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)

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)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank[(1)],

Having regard to the opinion of the European Economic and Social Committee[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) Since the adoption of Regulations (EC) No 2560/2001[(4)] and (EC) No 924/2009[(5)] of the European Parliament and of the Council, charges for cross-border payments in euro between Member States of the euro area have strongly decreased to levels that are insignificant in the vast majority of cases.

(2) Cross-border payments in euro from non-euro area Member States however account for around 80 % of all cross-border payments from non-euro area Member States. The charges for such cross-border payments remain excessively high in most non-euro area Member States, even though payment service providers that are located in non-euro area Member States have access to the same efficient infrastructures to process those transactions at very low costs as payment service providers that are located in the euro area.

(3) High charges for cross-border payments remain a barrier to the full integration of businesses and citizens in non-euro area Member States into the internal market, affecting their competitiveness. Those high charges perpetuate the existence of two categories of payment service users in the Union: payment service users that benefit from the single euro payments area (SEPA), and payment service users that pay high costs for their cross-border payments in euro.

(4) In order to facilitate the functioning of the internal market and to end the inequalities between payment service users in the euro area and non-euro area Member States in respect of cross-border payments in euro, it is necessary to ensure that charges for cross-border payments in euro within the Union are aligned with charges for corresponding national payments made in the national currency of the Member State in which the payment service provider of the payment service user is located. A payment service provider is considered to be located in the Member State in which it provides its services to the payment service user.

(5) Currency conversion charges represent a significant cost of cross-border payments when different currencies are in use in the Member State of the payer and the Member State of the payee. Article 45 of Directive (EU) 2015/2366 of the European Parliament and of the Council[6] requires charges and the exchange rate used to be transparent, Article 52(3) of that Directive specifies information requirements with regard to payment transactions covered by a framework contract and Article 59(2) of that Directive covers the information requirements for parties offering currency conversion services at an automated teller machine (ATM) or at the point of sale. Those information requirements have not achieved sufficient transparency and comparability of currency conversion charges in situations in which alternative currency conversion options are offered at an ATM or at the point of sale. That lack of transparency and comparability prevents competition which would reduce currency conversion charges and increases the risk of payers choosing expensive currency conversion options. It is therefore necessary to introduce additional measures in order to protect consumers against excessive charges for currency conversion services and ensure that consumers are given the information they need to choose the best currency conversion option.

(6) To ensure that market players are not confronted with the need to make a disproportionate level of investment to adapt their payment infrastructure, equipment and processes to provide for increased transparency, the measures to be implemented should be appropriate, adequate and cost-effective. At the same time, in situations in which the payer is confronted with different currency conversion options at an ATM or at the point of sale, the information provided should enable comparison, to allow the payer to make an informed choice.

(7) To achieve comparability, currency conversion charges for all card-based payments should be expressed in the same way, namely as percentage mark-ups over the latest available euro foreign exchange reference rates issued by the European Central Bank (ECB). A mark-up might have to be based on a rate derived from two ECB rates in the case of a conversion between two non-euro currencies.

(8) In accordance with the general information requirements on currency conversion charges laid down in Directive (EU) 2015/2366, providers of currency conversion services must disclose information on their currency conversion charges prior to the initiation of the payment transaction. Parties that offer currency conversion services at an ATM or at the point of sale should provide information on their charges for such services in a clear and accessible manner, for example by displaying their charges at the counter or digitally on the terminal, or on-screen in the case of online purchases. In

addition to the information referred to in Article 59(2) of Directive (EU) 2015/2366, those parties should provide, prior to the initiation of the payment, explicit information on the amount to be paid to the payee in the currency used by the payee and the total amount to be paid by the payer in the currency of the payer's account. The amount to be paid in the currency used by the payee should express the price of the goods and services to be bought and might be displayed at the check-out rather than on the payment terminal. The currency used by the payee is in general the local currency, but according to the principal of contractual freedom might in some cases be another Union currency. The total amount to be paid by the payer in the currency of the payer's account should consist of the price of the goods or services and the currency conversion charges. In addition, both amounts should be documented on the receipt or on another durable medium.

(9) With regard to Article 59(2) of Directive (EU) 2015/2366, where a currency conversion service is offered at an ATM or at the point of sale, it should be possible for the payer to refuse that service and to pay in the currency used by the payee instead.

