RE: October 25, 2023 Open Board Meeting - Proposed revisions to the Board's debit interchange fee cap

Natalie Haag [Natalie.Haag.131316428@foradvocacy.com] 10/20/2023 5:31:25

NONCONFIDENTIAL // EXTERNAL

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

I'm writing to ask that the Federal Reserve not propose any changes to Regulation II, which regulates the interchange that banks can receive as compensation for processing debit transactions. This issue is discussed without considering the fraud risk that the banks carry for customer and merchant decisions. It is only fair that these fraud costs be covered by a fee assessed against the entities actually engaged in the risky transaction. Customers are also demanding more electronic services and options that add to the risk and expenses incurred by banks. The federal government has already mandated dual rails for transactions even though this has increased banking expenses and the amount of fraud. This is not a proposal that protects customers.

As a general rule, debit card thresholds don't work, and proposals based on them will only continue the pretense that debit card interchange controls can be designed in a way that protects consumers. Unfortunately, and inconsistent with the Administration's stated position on fees, the predictable result of the merchants' demands will be higher fees paid by consumers.

Regulation II has been costly for banks of all sizes and cuts to the core of our ability to offer affordable checking account products. Its routing provision, recently made more burdensome and costly by the Federal Reserve's card-not-present rule, directly impacts the revenue and fraud costs of every debit card issuer. The price caps applicable to many issuers not only further reduce their ability to offer affordable products to consumers, but also drive down net interchange for smaller issuers who are supposedly "exempt" from the price caps. Study after study has shown that Regulation II has been a wealth transfer from consumers to large merchants, primarily by increasing fees for checking accounts.

Recently, merchants have been given preference in regulator policies on debit cards and there has been a lack of focus on updating data collections regarding debit issuer costs, leading to outdated data sets that are not suitable for rulemaking. Rising and new incremental costs at all issuers, some driven by regulatory changes, have been ignored. The new routing rule, despite imposing high costs and enabling fraud cost manipulation by payments facilitators, was enacted while waving away financial industry concerns and giving full credit to the claims made by merchants and core processors. These incorrect assumptions permeate the data that the Federal Reserve collects on debit card processing.

I urge the Federal Reserve to recognize that it does not possess accurate data about the real-world experience of debit card issuers in the post-CNP rule world. Any efforts undertaken now to change Regulation II will be based on nothing more than guesses about key factors. For that reason, the Federal Reserve should postpone its October 25, 2023 agenda item on Regulation II and instead undertake research, informed by industry expertise.

Sincerely,
Natalie Haag

RE: Open Board Meeting - revisions to debit interchange fee cap

Bryna Butler [Bryna.Butler.131475524@sendgrassroots.com] 10/24/2023 6:29:32

NONCONFIDENTIAL // EXTERNAL

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

I'm writing to ask that the Federal Reserve NOT propose any changes to Regulation II. Unfortunately, and inconsistent with the Administration's stated position on fees, the predictable result of the merchants' demands will be higher fees paid by consumers.

Regulation II has been costly for banks of all sizes and cuts to the core of our ability to offer affordable checking account products, especially when consumers expect many services for free that cost banks money to run and maintain such as internet banking, bill pay, interactive budgeting tools, credit monitoring, mobile deposit, and more, much less the traditional services as phone and in-person assistance, night deposit, and costly ATMs.

I urge the Federal Reserve to recognize that it does not possess accurate data about the real-world experience of debit card issuers in the post-CNP rule world. Any efforts undertaken now to change Regulation II will be based on nothing more than guesses about key factors. For that reason, the Federal Reserve should postpone its October 25, 2023 agenda item on Regulation II and instead undertake research, informed by industry expertise.

Sincerely,
Bryna Butler
Crown City, Ohio

RE: October 25, 2023 Open Board Meeting - Proposed revisions to the Board's debit interchange fee cap

Brenda Williams [Brenda.Williams.131312878@forgrassroots.com] 10/21/2023 1:13:12

NONCONFIDENTIAL // EXTERNAL

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

I'm writing to ask that the Federal Reserve not propose any further changes to Regulation II, which regulates the interchange that banks can receive as compensation for processing debit transactions. My message is simple: debit card thresholds don't work, and proposals based on them will only continue the pretense that debit card interchange controls can be designed in a way that protects consumers. Unfortunately, and inconsistent with the Administration's stated position on fees, the predictable result of the merchants' demands will be higher fees paid by consumers. This is being felt by now by middle America. This creates more cost to the consumer as a result.

