

# THE CROATIAN PARLIAMENT

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Pursuant to Article 89 of the Constitution of the Republic of Croatia, I hereby issue the

## DECISION

### PROMULGATING THE ACT ON THE IMPLEMENTATION OF EU REGULATIONS GOVERNING PAYMENT SYSTEMS

I hereby promulgate the Act on the Implementation of EU Regulations Governing Payment Systems, passed by the Croatian Parliament at its session on 18 May 2016.

Class: 011-01/16-01/21

No.: 71-06-01/1-16-2

Zagreb, 23 May 2016

The President of the Republic of Croatia

**Kolinda Grabar-Kitarović, m.p.**

## ACT

### ON THE IMPLEMENTATION OF EU REGULATIONS GOVERNING PAYMENT SYSTEMS

#### 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) (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) For the purposes of this Act, the following terms shall have the following meaning:

1. '*Member State*', '*home Member State*', '*third country*', '*framework contract*', '*payment order*' and '*payment instrument*' shall have the meaning as defined in the law governing the payment system;
2. '*payment system operator*' means a person operating a payment system in accordance with the law governing the payment system;
3. '*payment service user*' shall have the meaning as defined in Regulation (EC) No 924/2009 or Regulation (EU) 2015/751, or the meaning provided for the term '*PSU*' as defined in Regulation (EU) No 260/2012, depending on the Regulation to which this Act refers in the case in point;
4. '*payment transaction*' shall have the meaning as defined in Regulation (EC) No 924/2009, Regulation (EU) No 260/2012 or Regulation (EU) 2015/751, depending on the Regulation to which this Act refers in the case in point;
5. '*consumer*' shall have the meaning as defined in Regulation (EC) No 924/2009, Regulation (EU) No 260/2012 or Regulation (EU) 2015/751, depending on the Regulation to which this Act refers in the case in point;
6. '*IBAN*' shall have the meaning as defined in Regulation (EU) No 260/2012;
7. '*BIC*' shall have the meaning as defined in Regulation (EU) No 260/2012;

8. *'charge', 'reachability', 'credit transfer', 'payer', 'direct debit', 'payee', 'payment scheme', 'cross-border payment transaction', 'national payment transaction', 'multilateral interchange fee', 'R-transaction', 'payment system', 'retail payment system', 'interoperability', 'acquirer', 'issuer', 'debit card transaction', 'credit card transaction', 'card-based payment transaction', 'interchange fee', 'net compensation', 'merchant service charge', 'payment card', 'payment card scheme', 'card-based payment instrument', 'payment application', 'processing', 'processing entity', 'point of sale', 'payment brand', 'co-badging'* referred to in the provisions of Articles 7 to 13 of this Act shall have the meaning as defined in the Regulation to which the provision in question refers.

(2) For the purposes of this Act, the term *'payment service provider'* shall have the meaning as defined in Regulation (EC) No 924/2009 and Regulation (EU) 2015/751, or the meaning provided for the term *'PSP'* as defined in Regulation (EU) No 260/2012, which includes the following categories:

1. credit institutions with head offices in the Republic of Croatia;
2. electronic money institutions with head offices in the Republic of Croatia;
3. payment institutions with head offices in the Republic of Croatia;
4. the Croatian National Bank, when not acting in its capacity as monetary authority or other public authority;
5. the Republic of Croatia and a unit of local or regional self-government, when not acting in their capacity as public authorities;
6. credit institutions with head offices in a Member State;
7. electronic money institutions with head offices in a Member State;
8. payment institutions with head offices in a Member State;
9. branches of third-country credit institutions with head offices in the Republic of Croatia;
10. branches of third-country electronic money institutions with head offices in the Republic of Croatia; and
11. the European Central Bank, when not acting in its capacity as monetary authority or other public authority.

## 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 Article 5, paragraphs (2), (3) and (4) of this Act by the payment

service providers referred to in Article 3, paragraph (2), items (1), (2), (3), (9) and (10) of this Act and by a payment system operator.

(2) Where the payment service providers referred to in Article 3, paragraph (2), items (6), (7) and (8) of this Act provide payment services in the territory of the Republic of Croatia through a branch or agent, 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 Article 5, paragraphs (2), (3) and (4) of this Act by the branch or agent.

(3) Unless otherwise prescribed in this Act, the provisions of the laws governing the operation of the payment service providers referred to in paragraph (1) of this Article or of a payment system operator on the exercise of oversight or supervision by the Croatian National Bank, shall apply *mutatis mutandis* 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 persons other than payment service providers in accordance with the powers prescribed in the law governing the Financial Inspectorate of the Republic of Croatia.

(6) The Croatian National Bank and the Financial Inspectorate of the Republic of Croatia, 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.

(7) Within the cooperation referred to in paragraph (6) 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 laws 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.

