



American Payroll Association

Government Relations • Washington, DC

February 22, 2011

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

Re: Docket number R-1404; RIN 7100-AD63
Debit Card Interchange Fees and Routing

Dear Ms. Johnson,

The American Payroll Association (APA) appreciates the opportunity to submit comments on the Federal Reserve's Notice of Proposed Rulemaking (NPRM) relating to debit card interchange fees. As discussed more fully below, the APA is concerned that the proposed rulemaking could have unintended negative consequences on consumers including many low income workers who receive their wages on payroll cards. As such, the APA urges the Federal Reserve to notify Congress that: (1) additional time is necessary to thoroughly study the impact of the interchange provisions and to take appropriate action in response, and (2) that the effective date of the proposed rules should be postponed by two years for this purpose.

The American Payroll Association

The APA is a nonprofit professional association representing more than 21,000 individuals and their companies in the United States and Canada. The APA's primary mission is to educate its members and the payroll industry regarding best practices associated with paying America's workers while complying with applicable federal, state, and local laws. In addition, the APA works with the legislative and executive branches of government to find ways to help employers satisfy their legal obligations, while minimizing the administrative burden on government, employers, and individual workers.

During the past seven years, the APA has worked diligently to encourage state lawmakers to update their wage payment statutes to address modern methods of electronic wage payment including payroll cards. Electronic wage payment offers employees access to their net pay in a far safer, more secure and less expensive way than traditional paper paychecks. Unfortunately, however, a large number of employees are unable to participate in direct deposit because they do not have a bank account or have limited access to traditional banking services. These individuals, collectively referred to as the "underserved" population, are often forced to incur significant fees simply to cash their paychecks and pay their bills. According to the Federal Deposit Insurance Corporation, approximately one in four American households are

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underserved. Payroll cards bring the benefits of direct deposit to underserved employees because bank accounts and credit checks are not required.

Due in part to the efforts of the APA, employers in virtually every state may now supplement their direct deposit programs with payroll cards. We are proud that our efforts are helping underserved workers avoid expensive check cashers and predatory payday lenders and are providing these workers with a pathway into the financial mainstream.

The Proposed Interchange Rules

The APA is concerned that Congress did not provide the Board with sufficient time to study and analyze the impact of the interchange provisions and that the proposed rule, if implemented, would undermine the progress our committee has achieved in bringing underserved workers closer to the financial mainstream. The apprehension over premature rulemaking is shared by many members of Congress including Representative Spencer Bachus, Chairman of the House Financial Services Committee. Representative Bachus, together with Representative Hensarling, have warned that “hastily written rules may end up doing more harm than good to consumers and have negative effects on competition in the marketplace.”

Again, we are concerned that the proposed rules may have a particularly devastating impact on payroll card programs. Today, payroll card programs are financed largely by interchange revenue which allows financial institutions and payroll card providers to offer their programs at little or no cost to employers and their employees. The proposed cap on interchange rates will reduce interchange revenue significantly. Recent news articles warn that this will result in higher prices and fewer services to consumers. In the context of wage payment, this means that financial institutions and payroll card providers will be forced to shift the costs of beneficial programs onto employers and, where permitted, to employees.

We understand that general purpose reloadable cards, including payroll cards, are exempt from the proposed interchange rate ceiling, at least initially. As you know, however, the Act gives merchants control over network routing, and merchants are likely to route transactions to the network with the lowest rates. This, in turn, will apply downward pressure on interchange rates for all cards including payroll cards. With less revenue per transaction, the cost to support the programs is likely to be shifted to employers, many of whom are struggling to survive in today’s recovering economy and may be unable to continue to provide these programs to their employees. Programs that remain are likely to offer fewer beneficial features to underserved workers and, where permitted under state law, the cost of discretionary features (such as multiple free withdrawals per pay period) will likely be passed onto the employees.

In light of this uncertainty, the APA urges the Federal Reserve to notify Congress that additional time is needed to thoroughly study the impact of the interchange provisions. Specifically, the effective date of the proposed rulemaking should be postponed for two years to allow for a thorough analysis and review, and to ensure that underserved cardholders do not suffer unintended harm as a result of the rulemaking.

We appreciate the opportunity to provide our views on the NPRM. Please contact Bill Dunn at (202) 232-6889 or Cathy Beyda at (650) 320-1824 if you have any questions.

Sincerely,



William Dunn, CPP
American Payroll Association
Manager of Government Relations



Cathy Beyda, Esq.
American Payroll Association
Chair, Paycard Subcommittee, Government Affairs Task Force