Regulation II has been costly for banks of all sizes and cuts to the core of our ability to offer affordable checking account products. Its routing provision, recently made more burdensome and costly by the Federal Reserve's card-not-present rule, directly impacts the revenue and fraud costs of every debit card issuer. The price caps applicable to many issuers not only further reduce their ability to offer affordable products to consumers, but also drive down net interchange for smaller issuers who are supposedly "exempt" from the price caps. Study after study has shown that Regulation II has been a wealth transfer from consumers to large merchants, primarily by increasing fees for checking accounts. With all the focus on consumers, shouldn't the focus be on what is best for consumers and not lining the pockets of big box merchants?

Recently, merchants have been given preference in regulator policies on debit cards and there has been a lack of focus on updating data collections regarding debit issuer costs, leading to outdated data sets that are not suitable for rulemaking. Rising and new incremental costs at all issuers, some driven by regulatory changes, have been ignored. The new routing rule, despite imposing high costs and enabling fraud cost manipulation by payments facilitators, was enacted while waving away financial industry concerns and giving full credit to the claims made by merchants and core processors. These incorrect assumptions permeate the data that the Federal Reserve collects on debit card processing.

I urge the Federal Reserve to recognize that it does not possess accurate data about the real-world experience of debit card issuers in the post-CNP rule world. Any efforts undertaken now to change Regulation II will be based on nothing more than guesses about key factors. For that reason, the Federal Reserve should postpone its October 25, 2023 agenda item on Regulation II and instead undertake research, informed by industry expertise. I strongly urge the Federal Reserve to take an honest look at the "real" information and not be pushed into making changes with inaccurate information.

Sincerely,
Brenda Williams

From:	Maureen Mackey
To:	Regs Comments Mail
Subject:	Federal Reserve"s proposed rule on debit interchange price caps (Regulation II)
Date:	Wednesday, November 29, 2023 9:34:39 AM

NONCONFIDENTIAL // EXTERNAL

Board of Governors of the Federal Reserve System 20th Street and Constitution Avenue, N.W. Washington, D.C. 20551 I'm writing to ask that the Federal Reserve withdraw its recent proposal to tighten the price caps on interchange that banks can receive as compensation for processing debit transactions. The unavoidable truth about this proposal is that it will make checking accounts more expense for millions of Americans. Debit card pricing thresholds don't work and the Federal Reserve's price cap proposal will harm banks of all sizes. As the Federal Reserve's data show, Regulation II has reduced interchange compensation for all debit card issuers, and the most recent Fed debit card report shows the damage to "exempt" smaller issuers has increased in recent years. Yet this data, on which the proposal's calculations rest, fails to capture the economic impacts of the card-not-present debit routing rule that went into effect in July. Further, the request for comment specifically excludes any invitation on the "allowable [bank] costs" that should factor into the cap, which I believe to too-narrowly defined and outdated. Finally, the proposal's creation of an automatic adjustment to the price cap every two years, without the public being given the opportunity to comment, will cause economic damage from the misunderstandings inherent in the proposal's formula and flawed data to grow over time. Study after study has shown that Regulation II has been a wealth transfer from consumers to large merchants, primarily by increasing fees for checking accounts. I must question why, clearly knowing the damage this rule has down to consumers and the competitiveness of smaller financial institutions, a banking regulator would undertake a discretionary rulemaking that will magnify these foreseeable consequences. Unfortunately, and inconsistent with the Administration's stated positions on fees and competition, the predictable result of the Federal Reserve's proposed rule will be higher fees paid by consumers and more pressure towards industry consolidation. Recently, merchants have been given preference in payments policies by regulators who are growing their own payments operations while community banks are being forced to cut back because of Regulation II and other regulations. There has been a lack of focus on updating data collections regarding debit issuer costs, leading to outdated data sets that are not suitable for rulemaking. Rising and new incremental costs at all issuers, some driven by regulatory changes, are once again being ignored in this rulemaking. The new routing rule, despite imposing high costs and enabling fraud cost manipulation by payments facilitators, was enacted while waving away financial industry concerns and giving full credit to the claims made by merchants and core processors. These incorrect assumptions permeate the data that the Federal Reserve collects on debit card processing and which form the foundation of the current proposal. I urge the Federal Reserve to recognize that it does not possess accurate data about the real-world experience of debit card issuers who are operating under its new card not present rule, nor has it realistically estimated the costs to consumers and competition. For the reasons shared in my letter, the Federal Reserve should withdraw its one-sided proposal to reopen Regulation II that would further lower the interchange rates and instead undertake research that is informed by industry expertise. Sincerely, Maureen Mackey

