601 Riverside Avenue, Jacksonville, FL 32204
T: 877.482.8786 | F: 904.357.1105 | www.fisglobal.com

February 21, 2011

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

RE: Comments on Regulation II; Docket No. R-1404 and RIN No. 7100 AD63

Dear Board of Governors:

Thank you for the opportunity to provide our comments on the rules proposed by the Board of Governors of the Federal Reserve System ("Board") in Regulation II, Debit Card Interchange Fees and Routing (the "Proposed Rules"). The Proposed Rules are very broad in scope, impact debit card and prepaid card markets and have the potential for unintended consumer impact and disruption to industry growth and development. The financial industry operates, collaborates and supports innovative payment mechanisms that facilitate commerce, provide convenience, security and value to consumers and merchants. As written, the proposed legislation has the potential to negatively impact consumers through increased costs of financial services and/or the elimination of certain products currently offered by financial institutions, including debit rewards and loyalty programs. We continue to be concerned about the speed at which such complex, impactful and far-reaching legislation has been addressed, and therefore, strongly urge that the effective date and finalization of rules under Section 1075 (*aka* the "Durbin Amendment") of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law No. 111-203) be placed on hold pending the completion of a regulatory impact analysis.

In addition to the above points that we respectfully submit for your consideration, we wish to provide comments on the Proposed Rules generally and on specific points upon which the Board has requested comment, as set forth below in this letter.

General Comments to the Proposed Rule

After careful review and consideration, we believe that three components of the Proposed Rule have the potential to cause consumers the most disruption: (1) the allowable cost basis for interchange fee standards; (2) application of network requirements to general use prepaid cards; and (3) application of the Proposed Rules to healthcare and employee benefit cards.

(1) Allowable Cost Basis

We believe that the allowable cost basis, as the standard for assessing whether interchange is "reasonable and proportional" is much more limited and narrow than the regulatory intent. It does not take into account the broader costs related to establishing, operating and administrating a debit card or prepaid card program, which cost should be included in the interchange standards in order to minimize consumer impact. An unintended impact of this narrow of an interchange standard is the transfer of transaction cost from the merchant to the consumer, such that consumers would be subsidizing merchant costs.

Interchange calculations can and should include cost components beyond the narrow definition of variable transaction costs related to authorizing, clearing and settlement of an electronic debit card transaction the Board has proposed in the Proposed Rules. The costs associated with an issuer's card program should be included in the cost variables, including, but not limited to costs related to card production, card processing systems/infrastructure, fraud and risk management (including losses and write offs), dispute processing, and customer service and support, which all relate to permitting, supporting and effecting electronic debit transactions.

(2) Application of Network Requirements to General Use Prepaid Cards

Prepaid cards are a small but rapidly growing segment of the payments landscape. Prepaid cards, which are funded by consumers or by commercial or government entities, have experienced rapid growth because of the convenience and value they offer to consumers, commercial businesses, state and federal government agencies and merchants – converting paper-based payments to electronic payments.

The product structure and business dynamics of general use prepaid cards are quite different than debit cards, and thus, warrant different consideration. A debit card, for example, is one means of accessing and is a product feature of the underlying demand deposit account that is serves to access. Conversely, for a prepaid card product, the card is not merely a feature of, but is combined with and inseparable from product offering. This structure allows for a highly flexible application of prepaid cards that has been used in innovative ways to improve the efficiency and effectiveness of many different types of payments and to different consumer segments (i.e., the unbanked and under-banked segment); while, at the same time, in light of such varied application, prepaid cards yield a different set of cost and revenue dynamics than debit cards. As illustrated by the Board's cost survey, prepaid cards demonstrate different and higher costs than debit cards. Because of the different structure and dynamics of prepaid card versus debit cards, prepaid cards should be treated differently under the Proposed Rules than debit cards.

We therefore respectfully request that the Board exempt prepaid card programs from the requirement of adding a second network type, if the prepaid card program only supports a single form of processing. In other words, a signature-only prepaid card program should not be forced to add a PIN Network, and a PIN-only prepaid card program should not be required to add a signature network to comply with Section 920(b) of the Durbin Amendment. Single load prepaid cards, which today are predominantly signature-only for operational and consumer experience factors, would be adversely affected by a requirement to enable or support PIN-entry debit transactions. Signature-only prepaid cards are typically activated upon sale and are ready for consumer use without the need to call a service center for activation. The addition of a PIN debit network would require that the consumer call a service center to activate the card and to obtain the PIN, adding cost and inconvenience to the consumer and issuer.

