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NBA Nebraska Bankers Association
Extraordinary Service for Extraordinary Members

February 15, 2011

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

Attention: Docket No. R–1404 and RIN No. 7100 AD63

Dear Ms. Johnson:

I write on behalf of the Nebraska Bankers Association (NBA) to express opposition to the proposed rule to implement the so-called "Durbin Amendment" to the Dodd-Frank Wall Street Reform and Consumer Protection Act. The NBA represents 223 of 225 banks and 12 of the 13 savings and loan associations in the state of Nebraska.

The Federal Reserve System's proposed "debit card interchange fees and routing" rule and the dramatic reduction in debit card interchange fees that would result will harm our member institutions, adversely impact the non-profit regional network (NETS Inc.) that operates in Nebraska, and directly and indirectly increase costs for consumers.

We firmly believe that the proposed reductions in debit interchange fees will affect the pricing and services that our member institutions offer to their customers and will make it more difficult for low- and moderate-income customers to maintain bank accounts, resulting in their utilization of more expensive, less convenient, non-traditional banking services.

The "price controls" represented by the proposed rule would create a severe disincentive for companies to invest in payment networks and inhibit innovation that delivers valuable benefits to merchants and consumers alike.

FEE CAPS

The Federal Reserve has proposed artificially low caps on debit interchange that do not reflect the true costs of running a secure, reliable, and efficient debit network, which will force financial institutions to raise consumer fees or reduce debit services. The proposal for non-exempt issuers and products does not reflect the reasonable and proportional costs incurred by issuers of debit products, as required under the statute. In particular, actual incremental costs in excess of the proposed caps are precluded in all cases. We believe that any final rule should include all incremental issuer costs and not be subject to a cap. However, if a cap is deemed necessary for ease of administration, we believe the cap should take into account all issuer costs, including: network fees; the cost of inquiries and disputes; fraud losses and fraud prevention costs; fixed costs, including capital investments; and a reasonable profit margin.

“SMALL BANK EXEMPTION”

The “exemption” for banks under $10 billion is illusory. Merchants will drive businesses to lower-cost cards issued by larger institutions, forcing small institutions to either lower their prices to the same level as those mandated by the proposed rule or stop issuing debit cards to their customers altogether. This so-called exemption will not protect community banks. As revenue shrinks at community banks, so does that bank’s ability to recover the extensive fraud losses from data breaches, a vast number of which occur at retailers who accept little, if any responsibility for such losses, but yet reap much of the benefit from the current system.

FRAUD PREVENTION

With regard to fraud prevention, we believe the non-prescriptive approach described in the proposal makes the most sense so that institutions can adopt evolving technologies that are appropriate to the size and scope of their debit programs.

NETWORK ROUTING REQUIREMENTS

We believe that the network routing proposal goes far beyond the requirements of the Durbin Amendment. Under the proposal, the regional network based in Nebraska (NETS Inc.) would not be allowed to serve as one of the networks for purposes of fulfilling the Durbin Amendment’s multiple network routing requirements, despite the fact that the vast majority (approximately 90 percent) of transactions made with NETS cards take place within its coverage area.

NETS Inc., has a tradition of providing efficient, economical services to its member institutions, benefitting both merchants and consumers in the process. The geographic restrictions proposed are not contained within the statute and we firmly believe that regional networks such as NETS Inc. should qualify as a network alternative for all institutions within the network’s geographic coverage area. Implementing the proposed rule without change, will result in networks such as NETS Inc. being forced to add additional, expensive national networks, increasing costs for small issuers, potentially resulting in decisions to terminate debit services. In addition, the proposal may result in an even greater consolidation among the limited number of national networks that meet the proposed standard.

For purposes of the multiple network routing requirement, we believe the board should adopt Alternative A. Alternative A limits the expense of managing multiple network relationships and will sufficiently increase the number of PIN network routes available for merchants. Furthermore, Alternative B would require multiple signature networks to be deployed on one card, which is impractical as the two-signature card payment systems currently do not support such a choice.

COVERAGE OF ATM NETWORKS

The underlying statute does not require ATM networks to be subject to "price controls" and we do not believe that ATM networks should be made subject to any part of the Durbin Amendment or the proposed rule.

The NBA certainly appreciates the opportunity to comment on the proposed rule and thanks you for your consideration of the comments submitted.

Sincerely,

George Beattie

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