Credit Union National Association

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August 11, 2021

Ann Misback
Secretary
Board of Governors of the Federal Reserve
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Debit Card Interchange Fees and Routing (R-1748, RIN 7100-AG15)

Dear Ms. Misback:

On behalf of America's credit unions, I am writing[1] in response to the Board of Governors of the Federal Reserve System's (Board) Debit Card Interchange Fees and Routing notice of proposed rulemaking (NPRM).[2] The Credit Union National Association (CUNA) represents America's credit unions and their more than 120 million members.

America's credit unions vehemently oppose any regulation or legislation that impacts the operation of debit or credit cards. The federal government's attempts to impose price controls by regulating interchange through Section 1075[3] (Durbin Amendment) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) are the purest example of a failed government policy. Government price controls imposed by the Durbin Amendment artificially capped debit interchange rates and, perhaps even more insidiously, extended the government's hand into the innerworkings of deposit accounts held requiring that financial institutions modify their debit card products by finding and contracting with additional payments networks for every debit card transaction. If the goal of the federal government's requirement that credit unions and banks enter into contractual relations with many payments networks was to reduce costs to consumers, then it failed. The result of the Durbin Amendment has been additional compliance burden and related business costs to credit unions and banks, a reduction in interchange revenue from debit transactions, and a massive transfer of money to the largest retailers.[4]

Two sentences from analysis by the Federal Reserve Bank of Richmond demonstrate why the Durbin Amendment has been such a dismal failure and should give pause to any consideration of amendments to Regulation II or any rumored legislation bringing the Durbin Amendment's routing requirements to lending products accessed by credit cards. In

[1] This comment letter supplements CUNA's fulsome comments submitted as part of a coalition that includes the American Bankers Association, Credit Union National Association, Consumer Bankers Association, Mid-Size Bank Coalition, National Association of Federally-Insured Credit Unions, and the National Bankers Association.
[2] 86 Fed. Reg. 26,189 (May 13, 2021).
[3] Section 1075 of the Dodd- Frank Act amends the Electronic Fund Transfer Act (EFTA) (15 U.S.C. 1693 et seq.) to add a new section 920 regarding interchange transaction fees for electronic debit transactions and rules for payment card transactions.
[4] *See* Wang, Z., Schwartz, S., and Mitchell, N. (2014). The Impact of the Durbin Amendment on Merchants: A Survey Study. Federal Reserve Bank of Richmond and Javelin Strategy & Research ("FRB Richmond Study"). *Also See* Haltom, R. and Wang, Z. (2015). Did the Durbin Amendment Reduce Merchant Costs? *Richmond Fed Economic Brief.* Retrieved from: https://www.richmondfed.org/-/media/richmondfedorg/publications/research/economic_brief/2015/pdf/eb_15-12.pdf. Stating that after Stating that after the Durbin Amendment was implemented, 98.8% of merchants did not pass-through savings realized from debit regulation to consumers, and over 20% increased prices.

discussing the impact of the Durbin Amendment, the Richmond Fed wrote "For merchants in the sample who reported that their costs decreased after the Durbin regulation, few of them reduced prices or debit restrictions. . . . On the other hand, if a merchant reported increased costs after the Durbin regulation—as a sizeable fraction of them did—it tended to raise prices and increase debit restrictions, especially in terms of setting a minimum transaction amount requirement."[5] Taken together, one could easily conclude that the Richmond Fed found that merchants and retailers will keep for themselves any savings when interchange is reduced, and conversely pass along to their customers any increase in interchange costs. Should Congress or the Board seek to provide support to business, they should do so directly, not through legislative and regulatory handouts taken from one industry and given to another.

The drop in interchange revenue due to the Durbin Amendment has impacted credit unions, banks, and the consumers of these institutions. Interchange revenue is used to support the payments system, which is an electronic method of delivery of funds from a financial institution to a retailer or merchant. A drop in interchange income causes financial institutions to shift resources from other programs to pay for the cost of running a debit or credit card program. This shift in resources has led to an industrywide reduction in low-cost banking services and free checking along with a dramatic reduction in the overall number of banks and credit unions. Although credit unions are laser focused on providing the best and lowest cost financial services to all Americans, especially those who need it most, we fear the continued government forced reduction in revenue and increased compliance costs will further lead to the reduction in locally operated credit unions while making the delivery of financial services more difficult.

Along with paying for the various direct costs associated with offering payments by debit and credit cards, interchange revenue supports the following programs at credit unions:

- Secured credit offered by 79% of credit unions;
- Credit builder programs offered by 46% of credit unions;
- Free checking without minimum balance requirements offered by 85% of credit unions; and
- Financial literacy and counseling programs offered by 77% of credit unions.

The proposed changes will likely accelerate the decline in revenue from debit card transactions while increasing compliance costs associated with the requirements to ensure that all possible debit transactions have two card networks available. Furthermore, adding layers of unnecessary complexity onto the debit card networks can only increase cybersecurity risks. These costs and reductions of revenue will likely further accelerate the loss of locally owned and operated cooperative credit unions, which can make the delivery of financial services to those of greatest need even more challenging.

Any push of Durbin Amendment routing requirements to the credit card market will similarly be a disaster and likely much worse. First, one must remember that a credit card represents an extension of unsecured credit to a consumer, meaning that a financial institution makes a loan to a consumer every time a credit card is used to purchase goods or services from a retailer or merchant. The consumer then has the option to pay the credit card balance off when a bill is received or to make payments subject to the terms of the agreement and a plethora of Federal lending regulations. Although, many view debit and credit cards as virtually indistinguishable, they are very different products utilizing different networks. Again, a debit card allows one to access their own funds, while a credit card allows for instant access to a loan and does so over a network that was singularly developed for this purpose. The possibility of requiring Durbin routing requirements to the credit market will cause the cost of these low-cost loans to increase, leading to less spending power for consumers and possibly the reduction in important credit building and educational programs offered by credit unions.

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[5] *Id.* at 3.

Conclusion

CUNA and our member credit unions oppose the proposed amendments to Regulation II just as we opposed the Durbin Amendment in 2010. The proposed amendment will increase the cost of credit union debit card programs while delivering little to no consumer benefit. If you have questions about our comments, please do not hesitate to contact me at (202) 508-6705.

Sincerely,

J. Lance Noggle

Lance Noggle
Senior Director of Advocacy & Senior Counsel for Payments and Cybersecurity