIONS**

*Subject matter*

**Article 1**

This Act establishes the competent authorities, procedures by the competent authorities, out-of-court complaint procedures and mediation proceedings, and penalty provisions for the implementation of EU regulations governing payment systems referred to in Article 2 of this Act.

*EU law*

**Article 2**

This Act ensures the conditions for the implementation of the following regulations of the European Union:

1. Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001 (Text with EEA relevance), as last amended by Regulation (EU) 2019/518 of the European Parliament and of the Council of 19 March 2019 amending Regulation (EC) No 924/2009 as regards certain charges on cross-border payments in the Union and currency conversion charges (Text with EEA relevance) (hereinafter referred to as 'Regulation (EC) No 924/2009');
2. Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (Text with EEA relevance) (hereinafter referred to as 'Regulation (EU) No 260/2012'); and
3. Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions (Text with EEA relevance) (hereinafter referred to as 'Regulation (EU) 2015/751').

*Definitions*

**Article 3**

(1) The terms used in this Act shall have the meaning as defined in the Regulation referred to in Article 2 of this Act to which the individual provision of this Act refers.

(2) The terms that are not defined by the individual Regulation referred to in Article 2 of this Act, which are used in this Act, shall have the meaning as defined in the law governing the payment system.

## II SUPERVISION

### *Competent authorities*

#### **Article 4**

(1) The Croatian National Bank shall be the competent authority for the supervision of the application of Regulation (EC) No 924/2009, Regulation (EU) No 260/2012, Regulation (EU) 2015/751 and the provisions of Articles 5, 6 and 7 of this Act by credit institutions, electronic money institutions, small electronic money institutions, payment institutions and small payment institutions established in the Republic of Croatia, branches established by third-country credit institutions and electronic money institutions in the Republic of Croatia and payment system operators with a head office in the Republic of Croatia.

(2) Where credit institutions, electronic money institutions and payment institutions from another member state provide payment services in the territory of the Republic of Croatia through a branch or agent appointed in the Republic of Croatia under the right of establishment, the Croatian National Bank shall be the competent authority for the supervision of the application of Regulation (EC) No 924/2009, Regulation (EU) No 260/2012, Regulation (EU) 2015/751 and the provisions of Articles 5 and 6 of this Act by the branch or agent.

(3) The provisions of the laws governing the operation of credit institutions, electronic money institutions, payment institutions and payment system operators shall apply to the supervision referred to in paragraphs (1) and (2) of this Article.

(4) The Financial Inspectorate of the Republic of Croatia shall be the competent authority for the supervision of the application of Article 9 of Regulation (EU) No 260/2012 in accordance with the powers prescribed in the law governing the Financial Inspectorate of the Republic of Croatia.

(5) The Financial Inspectorate of the Republic of Croatia shall be the competent authority for the supervision of the application of Regulation (EU) 2015/751 by payment service providers and any other person subject to its application in accordance with the powers prescribed in the law governing the Financial Inspectorate of the Republic of Croatia.

(6) The Market Inspection of the State Inspectorate shall exercise supervision of the application of Regulation (EC) No 924/2009 by entities subject to its application other than the institutions referred to in paragraph (1) of this Article, which within their activity offer currency conversion services at an ATM or at the point of sale.

(7) The Croatian National Bank, the Financial Inspectorate of the Republic of Croatia and the State Inspectorate, as the competent authorities designated under this Article, shall cooperate with each other and with other competent authorities in the Republic of Croatia, as well as with the authorities of other Member States competent for the supervision of the application of Regulation

(EC) No 924/2009, Regulation (EU) No 260/2012 and Regulation (EU) 2015/751 and, where appropriate, with other relevant competent authorities in accordance with the legislation of the European Union and the national legislations of Member States. The Croatian National Bank shall also cooperate, where appropriate, with the European Central Bank, the European Banking Authority (EBA) in accordance with Article 31 of 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), and the central banks of the Member States.

(8) Within the cooperation referred to in paragraph (7) of this Article, the Croatian National Bank and the Financial Inspectorate of the Republic of Croatia shall, except with each other, exchange information with the following authorities:

1. the authorities of other Member States competent for the supervision of the application of Regulation (EC) No 924/2009, Regulation (EU) No 260/2012 and Regulation (EU) 2015/751;
2. the European Central Bank and the central banks of the Member States in their capacity as monetary and supervisory authorities, the European Banking Authority and, where appropriate, with other public authorities responsible for overseeing payment systems; and
3. other authorities competent in accordance with the regulations governing the protection of personal data and prevention of money laundering and terrorist financing, other laws applicable to the payment service provider, and in accordance with the legislation of the European Union.