From: Samantha Lau
To: regs.comments@federalreserve.gov
Subject: I support the Federal Reserve’s plan to rein in debit card transaction fees (Regulation II Docket No. R-1818)
Date: Wednesday, November 22, 2023 10:46:36 AM

NONCONFIDENTIAL // EXTERNAL

Debit Card Transaction Fees Official Comment,

Thank you for taking the cost of debit card fees seriously and developing a reform to rein in excessive charges. These fees appear designed more to create additional profits for big banks than to cover the cost of processing actual transactions.

Currently, merchants pay large card issuers 21 cents plus 0.05% of the transaction amount for every purchase made with a debit card. That level was set by the Fed in 2011 and has never changed despite the banking industry's own reporting showing the fee paid by merchants and consumers is much greater than the cost of processing by the bank.

The impact isn’t small either. In 2022 alone, merchants paid at least $16.6 billion in these processing fees. Meanwhile the average American family spends hundreds of dollars a year on these hidden fees through higher costs passed on to consumers as a result.

I support the Federal Reserve’s plan and ask that this proposal be implemented immediately.

Sincerely,

Samantha Lau

NJ Gasoline, C-Store, Automotive Association
615 Hope Road, Bldg. 2, 1st Floor
Eatontown, NJ 07724
Phone: 732-256-9646
Web: www.njgca.org

January 3, 2024

Ann. E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th St. and Constitution Ave. NW
Washington, DC 20551

Re: Docket No. R-1818, RIN 7100-AG-67
Notice of Proposed Rulemaking: Debit Card Interchange Fees and Routing

Dear Ms. Misback:

I am the Chief Administrator and Director of Government Affairs of the New Jersey Gasoline, Convenience Store, Automotive Association (NJGCA), and I appreciate the opportunity to submit this comment in response to the Federal Reserve Board's Notice of Proposed Rulemaking (NPRM) on debit card interchange fees. NJGCA is a non-profit trade association which since 1937 has represented the mostly small businesses across the state of New Jersey who operate gas stations, convenience stores, and auto repair shops.

I write to express my general support for the Board's proposal to reduce the maximum debit interchange fee for regulated debit card issuers and to establish a regular process for updating the interchange fee limit every other year. These steps are much needed and long overdue. However, I want to make clear that the Fed's new proposed fee limits, while lower than the current limits, are still much too high; in fact, the data clearly show that the limits should be made even lower when the Fed writes its final rule. It is also critically important that the Board safeguard the process for future fee limit adjustments so that banks are not able to manipulate it by inflating or misrepresenting costs.

Interchange fees, or swipe fees, are a significant challenge for our business. It is not feasible to operate a fuel retailer, c-store, or repair shop without accepting Visa and Mastercard payment cards, but the cards carry high fees that cut significantly into our profit margin every time a card is swiped. In fact, swipe fees are one of the highest operating costs we face. For almost all of our other operating costs, we can reduce costs by negotiating with suppliers or finding marketplace alternatives; however, Visa and Mastercard dominate the payment card market and do not negotiate with us over fee rates. Our shops compete vigorously every day to offer low prices for our customers, but when we face costs that we cannot reduce through competition, our consumers end up paying higher prices—adding to the inflation crisis.

When the Fed issued Regulation II in July 2011 to implement the Durbin Amendment, the Fed's final rule adopted a base limit of 21 cents for debit swipe fees fixed by card networks on behalf of banks with over $10 billion in assets. It was surprising that the Fed set the limit that high in 2011, for several reasons. First, even with a generous interpretation of allowable costs, large bank debit card issuers had an average base per-transaction cost of only 7.7 cents at that time, which is far less than 21 cents. Second, debit cards are essentially electronic versions of paper checks, and for more than a century the Fed has regulated paper checks to clear at par, meaning the banks that issue the checks deduct zero fees from the transaction amount received by merchants as checks pass through the system. Third, the initial rule the Fed proposed in December 2010 would have set the limit at no higher than 12 cents, which was more than adequate to cover bank costs and provide a healthy profit margin.[1] It is troubling that when the Fed proposed this reasonable and justifiable fee limit in 2010, the banking industry waged an aggressive and ultimately successful effort to lobby the Fed for significantly higher fees. That bank lobbying effort was largely based on specious arguments and speculative claims that did not prove true, and I hope that misleading banking industry lobbying does not sway the Fed this time around. The debit fee limits that the Fed established in 2011 were higher than they should have been then, and as the NPRM notes, they are unquestionably excessive now.