(8) The submission of the information referred to in paragraph (7) of this Article shall not constitute a violation of the duty to protect the confidentiality of data.

(9) The authority that receives the information referred to in paragraph (7) 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 MEDIATION PROCEEDINGS

#### *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; and

3. on the payment service user's right to submit a complaint under Article 6 of this Act and to initiate mediation proceedings under Article 7 of this Act.

(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.

(5) Where the payment service provider referred to in Article 3, paragraph (2), item (6), (7) or (8) of this Act provides payment services in the territory of the Republic of Croatia through a branch or agent, the provisions of this Article shall apply to the branch or agent.

## *Complaints to the competent authority*

### Article 6

(1) Payment service users may submit complaints to the Croatian National Bank against the payment service providers referred to in Article 3, paragraph (2), items (1), (2), (3), (6), (7), (8), (9) and (10) of this Act if they deem that the payment service providers have acted contrary to Regulation (EC) No 924/2009, Regulation (EU) No 260/2012, Regulation (EU) 2015/751 or Article 5, paragraphs (2) and (3) or paragraph (4) 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 any of the payment service providers referred to in Article 3, paragraph (2), item (6), (7) or (8) of this Act, which provides payment services directly in the Republic of Croatia, it shall notify the competent authority of the home Member State of the complaint.

(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 any of the payment service providers referred to in Article 3, paragraph (2), item (6), (7) or (8) of this Act, which provides payment services in the Republic of Croatia through a branch or agent, the Croatian National Bank shall send the invitation referred to in paragraph (4) of this Article to the branch or 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, paragraphs (2) and (3) or paragraph (4) of this Act and has thus committed a minor offence, it shall initiate minor offence proceedings against the payment service provider.

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

(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 mediation proceedings before the authority referred to in Article 7 of this Act.

## *Mediation proceedings*

### Article 7

(1) In disputes arising between:

1. payment service users who are consumers and their payment service providers relating to the rights and obligations under Regulation (EC) No 924/2009, Regulation (EU) No 260/2012, Regulation (EU) 2015/751 and/or this Act; and

2. payment service users who are payees and their payment service providers relating to the rights and obligations under Regulation (EU) 2015/751 and/or this Act, an application for mediation may be submitted to the Mediation Centre at the Croatian Chamber of Economy (hereinafter referred to as 'Mediation Centre').

(2) The mediation referred to in paragraph (1) of this Article shall be conducted in accordance with the provisions of the law governing mediation and the rules of mediation of the Mediation Centre.

(3) The Croatian Chamber of Economy shall adopt:

1. subject to approval of the Minister of Finance, a decision on the costs of mediation in the disputes referred to in paragraph (1), item (1) of this Article, determining the amount of fees and remuneration and other costs of the mediation proceedings referred to in paragraph (1), item (1) of this Article; and

2. a decision on the costs of mediation in the disputes referred to in paragraph (1), item (2) of this Article, determining the amount of fees and remuneration and other costs of the mediation proceedings referred to in paragraph (1), item (2) of this Article.

(4) A settlement agreement concluded in the course of mediation proceedings before the Mediation Centre referred to in paragraph (1) of this Article shall be an enforcement title document if it contains an obligation to perform an act over which the parties may reach a settlement and if it contains the obligor's statement on immediate authorisation of enforcement (an enforcement clause).

(5) Part of the funds for the costs of mediation before the Mediation Centre in the disputes referred to in paragraph (1), item (1) of this Article shall be provided in the state budget of the Republic of Croatia.

(6) The provisions of this Article shall not affect the rights of payment service users and payment service providers to initiate mediation proceedings before another competent authority or to initiate court or arbitration proceedings.

## IV PENALTY PROVISIONS

### *Minor offences by payment service providers*

#### Article 8

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

1. if it levies charges on a payment service user in respect of cross-border payments contrary to Article 3 of Regulation (EC) No 924/2009 as amended by Regulation (EU) No 260/2012;

2. 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;

3. 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;
4. 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;
5. 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;
6. if it fails to carry out credit transfers in accordance with Article 5, paragraphs (1) and (2) of Regulation (EU) No 260/2012;
7. if it fails to carry out direct debits in accordance with Article 5, paragraphs (1), (3) and (6) of Regulation (EU) No 260/2012;
8. 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;
9. 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;
10. 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 transactions in euro;
11. 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 transactions in euro;
12. 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;
13. if it fails to act in accordance with the provision of Article 5, paragraph (2) of this Act, without complying with the conditions referred to in Article 5, paragraph (3) of this Act;
14. if it fails to act in accordance with the provision of Article 5, paragraph (4) of this Act;
15. if it fails to submit, at the invitation of the Croatian National Bank, its response and the relevant evidence within the time limit specified in the invitation in accordance with Article 6, paragraph (4) of this Act;