(9) The submission of the information referred to in paragraph (8) of this Article shall not constitute a violation of the duty to protect the confidentiality of data.

(10) The authority that receives the information referred to in paragraph (8) of this Article shall be bound by the duty to protect its confidentiality and may use it exclusively for the purpose for which it has been submitted, and may make it available to third parties in accordance with special regulations.

### III OUT-OF-COURT COMPLAINT PROCEDURES AND ALTERNATIVE DISPUTE RESOLUTION

#### *Complaints to the payment service provider*

#### **Article 5**

(1) Where the payment service user deems that the payment service provider does not comply with Regulation (EC) No 924/2009, Regulation (EU) No 260/2012 or Regulation (EU) No 2015/751, the payment service user may submit a complaint to the payment service provider.

(2) The payment service provider shall, prior to the execution of the payment transaction to which Regulation (EC) No 924/2009, Regulation (EU) No 260/2012 and/or Regulation (EU) 2015/751 applies, provide or make available to the payment service user the following information:

1. on the payment service user's right to submit the complaint referred to in paragraph (1) of this Article;

2. on the manner of submitting the complaint.

(3) It shall be deemed that the payment service provider's obligation referred to in paragraph (2) of this Article is met if the information referred to in paragraph (2) of this Article is provided prior to the conclusion of the framework contract underlying the payment transactions to which Regulation (EC) No 924/2009, Regulation (EU) No 260/2012 and/or Regulation (EU) 2015/751 applies, or if this information is specified in the framework contract.

(4) The payment service provider shall send a reply to the complaint referred to in paragraph (1) of this Article to the payment service user no later than ten days from the date of receiving the complaint, on paper, or if so agreed between the payment service provider and the user, on another durable medium.

(5) Exceptionally, where a payment service provider is unable to provide an answer within the time limit referred to in paragraph (4) of this Article for reasons beyond the control of the payment service provider, it shall be required to send a holding reply to the payment service user, within the time limit, indicating the reasons for a delay in answering to the complaint and specifying the time limit by which the payment service user will receive the final reply and which shall not exceed 35 days from the date of receipt of the complaint.

(6) In the final reply to the complaint, the payment service provider shall refer the payment service user to the possibility of submitting a complaint to the competent authority and where the payment service user is a consumer, also to the authorities competent for alternative consumer dispute resolution referred to in Article 7, paragraph (1) of this Act.

(7) Where a credit institution, an electronic money institution or a payment institution from another Member State provides payment services in the territory of the Republic of Croatia through a branch or an agent appointed in the Republic of Croatia under the right of establishment, the provisions of this Article shall apply to the branch or the agent.

#### *Complaints to the competent authority*

### **Article 6**

(1) Payment service users may submit complaints to the Croatian National Bank against a credit institution, an electronic money institution, a small electronic money institution, a payment institution or a small payment institution if they deem they have acted contrary to Regulation (EC) No 924/2009, Regulation (EU) No 260/2012, Regulation (EU) 2015/751 or Article 5 of this Act.

(2) Other legally interested parties may also submit the complaints referred to in paragraph (1) of this Article to the Croatian National Bank.

(3) Where the Croatian National Bank receives a complaint against a credit institution, an electronic money institution or a payment institution from another Member State providing payment services in the Republic of Croatia directly or through an agent exercising the freedom

to provide services, it shall forward such a complaint to the competent authority of the home Member State.

(4) Upon receipt of the complaint, the Croatian National Bank shall invite the payment service provider to which the complaint relates to submit its response and the relevant evidence no later than ten days from the date of receiving the invitation.

(5) In the case of a complaint against a credit institution, an electronic money institution or a payment institution from another Member State providing payment services in the Republic of Croatia through a branch or an agent appointed in the Republic of Croatia under the right to establishment, the Croatian National Bank shall send the invitation referred to in paragraph (4) of this Article to the branch or the agent.

(6) Where, in the complaint procedure, the Croatian National Bank establishes that there are reasonable grounds to suspect that the payment service provider has acted contrary to any of the provisions of Regulation (EC) No 924/2009, Regulation (EU) No 260/2012, Regulation (EU) 2015/751 or contrary to Article 5 of this Act and has thus committed a misdemeanour, it shall initiate misdemeanour proceedings against the payment service provider.

(7) The Croatian National Bank shall notify the complainant of its findings and of the measures taken.

(8) Where the complainant is a consumer, the Croatian National Bank shall inform the complainant in a notification referred to in paragraph (7) of this Article of the possibility to initiate an alternative dispute resolution for consumer disputes.

