

THE REGULATION OF INTERCHANGE FEES - ABBC

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After a long and troubled process, in April 2015 the EU Regulation no. 2015/751 of the European Parliament and Council (Regulation on the Interchange Fees) was approved. The most striking feature of this regulation was the setting of maximum limits for the interchange fees applicable to debit card-based payment transactions (0.2 per cent of the value of the transaction) and credit card-based payment transactions (0.3 per cent of the value of the transaction).

The interchange fees are applicable to acquirers (entities responsible for the terminals through which the card-based payment operations are made) and issuers (entities that issue the cards with which these operations are made, that is commercial banks), constituting an important part of the so-called merchant fees (fees charged to the merchants by the acquirers for every card-based payment transaction).

The regulation regarding interchange fees has left EU member states some room for manoeuvre for defining a maximum limit for the interchange fees in domestic transactions that may be lower than the limit established in the regulation and, particularly, for excluding from these limits the cards issued by some payment systems for a certain amount of time (the so-called three party card schemes).

Additionally, exemption will be materially constrained as it can only be granted to payment systems in which the annual quota does not exceed 3 per cent of the value of all the card-based payment operations made in that member state.

Unlike other member states, Portugal has not yet proceeded with the implementation of the regulation. In what concerns the limit of the interchange fees, it is expected that the limits established in the regulation will be applied. The biggest question regards the exemption and in knowing if the three party card schemes may be authorised to impose interchange fees above the fixed limit. This question has particular relevance since an exemption can mean a distortion of the competition with negative consequences from an economic point of view.

In our view, if the singularities of this market resulted in a need for a regulatory intervention and consequently, in the establishment of maximum limits to the value of the fees, the need to secure a level playing field implies that member states (Portugal included) should not grant any exemption to the three party schemes, or, if they do, they should pay particular attention to the methodology to be followed in the investigation of the market share of each one of the holders of these payment systems.

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