The current proposed rulemaking by the Fed would lower the debit swipe fee base component from a maximum of 21 cents to 14.4 cents. That reduction is a long-overdue step in the right direction, but given that the Fed's latest data found that the average allowable costs of covered issuers are "approximately half" of what they were when the rate was initially set, it is unreasonable that the NPRM only reduces the base component fee by less than one-third.[2] The NPRM says that it bases its 14.4 cent proposal on a "fixed multiplier" of 3.7 times the actual average covered issuer cost of 3.9 cents, but this fixed multiplier caters too strongly toward low-volume, high-cost issuers in an attempt to hit an arbitrary target of full cost recovery for 98.5% of covered issuer transactions.

Also, the multiplier is much higher than it was when the Fed finalized its current rule. It would provide a margin of 370%. Businesses in developed market economies simply do not make margins coming anywhere close to 370%. By way of comparison, c-store average margins are less than 2.5%.

[1] In fact, the 2010 proposal would have limited debit fees to 7 cents but allowed banks to charge up to 12 cents if they could demonstrate that more than 7 cents was needed to appropriately cover the individual bank's costs. This range of fees was "reasonable and proportional" to costs given average costs of 7.7 cents and typical profit margins in U.S. businesses of single digit (or low double digit) percentages.

[2] Federal Reserve Board, "2021 Interchange Fee Revenue, Covered Issuer Costs, and Covered Issuer and Merchant Fraud Losses Related to Debit Card Transactions," October 2023, at p. 3.

The proposed rule allows the largest banks, who have the vast majority of debit transactions, to enjoy a debit interchange windfall that nearly quadruples the amount of their costs. This is neither reasonable nor fair to the merchants and consumers who are forced to pay higher prices when swipe fees are fixed at windfall levels. The final rule should further reduce the 14.4 cent base component limit to a level that actually reflects that the average allowable costs for covered issuers are now "approximately half" of what they were when the base component fee was set at 21 cents.

The current NPRM would also reduce the *ad valorem* component of the Fed's debit fee limit, which the Fed designed to cover issuer fraud losses, from 0.05% of the transaction amount to 0.04% in light of the Board's recognition that "the issuer fraud losses on which the Board based the *ad valorem* component have fallen."[3] Again, a reduction is warranted, but the final rule must acknowledge and factor in that big card-issuing banks are increasingly charging back debit fraud losses to merchants and cardholders while continuing to claim that they need higher interchange fees to cover those same fraud losses.

The Fed's most recent data found that for covered big bank issuers, from 2011 to 2021 the percentage of losses from fraudulent transactions absorbed by issuers decreased from 59.8% to 33.5%, while the percentage of losses absorbed by merchants increased from 38.3% to 47% and the percentage absorbed by cardholders increased from 1.8% to 19.5%.[4] The banks should not be able to have their cake and eat it too. They make merchants absorb more of the costs of fraud losses than they absorb themselves. Therefore, they should not be able to require merchants prepay for issuer fraud losses through interchange. The *ad valorem* component of the fee should be completely eliminated unless and until issuers once again pay for more of the fraud losses than merchants.

The NPRM would also increase the current issuer fraud-prevention adjustment from 1 cent to 1.3 cents per transaction. The Board should not make this adjustment available for all covered issuers, but rather the Board should require each issuer to demonstrate in each data collection period that the issuer is complying with steps that are actually effective in reducing fraud. For example, it is clear from the Fed's latest data collection that fraud is low and getting lower for single-message (i.e., PIN-authorized) debit transactions, while fraud is high and getting higher for dual-message (i.e., Visa and Mastercard signature-authorized) debit transactions.[5] Why should issuers automatically get the fraud prevention adjustment amount if they are steering transactions toward more fraud-prone networks and forms of authentication? The law Congress passed requires issuers to comply with fraud prevention standards that are actually effective in reducing fraud, and the Fed must do a better job of holding issuers to it. My business has made significant investments to

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[3] 88 Fed. Reg. 78100.

[4] Federal Reserve Board, "2021 Interchange Fee Revenue, Covered Issuer Costs, and Covered Issuer and Merchant Fraud Losses Related to Debit Card Transactions," October 2023, at p. 3.