#### *Alternative dispute resolution*

### **Article 7**

(1) In all disputes with a payment service provider related to the application of Regulation (EC) No 924/2009, Regulation (EU) No 260/2012 and/or this Act, the payment service user that is a consumer shall have the right to initiate a procedure before any authority for alternative dispute resolution for consumer disputes, which the payment service provider has provided on its website or in its branches.

(2) A payment service provider shall participate in the alternative dispute resolution procedure initiated by the consumer before the authority referred to in paragraph (1) of this Article.

(3) In disputes with a payment service provider related to the application of Regulation (EU) 2015/751 and/or this Act, the payment service user shall have the right to initiate mediation proceedings before the Mediation Centre at the Croatian Chamber of Economy or another independent mediation authority.

(4) The provisions of this Article shall not affect the rights of payment service users to initiate court proceedings.

## IV PENALTY PROVISIONS

### *Misdemeanours by payment service providers*

#### **Article 8**

(1) The following payment service providers shall be liable for the misdemeanours referred to in paragraph (2) of this Article:

1. credit institutions, electronic money institutions, small electronic money institutions, payment institutions and small payment institutions established in the Republic of Croatia;
2. branches of credit institutions in the Republic of Croatia established in another Member State or third country;
3. branches of electronic money institutions in the Republic of Croatia established in another Member State or third country;
4. branches of payment institutions in the Republic of Croatia established in another Member State;
5. legal persons appointed as agents in the Republic of Croatia under the right of establishment of payment institutions or electronic money institutions established in other Member States;
6. units of local or regional self-government, when not acting in the capacity as public authority;
7. The Croatian National Bank, when not acting in its capacity as monetary authority or other public authority.

(2) The payment service provider referred to in paragraph (1) of this Article shall be fined between HRK 20,000.00 and HRK 500,000.00:

1. if it fails to levy the same charges on a payment service user in respect of cross-border payments in euro as the charges levied for corresponding national payments in kuna (Article 3, paragraph (1) of Regulation (EC) No 924/2009);
2. if, prior to the initiation of the payment transaction of a cash withdrawal at an ATM or a card-based payment at the point of sale, it fails to disclose the information to the payer on the total currency conversion charges expressed as a percentage mark-up over the latest available euro foreign exchange reference rates issued by the European Central Bank or if it fails to provide the information on the mark-up in a neutral and comprehensible manner or it fails to provide it free of charge (Article 3a, paragraphs (1) and (7) of Regulation (EC) No 924/2009);
3. if it fails to make the mark-up expressing the total currency conversion charges public in a neutral, comprehensible and easily accessible manner on a broadly available and easily accessible electronic platform, free of charge for the payer (Article 3a, paragraphs (2) and (7) of Regulation (EC) No 924/2009);
4. if, without undue delay after receiving a payment order for a cash withdrawal at an ATM or a card-based payment at the point of sale that is denominated in any Union currency that is different from the currency of the payer's account, it fails to send to the payer an electronic message

through the agreed broadly available and easily accessible channel with the information on the percentage mark-up expressing the total currency conversion charges (Article 3a, paragraph (5), sub-paragraph (1) and paragraph (6), sub-paragraph (1) of Regulation (EC) No 924/2009);

5. if, once a month in which it receives from the payer a payment order for a cash withdrawal at an ATM or a payment at the point of sale that is denominated in any Union currency that is different from the currency of the payer's account, for each payment card that was issued to the payer by the payer's payment service provider and that is linked to the same account, it fails to send to the payer an electronic message on the percentage mark-up expressing the total currency conversion charges through the agreed broadly available and easily accessible channel (Article 3a, paragraph (5), sub-paragraph (2) and paragraph (6), sub-paragraph (1) of Regulation (EC) No 924/2009);

6. if it fails to provide the information on the percentage mark-up expressing the total currency conversion charges for a cash withdrawal at an ATM and a card-based payment at the point of sale that is denominated in any Union currency that is different from the currency of the payer's account, which it is obliged to provide without delay after receiving a payment order, or which it is obliged to provide once a month, free of charge or if it fails to provide it in a neutral and comprehensible manner (Article 3a, paragraphs (5) and (7) of Regulation (EC) No 924/2009);

7. if it has failed to offer payment service users, in a neutral and comprehensible manner and free of charge, the possibility of opting out of receiving the electronic messages with the information on the percentage mark-up expressing the total currency conversion charges for a cash withdrawal at an ATM and a card-based payment at the point of sale that is denominated in any Union currency that is different from the currency of the payer's account, which it is obliged to send without delay after receiving the payment order and once a month (Article 3a, paragraph (6), sub-paragraph (2) and paragraph (7) of Regulation (EC) No 924/2009);