(10) In order to enable payers to compare the charges of currency conversion options at an ATM or at the point of sale, the payers' payment service providers should not only include fully comparable information on the applicable charges for currency conversion in the terms and conditions of their framework contract, but should also make that information public on a broadly available and easily accessible electronic platform, in particular on their customer websites, on their home-banking websites and on their mobile banking applications, in an easily understandable and accessible manner. This would cater for the development of comparison websites to make it easier for consumers to compare prices when travelling or shopping abroad. In addition, payers' payment service providers should remind payers about the applicable currency conversion charges when a card-based payment is made in another currency, through the use of broadly available and easily accessible electronic communication channels, such as SMS messages, e-mails or push notifications through the payer's mobile banking application. Payment service providers should agree with payment service users on the electronic communication channel through which they will provide the information on currency conversion charges, taking into consideration the most effective channel for reaching the payer. Payment service providers should also accept requests from payment service users to opt out of receiving the electronic messages containing information on the currency conversion charges.

(11) Periodic reminders are appropriate in situations in which the payer stays abroad for longer periods of time, for example where the payer is posted or studies abroad, or where the payer regularly uses a card for online purchases in the local currency. An obligation to provide such reminders would not require disproportionate investments to adapt the existing business processes and payment processing infrastructures of the payment service provider, and would ensure that the payer is better informed when considering the different currency conversion options.

(12) The Commission should submit to the European Parliament, to the Council, to the ECB and to the European Economic and Social Committee a report on the application

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2019/518 of the European Parliament and of the Council. (See end of Document for details)*

of the rule equalising the cost of cross-border payments in euro with the cost of national transactions in national currencies and on the effectiveness of the information requirements on currency conversion set out in this Regulation. The Commission should also analyse further possibilities – and the technical feasibility of those possibilities – of extending the equal charges rule to all Union currencies and of further improving the transparency and comparability of currency conversion charges, as well as the possibility of disabling and enabling the option of accepting currency conversion by parties other than the payer's payment service provider.

(13) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of the cross-border nature of the payments, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 924/2009

Regulation (EC) No 924/2009 is amended as follows:

(1) Article 1 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. This Regulation lays down rules on cross-border payments and on the transparency of currency conversion charges within the Union.,

(b) in paragraph 2, the following subparagraph is added:

Notwithstanding the first subparagraph of this paragraph, Articles 3a and 3b shall apply to national and cross-border payments that are denominated either in euro or in a national currency of a Member State other than the euro and that involve a currency conversion service.;

(2) in Article 2, point (9) is replaced by the following:

(9) "charge" means any amount levied on a payment service user by a payment service provider that is directly or indirectly linked to a payment transaction, any amount levied on a payment service user by a payment service provider or a party providing currency conversion services in accordance with Article 59(2) of Directive (EU) 2015/2366 of the European Parliament and of the Council[7] for a currency conversion service, or a combination thereof;;

(3) Article 3 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. Charges levied by a payment service provider on a payment service user in respect of cross-border payments in euro shall be the same as the charges levied by that payment service provider for corresponding national

payments of the same value in the national currency of the Member State in which the payment service provider of the payment service user is located.,

(b) the following paragraph is inserted:

1a. Charges levied by a payment service provider on a payment service user in respect of cross-border payments in the national currency of a Member State that has notified its decision to extend the application of this Regulation to its national currency in accordance with Article 14 shall be the same as the charges levied by that payment service provider on payment service users for corresponding national payments of the same value and in the same currency.,

(c) paragraph 3 is deleted,

(d) paragraph 4 is replaced by the following:

4. Paragraphs 1 and 1a shall not apply to currency conversion charges.;

(4) the following article is inserted:

Article 3a

Currency conversion charges related to card-based transactions

1 With regard to the information requirements on currency conversion charges and the applicable exchange rate, as set out in Articles 45(1), 52(3) and 59(2) of Directive (EU) 2015/2366, payment service providers, and parties providing currency conversion services at an automated teller machine (ATM) or at the point of sale, as referred to in Article 59(2) of that Directive, shall express the total currency conversion charges as a percentage mark-up over the latest available euro foreign exchange reference rates issued by the European Central Bank (ECB). That mark-up shall be disclosed to the payer prior to the initiation of the payment transaction.

2 Payment service providers shall also make the mark-ups referred to in paragraph 1 public in a comprehensible and easily accessible manner on a broadly available and easily accessible electronic platform.

3 In addition to the information referred to in paragraph 1, a party providing a currency conversion service at an ATM or at the point of sale shall provide the payer with the following information prior to the initiation of the payment transaction:

a the amount to be paid to the payee in the currency used by the payee;

b the amount to be paid by the payer in the currency of the payer's account.

4 A party providing currency conversion services at an ATM or at the point of sale shall clearly display the information referred to in paragraph 1 at the ATM or at the point of sale. Prior to the initiation of the payment transaction, that party shall also 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. The information referred to in paragraphs 1 and 3 shall also be made available to the payer on a durable medium following the initiation of the payment transaction.