

NOTE TO MERCHANT ASSOCIATIONS:

Please distribute this information piece to your association's merchant members on or after

August 16, 2010. The following text directs merchants to additional information on the FCAC

Website, and those new pages will only be available as of that date.

Code of Conduct for Credit and Debit Card Industry in Canada in Effect

Credit and debit card payments represent a large chunk of sales for most Canadian merchants, providing an important link to their customers. To offer these payment channels, merchants also need to establish business relationships with payment card networks, acquirers or other payment card processors.

The federal government has put in place a new framework for these relationships in a recently published Code of Conduct. The voluntary **Code of Conduct for the Credit and Debit Card**

Industry in Canada has been adopted by all payment card networks, including American Express Canada, THE EXCHANGE, Interac, MasterCard Canada and Visa Canada. Most provisions of the Code are in effect as of August 16, 2010.

The Code has the following objectives:

- To ensure that merchants are fully aware of the costs associated with accepting credit and debit card payments;
- To provide merchants with increased pricing flexibility to encourage consumers to choose the lowest-cost payment option;
- To allow merchants to choose freely which payment options they will accept.

Payment card networks have agreed to incorporate the Code of Conduct into their networks' contracts, governing rules and regulations. This will ensure that other participants in the networks (including acquirers, financial institutions that issue cards and payment processors) also follow its provisions.

The Financial Consumer Agency of Canada (FCAC), a government body, has been given the role of monitoring the payment card networks' adherence to the Code of Conduct.

What Does the Code of Conduct Mean For Merchants

As of August 16, 2010

- Merchants will receive a minimum of 90 days notice of any new fees or fee increases related to credit or debit card transactions. (If a fee change is made in accordance with a pre-determined fee schedule included in the merchant's contract with an acquirer, notification is not required.)
- Merchants are allowed to cancel their contracts without penalty within 90 days of receiving notice of a new fee or a fee increase. This right of cancellation does not apply if a fee increase is made in accordance with a pre-determined schedule included in the merchant's contract, such as a schedule based on merchant sales volumes.
- Merchants who accept credit card payments from a payment network are not required to accept debit card payments from the same network, and vice versa. A merchant can choose to accept only credit or debit payments from a network without having to accept both.
- Merchants are allowed to provide discounts for different methods of payment (for example, cash, debit card and credit card), as well as different levels of discounts among different payment card networks.
 - o If merchants choose to offer these types of discounts, they must clearly display the discounts at the point of sale.

- If payment card networks introduce new products or services, merchants are not required to accept those new products or services. Negative option acceptance is not allowed.
- This part of the Code of Conduct applies to new products and services that payment card network operators offer to merchants. For example, a merchant's express consent would be required for acceptance of contactless cards if the merchant had not accepted any contactless cards previously from the specific payment card network that is introducing them.
- It does **not** apply to new products and services offered to consumers, such as a new credit or debit card product.

By February 18, 2011

- Payment card networks will make all interchange rates applicable to their products and any upcoming changes to these fees easily available on their Websites.
- Merchant statements from their acquirers will include the following information presented in a clear and simple manner:
 - Effective merchant discount rate for each type of payment card from a payment card network;
 - Interchange rates and any other rates that acquirers charge the merchant;
 - The number and volume of transactions for each type of payment transaction;
 - The total amount of fees applicable to each rate;
 - Details of each fee, including the payment card network to which they relate.

Merchant Questions and Dispute Resolution

Merchants who have questions or believe that their rights under the Code of Conduct have not been respected should first contact their payment processor (often called the acquirer) to try to resolve the issue.

If the issue is not resolved, merchants should contact the payment card network. Contact details for each payment card network are available on the FCAC Website at www.fcac.gc.ca. Merchants can access these details by following the links to the Code of Conduct under the "News" section.

FCAC's Role in Monitoring the Code

Under the *Payment Card Networks Act*, the Financial Consumer Agency of Canada has been given responsibility for monitoring the implementation of the Code of Conduct and payment card network operators' ongoing adherence to it. To do so, FCAC will monitor issues raised by consumers and merchants and work with payment card networks to resolve them. The Agency will report to the Minister of Finance at least annually on adherence to the Code of Conduct. Merchants who believe that their rights under the Code of Conduct have not been respected may also contact FCAC by telephone at 1-866-461-3222. If it appears that there is noncompliance with the Code, FCAC will investigate and will follow up with the payment card network.

Note that FCAC does not have the authority to provide any recourse or order reimbursement to merchants or consumers. Merchants wishing to pursue recourse must do so through their acquirer or the applicable payment card network.

Merchants can consult the *Code of Conduct for the Credit and Debit Industry in Canada*, along with related Frequently Asked Questions, on the FCAC's Website at www.fcac.gc.ca. Follow the links under the "News" section.

Below is a letter received from Ms Ursula Menke, Commissioner, the Financial Consumer Agency of Canada

"In May 2010, the federal government published a voluntary *Code of Conduct*

for the Credit and Debit Card Industry in Canada, which the following payment card network operators have agreed to adopt: American Express Canada, THE EXCHANGE, Interac, MasterCard Canada, and Visa Canada. The Code of Conduct is to be incorporated into the payment card networks' rules, thereby ensuring other participants in the networks, such as acquirers and card issuers, are also required to abide by those commitments. Most of the elements come into effect on August 16, 2010. The Financial Consumer Agency of Canada (FCAC) has been given the role of monitoring the payment card networks' adherence to the Code of Conduct. As many elements of the Code set out responsibilities of the payment card network participants in relation to merchants, it will no doubt be of interest to the members of your association. I am therefore writing to seek your co-operation in raising their awareness of it. I invite you to publish the attached article on your web site or in a member newsletter, or to distribute it to your members by e-mail. As well, you are welcome to forward it to other merchant associations that are not copied on this e-mail. We appreciate your assistance in promoting awareness and understanding of the Code of Conduct among the merchant community, and the steps to follow if a merchant has concerns that a payment card network participant is not following the commitments. Should you have questions about the Code of Conduct and FCAC's role in relation to it, please contact our Client Contact Centre at **1-866-461-3222**. FCAC looks forward to working with all parties involved in the implementation of the Code of Conduct to facilitate a smooth transition."