[5] Federal Reserve Board, "2021 Interchange Fee Revenue, Covered Issuer Costs, and Covered Issuer and Merchant Fraud Losses Related to Debit Card Transactions," October 2023, at p. 20.

prevent debit fraud, including installing expensive EMV terminal technology, and issuers should likewise do their part before getting rewarded with the fraud prevention adjustment.

Finally, I support the Board's proposal to regularly update the debit swipe fee limits every other year, especially given that the limits have not been updated at all in the 12 years since Regulation II was issued. However, the Fed must not lock in the excessively high 3.7 multiplier for the base component fee. That must be lower (with 2.7 being a very high, maximum number). The Fed also must take great care to monitor the cost data being submitted by covered issuers to watch out for issuers that try to inflate or misrepresent their costs or to shoehorn non-allowable costs into the calculation. There is a long and growing history of big banks and card networks trying to game the requirements of the Durbin Amendment, which has forced the Fed, the Federal Trade Commission, and the Department of Justice to take action in response, and we also saw during the LIBOR scandal that banks have been willing in the past to misrepresent their costs when reporting to regulators. The Fed must be vigilant in watching out for continued banking industry efforts to manipulate the system under the regular updating mechanism.

In closing, I urge the Board to move forward with its proposed fee reductions and its process for regular future adjustments, but with lower fee levels and with careful safeguards to prevent big bank manipulation of the process. Reining in debit swipe fees will help Main Street businesses manage a cost that has for too long been insulated from marketplace competition, and that will benefit businesses like ours, our customers, and our communities. Thank you for considering my views on this important matter.

Sincerely,

Eric Blomgren

Draft Comment Letter for Debit Interchange Rulemaking

Ann. E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th St. and Constitution Ave. NW
Washington, DC 20551

Re: Docket No. R-1818, RIN 7100-AG-67
Notice of Proposed Rulemaking: Debit Card Interchange Fees and Routing

Dear Ms. Misback:

I am the Owner of XAWilsons LLC DBA Enumclaw Grocery Outlet, and I appreciate the opportunity to submit this comment in response to the Federal Reserve Board's ("Board" or "Fed") Notice of Proposed Rulemaking ("NPRM") on debit card interchange fees XA Wilsons operates one grocery stores in Washington State, and employs 23 people. We are a family owned and run business and are deeply invested in our local community.

I write to express my general support for the Board's proposal to reduce the maximum debit interchange fee for regulated debit card issuers and to establish a regular process for updating the interchange fee limit every other year. These steps are much needed and long overdue. However, I want to make clear that the Fed's new proposed fee limits, while lower than the current limits, are still much too high; in fact, the data clearly show that the limits should be made even lower when the Fed writes its final rule. It is also critically important that the Board safeguard the process for future fee limit adjustments so that banks are not able to manipulate it by inflating or misrepresenting costs.

Interchange fees, or swipe fees, are a significant challenge for our business. It is not feasible to operate a convenience store these days without accepting Visa and Mastercard payment cards, but the cards carry high fees that cut significantly into our profit margin every time a card is swiped. In fact, swipe fees are one of the highest operating costs we face. For almost all of our other operating costs, we can reduce costs by negotiating with suppliers or finding marketplace alternatives; however, Visa and Mastercard dominate the payment card market and do not negotiate with us over fee rates. Our stores compete vigorously every day to offer low prices for our customers, but when we face costs that we cannot reduce through competition, our consumers end up paying higher prices.

When the Fed issued Regulation II in July 2011 to implement the Durbin Amendment, the Fed's final rule adopted a base limit of 21 cents for debit swipe fees fixed by card networks on behalf of banks with over $10 billion in assets. It was surprising that the Fed set the limit that high in 2011, for several reasons. First, even with a generous interpretation of allowable costs, large bank debit card issuers had an average base per-transaction cost of only 7.7 cents at that time, which is far less than 21 cents. Second, debit cards are essentially electronic versions of paper checks, and for more than a century the Fed has regulated paper checks to clear at par, meaning the banks that issue the checks deduct zero fees from the transaction amount received by merchants as checks pass through the system. Third, the initial rule the Fed proposed in December 2010 would have set the limit at no higher than 12 cents, which was more than adequate to cover bank costs and provide a healthy profit margin.[1] It is troubling that when the Fed proposed this reasonable and justifiable fee limit in 2010, the banking industry waged an aggressive and ultimately successful effort to lobby the Fed for significantly higher fees. That bank lobbying effort was largely based on specious arguments and speculative claims that did not prove true, and I hope that misleading banking industry lobbying does not sway the Fed this time around. The debit fee limits that the Fed established in 2011 were higher than they should have been then, and as the NPRM notes, they are unquestionably excessive now.