Moreover, other applicable regulatory requirements that require the registration and validation of a consumer's identity would be triggered, in light of the cash-access capability with PIN-debit networks, further increasing the transaction costs and consumer inconvenience. Since single load prepaid cards are typically only used a small number of times before the funds are depleted and the prepaid card disposed of, consumers are unlikely to remember the PIN associated with the prepaid card, resulting in another negative consumer experience, as well as having a negative impact upon the merchant that is attempting to complete a sale with that consumer/prepaid card.

Lastly, adding and enabling a PIN debit network with respect to existing prepaid card programs would be difficult to implement and create further confusion for consumers that already have a prepaid card under that program and are not aware that a PIN exists for the card (or, for that matter, know the PIN for their card to enter at the point-of-sale). Consumer confusion over PINs will generate additional calls to customer service, further increasing the cost of servicing and administrating the program, and result in a poor customer experience.

(3) Application of the Proposed Rules to Healthcare and Employee Benefits Cards

As it pertains to healthcare and employee benefits cards, we want to ensure that the regulatory intent is reflected and that the Proposed Rules do not negatively impact this innovative and emerging market and the consumers that it serves. Healthcare payment products have had, and will continue to have, a positive impact on the cost of delivery of healthcare services.

As to the regulatory intent, it is our understanding based upon the Larson-Frank Colloquy from June 28, 2010 (attached to this letter) and the following statement made by Senator Chris Dodd of Connecticut, Chairman of the Senate Banking Committee and one of the authors of the Dodd-Frank Wall Street Reform and Consumer Protection Act, on July 15, 2010 on the floor of the United States Senate:

> "Mr. President, I would also like to clarify the intent behind another of the provisions in the conference report to accompany the financial reform bill, H.R. 4173, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Section 1075 of the bill amends the Electronic Fund Transfer Act to create a new section 920 regarding interchange fees. This is a very complicated subject involving many different stakeholders, including payment networks, issuing banks, acquiring banks, merchants, and, of course, consumers. *Section 1075* therefore is also complicated, and I would like to *make a clarification with regard to that section*.
>
> Since interchange revenues are a major source of paying for the administrative costs of prepaid cards used in connection with *healthcare and employee benefits programs such as FSAs, HSAs, HRAs, and qualified transportation accounts* — programs which are widely used by both public and private sector employers and which are more expensive to operate given substantiation and other regulatory requirements — we do not wish to interfere with those arrangements in a way that could lead to higher fees being imposed by administrators to make up for lost revenue. That could directly raise healthcare costs, which would hurt consumers and which, of course, is not at all what we wish to do. *Hence, we intend that prepaid cards associated with these types of programs would be exempted within the language of section 920(a)(7)(A)(ii)(II) as well as from the prohibition on use of exclusive networks under section 920(b)(1)(A)*."

Consistent with Senator Dodd's statement quoted above, we respectfully request that the Proposed Rule expressly exempt healthcare and employee benefits programs related accounts, *i.e.,* FSA, HSA, HRA, Dependent Care, Transit and Parking, from both the interchange restrictions and multiple network requirement prescribed in the Durbin Amendment and Proposed Rule there under. This would allow healthcare and employee benefits related cards, which represent a small fraction of the overall debit card and prepaid market, to continue to function as they do today, which enable growth and innovation that positively impact healthcare and employee benefits delivery.

An exemption for healthcare and employee benefits related debit accounts would also resolve the following issues created by the Durbin Amendment and Proposed Rule thereunder:

- Several different interpretations of the Durbin Amendment and Proposed Rule thereunder have been asserted regarding whether the interchange restrictions apply to HSAs. One interpretation is that the interchange restrictions apply to all HSAs. While another interpretation is that the interchange restriction does not apply to omnibus type accounts. This lack of clarity will create market confusion, generate additional work for organizations to be compliant and will potentially make HSAs less available to consumers.

- A common offering today in the healthcare and employee benefits card program market is an innovative product referred to as a "multi-purse card." A multi-purse card allows one piece of plastic (or other access device) to access multiple accounts – i.e., both an FSA and HSA through use of such plastic, with the processing system selecting the appropriate account for the authorization of and payment on the transaction based on a set of rules. This offering represents an important component of the healthcare product suite which will be increasingly more important as plan designs evolve over the next few years.

