

## Notice of Rule Making

Pursuant to the power vested in me as Commissioner of Finance by Section 5(c) of the New York General Municipal Law and section 11-05(c) of the Administrative Code of the City of New York and New York City Charter (“Charter”) sections 389(b), 1043 and 1504, I hereby promulgate rules to lower the uniform fee to be charged and collected by the City of New York as a condition for the acceptance of credit card and debit cards as a means of payment. This rule was published in the proposed form on July 23, 2018. A hearing for public comment was held on August 23, 2018.

S/S

Jacques Jiha, Commissioner of Finance

### New York City Department of Finance

#### STATEMENT OF BASIS AND PURPOSE

Section 5(c) of the General Municipal Law and section 11-105(3) of the Administrative Code of the City of New York authorizes the City to charge and collect a reasonable and uniform fee as a condition of accepting credit and debit cards as means of payment of a fine, civil penalty, tax, fee, rent, rate, charge or other amount owed to the City. These laws require that the fee not exceed the cost incurred by the City in connection with such credit and debit card transactions, including any fee payable by the City to the card issuer.

In 2013 the Department of Finance (DOF) adopted rules establishing a consistent policy for accepting credit card payments and a uniform fee of 2.49% to defray the cost incurred by the City from credit card transactions. DOF is reducing this uniform fee to 2% which will continue to cover the cost incurred by the City in connection with such credit card transactions.

This reduction in the uniform credit card fee will apply to credit card payments made to a covered city agency unless such covered city agency determines that doing so negatively affects its operations or services to the public and notifies the Commissioner of Finance in writing. In that case, the covered agency may continue to charge the former uniform fee of 2.49% until November 15, 2018, at which time the new uniform fee of 2% will apply uniformly. A “covered” city agency is a mayoral agency described by section 385 of the New York City Charter, and other agencies listed in the current rule. Other non-covered City agencies could, via rulemaking, opt into the rule.

Matter underlined is new. Matter in brackets [ ] is to be deleted.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department unless otherwise specified or unless the context clearly indicates otherwise.

#### AMENDMENT TO RULES RELATING TO THE FEE FOR CREDIT CARD TRANSACTIONS

Section 1. Paragraph (1) of subdivision b of section 9-02 of chapter 9 of title 19 of the rules of the city of New York is amended to read as follows:

(1) Except as provided in paragraphs two, three, [and] four and five of this subdivision and in subdivision (d) of this section, as a condition of accepting a credit card as payment of a fine, civil penalty, tax, fee, rent, rate, charge or other amount, a covered agency must charge and collect from the person offering a credit card as a means of payment a nonrefundable fee in the amount of [2.49] 2% of the amount of the fine, civil penalty, tax, fee, rent, rate, charge or other amount to be paid with the credit card. A covered agency must not charge any other fee for accepting a credit card as payment of any such charges in lieu of, or in addition to, the fee authorized by this section.

§ 2. Subdivision (b) of section 9-02 of chapter 9 of title 19 of the rules of the city of New York is amended by adding a new paragraph (5) to read as follows:

(5) A covered agency must charge and collect from the person offering a credit card as a means of payment a nonrefundable fee of 2% of the amount to be paid unless such covered agency notifies the Commissioner of Finance in writing that doing so negatively affects such covered agencies' operations or services to the public. If a covered agency provides such written notice it may continue to charge and collect a nonrefundable fee of 2.49%. However, all covered agencies must charge and collect the nonrefundable fee of 2% as of November 15, 2018.

§ 3. This rule takes effect October 15, 2018.