The current proposed rulemaking by the Fed would lower the debit swipe fee base component from a maximum of 21 cents to 14.4 cents. That reduction is a long-overdue step in the right direction, but given that the Fed's latest data found that the average allowable costs of covered issuers are "approximately half" of what they were when the rate was initially set, it is unreasonable that the NPRM only reduces the base component fee by less than one-third.[2] The NPRM says that it bases its 14.4 cent proposal on a "fixed multiplier" of 3.7 times the actual average covered issuer cost of 3.9 cents, but this fixed multiplier caters too strongly toward low-volume, high-cost issuers in an attempt to hit an arbitrary target of full cost recovery for 98.5% of covered issuer transactions.

And, the multiplier is much higher than it was when the Fed finalized its current rule. It would provide a margin of 370%. Businesses in developed market economies simply do not make margins coming anywhere close to 370%. By way of comparison, businesses in my industry average margins of less than 2.5%.

The proposed rule allows the largest banks who have the vast majority of debit transactions to enjoy a debit interchange windfall that nearly quadruples the amount of their costs. This is neither reasonable nor fair to the merchants and consumers who are forced to pay higher prices when swipe fees are fixed at windfall levels. The final rule should further reduce the 14.4 cent base component limit to a level that actually reflects that the average allowable costs for covered issuers are now "approximately half" of what they were when the base component fee was set at 21 cents.

The current NPRM would also reduce the *ad valorem* component of the Fed's debit fee limit, which the Fed designed to cover issuer fraud losses, from 0.05% of the transaction amount to 0.04% in light of the Board's recognition that "the issuer fraud losses on which the Board based the *ad valorem* component have fallen."[3] Again, a reduction is warranted, but the final rule must acknowledge and factor in that big card-issuing banks are increasingly charging back

[1] In fact, the 2010 proposal would have limited debit fees to 7 cents but allowed banks to charge up to 12 cents if they could demonstrate that more than 7 cents was needed to appropriately cover the individual bank's costs. This range of fees was "reasonable and proportional" to costs given average costs of 7.7 cents and typical profit margins in U.S. businesses of single digit (or low double digit) percentages.
[2] Federal Reserve Board, "2021 Interchange Fee Revenue, Covered Issuer Costs, and Covered Issuer and Merchant Fraud Losses Related to Debit Card Transactions," October 2023, at p. 3.
[3] 88 Fed. Reg. 78100.

debit fraud losses to merchants and cardholders while continuing to claim that they need higher interchange fees to cover those same fraud losses

The Fed's most recent data found that for covered big bank issuers, from 2011 to 2021 the percentage of losses from fraudulent transactions absorbed by issuers decreased from 59.8% to 33.5%, while the percentage of losses absorbed by merchants increased from 38.3% to 47% and the percentage absorbed by cardholders increased from 1.8% to 19.5%.[4] The banks should not be able to have their cake and eat it too. They make merchants absorb more of the costs of fraud losses than they absorb themselves. Therefore, they should not be able to require merchants prepay for issuer fraud losses through interchange. The *ad valorem* component of the fee should be completely eliminated unless and until issuers once again pay for more of the fraud losses than merchants.

The NPRM would also increase the current issuer fraud-prevention adjustment from 1 cent to 1.3 cents per transaction. The Board should not make this adjustment available for all covered issuers, but rather the Board should require each issuer to demonstrate in each data collection period that the issuer is complying with steps that are actually effective in reducing fraud. For example, it is clear from the Fed's latest data collection that fraud is low and getting lower for single-message (i.e., PIN-authorized) debit transactions, while fraud is high and getting higher for dual-message (i.e., Visa and Mastercard signature-authorized) debit transactions.[5] Why should issuers automatically get the fraud prevention adjustment amount if they are steering transactions toward more fraud-prone networks and forms of authentication? The law Congress passed requires issuers to comply with fraud prevention standards that are actually effective in reducing fraud, and the Fed must do a better job of holding issuers to it. My business has made significant investments to prevent debit fraud, including installing expensive EMV terminal technology, and issuers should likewise do their part before getting rewarded with the fraud prevention adjustment.