8. if, before the payer initiates a credit transfer online directly, using the website or the mobile banking application of the payment service provider, it fails to inform the payer in a clear, neutral and comprehensible manner, of the estimated charges for currency conversion services applicable to the credit transfer (Article 3b, paragraph (1) of Regulation (EC) No 924/2009);

9. if, prior to the initiation of a credit transfer, it fails to communicate to the payer, in a clear, neutral and comprehensible manner, the estimated total amount of the credit transfer in the currency of the payer's account, including any transaction fee and any currency conversion charges or if it fails to communicate to the payer the estimated amount to be transferred to the payee in the currency used by the payee (Article 3b, paragraph (2) of Regulation (EC) No 924/2009);

10. if it fails to communicate to the payment service user the payment service user's IBAN and the payment service provider's BIC in accordance with Article 4, paragraph (1) of Regulation (EC) No 924/2009 or if it charges for such a communication;

11. if it levies additional charges on a payment service user contrary to Article 4, paragraph (3) of Regulation (EC) No 924/2009 as amended by Regulation (EU) No 260/2012;

12. if its reachability for credit transfers initiated by a payer from any Member State or for direct debits initiated by a payee from any Member State is not in accordance with Article 3 of Regulation (EU) No 260/2012;
13. if it uses payment schemes which do not comply with the conditions referred to in Article 4, paragraph (1) of Regulation (EU) No 260/2012;
14. if it fails to carry out credit transfers in accordance with Article 5, paragraphs (1) and (2) of Regulation (EU) No 260/2012;
15. if it fails to carry out direct debits in accordance with Article 5, paragraphs (1), (3) and (6) of Regulation (EU) No 260/2012;
16. if it requires a payment service user to indicate the BIC of the payment service provider for cross-border payment transactions in euro in accordance with Article 5, paragraph (7) of Regulation (EU) No 260/2012;
17. if it requires a payment service user to indicate the BIC of the payment service provider for national payment transactions in euro in accordance with Article 5, paragraph (7) of Regulation (EU) No 260/2012;
18. if it applies a multilateral interchange fee, or other agreed remuneration with an equivalent object or effect, including a fee agreed bilaterally between two payment service providers and a fee set unilaterally by a payment service provider in accordance with Article 8, paragraphs (1) and (3) of Regulation (EU) No 260/2012 to cross-border direct debit payment transactions in euro;
19. if it applies a multilateral interchange fee, or other agreed remuneration with an equivalent object or effect, including a fee agreed bilaterally between two payment service providers and a fee set unilaterally by a payment service provider in accordance with Article 8, paragraphs (1) and (3) of Regulation (EU) No 260/2012 to national direct debit payment transactions in euro;
20. if it applies a multilateral interchange fee, or other agreed remuneration with an equivalent object or effect, including a fee agreed bilaterally between two payment service providers and a fee set unilaterally by a payment service provider to R-transactions, without complying with the conditions referred to in Article 8, paragraph (2) of Regulation (EU) No 260/2012;
21. if, prior to the execution of the payment transaction to which Regulation (EC) No 924/2009, Regulation (EU) No 260/2012 and/or Regulation (EU) 2015/751 applies, it fails to provide or make available to the payment service user the information on the payment service user's right to submit a complaint and on the manner of submitting the complaint in accordance with Article 5, paragraph (2) of this Act, without complying with the conditions referred to in Article 5, paragraph (3) of this Act;
22. if it fails to provide the payment service user with the final reply to the complaint within the time limit and in the manner laid down in Article 5, paragraph (4) of this Act, without complying with the conditions referred to in Article 5, paragraph (5) of this Act;
23. if, for reasons beyond the control of the payment service provider, it fails to send a holding reply to the payment service user with the content and within the time limit laid down in Article 5, paragraph (5) of this Act or if it fails to send the final reply to the payment service user within the time limit referred to in Article 5, paragraph (5) of this Act;

