REGULATION II – DEBIT CARD INTERCHANGE FEES AND ROUTING DOCKET [R-1404]

Below are the comments of WorldPay US, Inc. (WorldPay) in response to the proposed Regulation II – Debit Card Interchange Fees and Routing:

1. All debit transaction interchange fees are capped at 12 cents.

Option 1: An issuer-specific standard with a "Safe Harbor" and a cap. An issuer can receive the safe harbor amount of $0.07 or provide documentation that justifies a higher amount up to the cap of $0.12.

Option 2: A cap of $0.12 per transaction applicable to all issuers.

WorldPay Comment:

Option 2 or similar places far less burden and cost on acquirers and ultimately merchants, as rates will be the same for any one network for any regulated issuer, as it is today. Option 1 may result in higher rates by issuer, which could dramatically drive up processing costs for WorldPay and its competition.

Each brand (ie Visa, MasterCard, etc) would have to manage hundreds of sets of rates, and each acquirer would have to manage all rates for all brands, which may vary by other factors such as card present vs. eCommerce. Option 1 may delay implementation and will be a burden that drives up WorldPay costs, potentially driving up net costs to its merchants.

2. Debit Network Routing - Issuers must provide multiple independent transaction routing options.

Option 1: One signature debit network ("front of card", typically MasterCard or Visa) and one PIN debit network (such as STAR, NYCE, or PULSE) on each debit card. The credit and debit networks must be different entities (i.e. Visa and Interlink are considered one network; MasterCard and Maestro likewise)

Option 2: At least two credit and two debit networks on each debit card (four total)
- Two credit card brands (i.e. one card cobranded with Visa and MasterCard, or Visa and Discover, or MasterCard and Amex, etc.)
- Two PIN debit networks on each card (EG STAR and Accel)

WorldPay Comment:

From the Federal Reserve's survey data, 1.5 million locations of 6.7 offer PIN- so more than 81% do not. Therefore, Option 1 does not offer merchants (nor ultimately consumers) network choice.

However, Option 2 will require significant industry development and rules from the brands, and will require additional time for implementation.

WorldPay recommends requiring three independent networks per card in July, 2011, one on the front of the card (signature) and two on the back, as the infrastructure for "dual bugged" multi-PIN network cards is fully in place for PIN acceptors. Implementation of multiple signature debit card brands per card should be delayed at least one year.

3. Fraud – Prevention Adjustment.

The Board's proposal requests comment on two general approaches to the fraud-prevention adjustment framework and asks several questions related to the two alternatives.

One approach focuses on implementation of major innovations that would likely result in substantial reductions in total, industry-wide fraud losses.

The second approach focuses on reasonably necessary steps for an issuer to maintain an effective fraud-prevention program, but would not prescribe specific technologies that must be employed as part of the program.

WorldPay Comment:

WorldPay would prefer a version of the first approach, in which merchants are rewarded for using fraud reduction technology that issuers would be required to support. Three examples are recommended:

- PIN. PIN, per the Federal Reserve's survey, reduces losses by ten basis points (%0.10) for card present transactions and should be encouraged.
- Chip and PIN, or EMV, is standard in many parts of the world, and discussed in the draft rules. EMV would dramatically reduce fraud.
- In eCommerce, the US is unusual as liability always falls to the merchant and acquirer should there be a transaction dispute. Tools that authenticate the cardholder greatly eliminate fraud, and fraud reduction software and services can further enhance this effort.

4. Coverage of ATM transactions and networks.

The Board requests comment on whether ATM transactions and ATM networks should be included within the scope of the rule. Although the statute does not expressly include ATM transactions within its scope, EFTA Section 920's definitions of debit card, electronic debit transaction, and payment card network could be read to bring ATM transactions within the coverage of the rule. Specifically, most ATM cards can be used to debit an asset account. It could also be argued that an ATM operator accepts the debit card as form of payment to carry out the transaction, so the ATM network could be covered by the statutory definition of a payment card network.

WorldPay Comment:

It would benefit merchants and ultimately consumers if issuers were required to place multiple, unaffiliated networks on an ATM card. In addition, removing the preferred routing requirement would further enhance the consumer benefit of multiple networks on an ATM card by allowing the ATM operator/merchant to control the transaction costs. If ATM operators/merchants have the option to control the transaction economics they can in turn minimize, if not eliminate, the need to increase ATM convenience fees caused by decreased net ATM revenue. By maximizing the transaction economics, more ATM's could be placed in a wider variety of locales, and, further, existing ATM's continue in operation to support consumers convenient access to cash.