Finally, I support the Board's proposal to regularly update the debit swipe fee limits every other year, especially given that the limits have not been updated at all in the 12 years since Regulation II was issued. However, the Fed must not lock in the excessively high 3.7 multiplier for the base component fee. That must be lower (with 2.7 being a very high, maximum number). The Fed also must take great care to monitor the cost data being submitted by covered issuers to watch out for issuers that try to inflate or misrepresent their costs or to shoehorn non-allowable costs into the calculation. There is a long and growing history of big banks and card networks trying to game the requirements of the Durbin Amendment, which has forced the Fed, the Federal Trade Commission, and the Department of Justice to take action in response, and we also saw during the LIBOR scandal that banks have been willing in the past to misrepresent their costs when reporting to regulators. The Fed must be vigilant in watching out for continued banking industry efforts to manipulate the system under the regular updating mechanism.

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[4] Federal Reserve Board, "2021 Interchange Fee Revenue, Covered Issuer Costs, and Covered Issuer and Merchant Fraud Losses Related to Debit Card Transactions," October 2023, at p. 3.

[5] Federal Reserve Board, "2021 Interchange Fee Revenue, Covered Issuer Costs, and Covered Issuer and Merchant Fraud Losses Related to Debit Card Transactions," October 2023, at p. 20.

In closing, I urge the Board to move forward with its proposed fee reductions and its process for regular future adjustments, but with lower fee levels and with careful safeguards to prevent big bank manipulation of the process. Reining in debit swipe fees will help Main Street businesses manage a cost that has for too long been insulated from marketplace competition, and that will benefit businesses like ours, our customers, and our communities. Thank you for considering my views on this important matter.

Sincerely,

Nathaniel & Alyssa Wilson
Owners
Enumclaw Grocery Outlet

From:	frboard-web-site@federalreserve.gov
To:	Regs Comments Mail
Subject:	Comments on Regulation
Date:	Thursday, January 18, 2024 9:11:57 AM

Date: Jan 18, 2024

Proposal: Regulation II: Debit Card Interchange Fees and Routing [R-1818]
Document ID: R-1818
Revision: 1
First name: William
Middle initial: M
Last name: Anders
Affiliation (if any):
Affiliation Type: ()
Address line 1:
Address line 2:
City:
State:
Zip:
Country: UNITED STATES
Postal (if outside the U.S.):
Your comment: Dear Secretary Misback, I write to you on behalf of the 231K Members and 500+ Employees of Affinity Federal Credit Union. Our $4B organization has been serving Members in New Jersey, New York and Connecticut since 1935. We offer a full suite of financial products that help Members achieve financial wellbeing. The proposed regulation II, although not directly impacting AFCU, will impose greater stress on Consumers across the nation. Outcomes have shown from prior, poorly devised legislation, that consumer facing businesses who rely heavily on debit card payments will reap lower interchange benefits without passing along savings to their customers. Indirectly, this legislation is likely to impact our Members "downstream" - as large banks adjust tactics to meet their obligations to the Street to focus on other income streams, ultimately suppressing debit card volumes across the entire industry. AFCU depends on interchange income because we provide more consumer benefits to our Members in the form of lower fees, higher savings interest rates and reduced loan interest rates than most, if not all, retail banks. When industry debit card payment volumes go down, Affinity loses income and reduces the support that we can provide to our Members. Regulation II will result in outcomes that boost corporate earnings, hurt the American consumer, and erode the effectiveness of financial institutions like credit unions and other community banks. As before, this legislation, although well-meaning, is another overstep of the federal government that will deliver damaging repercussions throughout the financial industry. Thank you, William M. Anders, III Head of Payments, Affinity Federal Credit Union

February 15, 2024

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitutional Avenue NW Washington, DC 20551

Re: Docket No. R-1818, RIN 7100-AG-67
Re: Notice of Proposed Rulemaking; Debit Card Interchange Fees and Routing

Dear Secretary Misback:

On behalf of Alabama Credit Union, I am writing in robust opposition to the Federal Reserve's proposed changes to Regulation II that establish new standards for assessing the amount of interchange fees received by debit card issuers.

I have worked with the members of Alabama Credit Union in many roles including as a lender and card service provider for over 31 years. Credit unions play a critical role in helping consumers achieve their financial goals, empowering members from all walks of life, and growing and advancing local communities. This proposal will significantly harm that mission.