24. if, contrary to Article 5, paragraph (6) of this Act, in the final reply to the complaint, it fails to refer the payment service user to the possibility of submitting a complaint to the competent authority or if it fails to refer the payment service user that is a consumer to the authority competent for alternative dispute resolution referred to in Article 7, paragraph (1) of this Act;
25. if, at the invitation of the Croatian National Bank, it fails to submit its statement and the relevant evidence within the time limit referred to in the invitation in accordance with Article 6, paragraph (4) of this Act;
26. if, contrary to Article 7, paragraph (2) of this Act, it refuses to participate in the alternative dispute resolution procedure initiated before the authority on which it gave information pursuant to Article 7, paragraph (1) of this Act;
27. if it offers or requests a per transaction interchange fee of more than 0.2% of the value of the transaction for any debit card transaction, and thereby acts contrary to Article 3, paragraph (1) of Regulation (EU) 2015/751;
28. if it offers or requests a per transaction interchange fee of more than 0.3% of the value of the transaction for any credit card transaction, and thereby acts contrary to Article 4 of Regulation (EU) 2015/751;
29. if it circumvents the application of the interchange fee cap referred to in Article 3, paragraph (1) or Article 4 of Regulation (EU) 2015/751, and thereby acts contrary to Article 5 of Regulation (EU) 2015/751;
30. if it fails to provide the consumer, on his/her request, two or more different brands on a card-based payment instrument, provided that such a service is offered by the payment service provider, or if it fails to provide the consumer, in good time before the contract is signed, with information on all the payment brands available and their characteristics, including their functionality, cost and security, and thereby acts contrary to Article 8, paragraph (2) of Regulation (EU) 2015/751;
31. if any routing principles or equivalent measures described in Article 8, paragraph (5) of Regulation (EU) 2015/751 which the payment service provider applies are discriminatory or are applied in a discriminatory manner, and thereby acts contrary to Article 8, paragraph (5) of Regulation (EU) 2015/751;
32. if it inserts automatic mechanisms, software or devices on the payment instrument or at equipment applied at the point of sale which limit the choice of payment brand or payment application by the payer or the payee when using a co-badged payment instrument, and thereby acts contrary to Article 8, paragraph (6) of Regulation (EU) 2015/751;
33. if, as an acquirer, it fails to offer or charge its payee merchant service charges individually specified, and thereby acts contrary to Article 9, paragraph (1) of Regulation (EU) 2015/751;
34. if, as an acquirer, it fails to include in its agreement with a payee individually specified information on the amount of charges, and thereby acts contrary to Article 9, paragraph (2) of Regulation (EU) 2015/751;
35. if it applies any rule that obliges payees 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, and thereby acts contrary to Article 10, paragraph (1) of

Regulation (EU) 2015/751 in relation to Article 10, paragraphs (2) and (3) of Regulation (EU) 2015/751;

36. if, as an issuer, it fails to ensure that its payment instruments are electronically identifiable or, in the case of newly-issued card-based payment instruments, also visibly identifiable, and thereby acts contrary to Article 10, paragraph (5) of Regulation (EU) 2015/751;

37. if it prevents payees from steering consumers to the use of any payment instrument preferred by the payee or if it prohibits payees from treating card-based payment instruments of a given payment card scheme more or less favourably than others, and thereby acts contrary to Article 11, paragraph (1) of Regulation (EU) 2015/751;

38. if it prevents payees from informing payers about interchange fees and merchant service charges, and thereby acts contrary to Article (11), paragraph (2) of Regulation (EU) 2015/751;

39. if, after the execution of an individual card-based payment transaction, it fails to provide the payee with the information on that transaction in accordance with Article (12) of Regulation (EU) 2015/751.

(3) A fine between HRK 5,000.00 and HRK 50,000.00 shall also be imposed for any of the misdemeanours referred to in paragraph (2) of this Article on:

1. the responsible person of the management board of the payment service provider referred to in paragraph (1), item (1) of this Article or the responsible executive director if the payment service provider has a board of directors, or if the payment service provider referred to in paragraph (1), item (1) of this Article, with the exception of credit institutions, engages in another business activity in addition to payment services, the director responsible for payment services;

2. the responsible person of the payment service provider (branch) referred to in paragraph (1), items (2) to (4) of this Article and the responsible person of the payment service provider (agent) referred to in paragraph (1), item (5) of this Article that is a legal person;

3. the responsible person of the payment service provider referred to in paragraph (1), items (6) and (7) of this Article.

(4) A fine between HRK 10,000.00 and HRK 250,000.00 shall also be imposed for any of the misdemeanours referred to in paragraph (2) of this Article on a craftsman or another self-employed person set up in the Republic of Croatia under the right of establishment and appointed as an agent of the payment institution or the electronic money institution established in another Member State.

(5) The fine referred to in paragraph (3) of this Article shall be imposed on the responsible person for any of the misdemeanours referred to in paragraph (2) of this Article committed during the provision of payment services by the Republic of Croatia, when not acting in the capacity as public authority.

(6) Exceptionally, any of the misdemeanours referred to in paragraph (2) of this Article shall not be committed if the payment service provider referred to in paragraph (1) of this Article, where provided for in Regulation (EC) No 924/2009, as last amended by Regulation (EU) 2019/518, Regulation (EU) No 260/2012 and Regulation (EU) 2015/751, has agreed otherwise with the payment service user than prescribed therein.

