

## Canadian Acquirers Rapped Over Fee Transparency

26TH AUG 2016 | WRITTEN BY: JIMMY NICHOLLS

Card companies in Canada are being ordered to be more transparent about their merchant fees after a federal authority added guidance to an industry code of conduct.

Officials at the Financial Consumer Agency of Canada (FCAC) have drawn up guidelines placing more burden on card networks, acquiring banks and payment service providers, following a consultation in spring.

Under the rules, such firms will be obliged to provide merchant-acquirer agreements and monthly statements with extra detail on how fees are structured.

These must be put forward in a manner that is “clear, simple and not misleading”, and will “include a sufficient level of detail” and be “easy to understand”.

In particular, acquirers must disclose all fees charged to merchants.

Card networks will, meanwhile, have to insist merchants receive details of the discount rate for each of the card types they accept, interchange rates charged to the merchants by the acquirers, and volumes and fees on each payment type and brand used.

“Payment card networks will make all applicable standard interchange rates and acquiring network assessment fees easily available on their websites,” the FCAC said.

“In addition, payment card networks will post any upcoming changes to these rates and fees on their websites once they have been provided to acquirers.”

Commenting on the changes, Peter Aziz, counsel specialising in financial institutions and payments at Torys law firm in Toronto, said they were part of a series of measures “designed to protect merchants” that began with the creation of the code of conduct in April 2010.

“Despite the initial code, merchants were complaining of unfair practices, including opaque pricing, and the series of guidance on the code is intended to achieve full transparency,” he told PaymentsCompliance.

“The changes appear to place the most significant burden on acquiring banks and payment service providers, as they would need to revise their disclosures to merchants.”

As well as being given more information on the fee structures, Canadian merchants will also be able to cancel contracts without penalty if acquirers change fees without prior warning.

The FCAC said this move would give merchants “the right to cost certainty over the course of their contract”.

Both changes to the agency’s code come following merchants complaints about the sales practices at card networks’ members.

Sales staff were accused of not providing sufficient documents explaining contract terms, altering agreements at short notice and failing to honour promised merchant rates, among other things.

Merchants also complained that additional agreements with third parties were being put in contracts without their knowledge, hitting them with different clauses and fees than had been agreed with the primary partner.

In further remarks, Aziz said: “I expect merchants to be very happy with the level of detail about fees and other aspects of the merchant-acquirer relationship that they will receive once the changes take effect.

“Merchants will fully understand the cost of accepting various types of payment cards from consumers, which will permit them to make more informed choices about the types of payment cards they choose to accept.”

Having been published in late July, the code of conduct guidelines will take effect on November 13.

At present, the code is a voluntary commitment for card networks and their participants, with the FCAC lacking enforcement power.

However, according to Aziz, the FCAC reports non-compliance to the Canadian Department of Finance.

“The threat is that the federal government would codify aspects of the code in regulations to the Bank Act, which of course applies to acquiring banks, or in the Payment Card Networks Act, which applies to the card networks,” he explained.

“The FCAC can impose material penalties for violations of those acts.”

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