Proposal: 1818(AG67) Debit Card Interchange Fees and Routing

Description:

Comment ID: 158376

From: First National Bank in Ord, Clark A. Hervert

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Comments:

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I Urge the Board to withdraw this proposal immediately, conduct research to update its data in light of the Board's recently effective internet transaction routing rule, and not repropose further rulemaking in this area until it has completed this additional research that calculates true costs to consumers and reflects the real-world experience of covered financial institutions. Again, excess regulation is being proposed without ANY consideration of the impact on consumers and small, community bank like ours.

1. The proposal will harm consumers by increasing banking costs: Debit card interchange supports affordable checking accounts, allowing financial institutions to offer these accounts with limited or no fees.

2. The Fed's data is incomplete: Covered issuer cost data does not support the Board's proposed amendments to the Interchange Price Cap in the NPRM because it's outdated (being from 2021) and incomplete (covering only an unrealistically narrow set of bank costs, excluding many important real-world costs. Examples of costs not included in current or proposed Reg II calculations: i. Card production and delivery costs, ii. Costs of establishing and maintaining checking/demand deposit accounts, iii. Non-sufficient funds losses, iv. Non-sufficient funds handling costs, v. Other network fees not currently included by the Board as part of base component costs, vi. Statement production and delivery costs, vii. Transaction monitoring costs, viii. International transaction fraud costs/losses, ix. Customer inquiry costs

3. The Fed's data is outdated: It is impossible for the Fed to have current data on the debit card costs incurred by banks, given the systemic impacts of the Fed's recently imposed debit card routing rule (mandated that banks offer multiple networks for internet, card not present transactions). This routing rule only went into effect on July 1, 2023, yet the Fed didn't "stop, look, and listen" to how it would change costs, ranging from network fees to fraud costs and how this mapped against the lower net interchange expected from the rule.

4. The recent routing rule benefits merchants and core processors at the expense of community banks. For example, core processors that also own debit networks increasingly require banks to use their own proprietary networks rather than allowing the bank to choose among several unaffiliated networks; tying essential banking software use to also buying unrelated card processing services. These processors are using the Fed's new routing rule to force banks to use "PINless" processing for card-not[1]present transactions, despite these PINless transactions being completely different in terms of fraud liability, security, and revenue than the debit card transactions that existed when the Durbin Amendment passed. Banks like ours have no fraud recovery options under the terms of these payments processors and no option to escape this situation because of the Fed's recent rulemaking.

5. The proposal harms small, covered issuers and banks: The Board's proposed amendments to the Interchange Price Cap fail to appropriately capture debit card issuer costs recoverable by statute, leaving a third of card issuers (concentrated among smaller covered issuers like us) to take a loss on transactions. Consequently, smaller banks like ours may choose to grow more slowly by reducing lending and those going over the limit may merge to dilute the damage of this spike in regulatory costs.

6. The cost-benefit analysis provided by the Board fails to appropriately identify and evaluate in a serious way the costs and benefits of the NPRM. If the Board were to undertake a meaningful analysis, the results will demonstrate that the costs of the NPRM to consumers and financial institutions significantly outweigh any benefits to consumers.

7. The Board's actions are not required by statute and nothing in the Durbin Amendment obligates the Board to re-open the existing Interchange Price Cap or to revise the methodology for calculating the Interchange Price Cap.

8. When Regulation II was first written, the Fed did not operate a payments system (FedNow) that directly competed with debit cards. Now it does, through FedNow. There is concern in the industry that by using its regulatory power to cap the revenue that banks may earn from private sector debit cards, there may be an unfair advantage given to the Fed's own payment services. It is also true that since debit card interchange supports the suite of payments services connected to bank checking accounts, the Fed's proposal will stall adoption and implementation of FedNow at many banks.

9. Savings from interchange price caps have not been passed on to consumers, as was promised in the Durbin amendment. Merchants have benefited from artificially low interchange fees and garnered an economic windfall over the last decade; even as debit card usage has skyrocketed. If the Board lowers the Interchange Price Cap as proposed in the NPRM, it will only further benefit merchants at the continued expense of consumers.

10. The Board's proposal to materially lower the Interchange Price Cap will effectively discourage covered issuers from continuing current levels of investment in fraud monitoring and prevention, resulting in harm to consumers, smaller debit card issuers, other participants in the payments ecosystem, and the banking and payments systems more broadly.

11. NPRM will undermine the health of financial institutions and the U.S. payments system, particularly given concurrent regulatory proposals to limit or prohibit fee-based revenue from payment activities.

12. The public will be denied a meaningful opportunity for notice and comment on future changes to the Interchange Price Cap as required under the Administrative Procedure Act if the Board resets, automatically the base component, ad valorem component, and fraud-prevention adjustment. This "set it and forget it" approach is not good policymaking.
Please scrap this proposal. Thank you.

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