- While not specifically exempted from the interchange restrictions, FSAs and HRAs meet the definition of a reloadable prepaid card, which is exempt, which in turn makes FSAs and HRAs exempt. If FSAs are exempt and HSAs are not exempt, this creates a conflict for a multi-purse card product. It would be nearly impossible to manage accounts with different interchange rules linked to the same piece of plastic, effectively making this product impractical, leaving a gap in the offering.

- The multiple network requirement presents a unique challenge for FSA and HRA accounts. These types of accounts utilize a unique approach to authorizing transactions. Specifically, they require a merchant restricted network (works at only selected merchants) that supports an Inventory Information Approval System (IIAS) that is required by IRS regulation. Since only two networks – Visa® and MasterCard® – offer a healthcare platform supporting this need, requiring multiple networks for a card program will not have a material impact on the market and will have all of the costs and consumer confusion, as further outlined below. Since merchants would not be required to support these multiple paths, this alternative has the potential for the regulated parties to expend a significant amount of work and expense for services that may never be utilized.

Specific Comments to the Proposed Rule

With respect to specific items upon which the Board requested comment, we submit the following responses:

Standard for "Reasonable and Proportional" Interchange Fees

The Board has proposed two alternatives for determining whether the amount of an interchange fee is "reasonable and proportional" to the underlying cost, and has requested comment on these alternatives and "any other alternatives that could be applied."[1] We wish to note that Alternative 1 in which interchange is established at an issuer level has a very high administrative component.

[1] "Proposed 235.3 Proposed Interchange Fee Standards – sets forth two alternatives (referred to as Alternative 1 and Alternative 2) for determining the level of the allowable interchange fee. Alternative 1 proposes an issuer-specific approach combined with a safe harbor and a cap. Under Alternative 1 an issuer may receive or charge interchange

In this regard, the Board has requested comment on the activity costs to be considered in the standard. Stating as follows:

> "The Board requests comment on whether it should allow recovery through interchange of fees of other costs of a particular transaction beyond authorization, clearing and settlement costs. If so, the Board requests comment on what other costs of a particular transaction, including network fees paid by issuers for the processing of transactions, should be considered allowable costs. The board also requests comment on any criteria that should be used to determine which other costs of a particular transaction should be allowable...[In addition,] the Board requests comment on whether it should limit allowable costs to only the costs of authorizing a debit card transaction."[2]

The alternatives in the Proposed Rule have the unintended effect of transferring the transaction cost from the merchant to the consumer. In order to minimize the impact to consumers, regardless of the alternative selected, the costs that are included in the standard for assessing whether interchange is "reasonable and proportional" to cost should not be reduced further to just authorizing the transaction; the additional costs should be included in calculation of the cost.

Interchange calculations should include cost components beyond the narrow definition of the variable transaction costs related to authorizing, clearing and settlement of the transaction, which the Board has proposed in the Proposed Rules. The costs associated with an issuer's card program should be included in the cost basis, including card production and fulfillment costs, card processing system/infrastructure costs, fraud and risk management (including, losses and write-offs), dispute processing and customer service.

Finally, network switch fees are variable costs that are directly associated with the processing of the transaction and should be included in the allowable cost basis.

The Board has noted the higher cost associated with prepaid cards, stating that "[i]n light of the higher reported prepaid costs, the Board specifically requests comment on whether the Board should initially have separate standards for debit card transactions and prepaid card transactions, and what those different standards should be."[3]

As illustrated by the cost study undertaken by the Board, prepaid cards have different economics than debit cards. Prepaid cards, unlike debit cards, are not linked to traditional banking accounts that also support other access devices or methods, such as automated clearing house (ACH), paper check and teller access. A general use prepaid card has the card and account bundled together. A single load general use prepaid card is loaded with funds one time and used approximately two to five times before its useful life expires. This is in contrast to a debit card, which is used approximately 20 times per month for a period of up to three or four years.

---

transaction fees at or below the safe harbor amount or based on a determination of its allowable costs up to a cap. Alternative 2 proposes a stand-alone cap. The Board proposes to adopt only one of the alternatives and requests comment on each as well as any other alternatives that could be applied." *Page 81736, Federal Register, Vol. 75, No. 248, December 28, 2010, Proposed Rules.*

[2] *Page 81735, Federal Register, Vol. 75, No. 248, December 28, 2010, Proposed Rules.*

[3] *Page 81738, Federal Register, Vol. 75, No. 248, December 28, 2010, Proposed Rules.*

Given the different structure and costs of prepaid cards versus debit cards, it is appropriate for a different set of interchange standards to apply. The application of a single standard for both debit cards and prepaid cards will be biased against prepaid card products, and result in increased fees assessed against the users of these valuable payment products.

