



OHIO CREDIT
UNION LEAGUE

September 30, 2011

Via e-mail to: regs.comments@federalreserve.gov
Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave. NW
Washington, DC 20551

**Re: Docket No. R-1404 and RIN No. 7100 AD 63
Interim Final Rule on Interchange Fee Fraud-Prevention Adjustment**

Dear Ms. Johnson:

On behalf of the Ohio Credit Union League (OCUL), this letter responds to the Federal Reserve Board's (Board) recent interim final rule on debit card interchange fees and fraud-prevention adjustment.

The comments reflected in this letter represent the recommendations of the Ohio Credit Union League (OCUL). The Ohio Credit Union League is a credit union trade association representing the interests of Ohio's 382 federal and state-chartered credit unions and its 2.7 million members. We appreciate the opportunity to provide suggestions and feedback to the Federal Reserve (Fed) in its assessment of this interim final rule.

Summary

The Board is adopting an interim final rule, effective October 1, 2011 and request comments on provisions on provisions in Regulation II (Debit Card Interchange Fees and Routing) adopted in accordance with Section 920(a)(5) of the Electronic Fund Transfer Act, governing adjustments to debit interchange transaction fees for fraud-prevention costs. Under this interim rule, if an issuer (a credit union debit card issuer) meets the rules' standards, it may receive a fraud-prevention adjustment of no more than 1 cent per transaction on any interchange transaction fee it receives. The interim final rule is applicable to only large debit card issuers, which includes credit unions with assets of \$10 billion or greater.

To be eligible to receive the fraud-prevention adjustment, an issuer must develop and implement policies and procedures reasonably designed to (1) identify and prevent fraudulent electronic debit transactions; (2) monitor the incidence of, reimbursements received for, and losses incurred from fraudulent electronic debit transactions; (3) respond appropriately to suspicious electronic debit transactions so as to limit the fraud losses that may occur and prevent the occurrence of future transactions; and (4) secure debit card and cardholder data.



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10 W. Broad St., Suite 1100, Columbus, Ohio 43215
614-336-2894 ■ 800-486-2917 ■ fax 614-336-2895 ■ www.OhioCreditUnions.org

In addition, an issuer must review its fraud-prevention policies and procedures at least annually, and update them as necessary to address needed changes in the available methods of detecting, preventing and mitigating fraud. Finally, the issuer must certify, on an annual basis, its compliance with the Board's standards to the payment card networks in which the issuer participates.

OCUL Comments

OCUL appreciates the opportunity to comment on this interim final rule and encourages the Board to continually review and update these rules to ensure they remain fair and consistent for all impacted financial institutions, including credit unions. OCUL believes the interim final rule appears to recognize that issuers and card networks differ in how they approach and address needed fraud prevention measures and encourages the Board to continue to recognize the flexibility that is needed in the future.

Overall, OCUL believes the Board has done a good, thorough analysis of the fraud-prevention issues and has released fair and reasonable standards for which a large issuer/credit union must comply with in its interim final rule. This includes the development of policies and procedures for the identification and prevention of fraudulent transactions; monitoring of losses from fraudulent transactions; responding to suspicious transactions to limit losses and prevent future fraud; securing debit card and cardholder data; annual reviews; and annual compliance certification with card networks.

Below are a few issues of importance that OCUL requests the Board to consider:

Fraud Prevention Costs

OCUL appreciates the research and analysis completed in determining its justification for limiting its maximum debit card fraud-prevention cost adjustments to 1 cent per debit card transaction. OCUL believes the 1 cent amount is insufficient to cover the true costs that issuers bear for fraud prevention for the following reasons:

- The 1 cent adjustment is a median figure, meaning that half of all legitimate costs would be denied.
- The 1 cent does not include costs in responding to consumer inquiries about fraudulent transactions.
- The 1 cent adjustment does not include costs to adopt new fraud prevention technologies, such as issuing new cards with high security features.

OCUL recognizes that all parties – merchants, issuers and others must share in the appropriate costs of fraud losses in order to maintain viable payment networks. This being said, OCUL urges the Board to continue to investigate interchange rates that more adequately reimburse issuers

faced with heavy fraud losses to no fault of their own. OCUL encourages the Board to continue its research into minimal standards needed by all parties, particularly merchants who employ less than adequate fraud detection safeguards and who are at fault of massive losses which, in the current system, must be borne partially by credit unions and other financial institutions, and must resort to expensive lawsuits in attempts to recover fraud losses.

OCUL recommends the Board to consider the riskiness of particular merchants in its fraud-related adjustments paid by merchants. The calculation, as the Board notes from one commenter, should consider the rate of fraud-related chargebacks of a merchant, and those merchants with higher rates should pay a higher fraud-prevention adjustment.

Finally, OCUL urges the Federal Reserve to raise the 1 cent amount to ensure all reasonable costs for fraud prevention are consolidated and provide incentives to invest in fraud prevention technologies and enhanced procedures.

Certification

The Board requests comments on whether the rule should establish a consistent certification process and reporting period for an issuer to certify to a payment card network that the issuer meets the Board's fraud-prevention standards and is eligible to receive the fraud-prevention adjustment.

Since the Board, as stated in its comments, expects payment card networks to develop their own processes for identifying issuers eligible for the adjustment, OCUL believes that networks must ensure issuers judgments and treatment of issuers are fair and equal. OCUL supports the Board's involvement in establishing a consistent certification process, with some flexibility to support operational and system differences.

Definition of Fraudulent Electronic Debit Transaction

The Board requests input on whether it should more precisely define the term "fraud" or "fraudulent electronic debit transaction." The Board recognizes in its comments that there are various types of fraud that issuers may need to address in its required policies and procedures and requests whether they should include a detailed definition.

OCUL supports the Board in further defining the term "fraudulent electronic debit transaction." It is important that all issuers, including credit unions, are addressing needed actions by the issuers in its policies and procedures to thwart all the various types of fraud the Board cites in its interim rule commentary. Just as important, standardizing the definition of fraud ensures more uniform expectations of the many card network's rules and judgments as to which issuers comply with the standards necessary to qualify for an adjustment of 1 cent per transaction to its debit card interchange transaction fees.

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Summary

The Ohio Credit Union League appreciates the opportunity to present comments on behalf of Ohio's credit unions on the Board's interim final rules on debit card interchange fees. Overall, OCUL believes the Federal Reserve has done an excellent job in its research and in its attempts to accommodate all parties, given the regulatory authority and constraints. OCUL encourages the Board to continue to monitor this new and evolving issue and to make future modifications as needed to ensure issuers are more adequately compensated through interchange for appropriate costs in delivering debit card services to merchants, as well as overall fairness in the debit card interchange network/system.

The Ohio Credit Union League appreciates the opportunity to provide comments on these proposed regulations and is available to provide additional information or any questions if so requested. Thank you again for your consideration. If we can be of additional assistance, please do not hesitate to contact us at (614) 923-9766.

Sincerely,



John F. Kozlowski
General Counsel



David J. Shoup
Director, Compliance & Information

cc: Mary Dunn, SVP and Deputy General Counsel, CUNA
Paul Mercer, President, Ohio Credit Union League
Tim Boellner, Chair, Ohio Credit Union League
Jennifer Ferguson, Chair, OCUL Government Affairs Committee