



## **MEDIA STATEMENT**

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### **COMPETITION COMMISSION SEEKING INPUT ON EXEMPTION APPLICATION RELATING TO INTERCHANGE FEES BY BANKS**

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#### **1. Introduction**

1.1 The Namibian Competition Commission (“the Commission”) herewith confirms that the Payments Association of Namibia (“PAN”) has in terms of section 27(1) of the Competition Act, 2003 (Act No. 2 of 2003) (“the Competition Act”) applied that it (PAN) as well as Bank Atlantico, Bank BiC, Bank of Namibia, Bank Windhoek, First National Bank Namibia, Letshego Bank Namibia, Nampost, Nedbank Namibia, Standard Bank Namibia and TrustCo Bank Namibia (hereinafter jointly referred to as “the participating banks”) be exempted from certain provisions of Part 1 of Chapter 3 of the Competition Act. The exemption is sought for a period of three (3) years.

#### **2. The exemption application**

2.1 PAN is a statutory body established in terms of Section 3 of the Payment System Management Act, Act 18 of 2003 (the “PSM Act”) and is mandated with the management, administration, operation, regulation and supervision of payment, clearing and settlement systems in Namibia. Meanwhile the participating banks conduct business as envisaged in terms of the Banking Institutions Act, Act 2 of 1998. The exemption application seeks to have the current interchange fee model exempted from the provisions of the Competition Act.

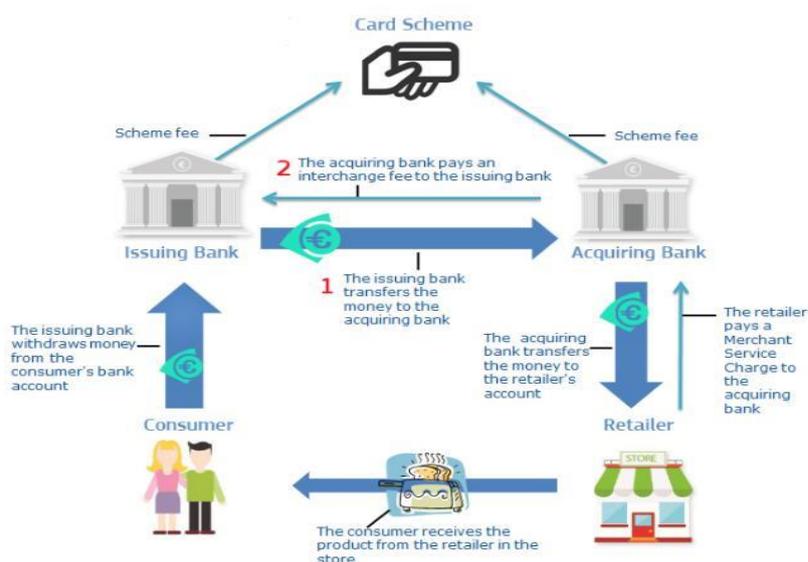
2.2 Interchange fees refer to the charges payable in respect of a transaction whereby a payment is made by a customer of one bank to a customer of another bank. PAN and the participating banks are party to a multilateral agreement in terms of which they have agreed on the interchange fees that will be levied in the event that a customer of one bank makes a payment to a customer of another bank.

2.3 The exemption application thus relates to a decision by an association of undertakings (PAN) and agreement(s) between the participating banks (the undertakings) concerning the collective determination of interchange fees.

### 3. How does interchange fees work?

3.1 Using the below example, the acquiring bank is the bank that the retailer banks with and the issuing bank is the bank that the customers uses. Assuming that the product is N\$100, interchange fee is N\$1 and the acquiring bank's service fee is N\$0.50. When a customer swipes at the retailer, his/her bank debits his/her account with N\$100. The issuing bank then pays the acquiring bank N\$99 (N\$100 less the interchange fee). The issuing bank then credits the retailer's bank account with N\$98.50 (N\$99 less the service fee). In the case of using a different ATM other than one's issuing bank, the issuing bank will have to pay a fee to the bank that is the ATM operator. This fee is in turn charged to the users of the ATM. Figure 1 below is used for illustration purposes.

Figure 1: Interchange fee



Source: [https://ec.europa.eu/commission/presscorner/detail/en/MEMO\\_16\\_2162](https://ec.europa.eu/commission/presscorner/detail/en/MEMO_16_2162)

### 4. What the exemption application would entail

4.1 An exemption is an avenue whereby undertakings and associations of undertakings can apply to the Commission to be exempted from the provisions of the Competition Act relating to anti-competitive agreements, decisions and concerted practices. Undertakings and associations of undertakings that have been exempted from the Competition Act will thus not be held liable for contraventions of the Competition Act in respect of the exempted conduct.

4.2 The exemption application that is currently before the Commission is therefore aimed at enabling the Commission to assess whether or not there are exceptional and compelling public policy justifications that would warrant the collective determination of interchange fees to be exempted from the prohibitions contained in the Competition Act.

4.3 In making a decision in respect of whether or not to grant or refuse the exemption, the Commission in terms of the Competition Act is required to take into account the extent to which the interchange fees will contribute or result in any of the following:

- 4.3.1 maintaining or promoting exports;
- 4.3.2 enabling small undertakings owned or controlled by historically disadvantaged persons, to become competitive;
- 4.3.3 improving, or preventing decline in, the production or distribution of goods or the provision of services;
- 4.3.4 promoting technical or economic progress or stability in any industry designated by the Minister, after consultation with the Minister responsible for that industry;
- 4.3.5 obtaining a benefit for the public which outweighs or would outweigh the lessening in competition that would result, or would be likely to result, from the agreement, decision or concerted practice or the category of agreements, decisions or concerted practices.

## 5. Request for public input & Way forward

5.1 As part of the Commission's consideration of the exemption application, the Commission is currently seeking input from the public in respect of the implications that may arise as a result of the collective determination of interchange fees by PAN and the participating banks.

5.2 The Commission has furthermore in line with section 27(3) of the Competition Act in March 2020 published a notice in the *Government Gazette* inviting the public to within 30 days submit to the Commission any queries or written representations that they may wish to make concerning the application.

5.3 A non-confidential version of the exemption application is available and may be provided to concerned stakeholders upon request.

5.4 The Commission will after consideration of the application and any representations that have been submitted make a determination on whether or not to grant or refuse the exemption.

Issued by:

The Namibian Competition Commission

Enforcement, Exemptions & Cartels Division

Any submissions may be directed to [martha.hawanga@nacc.com.na](mailto:martha.hawanga@nacc.com.na) or [ashley.tjipitua@nacc.com.na](mailto:ashley.tjipitua@nacc.com.na)

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