February 1, 2024

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitutional Avenue NW
Washington, DC 20551

RE: Docket No. R-2023-24034, RIN 7100-AG67
Debit Interchange Fees and Routing

Dear Ms. Misback,

BOKF, NA is the banking subsidiary of BOK Financial Corporation, a $47 billion bank holding company. BOKF, NA provides a full array of products and services through Commercial, Consumer, and Wealth Management divisions and has full-service locations in Oklahoma, Texas, Arkansas, Missouri, Kansas, Colorado, New Mexico and Arizona. We appreciate the opportunity to comment on the Notice of Proposed Rulemaking on Debit Card Interchange Fees and Routing (the NPR).

As a financial institution categorized as a large issuer under Regulation II, we recognized the requirements under law to ensure that interchange fees are "reasonable and proportional to the costs incurred by the issuer" and that the Board of Governors has a duty to periodically review these fees to ensure the spirit and intent of the law are upheld. The NPR explains the changes in direct processing costs since 2011, based upon the bi-annual reporting from large issuers. While it recognizes that average per transaction costs have decreased for the industry, it also acknowledges the historical and current variance in reported processing costs. However, the Board has historically believed accounting for these variances in the regulation creates unsustainable complexity and could disincentivize institutions from growing their debit portfolios.

The NPR proposes leveraging a weighted average for covered transactions to create a cost basis for covered institutions. Based upon the analysis provided, 98.5% of transactions would fully recoup expenses using this methodology. Analyzing costs on a per transaction basis substantially weights the methodology toward the largest institutions who have a larger economy of scale and substantially lower cost structures than the majority of covered institutions. Based upon the 2021 Issuer Survey, a full 22.6% of covered issuers are unable to fully recover costs at the current $0.21 plus 5 basis points methodology. If implemented as proposed, approximately one-third of covered institutions would not fully recover their costs. The language of the Durbin Amendment states that it should be correlated to the cost of the issuer. Implementing a rule which does not create a reasonable or proportional return for one third of covered issuers is not consistent with the language of the amendment. Additionally, the Act explicitly seeks to reduce the systemic risk created by large financial institutions. The proposal would drive increased competitive

advantage and thus market share to the institutions the Act sought to reduce systemic risk. The proposed rule is inconsistent with both the spirit and language of the Act

We believe that the current methodology for tracking processing costs does not fully account for the changes within the debit processing landscape since 2011. As such, the methodology for tracking allowable costs does not account for the full cost of managing and maintaining the product line. When the current rule was drafted, physical debit cards and swipe technology were the overwhelming mechanism for processing. Additionally, infrastructure to support these transactions was well established. In the twelve years since then, processing infrastructure has evolved to support digital wallets, chip transactions, contactless cards, improved card management capabilities and other innovations. While these changes have not directly altered the per swipe expense, banks have been required to make significant capital investments to implement and support these advancements in response to customer expectation. These investments have benefited consumers and retailers by improving convenience, experience and ease of use. With the pace of change in both technology and customer expectations, we expect to see continued investment into the technology supporting these transactions. As such, we recommend these capital investments, which have improved the processing environment, should be accounted for in defining a "reasonable" return on transactions.

The NPR proposes to decrease the ad valorum from 5 basis points to 4 basis points. While this proposal recognizes the shift in fraud activity up to 2021, it does not accurately reflect current economic conditions. Over the last two years, fraud losses have risen across the industry. The increase in losses is tied to several factors. First, online transaction growth continues to enhance transaction risk. Second, there has been a general growth in fraud activity across all product lines, including debit. Lastly, inflationary pressures over the past several years have increased average transaction sizes by approximately 15% since 2020. Independent of the numerical growth in fraudulent activity, the increase in average transaction size leads to increased losses per transaction. Under the current rule, the inflationary pressure has been offset by the ad valorum calculation.

In addition to the technological changes over the last twelve years, the industry has seen a shift in the competitive landscape. The financial technology industry has leveraged a loophole in the large issuer definition by partnering with smaller financial institutions to issue debt cards with exempt interchange rates. In many cases, these organizations are issuing many times more card than institutions categorized as large issuers under the regulations. The windfall resulting from this loophole has enabled these organizations to fund developments that traditional financial institutions must match without the same ability to recover the costs of developing and implementing these innovations. While we appreciate the value of competition and of innovation created by this business model, we believe these shifts in the competitive landscape should be considered when determining what is a "reasonable and proportional" return. Ensuring that traditional financial institutions can continue to compete by improving client and retailer experiences and adoption, requires the ability to generate a fair return on those investments.

While we acknowledge the Board's concerns about complexity in the rule writing, we believe there should be a recognition of the negotiating leverage and the economy of scale of the largest financial institutions in the large issuer category, in contrast to smaller institutions in the same category. Assuming a directional correlation between asset size and debit cards, as well as an inverse relationship between those factors and the cost to processing, we believe a graduated interchange rate tied to asset size would fairly account for a "reasonable and proportional" return for institutions, while not creating significant complexity in the rule nor disincentivizing growth in debit portfolios. Such an approach would be consistent with other recent proposed rules and proposed bills around interchange, which have considered different standards for organizations based upon asset size.

Finally, we acknowledge the desire of the Board to automate the process for updating the recovery rates. However, requiring the changes to be implemented mid-year, so quickly after publication, does not allow institutions to effectively plan for the year or to set market expectations for performance. Delaying the timeline for implementing changes from July of the publication year to January of the following year will allow institutions to more effectively build financial plans, and to communicate impacts to shareholders, regulators and other impacted parties.

To address these concerns in the proposed revisions, we recommend the following changes be made:

1) Modify the methodology for estimating issuer cost, to reflect the market realities of smaller issuers, ensuring that a larger share of covered financial institutions are able to recover their processing costs.

2) Implement a sliding rate based upon asset size to account for variances in economy of scale between the largest and smallest institutions in the segment.

3) Incorporate the costs of technology investments, which improve the processing experience for consumers, into the calculation for reasonable return.

4) Maintain or increase the ad valorem to account for shifts in economic conditions and specifically the significant increase in costs related to the fraud environment over the last couple of years.

5) Update the timing for implementation of bi-annual changes to January of the year following the published revisions.

We appreciate the opportunity to comment on this proposed rule and hope our recommendations have been helpful and can be reflected in the final rule. If you have any questions or would like any clarification on the comments provided, please contact me at 918-588-6206 or kweil@bokf.com.

Sincerely,

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