Old Second

Old Second Bancorp Inc.

February 18, 2011

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

RE: Docket No. R–1404 and RIN No 7100 AD63
Regulation II - Debit Card Interchange Fees and Routing

To the Federal Reserve Board:

On behalf of Old Second National Bank, w e are writing to express concern regarding the "Durbin Amendment" to the *Dodd-Frank Wall Street Reform and Consumer Protection Act*, with regard to the Federal Reserve's adopted rules in interpreting the statutory provisions. To that end, the impact of the Federal Reserve proposal will have lasting ramifications to the banking industry in whole -- which fearfully will reach out to an institution of our size

We are concerned with the concept of government intervention and price-fixing in an otherwise free, open and effective marketplace -- and its impact on consumers.

Specifically, we are deeply concerned with four main aspects of the Durbin Amendment:

1 The speed at which the Federal Reserve is required to implement the Amendment;
2 That, under the Amendment, issuers would be required to provide services for merchants below actual costs in providing that service;
3 The potential for significant unintended consequences for consumers; and
4 The unprecedented nature of the Federal Reserve's proposal to reduce debit interchange fees

Deadline Too Aggressive to Properly Assess Long-Term Risks

The Federal Reserve is required under the Durbin Amendment to issue final rules on debit interchange fees within nine months of the passage of the original bill -- a deadline of April 21, 2011. Given the expansive scope of this requirement and the potential for significant adverse impact on consumers, merchants, and the entire payment industry, we believe that timeframe is too short and does not allow ample time for the Federal Reserve to craft rules that will avoid myriad unintended consequences inherent in this type of government intervention. No matter its intent, hastily-written rules will be detrimental to consumers and will adversely affect competition and innovation in the marketplace

Congress devoted very little, if any, time to debating and considering the ultimate impact of the Durbin Amendment. It was a hasty, last-minute addition to the broader Dodd-Frank Act. For example, there were no hearings or studies conducted to understand its potential impact on consumers. Since then, Members of Congress from both parties have expressed reservations about the Durbin Amendment

Rules Do Not Account for Issuer Costs

The Durbin Amendment required the Federal Reserve to issue rules that ensure that debit interchange fees are "reasonable and proportional to the cost incurred by the issuer." In its proposal, however, the

Federal Reserve indicated that the Durbin Amendment only covers a small subset of those costs. Without factoring in costs such as fraud protection and allowances for continued innovation, issuers will be unable to recoup the base cost of processing debit transactions. Faced with a similar regulatory situation, issuers in Australia increased fees on consumers' accounts and decreased reward programs to make up for their inability to cover the cost of basic transactions. The Durbin Amendment will likely cause similar unintended consequences in the United States.

Also, despite the intent of the statute to protect small issuers from impossibly low interchange fees, the Durbin Amendment so fundamentally alters the economics of the debit card system that the repercussions will be felt by everyone. As a result, the Durbin Amendment will likely cripple local issuers such as community banks like ours. These institutions often serve as the gateway for low-income consumers to participate in the banking and financial system. As the regulation forces banking services to become more expensive, these consumers on the "cusp" may be forced to resort to costly check cashers and payday lenders for their banking services.

Significant Harmful and Unintended Consequences

The proposed rule as it now stands will not benefit consumers; in fact, we believe it will hurt consumers by making it more difficult to offer debit programs that consumers enjoy today. In anticipation of these price controls, many debit card issuers have already discontinued reward programs and benefits associated with their cards, like free checking. When Australia enacted similar regulation, the savings were pocketed by retailers, not passed along to consumers as intended. Indeed, the net effect of the limits in Australia has been that consumers have seen annual fees and finance charges increase, while their benefits have decreased. At the same time, there has been no evidence demonstrating that merchants have passed their savings on card acceptance fees onto consumers by lowering prices. Merchants voluntarily accept the terms and conditions in their acceptance of payment by debit cards.

Drastic Nature of the Proposed Rules

Under the Federal Reserve's proposal, the Durbin Amendment results in a reduction in interchange fees by as much as 70-90 percent per transaction. The proposal represents a serious blow to the debit card industry as some critically important costs in completing electronic payment transactions were excluded during the assessment of a "reasonable and proportional" interchange fee structure. The billions of dollars lost by large and small banks and credit unions (and diverted to merchants) will limit their ability to protect consumers and innovate in the financial products they offer.

In conclusion, we are in hope of a repeal of the Durbin Amendment to protect consumers against the harms of this hastily crafted statute. However, in lieu of any repeal, we strongly urge the Federal Reserve Board to reconsider their proposed 12 cent cap on debit interchange fees to include other important program costs for a more "reasonable and proportional" interchange fee structure.

Respectfully yours,

James L. Eccher

James Eccher
President and CEO