With respect to a certification process, the Board has requested "comment on whether the rule should establish a consistent certification process and reporting period for an issuer to notify a payment card network and other parties that the issuer qualifies for the small issuer exemption...The Board also requests comment on whether it should permit payment card networks to develop their own processes for making this determination."[4] In response, we believe that networks should manage the certification process, however, a consistent reporting period should be established so there is industry consistency; the proposal of a calendar year is appropriate. It would be less cumbersome to administer a certification process for only those regulated under the interchange fee standard as opposed to every exempt entity.

With respect to the request for comment on the certification process for the reloadable prepaid card exemption[5], we believe that networks should manage the certification process. However, a consistent reporting period should be established so there is industry consistency; the example proposed calendar year is appropriate.

In response to the following from the point noted by and request for comment sought by the Board –

> "Payment card networks that allow issuers to charge higher interchange fees than permitted under §§ 235.3 and 235.4 for transactions made using a debit card that meets the exemption for government-administered payment programs will need a means to identify the card accounts that meet the exemption. As with the small issuer exemption in § 235.5(a), the Board requests comment on whether it should establish a certification process or whether it should permit payment card networks to develop their own processes."[6]

We recommend that networks should manage the certification process. However, a consistent reporting period should be established so there is industry consistency; the example proposed calendar year is appropriate.

In response to the Board's request for comment on adjustments to amount of interchange fees charged to include or address the costs related to implementing fraud prevention standards[7], we believe that a

---

[4] *Page 81743, Federal Register, Vol. 75, No. 248, December 28, 2010, Proposed Rules.*

[5] "The Board seeks comment on whether it should establish a certification process for the reloadable prepaid cards exemption or whether it should permit payment card networks to develop their own processes. The Board also requests comment on how it should structure the certification process if it were to establish a process, including the time periods for reporting and what information may be needed to identify accounts to which the exemption applies." *Page 81745-81746, Federal Register, Vol. 75, No. 248, December 28, 2010, Proposed Rules.*

[6] *Page 81744, Federal Register, Vol. 75, No. 248, December 28, 2010, Proposed Rules.*

[7] "Section 920(a)(5) of the statute provides that the Board may allow for an adjustment to the interchange fee amount received or charged by an issuer if (1) such adjustment is reasonably necessary to make allowance for costs incurred by the issuer in preventing fraud in relation to electronic debit card transactions involving that issuer, and (2) the issuer complies with fraud-prevention standards established by the Board….[t]he Board has not proposed specific regulatory provisions to implement an adjustment for fraud-prevention costs to the interchange transaction fee." *Page 81740, Federal Register, Vol. 75, No. 248, December 28, 2010, Proposed Rules.*

narrow focus on fraud-prevention is not consistent with the payment service provided with debit and prepaid cards. A key component of the payment service with debit cards and prepaid cards is the payment guarantee. If the merchant follows the rules associated with the payment service, then the payment is guaranteed to the merchant (subject to a network's dispute and chargeback rules). For transactions where the consumer and card are both present at the point-of-sale, the signature or PIN is captured and the transaction is authorized making this a guaranteed payment to the merchant. Any losses associated with these transactions from the use of counterfeit cards, the use of a stolen card, or an overdraft on the account for example are absorbed by the issuer under the payment guarantee. Issuers have a financial incentive to minimize the overall amount of losses, plus the cost of fraud prevention. Issuers invest in fraud prevention services to the extent that the cost of the fraud prevention service is less than the cost of the incremental fraud prevented. Thus, fraud prevention cannot be viewed in isolation, but rather as part of an overall fraud cost that includes fraud prevention and fraud losses. These costs (fraud prevention and fraud losses) are legitimate costs of providing the payment guarantee to merchants. If the costs of the payment guarantee are not incorporated into the interchange fee cost basis, then issuers and payment networks will be incented to remove the payment guarantee from the payment service, to the detriment of both merchants and consumers.

We contend that the Board does not need to proscribe a set of fraud-prevention standards for the payment industry. Issuers already have financial incentive to invest in fraud prevention to reduce fraud-related costs and maintain consumer trust. With the introduction of greater network routing flexibility by merchants, payment networks will have a strong incentive to adopt the most effective methods of fraud prevention that drive down the total cost of payment fraud. With these strong market forces unleashed, the Board does not need to define payment fraud prevention standards to achieve adoption of cost-effective fraud controls.

