Council of the European Union
General Secretariat

PUBLIC

Interinstitutional files:
2023/0209 (COD)
2023/0210 (COD)

Brussels, 01 April 2025

WK 4326/2025 INIT

LIMITE

EF
ECOFIN
CODEC

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Financial Services and the Banking Union (Payment Services/ PSR/PSD) Financial Services Attachés
Subject:	Presidency Discussion Note: Discussion on transparency on payment card schemes' fees and rules

POLAND25.EU

Polska Prezydencja w Radzie UE
Polish presidency of the Council of the EU
Présidence polonaise du Conseil de l'UE

PUBLIC

Payment services package proposals (PSD3/PSR)
Brussels, 4 April 2025

Presidency Discussion Note
Discussion on transparency on payment card schemes' fees and rules

PUBLIC

Transparency on payment card schemes' fees and rules

In the FR non-paper on transparency on payment card schemes' fees and rules prepared for the 21 February CWP, the French delegation proposed a solution to address the lack of transparency of fees and rules of payment card schemes. The proposal comprised the introduction of a new Article 31a PSR and the extension of Article 108 PSR ('Review clause') to oblige the Commission to submit a report on the practices of payment card schemes and, where appropriate, to submit a legislative proposal together with that report. During the CWP on 21 February, a majority of Member States expressed their general support for the idea of making payment card scheme fees and rules more transparent. Member States confirmed this position via written procedure, expressing their support for the approach presented. However, a few Member States indicated that any solution to this issue would be better placed in the Interchange Fee Regulation[1] (IFR).

In the Presidency's view, given the overall support for the approach presented by the French delegation and the fact that it refers merely to the issue of transparency of fees, it can be further explored in the CWP. Although there was clear support for the idea of ensuring transparency, some Member States had comments and remarks regarding the proposal.

One Member State also requested a further clarification of the newly proposed Article 31a PSR, asking whether the term 'payment service business end user' refers to merchants, not least because the merchant's contractual relationship is typically with the acquirer and not with the payment card scheme. In the view of this Member State, if this is the case, a clarification should be added in the recital.

In the light of the discussion and the written comments, Member States may consider extending transparency to cover the total cost of acceptance – not just scheme fees – as long as it is broken down between acquirer margin, scheme fees and interchange fees. This would extend the scope of transparency requirements to include acquirers too, requiring them to disclose information on their own fees and charges. It should also be noted that payment card schemes can impose non-disclosure agreements on issuers and acquirers that prevent them from disclosing information to end-users. Hence, it may be necessary to impose direct exchange of information between payment card schemes and merchants.

Question for the Member States:

> ***Q1.*** *Do you agree that the scope of the transparency requirement should be extended to acquirers or should the concerns of Member States be addressed as a clarification in the recitals instead?*

Another Member State considers that the proposed review clause in Article 108(3) seems a bit too far-reaching, in particular points d (*the capacity of recourse given to issuers and acquirers related to the imposition of new rules and fees*) and e (*the competitive constraints on the international card scheme operators in the acquiring and issuing market*) and that these aspects might be better addressed in the context of the revision of the IFR.

Given the above, the Presidency proposes reducing the number of issues the Commission would have to review.

[1] Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions

PUBLIC

Question for the Member States:

> ***Q2.*** *Do you agree with the proposed amendments to the list of issues that should undergo the review by the Commission in 108(3)?*

One Member State suggested elaborating on what 'in a transparent manner' could mean or how it should be understood. It was suggested, for example, that it could be specified to require a headline grouping, categorisation, or classification of fees, with a clear indication of which scheme provided those fees relate to. In this MS's view, if the article or recitals are too vague in this respect, enforcement of these provisions will be difficult. The Presidency proposes adding a clarification in Article 31a(1) to the effect that the information on the rules and fees imposed on payment service providers by payment card schemes should be disclosed in a manner that allows for comparability between payment card schemes.

Question for the Member States:

> ***Q3.*** *Do you consider the proposed clarification to be sufficient or is it necessary to further clarify the term 'in a transparent manner' mentioned in Article 31a(1)? If the latter, please provide drafting suggestions.*

Some Member States suggested shortening the proposed notification period set out in Article 31a, as there could be a risk of price signalling if the period was too long. A possible effect or impact of long notification periods would be that card schemes might use them to test how competitors would react, and specifically if they would also announce similar increases in fees or introduce new fees or not. This would give competitors a way to signal their (future) prices to one another.

Given the Member States' views, the Presidency suggests shortening the mandatory notification period to communicate changes on scheme rules and fees from 9 to 6 months in order to address the concerns of some Member States and to align with existing business practices.

Question for the Member States:

> ***Q4.*** *Do you agree with the amendments regarding the notification period?*

One Member State suggested that the report should not be made public but only be shared with NCAs. The reason for that is to ensure fair competition, as publishing such detailed information on fees may lead to even higher fees and therefore dampen the competition among card schemes. Some schemes may be inspired by other schemes' possible increases in fees to increase their own fees. In the way forward proposed by this Member State, the Commission would collect the information and share it with national competent authorities but not publish a report. The NCAs then would have detailed information reported every second year, enabling them to supervise and enforce the suggested Article 31a.

Question for the Member States:

> ***Q5.*** *Do you share the concerns about the report published by Commission and are you in favour of obliging the Commission only to share this information with NCAs (instead of publishing the report)?*

PUBLIC

Proposals in square brackets represent proposals of some Member States

New Article 31a PSR – Transparent practices of payment card schemes

1. Payment card schemes shall ensure that the rules and fees imposed on payment service providers are disclosed in a transparent manner allowing comparability of billing categories between schemes with a sufficient notice before their implementation.

2. For the purposes of paragraph 1, payment card schemes shall communicate scheme rules and fees unambiguously in a transparent and consistent manner to the payment service providers issuing payment cards or providing acquiring of payment transactions and to payment service business end-users of the payment card scheme no later than 6 ~~9~~ months prior to their implementation.

New paragraph 3 added to Article 108 PSR – Review clause

3. The Commission shall, by [OP please insert date = 18 months after the date of entry into force of this Regulation] and every two years thereafter submit to the European Parliament, the Council, the ECB and the European Economic and Social Committee, a report on the practices of payment card schemes, and in particular on:

(a) The evolution of their fees in the European Union; including:

i. Fees charged to acquirers and issuers by key transaction category, per Member State,

ii. Rebates and incentives received by acquirers and issuers by key transaction category, per Member State;

(b) The conditions related to the imposition of new rules and associated fees, such as notification period of these rules and fees;

(c) The communication to issuers and acquirers related to rules and fees and their implementation timeline;

[(d) The capacity of issuers and acquirers to negotiate new rules and fees proposed by payment card schemes;]

[(e) The competitive behaviour of the payment card schemes in the acquiring and issuing markets].

Where appropriate, the Commission shall submit a legislative proposal together with that report.