Consumer and Member Impacts

These proposed changes to Regulation II will not only adversely impact our members, but they will also make it increasingly difficult for all credit unions to offer affordable financial tools that Americans rely on to purchase essential everyday items like food and gas. In 2011, the Durbin Amendment was passed targeting debit card interchange fees under the premise that it would curtail the number of fees consumers paid when utilizing their cards. A subsequent report published by the Richmond Fed pointed out that 98% of merchants did not pass along those savings to customers. Increasingly, merchants are charging consumers surcharges for payments made using credit cards. Additionally, more than 20% of merchants increased their prices and many popular debit card rewards programs were severely scaled back. Those changes hurt American consumers of all income levels, but especially those who rely on rewards to stretch their monthly budget.

Small Business Impacts

While this proposal is aimed at financial institutions with assets over $10B, it fails to consider the unique challenges and varied business models that smaller institutions utilize to operate in an efficient manner to best serve communities. Overall, credit unions like ours typically absorb higher transaction costs due to lower processing volumes. According to the Federal Reserve's own research, "In 2019, the average ACS cost for mid-volume issuers was over three times higher than the cost for high volume issuers, whereas the cost for low volume issuers was more than 20 times higher than the cost for high-volume issuers." Small credit unions are experiencing this regularly and rely primarily on non-interest income to fund fraud related expenses and mitigation, keep the cost of banking low, and provide affordable access to credit. The proposed changes do not address these discrepancies. The potential for market distortion that could arise from the changes would be felt by all financial institutions – regardless of asset size.

Revenue Impacts

Changing the interchange cap, in this era of increased interest rates, increased inflation, and soaring levels of fraud, will likely introduce uncertainty and less competition in the market, making it more challenging for businesses and consumers to plan long-term financial strategies. Stability in the payment system is crucial for stoking America's economic engine and creating stable financial footing for families. We recommend that the Board carefully consider the probability of unforeseen ripple effects and unintended outcomes that could arise from altering the existing regulatory framework.

In Conclusion

Alabama Credit Union appreciates the Board's focus on interchange and the opportunity to provide comments on behalf of our members. However, we strongly encourage the Board to immediately reconsider this proposal and engage in deeper discussions with financial institutions across the nation to find a better and more balanced approach that protects consumers.

Sincerely,

Benson Bolling

Benson Bolling, CLO

Alabama Credit Union

From: Jonathan Gilbode
To: Regs Comments Mail
Subject: RE: Docket No. R-1818, RIN 7100-AG67
Date: Thursday, February 15, 2024 8:24:29 AM

Board of Governors of the Federal Reserve System 20th Street and Constitution Avenue, N.W. Washington, D.C. 20551 I ask you to withdraw the proposed rule that would tighten the price caps on debit interchange under Regulation II. This proposal, if implemented, will result in an immediate 30% cut in debit interchange revenue for banks, and will harm consumers by increasing the cost of everyday banking services currently supported by interchange revenue. Banks invest heavily in payments system technology to ensure that our customers, both individuals and businesses, can transact safely and securely across a wide range of platforms. This proposal not only disincentivizes that investment by misappropriating the income derived from it, but also fails to accurately account for the real-world cost banks incur to facilitate transactions as well as to provide consumer-valued protections against fraud. In fact, the Fed's own data clearly demonstrates that hundreds of smaller issuers will be unable to cover their debit card transaction costs under the proposed formula. This will likely further restrict debit accessibility for consumers and could even feed the current trend of consolidation among community banks as another key source of revenue is regulated away. Beyond the immediate impact on debit card programs, this proposal will likely also impact banks' ability to offer basic banking services, like checking accounts, at no or low-cost to consumers. Basic deposit accounts are operationally expensive to service and maintain, and banks rely heavily on interchange revenue to offset the cost of those accounts, especially where balances are low and other banking activity is limited. This proposal contradicts Federal agency public statements, including those made by the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency, supporting the Cities For Financial Empowerment Fund's national BankOn initiative, of which Thomaston Savings Bank is a proud member. As part of its analysis, the Fed should look carefully at the relationship between debit interchange and other banking products and services that are vitally important to financial inclusion efforts. The Durbin amendment, enacted in 2011, was poorly conceived policy that effectively eliminated debit card rewards and reduced access to free and low-cost checking accounts for consumers. This new proposal to further cap interchange will only exacerbate the problems caused by the original Durbin amendment. The Federal Reserve is not statutorily required to pursue any change to existing regulations under the Durbin amendment and I strongly discourage you from needlessly doubling down on this demonstrably damaging policy. I urge you to withdraw this proposal until, at a minimum, the Federal Reserve collects and analyzes more accurate data about the impact of this proposal on consumers and banks of all sizes. Sincerely, Jonathan Gilbode Chief Digital Banking Officer Thomaston Savings Bank