Limitations on Payment Card Restrictions – Exclusivity and Routing

The Board has identified two alternative approaches in the Proposed Rule to address the prohibition on exclusivity arrangements in the Durbin Amendment, and has requested comment on these alternatives, as well as the cost of implementing requirements related thereto. In particular,

> "[t]he Board requests comment on both proposed alternatives for implementing the prohibition on network exclusivity arrangements under EFTA Section 920(b)(1)(A). Comment is requested on the cost and benefits of each alternative, including for issuers, merchants, cardholders and the payments system overall. In particular, the Board requests comment on the cost of requiring multiple payment card networks for signature-based debit card transactions, and the time frame necessary to implement such a requirement."[8]

The nature of the impact on issuers of the multi-network approach will vary depending on the program supported by the issuer. Programs that already offer both signature and PIN networks will be able to more readily add another PIN network than a program adding a network type not currently supported (e.g., PIN-only enabled card adding signature transactions or signature-only enabled cards adding PIN transactions). The alternative of adding two signature programs to one card has the highest consumer impact and will cause the most disruption and expense to the industry.

---

[8] *Page 81750, Federal Register, Vol. 75, No. 248, December 28, 2010, Proposed Rules.*

Proposed Alternative A

Proposed Alternative A would require a debit card to have at least two unaffiliated payment card networks available for processing a transaction. A debit card that could be routed to either a signature-based network or to an unaffiliated PIN-based network would satisfy the routing requirement under this alternative.

The Board has indicated a concern that this alternative would not satisfy the needs of all merchants. They specifically note that only 2 million of the 8 million merchant locations in the United States that accept debit cards have the capability to accept PIN debit transactions and that these locations would only have a single payment card network available under Alternative A. In addition, they note that PIN debit is not typically available for hotel stays, car rentals and the Internet space.

We would like to draw the Board's attention to the following:

- Six million POS locations without PIN capability – The majority of these are currently able to add a PIN path today. However, merchants and merchant processors have yet to take advantage of this alternative path.

- Hotels stays and rental cars (and others similar) – It is important to note that contrary to the notes within the proposal, PIN debit does support two-part transactions and can support circumstances where the final transaction amount differs from the authorized transaction amount. For example, the petroleum industry is using a two-part PIN transaction today. A preauthorization transaction occurs first, followed by a completion transaction that may have a different amount. This infrastructure can be extended to other market segments.

- Internet space – Although not yet broadly adopted by merchants, PIN debit networks have developed solutions for the Internet space.

Of the proposed exclusivity alternatives, Alternative A would result in less consumer confusion because it is an extension of what exists today. This alternative will promote broader competition and innovation as the industry will work to find timely new solutions to meet all market needs.

Proposed Alternative B

Proposed Alternative B would require a debit card to have at least two unaffiliated payment card networks available for processing debit transactions for each method of authorization. Under this alternative, if a card currently has PIN and signature capability, there would need to be two unaffiliated networks available for both the PIN and signature method of authentication.

It is also our contention that this overreaches the level of oversight intended by this regulation as noted by the Board within the proposal as follows:

> "Nothing in EFTA Section 920(b)(1)(A) specifically requires that there must be two unaffiliated payment card networks available to the merchant once the method of debit card authorization has been determined…In other words, the statute does not expressly require issuers to offer

multiple unaffiliated signature and multiple unaffiliated PIN debit card network choices on each card."[9]

From an execution perspective, Alternative B will require all stakeholders – merchants, merchant processors, networks, issuers and issuer processors, to completely redesign their systems and business models. Since merchants are not required to support these multiple paths, this alternative has the potential for the regulated parties to expend a significant amount of work and expense for services that may never be utilized and would potentially have a negative impact on the competitive landscape.

The following outlines at a high-level overview of the effort that would be required of each stakeholder under Alternative B:

All financial institutions regardless of size:
- Contract negotiations with up to four networks depending on current situation
- Contract negotiations with their PIN and signature debit processor for new services (may or may not be the same entity)
- Technical connectivity/system design for all systems that the transactions traverse includes design, build, certification and execution activities)
- Complete re-work of all consumer materials
- Complete redesign of card products
- Re-tooling of customer support staff

Merchants and/or merchant processors
- Potential re-tooling POS devices and systems
- Re-tooling routing logic within systems
- Potential changes to processor interface

Networks
- Complete redesign of technical and business models

Issuer and issuer processors
- Re-design routing engines
- Re-design card processing systems
- Re-design process and procedures for adding network services depending on how networks address

As such, it is our recommendation that of the two alternatives proposed in the Proposed Rule, Alternative A should be the standard applied since it will have the least disruptive impact on consumers and it can be implemented more quickly than Alternative B at a lower cost to all stakeholders.