16. if it offers or requests a per transaction interchange fee exceeding the interchange fee cap referred to in Article 3, paragraph (1) of Regulation (EU) 2015/751 for any debit card transaction;

17. if it offers or requests a per transaction interchange fee exceeding the interchange fee cap referred to in Article 4 of Regulation (EU) 2015/751 for any credit card transaction;

18. 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;

19. if it fails to provide the consumer, on his/her request, two or more different payment 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;

20. 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, which is contrary to Article 8, paragraph (5) of Regulation (EU) 2015/751;

21. 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;

22. 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;

23. if, as an acquirer, it fails to include in its agreements with payees individually specified information on the amount of the charges, and thereby acts contrary to Article 9, paragraph (2) of Regulation (EU) 2015/751;

24. 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;

25. if, as an issuer, it fails to ensure that its payment instruments are electronically identifiable and, 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;

26. 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;

27. 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;

28. 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.

(2) A responsible person of the management board of the payment service provider referred to in Article 3, paragraph (2), items (1), (2) and (3) of this Act, or, if the payment service provider referred to in Article 3, paragraph (2), items (2) and (3) of this Act, apart from providing payment services, also engages in other activities, a director responsible for payment services, or a natural person responsible for the operation of a branch referred to in Article 3, paragraph (2), items (9) and (10) of this Act, or a responsible person of the payment service provider referred to in Article 3, paragraph (2), items (4), (5) and (11) of this Act shall also be fined between HRK 5,000.00 and HRK 50,000.00 for any of the minor offences referred to in paragraph (1) of this Article.

*Minor offences committed by payment service providers in the course of providing payment services in another Member State through a branch or an agent*

#### Article 9

(1) The payment service provider referred to in Article 3, paragraph (2), items (1), (2) and (3) of this Act and a responsible person of that payment service provider shall not be fined for any of the minor offences referred to in Article 8, paragraphs (1) and (2) of this Act if they have been committed in the territory of another Member State in the course of providing payment services in that Member State through a branch or an agent.

(2) Where any of the minor offences referred to in Article 8, paragraph (1) of this Act has been committed by the payment service provider referred to in Article 3, paragraph (2), items (6), (7) and (8) of this Act, which provides payment services in the territory of the Republic of Croatia through a branch or an agent, the branch or the agent shall be fined for the any of the minor offences referred to in Article 8, paragraph (1) of this Act.

(3) In the case referred to in paragraph (2) of this Article, a director responsible for the operation of the branch, or a responsible person of the management board of the legal person's agent shall also be fined in accordance with Article 8, paragraph (2) of this Act.

*Minor offences committed by payment service providers in the course of directly providing payment services in another Member State*

#### Article 10

(1) The payment service provider referred to in Article 3, paragraph (2), items (1), (2) and (3) of this Act shall be fined for any of the minor offences referred to in Article 8, paragraph (1) of this Act if they have been committed in the territory of another Member State in the course of directly providing payment services in that Member State if the minor offence is also subject to a fine under the law of the Member State where it has been committed.

(2) If the condition referred to in paragraph (1) of this Article is fulfilled, a responsible person of the management board of the payment service provider shall also be fined for any of the minor offences referred to in Article 8, paragraph (1) of this Act, or, if the payment service provider referred to in Article 3, paragraph (2), items (2) and (3) of this Act, apart from providing payment services, also engages in other activities, a director responsible for payment services, in accordance with Article 8, paragraph (2) of this Act.

(3) Neither the payment service provider referred to in Article 3, paragraph (2), items (6), (7) and (8) of this Act, nor a responsible person of the payment service provider shall be fined for any of the minor offences referred to in Article 8, paragraph (1) of this Act, if the minor offence has been committed in the course of directly providing payment services in the Republic of Croatia, but instead the Croatian National Bank shall notify the competent authority of the home Member State of the committed minor offence for the purpose of initiating appropriate proceedings.

### *Minor offences 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 minor offences 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.

### *Minor offences 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 minor offences referred to in paragraph (1) of this Article.

### *Minor offences 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 minor offences referred to in paragraph (1) of this Article.

### *Minor offences by other persons*

#### Article 14

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

1. if, as a payment service user that is not a consumer, the person acts contrary to Article 9 of Regulation (EU) No 260/2012;
2. 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;
3. 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;
4. 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;
5. 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) A responsible person of the legal person shall also be fined between HRK 2000.00 and HRK 20,000.00 for any of the minor offences referred to in paragraph (1) of this Article.

#### *Jurisdiction to conduct minor offence proceedings*

##### Article 15

The Financial Inspectorate of the Republic of Croatia shall conduct minor offence proceedings of the first instance for the minor offences 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.

Class: 022-03/16-01/32

Zagreb, 18 May 2016

THE CROATIAN PARLIAMENT  
The President of the Croatian Parliament  
**academician Željko Reiner, m.p.**