

From: Day Air Credit Union, William J Burke  
Subject: Reg I I - Debit card Interchange

---

Comments:

Date: Feb 08, 2011

Proposal: Regulation II - Debit Card Interchange Fees and Routing  
Document ID: R-1404  
Document Version: 1  
Release Date: 12/16/2010  
Name: William J Burke  
Affiliation: Day Air Credit Union  
Category of Affiliation: Other  
Address:  
City:  
State:  
Country: UNITED STATES  
Zip:  
PostalCode:

Comments:

February 6, 2011 The Honorable Ben S. Bernanke, Chairman Board of Governors of the Federal Reserve System 20th Street & Constitution Avenue, NW Washington, DC 20551 Dean Chairman Bernanke, I am writing on behalf of Day Air Credit Union, representing the interests of 26,000 members in southwest Ohio. Although the Credit Union at \$215 million in assets is well below the \$10 billion exemption in the proposed interchange rule, we have serious concerns related to the unintended consequences of that proposed rule. When legislators passed the Durbin amendment of the Dodd-Frank Financial Reform Act last year, they were assured that small institutions such as Day Air would be exempt from all provisions of the legislation. Not only will small financial institutions actually be subject to the provisions of the rule related to network exclusivity and transaction routing, without specific enforcement language in the rule the small issuer exemption may not occur. We understand that the Federal

Reserve Board is in the difficult position of proposing a rule to implement poorly drafted legislation that was enacted without any discussion, mark-up or debate. The Durbin amendment effectively mandates a transfer of revenue from debit card issuing financial institutions to merchants, establishing central government-like price controls in place of market driven pricing. Given that only the legislature can repeal this anti-consumer legislation, we respectfully request that the Federal Reserve Board consider the American consumer's financial interests in establishing various parameters of the rule. The maximum interchange fees proposed in the rule does not even approach the cost of protecting consumers from fraud. In past years when most merchant transactions were paid for by check, the merchant assumed the cost of all fraud loss. When consumers use a debit card at a merchant, the issuing institution assumes the cost of fraud loss. The total cost of fraud prevention alone is far higher than the proposed rule allows. The proposed rule is silent regarding enforcement of the small issuer exemption, thus we believe that the exemption

will ultimately prove to be meaningless. The final rule as promulgated by the Federal Reserve System must contain strict enforcement provisions to protect the interests of members (consumers) of small issuers such as Day Air Credit Union. As the legislation, poorly drafted as it may be, requires the Federal Reserve to consider only the issuer related costs involved in debit card transactions, the costs considered should be interpreted as broadly as possible. Rather than performing a cost analysis of only very large issuers, a similar analysis should be performed of smaller issuers (unless, again, very strict small issuer exemption enforcement provisions are included). Those costs should include ALL costs involved in offering the current very efficient payments system that all American consumers currently enjoy. Those costs include: Card issuing and re-issuing costs Cardholder maintenance costs Transaction authorization, settlement, clearing and processing costs Debit network membership costs Salary and benefit costs related to cardholder service Other overhead costs related to cardholder service Insurance costs Fraud monitoring costs Fraud loss costs Return on investment Currently Day Air Credit Union generates \$900,000 annually in debit card interchange revenue, a cost gladly paid by merchants who are assured immediate payment with no risk of loss. Assuming a cap of 12 cents per transaction as proposed, the Credit Union's revenue would decrease to \$245,000. The resulting loss of revenue equates to approximately one half of the Credit Union's total net earnings. This loss of revenue would directly and adversely impact the interests of our 26,000 consumer/members. The Federal Reserve Board also seeks comments regarding the two alternatives proposed regarding payment card network routing. Small issuers are specifically impacted by this section of the proposed rule. Even if a two tiered system is developed and will work in the marketplace (which is highly doubtful), small issuers will be disadvantaged by the provisions allowing merchants to choose how debit transactions are processed and routed. We encourage the Board to adopt "Alternative A" which requires an issuer to provide debit cards that can be used over two unaffiliated networks, such as a signature based and an unaffiliated PIN based network. If Alternative B is adopted, all small issuers will incur yet far greater costs associated with having to join additional networks. Such a requirement is an unreasonable regulatory burden not specifically mandated by the legislation. Day Air Credit Union, like all other credit unions, is a financial cooperative representing the interests of all its consumer/members. Enactment of this legislation represents a transfer of revenue from card issuers to merchants. As it stands currently, all revenue generated by the Credit Union covers costs and any excess revenue is retained for the ultimate benefit of consumer/members. Neither the legislation nor proposed rule contains any enforcement provisions requiring merchants to pass on their resulting revenue windfall to the benefit of consumers. If the small issuer exemption is not strictly enforced, and if the full range of costs associated with debit card issuance is not considered, then consumers will face increased debit card costs, or other higher costs as card issuing institutions seek to replace lost revenue. Enactment of these interchange rules will result in a windfall for merchants at the expense of consumers, and we encourage the final rule to consider the interests of consumers to the greatest extent possible. Thank you for your consideration of our views on this matter. Sincerely, William J. Burke President/CEO