In response to the following from the point noted by and request for comment sought by the Board:

> "Proposed § 235.7(a) does not expressly prohibit debit card issuers from committing to a certain volume, percentage share or dollar amount of transactions to be processed over a particular network. However, these volume, percentage share or dollar amount commitments could only

[9] *Page 81749, Federal Register, Vol. 75, No. 248, December 28, 2010, Proposed Rules.*

> be given effect through issuer or payment card network priorities that direct how a particular debit card transaction should be routed by a merchant. As discussed below under proposed § 235.7(b), these issuer or payment card network routing priorities would be prohibited by the proposed limitations on merchant routing restrictions. The Board requests comment on whether it is necessary to address volume, percentage share or dollar amount requirements in the exclusivity provisions, and whether other types of arrangements should be addressed under the rule."[10]

It is our observation that, as noted by the Board, other prescribed regulations will have the effect of making rules specific to volume, percentage share or dollar amount commitments unnecessary. As such, it is our contention that this overreaches the level of oversight intended by this regulation.

<u>Additional Requests for Comment</u>:

In response to the following from the point noted by and request for comment sought by the Board:

> "The Board understands that some institutions may wish to issue a card, or other payment code or device, that meets the proposed definition of 'debit card,' but that may be capable of being processed using only a single authorization method…The Board requests comment on whether this could inhibit the development of these devices in the future and what steps, if any, the Board should take to avoid any such impediments to innovation."[11]

We believe that requiring all new payment devices or methods to be processed via multiple authorization paths would inhibit the development of these innovations. Such devices or methods generally cannot function without some effort being conducted by merchants and merchant processors. If merchants elect to support the new device, then it is as result of the value they expect to receive from offering consumers access to that device under the terms established by the parties involved in the transaction. As adoption of these innovations is voluntary, regulatory intervention is not required.

We appreciate the opportunity to comment on this important matter. If you have any questions about this response, please contact Marcia Danzeisen, SVP Global Marketing and Communications, at 904.854.5083 or marcia.danzeisen@fisglobal.com.

Regards,

Frank D'Angelo
EVP, Payment Solutions Group

---

[10] *<u>Page 81751, Federal Register, Vol. 75, No. 248, December 28, 2010, Proposed Rules</u>*.
[11] *<u>Page 81751, Federal Register, Vol. 75, No. 248, December 28, 2010, Proposed Rules</u>*.

Text of Larson-Frank Colloquy

Mr. LARSON of Connecticut: Madam Speaker, I rise for the purpose of engaging in a colloquy with Chairman *Frank* to clarify the intent behind section 1076 in this bill. The section amends the Electronic Fund Transfer Act to create a new section 920 regarding interchange fees. Interchange revenues are a major source of funding for the administrative costs of prepaid cards used in connection with health care and employee benefits programs like FSAs, HSAs, HRAs and qualified transportation accounts.

These programs are lightly used by both the public and private sector employers and employees and are more expensive to operate because of substantiation than other regulatory requirements. Because of this, I would like to clarify that Congress does not wish to interfere with those arrangements in a way that could lead to higher fees being imposed by administrators to make up for lost revenue, which would directly raise health care costs and hurt consumers. This is clearly not something that was the intent that we'd like to do. Therefore, I ask Chairman *Frank* to join me in clarifying that Congress intends that prepaid cards associated with these types of programs should be exempted within the language of section 920(a)(7)(A)Đ(ii)(II).

Mr. FRANK of Massachusetts: If the gentleman would yield, he's completely correct. The Federal Reserve has the mandate under this, which originated in the Senate, to write those rules. We intend to make sure those rules protect a number of things: smaller financial institutions from being discriminated against since they're exempt from the regulation, State benefit programs, and these.

So the gentleman is absolutely correct, and I can assure him that I expect the Federal Reserve to honor that. And if there is any question about it, I am sure we will be able to make sure that it happens.

Mr. LARSON of Connecticut: I thank the chairman.