TEXOMA COMMUNITY CREDIT UNION
We Believe in You.

Tuesday, February 22, 2011

Delivered via email: regs.comments@federalreserve.gov.

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

REGARDING: **Regulation II; Docket No. R-1404**
Interchange Fee Income

I am writing in opposition to Regulation II; Docket No, R-1404 also known as Interchange Income. Everyone is interested in consumer protections, but the proposed change in **interchange income will not protect consumers**.

As president and Chief Executive Officer of Texoma Community Credit Union I am charged with looking out for the best interest of my 11, 327 members of this $88 million financial cooperative. As a small financial institution the proposed changes in the interchange income will have only negative effects on the credit union, and its members. Delay implementing this Regulation as long as possible. Do not implement the Regulation until studies are made and private enterprise is consulted to insure the implementation does not result in many unintended negative financial consequences to the consumers.

The proposed change to Interchange Income will cost consumers more money. Does anyone really believe that when the merchants' interchange expenses are reduced by 1 to 2 percent of the transaction that the merchant will pass those savings along to the consumer? It is disingenuous to think that even if the merchant did give the consumer a $2 refund on a $100 transaction that the consumer would really "know" they got a savings. Finally, when Congress takes away the income the card issuers have used to pay expenses, then the card issuer must pass those charges on to the backs of the consumer. The consumer is the loser and the merchant is the winner.

Plans are already in place to transfer the lost interchange income onto the consumers' backs. There are many seminars being offered explaining how to recover the lost interchange income. Each solution involves the consumer paying more out of pocket expense. My credit union has solutions to charge the member for each debit card transaction they conduct. We will either charge a per transaction fee or a standard monthly fee...simply to replace the income that the new interchange structure eliminates. The member looses when interchange is reduced.

The financial impact the interchange income has on my credit union is devastating. If the proposed plan were in place in 2010 and no changes were made to recover the anticipated lost income, our net income would have reduced 64%, (sixty-four percent). Proponents of the plan say the Durbin amendment is to create a "carve out" to protect the small financial institution against such losses.

The "carve out" will not work as merchants are already manipulating the consumer to improve their profits. Too many times we have seen for-profit businesses structure the system to create the maximum profit. That's what keen business operators do. Will merchants reduce their expenses to the consumers in proportion to their savings?
The "carve out" concept is a ruse that is already being exploited by merchants. To experience how "carve out" might work go to any large merchant, like Wal-Mart. Pay with your debit card. Try to pay for the purchase using the "credit" option; not the "debit/PIN" option. It is amazingly difficult to pay by "credit". Why? Merchants began "steering" cards users years ago to use the payment channel that is most favorable to the merchant. The "carve out" will not work because merchants "steer" the consumer to use the debit/PIN channel instead of the "credit" channel. Why would merchants do this? Merchants pay less interchange income when they "steer" consumers to use the debit channel. Further, merchants gain more protection from the card issuer in the debit/PIN channel. Merchants are expert at "steering" cards to the financial channel that works to **their** financial benefit. There is nothing wrong with that; that is just business. As you draft the new Regulation make certain that merchants will not "steer" to avoid the "carve out". Make sure the merchants who "steer" when it works in their best interest are regulated and punished for avoiding the "carve out." The Fed must have specific enforcement powers to control "steering" and to enforce the "carve out" exemption.

Merchants allow fraud to occur with their stores' debit card transactions and now merchants want to reduce the income card issuers use to pay for fraud they could have prevented. My credit union paid thousands of dollars for fraudulent transactions at two large merchants who didn't protect the consumer against fraud. A dishonest fraudster walked into a national chain merchant carrying debit cards tied to my member's checking account. They presented the fraudulent debit card to the merchant to purchase the store's branded gift cards. **The merchant never asked for Identification.** The merchant was not held responsible to pay for the fraud…the credit union had to pay for the fraud that the merchant could have prevented. **Now merchants want to reduce the income we card issuers earn to pay for this fraud**. In the Regulation require merchants to be held liable for the losses caused at the debit card point of sale. Include the cost of fraud in calculating the cost of interchange income flat rates.

Merchants do not want you to know about the benefits they receive from the interchange income they pay. When a 1 to 2% interchange fee is paid the merchant is guaranteed to NOT have a "hot check." That in itself is worth the cost of interchange expenses. Merchants don't tell you that interchange income pays: to issue the card; to operate the debit card program; to service the members' questions related to transactions; and to eliminate the Non-sufficient Funds (NSFs) merchants otherwise pay for purchases made by hot checks. Perhaps the largest fact merchants do not want to report is they often do not pay for the fraud caused at their point-of-sale by both the consumer and the merchant's card processors. The interchange income paid to the card issuer pays these expenses. Merchants must assume more liability and responsibility if they are going to pay less interchange.

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The entire process of how the Durbin Amendment became law was poor. But it is the law. There were no studies, or consumer input or voter comments made about the consequences of the law. Now is the time to study this clearly, to create a Regulatory process that does not punish consumers for the greedy merchants' desire to reduce interchange income. Delay implementing this Regulation until the effects have been clearly studied. Thank you for listening!

Yours sincerely,

/s/
L. Wayne Mansur
President & CEO

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