**Article 9**

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(Official Gazette 16/2020)

**Article 10**

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*Misdemeanours by payment system operators*

**Article 11**

(1) An operator of a retail payment system operating in euro shall be fined between HRK 20,000.00 and HRK 500,000.00:

1. if it fails to ensure technical interoperability of the payment system it operates, in accordance with Article 4, paragraph (2) of Regulation (EU) No 260/2012;

2. if the business rules of the payment system it operates restrict interoperability of the system, contrary to Article 4, paragraph (2) of Regulation (EU) No 260/2012.

(2) A responsible person of the operator of a retail payment system shall also be fined between HRK 5,000.00 and 50,000.00 for any of the misdemeanours referred to in paragraph (1) of this Article.

(3) The responsible person referred to in paragraph (2) of this Article shall be deemed to be the responsible person of the management board of the operator of a retail payment system, or, if the operator of a retail payment system also engages in other activities, a person responsible for the operation of the retail payment system, or, if the operator of a retail payment system is a branch of a legal person from another country having its head office in the Republic of Croatia, a person responsible for the operation of the branch.

*Misdemeanours by payment card schemes*

**Article 12**

(1) A payment card scheme shall be fined between HRK 20,000.00 and HRK 500,000.00:

1. if it participates in circumventing the application of the interchange fee cap referred to in Article 3, paragraph (1) or Article (4) of Regulation (EU) 2015/751, and thereby acts contrary to Article 5 of Regulation (EU) 2015/751;

2. if it imposes territorial restrictions or applies rules with an equivalent effect to an issuer or acquirer, and thereby acts contrary to Article 6, paragraph (1) of Regulation (EU) 2015/751;

3. if it acts contrary to the prohibition referred to in Article 6, paragraph (2) of Regulation (EU) 2015/751;
4. if it acts contrary to the provisions on separation of payment card scheme and processing entities referred to in Article 7, paragraph (1) of Regulation (EU) 2015/751;
5. if, at the request of the competent authority referred to in Article 4, paragraph (4) of this Act, it fails to provide an independent report confirming its compliance with Article 7, paragraph (1) of Regulation (EU) 2015/751, and thereby acts contrary to Article 7, paragraph (2) of Regulation (EU) 2015/751;
6. if it fails to allow for the possibility referred to in Article 7, paragraph (3) of Regulation (EU) 2015/751;
7. if in processing rules operated by it, it acts contrary to the prohibition on territorial discrimination in accordance with Article 7, paragraph (4) of Regulation (EU) 2015/751;
8. if it adopts or applies business rules that restrict interoperability among processing entities, and thereby acts contrary to Article 7, paragraph (5) of Regulation (EU) 2015/751;
9. if it fails to comply with the requirements ensuring that the payment card scheme is independent in terms of accounting, organisation and decision-making processes under regulatory technical standards adopted in accordance with Article 7, paragraph (6) of Regulation (EU) 2015/751;
10. if it hinders or prevents an issuer from co-badging two or more different payment brands or payment applications on a card-based payment instrument, and thereby acts contrary to Article 8, paragraph (1) of Regulation (EU) 2015/751;
11. if in licensing agreements or in payment card scheme rules it applies discriminatory and objectively unjustified differences in treatment of issuers or acquirers concerning co-badging of payment brands or payment applications on a card-based payment instrument, and thereby acts contrary to Article 8, paragraph (3) of Regulation (EU) 2015/751;
12. if it imposes reporting requirements, obligations to pay fees or similar obligations with the same object or effect on issuers or acquirers for transactions carried out with any device on which its payment brand is present in relation to transactions for which its scheme is not used, and thereby acts contrary to Article 8, paragraph (4) of Regulation (EU) 2015/751;
13. if any routing principles or equivalent measures which the payment card scheme applies are discriminatory or are applied in a discriminatory manner, which is contrary to Article 8, paragraph (5) of Regulation (EU) 2015/751;
14. if it inserts automatic mechanisms, software or devices on the payment instrument or at equipment applied at the point of sale which limit the choice of payment brand or payment application by the payer or the payee when using a co-badged payment instrument, and thereby acts contrary to Article 8, paragraph (6) of Regulation (EU) 2015/751;
15. if it applies any rule that obliges payees 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, and thereby acts contrary to Article 10, paragraph (1) in relation to paragraphs (2) and (3) of that Article of Regulation (EU) 2015/751;

16. if it prevents payees from steering consumers to the use of any payment instrument preferred by the payee or if it prohibits payees from treating card-based payment instrument of a given payment card scheme more or less favourably than others, and thereby acts contrary to Article 11, paragraph (1) of Regulation (EU) 2015/751;

17. if it prevents payees from informing payers about interchange fees and merchant service charges, and thereby acts contrary to Article 11, paragraph (2) of Regulation (EU) 2015/751.

