

Law of 27 February 2018 implementing Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions and amending:

1. the Law of 5 April 1993 on the financial sector, as amended;
2. the Law of 23 December 1998 establishing a financial sector supervisory commission ("Commission de surveillance du secteur financier"), as amended;
3. the Law of 5 August 2005 on financial collateral arrangements, as amended;
4. the Law of 11 January 2008 on transparency requirements for issuers, as amended;
5. the Law of 10 November 2009 on payment services, as amended;
6. the Law of 17 December 2010 relating to undertakings for collective investment, as amended;
7. the Law of 12 July 2013 on alternative investment fund managers, as amended;
8. the Law of 7 December 2015 on the insurance sector, as amended;
9. the Law of 18 December 2015 on the failure of credit institutions and certain investment firms; and
10. the Law of 23 December 2016 on market abuse.

(Mém. A 2018, No 150)

Chapter 1 - Interchange fees

Article 1.

- (1) The Commission de Surveillance du Secteur Financier established by the Law of 23 December 1998 establishing a financial sector supervisory commission ("Commission de surveillance du secteur financier"), as amended (hereinafter the "CSSF") shall be the competent authority in Luxembourg for the purposes of applying Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions (hereinafter "Regulation (EU) 2015/751").
- (2) The CSSF shall be competent for the out-of-court settlement of disputes arising under Regulation (EU) 2015/751 and this chapter between payees and the payment service providers.

Article 2.

For the purposes of applying Regulation (EU) No 2015/751 and this chapter, the CSSF shall have all the powers of investigation and enforcement which are necessary to exercise its functions within the limits set in the above-mentioned regulation and in this chapter.

The powers of the CSSF shall include the right to:

1. have access to any document in any form whatsoever, and to receive a copy of it;
2. request information and, where necessary, to summon any person;
3. carry out on-site inspections and investigations;
4. impose an injunction to cease any practice that is contrary to Regulation (EU) 2015/751, this chapter or their implementing measures;
5. adopt any type of measure necessary to ensure compliance with the requirements under Regulation (EU) 2015/751, this chapter or their implementing measures.

Article 3.

- (1) The CSSF may impose sanctions on the persons referred to in Regulation (EU) 2015/751 in the event that:

1. they fail to comply with the requirements under Article 4 of this law, the provisions laid down in Article 1(5), Articles 3 to 12 and Article 16(1) of Regulation (EU) 2015/751 or their implementing measures;
 2. they have provided documentation or other information that proves to be incomplete, incorrect or false;
 3. they refuse to provide documents or other requested information required by the CSSF for the purposes of applying Regulation (EU) 2015/751, this chapter and their implementing measures;
 4. they preclude the performance of the powers of investigation and enforcement of the CSSF;
 5. they fail to act in response to injunctions of the CSSF imposed in accordance with point (4) of the second subparagraph of Article 2.
- (2) In order of seriousness, the CSSF may impose the following penalties:
1. a warning;
 2. a reprimand;
 3. a fine of between EUR 250 and EUR 250,000;
 4. a temporary or definitive prohibition on the execution of one or several activities or on the provision of certain services.

When imposing the penalty, the CSSF shall take into account the nature, the duration and the seriousness of the offence, the conduct and background of the natural or legal person on whom a penalty is imposed, the damage to third parties and the advantages or profits which could have been or which were made through the offence.

- (3) In connection with the exercise of its powers provided for in Article 2, the CSSF may impose a periodic penalty in order to ensure compliance with the injunctions imposed by it pursuant to point (4) of the second subparagraph of Article 2. The amount of this periodic penalty, on the grounds of an observed failure to perform, may not be greater than EUR 1,250 per day, with the understanding that the cumulative amount of the imposed periodic penalty may not exceed EUR 25,000.
- (4) The decision to impose a penalty may be referred to the *Tribunal administratif* (Administrative Tribunal) which deals with the substance of the case. The case shall be filed within one month, or else shall be time-barred.

Article 4.

Pursuant to Article 3(2)(a) of Regulation (EU) 2015/751, the per transaction interchange fee shall not exceed 0.12% of the value of the transaction for domestic debit card payment transactions.

The amendments under Chapters 2 to 11 are available in the coordinated versions of the relevant laws.

Chapter 12 Final provisions

Article 74.

Reference to this law may be made under a shortened name by referring to the following title:

“Law of 27 February 2018 on interchange fees and amending several laws relating to financial services”.