FIRST STATE BANK

*"Banking on a first name basis"*

February 17, 2011

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

Attention: Docket No. R-1404 and RIN No. 7100 AD63

Dear Ms. Johnson:

I am writing on behalf of First State Bank (FSB) to express opposition to the proposed rule to implement the so-called "Durbin Amendment" to the Dodd-Frank Wall Street Reform and Consumer Protection Act. FSB is a 350 million dollar bank chartered in Lincoln, NE.

The Federal Reserve has proposed artificially low caps on debit interchange that do not reflect the true costs of running a secure, reliable, and efficient debit network. This will force our bank to raise consumer fees or reduce debit services. The proposal for non-exempt issuers and products does not reflect the reasonable and proportional costs incurred by FSB as required under the statute. In particular, actual incremental costs in excess of the proposed caps are precluded in all cases. We believe that any final rule should include all incremental issuer costs and not be subject to a cap. However, if a cap is deemed necessary for ease of administration, we believe the cap should take into account all issuer costs, including: network fees; the cost of inquiries and disputes; fraud losses and fraud prevention costs; fixed costs, including capital investments; and a reasonable profit margin.

We believe the exemption for FSB due to our size is illusory. Merchants will drive businesses to lower-cost cards issued by larger institutions, forcing small institutions like ours to either lower our prices to the same level as those mandated by the proposed rule or stop issuing debit cards to our customers altogether. This so-called exemption will not protect community banks. As revenue shrinks at FSB, so does our bank's ability to recover the extensive fraud losses from data breaches, a vast number of which occur at retailers who accept little, if any responsibility for such losses, but yet reap much of the benefit from the current system.

We firmly believe that the proposed reductions in debit interchange fees will affect the pricing and services that we offer to our customers and will make it more difficult for low- and moderate-income customers to maintain bank accounts, resulting in the utilization of more expensive, less convenient, non-traditional banking services.

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The "price controls" represented by the proposed rule would create a severe disincentive for companies to invest in payment networks and inhibit innovation that delivers valuable benefits to merchants and consumers alike.

We believe the network routing proposal goes far beyond the requirements of the Durbin Amendment. Under the proposal, the regional network based in Nebraska (NETS Inc.) would not be allowed to serve as one of the networks for purposes of fulfilling the Durbin Amendment's multiple network routing requirements, despite the fact that the vast majority (approximately 90 percent) of transactions made with NETS cards take place within its coverage area.

NETS Inc., has a tradition of providing efficient, economical services to its member institutions, benefitting both merchants and consumers in the process. The geographic restrictions proposed are not contained within the statute and we firmly believe that regional networks such as NETS Inc. should qualify as a network alternative for all institutions within the network's geographic coverage area. Implementing the proposed rule without change, will result in networks such as NETS Inc. being forced to add additional, expensive national networks, increasing costs for small issuers, potentially resulting in decisions to terminate debit services. In addition, the proposal may result in an even greater consolidation among the limited number of national networks that meet the proposed standard.

For purposes of the multiple network routing requirements, we believe the board should adopt Alternative A. Alternative A limits the expense of managing multiple network relationships and will sufficiently increase the number of PIN network routes available for merchants. Furthermore, Alternative B would require multiple signature networks to be deployed on one card, which is impractical as the two-signature card payment systems currently do not support such a choice.

The underlying statute does not require ATM networks to be subject to "price controls" and we do not believe that ATM networks should be made subject to any part of the Durbin Amendment or the proposed rule.

First State Bank appreciates the opportunity to comment on the proposed rule and thanks you for your consideration of the comments submitted.

Sincerely,

Jeff Krejci
President, FSB
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Enclosures
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