(2) A responsible person of the payment card scheme shall also be fined between HRK 5000.00 and HRK 50,000.00 for any of the misdemeanours referred to in paragraph (1) of this Article.

#### *Misdemeanours by processing entities*

### **Article 13**

(1) A processing entity shall be fined between HRK 5000.00 and HRK 100,000.00:

1. if it participates in circumventing the application of the interchange fee cap referred to in Article 3, paragraph (1) or Article (4) of Regulation (EU) 2015/751, and thereby acts contrary to Article 5 of Regulation (EU) 2015/751;

2. if it acts contrary to the provisions on separation of payment card scheme and processing entities referred to in Article 7, paragraph (1) of Regulation (EU) 2015/751;

3. if it fails to ensure that its system is technically interoperable with other systems of processing entities, and thereby acts contrary to Article 7, paragraph (5) of Regulation (EU) 2015/751;

4. if it fails to comply with the requirements ensuring that the processing entity is independent in terms of accounting, organisation and decision-making processes under regulatory technical standards adopted pursuant to Article 7, paragraph (6) of Regulation (EU) 2015/751;

5. if it inserts automatic mechanisms, software or devices on the payment instrument or at equipment applied at the point of sale which limit the choice of payment brand or payment application by the payer or the payee when using a co-badged payment instrument, and thereby acts contrary to Article 8, paragraph (6) of Regulation (EU) 2015/751.

(2) A responsible person of the processing entity shall also be fined between HRK 2000.00 and HRK 50,000.00 for any of the misdemeanours referred to in paragraph (1) of this Article.

#### *Misdemeanours by other persons*

### **Article 14**

(1) A legal person shall be fined between HRK 20,000.00 and HRK 500,000.00:

1. if, when providing a currency conversion service at an ATM or at the point of sale, it fails to disclose to the payer the information on the total currency conversion charges expressed as a percentage mark-up over the latest available euro foreign exchange reference rates issued by the European Central Bank, prior to the initiation of the payment transaction of a cash withdrawal at an ATM or a card-based payment at the point of sale, or if it fails to clearly display the information on the percentage mark-up at the ATM or at the point of sale (Article 3a, paragraphs (1) and (4) of Regulation (EC) No 924/2009);
2. if, when providing a currency conversion service at an ATM or at the point of sale, prior to the initiation of the payment transaction of a cash withdrawal at an ATM or a card-based payment at the point of sale, it fails to provide the payer with the information on the amount to be paid to the payee in the currency used by the payee and on the amount to be paid by the payer in the currency of the payer's account (Article 3a, paragraph (3) of Regulation (EC) No 924/2009);
3. if, when providing a currency conversion service at an ATM or at the point of sale, following the initiation of the payment transaction of a cash withdrawal at an ATM or a card-based payment at the point of sale, it fails to make available to the payer the information on a durable medium on the percentage mark-up expressing the total currency conversion charges, on the amount to be paid to the payee in the currency used by the payee and on the amount to be paid by the payer in the currency of the payer's account (Article 3a, paragraphs (1), (3) and (4) of Regulation (EC) No 924/2009);
4. if, when providing a currency conversion service at an ATM or at the point of sale, prior to the initiation of the payment transaction of a cash withdrawal at an ATM or a card-based payment at the point of sale, it fails to inform the payer of the possibility of paying in the currency used by the payee and having the currency conversion subsequently performed by the payer's payment service provider (Article 3a, paragraph (4) of Regulation (EC) No 924/2009);
5. if, when providing a currency conversion service at an ATM or at the point of sale, it fails to provide the payer with the information referred to in Article 3a, paragraphs (1), (3) and (4) of Regulation (EC) No 924/2009 free of charge or in a neutral and comprehensible manner (Article 3a, paragraph (7) of Regulation (EC) No 924/2009);
6. if, as a payment service user that is not a consumer, the person acts contrary to Article 9 of Regulation (EU) No 260/2012;
7. if it participates in circumventing the application of the interchange fee cap referred to in Article 3, paragraph (1) or Article (4) of Regulation (EU) 2015/751, and thereby acts contrary to Article 5 of Regulation (EU) 2015/751;
8. if, as a technical service provider, the person inserts automatic mechanisms, software or devices on the payment instrument or at equipment applied at the point of sale which limit the choice of payment brand or payment application by the payer or the payee when using a co-badged payment instrument, and thereby acts contrary to Article 8, paragraph (6) of Regulation (EU) 2015/751;
9. if, as a payee, the person prevents the payer from overriding an automatic priority selection made by the payee in its equipment for the categories of payment cards or related payment instruments accepted by the payee, and thereby acts contrary to Article 8, paragraph (6) of Regulation (EU) 2015/751;

