February 18, 2011

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

Dear Ms. Johnson:

We are pleased to have the opportunity to comment on the Federal Reserve System's proposed "Debit Card Interchange Fees and Routing" rule. **As Chairman and CEO of Fulton Financial Corporation, I am writing to express my opposition to this rule.**

Fulton Financial Corporation is a $16.3 billion financial holding company headquartered in Lancaster, Pennsylvania. We operate 273 branches in Pennsylvania, New Jersey, Maryland, Delaware and Virginia, and we employ 3,850 members of our team. We provide a broad array of financial services, including various deposit products, retail and commercial loans and mortgages, home equity loans and lines of credit, cash management services, leasing, wealth management and brokerage services and international services.

The seven community banks under our corporate umbrella serve hundreds of thousands of customers each and every day, and we are very concerned about the financial impact the proposed "Interchange" rule would have on them.

Currently, merchants receive many benefits from the debit card payment system – secure guaranteed payment, protection from fraud, and payment convenience that enhances their customers' ability to purchase that merchant's goods and services. **Under the current system, the merchant pays the cost of the services and benefits they receive through an appropriately leveled interchange fee on each transaction.**

Under the proposed "Interchange" rule, the merchant would continue to receive all of these benefits without being required to cover the full cost. By arbitrarily setting the cost of the interchange fee, merchants will pay for only a relatively small portion of the cost. **Banks cannot absorb the remaining portion, and will therefore need to transfer those costs to our retail customers, who will see increased account-related fees and a decrease in Rewards and other programs. In addition, if merchants do not lower the cost of their goods and services, commensurate with their lowered interchange fees, customers will end up paying twice: once to the merchant whose profit margin just widened and once to banks, whose margin has shrunk.** Low- and moderate-income customers will find it more difficult to maintain a bank account, and they will have to turn to more expensive, less convenient and potentially less secure nontraditional banking services.

I have additional concerns about the “Interchange” rule:

I urge the Federal Reserve Board of Governors to recalculate allowable fees on a fully allocated basis, not solely the basis of incremental cost. In the calculation of the fee, the Board should include: network fees; the cost of inquiries and disputes; fraud losses and fraud prevention costs; fixed costs, including capital investments; and a reasonable profit. A fee that does not take into account these factors is not a “reasonable” fee as mandated by the statute.

The fundamental differences between checks and debit transactions have not been recognized. In calculating the permissible interchange fee, the proposal does not recognize important differences between debit cards and checks. For example, in the case of check fraud, the merchant is liable for those losses. In the case of a debit card transaction, it is the banks who bear this cost.

Government price controls are inappropriate and anti-competitive and they undermine free market dynamics. The Federal Reserve staff cited the Australian model as the model on which the Fed based its own price-fixing recommendations. According to the General Accounting Office, when Australia capped its average interchange fees in 2003, card issuers raised annual account-related fees and reduced customer rewards benefits.

Routing requirements are cumbersome; however we feel that Alternative A is more practical than Alternative B. Alternative A limits the expense of managing unneeded relationship with additional networks and increases the number of PIN network routes available for merchants. Alternative B would require us to have and manage multiple PIN network relationships, creating costs with little benefit. It would require that multiple signature networks be deployed on one card. This is impractical, since existing signature card payment systems do not support such a choice. In addition, Alternative B would require reissuance of cards in many cases, an unnecessary expense and an inconvenience for customers.

For these reasons, and the negative effect they would ultimately have on our customers, I am opposed to capping interchange fees at 7 or 12 cents, and would favor Alternative A over Alternative B for routing debit transactions since, in my viewpoint, Alternative A is a more practical approach.

Please feel free to call me at 717-291-2500 if you would like to discuss any matters pertaining to the proposed “Interchange” rule.

Sincerely,
R. Scott Smith, Jr.
Chairman and CEO