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*via email: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)*

November 14, 2011

Ms. Jennifer J. Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

Re: Proposed Agency Information Collection Activities; Comment Request:

- FR 3064a - Debit Card Issuer Survey
- FR 3064b - Payment Card Network Survey
- FR 3063a or b - Government-Administered , General-Use Prepaid Card Issuer Survey

Dear Ms. Johnson:

The Independent Community Bankers of America<sup>1</sup> (ICBA) welcomes the opportunity to comment on the Board of Governors of the Federal Reserve System (Board) surveys related to its information collection requirements under Section 920(a) of the Electronic Fund Transfer Act (EFTA) and the related Regulation II, Debit Card Interchange Fees and Routing (Regulation II).

ICBA has signed a separate comment letter presented on behalf of the banking trade associations and we support the recommendations in that comment letter. The purpose of this submission is to explain the unique perspective of community banks and provide recommendations based solely on that perspective.

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<sup>1</sup> The Independent Community Bankers of America represents nearly 5,000 community banks of all sizes and charter types throughout the United States and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever changing marketplace.

With nearly 5,000 members, representing more than 20,000 locations nationwide and employing nearly 300,000 Americans, ICBA members hold over \$1 trillion in assets, \$900 billion in deposits, and \$750 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at [www.icba.org](http://www.icba.org).

In summary, ICBA recommends the Board establish a voluntary focus group, representative of exempt issuers, to establish and support a consistent information collection methodology for measuring the impact of the EFTA and Regulation II on exempt individual institutions, and for extrapolating the impact on exempt issuers collectively. Additionally, ICBA volunteers its resources, as described in this letter, to assist the Board in implementing its monitoring program to measure the impact of the EFTA and Regulation II on exempt issuers as approved at the Board meeting on June 29, 2011. Please see the comments below for additional information.

### **ICBA Comments**

ICBA appreciates the Board's sensitivity to the imposition of regulatory burden on small exempt issuers as noted by the Board's efforts to collect information regarding the differences between exempt and non-exempt issuer interchange fees from payment card networks. However, we believe additional information obtained directly from exempt issuers should supplement the information provided by the payment card networks in order to obtain meaningful metrics representative of all issuers.

ICBA supports the Board permitting exempt issuers to participate voluntarily in the Interchange Issuer Survey as noted in the joint comment letter submitted by the banking trade associations. Additionally, ICBA recommends the Board use a voluntary focus group representative of exempt issuers to establish and support a consistent information collection methodology for measuring the impact of the EFTA and Regulation II on exempt individual institutions, and for extrapolating the impact on exempt issuers collectively.

Although EFTA Section 920(a)(6) and Regulation II exempt most community banks from the regulation of debit card interchange fees, ICBA has previously expressed its deep concerns to the Board: 1) that due to marketplace dynamics community banks, over time, will experience the drastic reductions in interchange fee revenue imposed by Regulation II; 2) about community banks' direct exposure to the costs of the two-network requirement or network exclusivity provisions (from which community banks have no statutory exemption); and 3) that merchants may discriminate against community bank debit cards.

ICBA greatly appreciates the Board's recognition of these concerns and its adoption of a formal monitoring program to determine the effectiveness of the small issuer exemption in response to our concerns. This monitoring program requires Board staff to study and report on three items six and eighteen months after the October 1, 2011, effective date of Regulation II. These items include:

- changes in exempt issuers' interchange revenue;
- whether there is evidence that merchants reject debit cards issued by exempt financial

- institutions; and
- the impact of the two-network requirement in compliance with the network exclusivity provisions.

ICBA encourages the Board to also use the focus group referenced above in its small issuer monitoring program. ICBA is quite willing to assist the Board in implementing its monitoring program. Our assistance could include identifying potential focus group participants, as well as providing input on the development of tools to measure the impact of the two-network requirement and to determine whether there is evidence that merchants are discriminating against cards issued by exempt financial institutions. We are also willing to encourage community bank participation in any data collection efforts in ICBA publications.

Again, ICBA appreciates the opportunity to comment on the referenced information collection activities. If you have any questions about this letter, please do not hesitate to contact me at 202-821-4414 or [viveca.ware@icba.org](mailto:viveca.ware@icba.org).

Sincerely,

/s/

Viveca Y. Ware  
Senior Vice President, Regulatory Policy