On April 1, 2010, MasterCard increased support fees by 260% per transaction, in effect decreasing the economics of ATM's. This has caused consumers to migrate to debit cards at the POS, generating interchange costs for merchants. Because of issuer / network routing rules, this reduction had an outsized effect on ATM economics.

5. Coverage of Three Party Systems.

The Board also requests comment on the appropriate application of the interchange fee standards to electronic debit transactions carried over three-party systems. In a three-party payment system, the payment card network typically serves both as the card issuer and the merchant acquirer for purposes of accepting payment on the network. In this system, there is no explicit interchange fee. Instead, the merchant directly pays a merchant discount to the network. The merchant discount typically is equivalent to the sum of the interchange fee, the network switch fee, other acquirer costs, and an acquirer markup that would typically be imposed in a four-party system.

WorldPay Comment:

WorldPay's concern would be that a bank could create its own network for its consumers and merchants, and bypass all routing and interchange rules.

WorldPay would recommend that routing rules and interchange rules should be followed for three party networks.

6. Decoupled Debit.

Proposed comment 2(f)-3 addresses decoupled debit arrangements in which the issuer is not the institution that holds the underlying account that will be debited. The issuer-cardholder relationship is decoupled from the cardholder's relationship with the institution holding the cardholder's account. In these decoupled debit arrangements, transactions are not posted directly to the cardholder's account when the transaction is presented for settlement with the card issuer.

Instead, the issuer must send an ACH debit instruction to the account-holding institution in the amount of the transaction in order to obtain the funds from the cardholder's account. As noted above, the term debit card includes a card, or other payment code or device, that debits an account, regardless of whether the issuer holds the account. Accordingly, the Board believes it is appropriate to treat decoupled debit cards as debit cards subject to the requirements of this part.

WorldPay Comment:

WorldPay believes it is inappropriate to treat Decoupled Debit issued by merchants as debit cards. Well known merchants including Speedway Super America issue the cards today to reduce their debit expense and enhance the relationship with their consumers. It is counter to the pro-consumer aspects of the law to reduce competition by regulating merchant issuance of decoupled debit cards.

7. Selective Authorization Gift / Stored Value Programs.

Selective authorization programs enable a merchant to offer gift cards to its customers and ensure that card funds are spent only within the participating merchant(s) without incurring the costs of setting up a separate program. There may be little difference between these programs and closed-loop retail gift card programs operated by a single retailer, but for the fact that these cards are accepted at merchants that are unaffiliated. However, requiring these selective authorization cards to comply with the network exclusivity and routing restrictions could be problematic and costly for the participating merchants with little corresponding benefit. Accordingly, comment is requested on whether a prepaid card that is accepted at a limited number of unaffiliated participating merchants and does not carry a network brand should also be considered a general-use prepaid card under the rule.

WorldPay Comment:

We agree that "consortium" selective authorization programs should be managed as closed loop gift card programs. Merchants have a choice in participation, and interchange is generally not present, as merchants are, in effect, the issuers.

8. Emerging Payments.

The Board requests comment on whether other non-traditional or emerging payment systems would be covered by the statutory definition of payment card network. For example, consumers may use their mobile phone to send payments to third parties to purchase goods or services with the payment amount billed to their mobile phone account or debited directly from the consumer's bank account.

In addition, consumers may use a third party payment intermediary, such as PayPal, to pay for Internet purchases, using the consumer's funds that may be held by the intermediary or in the consumer's account held at a different financial institution. In both examples, the system or network used to send the payment arguably provide the proprietary services, infrastructure, and software for authorization, clearance, and settlement of electronic debit transactions.

Transactions involving these methods of payment typically are subject to rules and procedures established by the payment system. If such systems are not covered, the Board requests specific comment how it should appropriately distinguish these payment systems from traditional debit card payment systems that are subject to the rule.

WorldPay Comment:

Emerging payments should be regulated to create a level playing field for networks. Emerging payment brands are unregulated today, providing an advantage over traditional networks.

9. Definition of Payment Card Network.

In addition, the term payment card network, as defined in EFTA Section 920, could be interpreted broadly to include any entity that is involved in processing an electronic debit transaction, including the acquirer, third-party processor, payment gateway, or software vendor that programs the electronic terminal to accept and route debit card transactions.

However, the Board does not believe that this is the best interpretation in light of the statute's objectives. Instead, the Board believes that the better interpretation is that in general, the term payment card network only applies to an entity that establishes the rules, standards, or guidelines that govern the rights and responsibilities of issuers and acquirers involved in processing debit card transactions through the payment system.

WorldPay Comment:

WorldPay agrees that acquirers are not Payment Card Networks, and that the networks are entities that establish rules, usually under a brand, and typically have relationships with both acquirers and issuers.