10. if, as a payee, the person fails to inform consumers in a clear and unequivocal manner of payment cards or other payment instruments of a payment card scheme that the payee does not accept at the same time as the person informs consumers of the acceptance of other payment cards and payment instruments of the payment card scheme, and thereby acts contrary to Article 10, paragraph (4) of Regulation (EU) 2015/751.

(2) The responsible person of the legal person shall also be fined between HRK 5,000.00 and HRK 50,000.00 for any of the misdemeanours referred to in paragraph (1) of this Article.

(3) A craftsman or another self-employed person shall also be fined between HRK 10,000.00 and HRK 250,000.00 for any of the misdemeanours referred to in paragraph (1) of this Article.

#### *Jurisdiction to conduct misdemeanour proceedings*

### **Article 15**

The Financial Inspectorate of the Republic of Croatia shall conduct misdemeanour proceedings of the first instance for the misdemeanours under this Act.

## V TRANSITIONAL AND FINAL PROVISIONS

#### *Notification to the European Commission*

### **Article 16**

The authorities designated under Article 4, paragraphs (1) and (4), Article 6 and Article 7 of this Act shall notify the European Commission of their respective competences pursuant to this Act.

#### *Time limits for the adoption of implementing regulations*

### **Article 17**

(1) The decision referred to in Article 7, paragraph (3), item (1) of this Act shall be adopted by the Croatian Chamber of Economy within 30 days of the entry into force of this Act.

(2) The decision referred to in Article 7, paragraph (3), item (2) of this Act shall be adopted by the Croatian Chamber of Economy by 9 June 2017.

(3) Until the adoption of the decision referred to in paragraph (1) of this Article, the Decision on the costs of mediation before the Mediation Centre at the Croatian Chamber of Economy in any disputes arising from the application of the Act on the Implementation of EU Regulations Governing Payment Systems (Official Gazette 84/2013) shall remain in force in the part not in conflict with the provisions of this Act.

(4) The Financial Inspectorate of the Republic of Croatia and the Croatian National Bank shall publish on their websites a notification of the date of application of the regulatory technical standards referred to in Article 7, paragraph (6) of Regulation (EU) No 2015/751.

*Regulation that shall cease to have effect*

### **Article 18**

The Act on the Implementation of EU Regulations Governing Payment Systems (Official Gazette 54/2013) shall cease to have effect by virtue of the entry into force of this Act.

*Entry into force*

### **Article 19**

This Act shall enter into force on the eighth day after the day of its publication in the Official Gazette, with the exception of:

- Article 8, paragraph (1), items (19) to (25), Article 12, paragraph (1), items (4) to (8) and (10) to (15), Article 13, paragraph (1), items (2), (3) and (5) and Article 14, paragraph (1), items (3) to (5) of this Act, which shall enter into force on 9 June 2016;
- Article 8, paragraph (1), item (13) of this Act, which shall enter into force on 1 September 2016;
- Article 8, paragraph (1), items (4) to (9) and Article 11 of this Act, which shall enter into force on 31 October 2016;
- Article 7, paragraph (1), item (2) of this Act, which shall enter into force on 1 January 2017;
- Article 8, paragraph (1), item (11) of this Act, which shall enter into force on 1 February 2017;  
and
- Article 12, paragraph (1), item (9) and Article 13, paragraph (1), item (4) of this Act, which shall enter into force on the date of application of the regulatory technical standards referred to in Article 7, paragraph (6) of Regulation (EU) No 2015/751.

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## **ACT ON AMENDMENTS TO THE ACT ON THE IMPLEMENTATION OF EU REGULATIONS GOVERNING PAYMENT SYSTEMS**

**(Official Gazette 16/2020)**

FINAL PROVISION

*Entry into force*

### **Article 11**

This Act shall enter into force on the eighth day after the day of its publication in the Official Gazette, with the exception of Article 8, paragraph (2), items (2), (3), (8) and (9) as amended by

Article 7 of this Act and Article 14, paragraph (1), items (1) to (5) as amended by Article 10 of this Act, which shall enter into force on 19 April 2020 and Article 8, paragraph (2), items (4) to (7) as amended by Article 7 of this Act, which shall enter into force on 19 April 2021.

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