



March 12, 2024

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

Docket No. R-1818, RIN 7100-AG67

Dear Ms. Misback:

eBay is pleased to offer comments to the Federal Reserve's proposed rule to reduce the regulated debit rate. eBay appreciates the Board's recognition that the current rate does not meet the statutory requirements that the rate be reasonable and proportional to the issuers' costs, and it should be lowered. However, the proposed reduction does not go far enough. Indeed, it could disincentivize issuers from becoming more efficient and lowering their costs moving forward.

Background. eBay Inc. is a global commerce leader that connects people and builds communities to create economic opportunity for all. Our technology empowers millions of buyers and sellers in more than 190 markets around the world, providing everyone the opportunity to grow and thrive. Founded in 1995 in San Jose, California, eBay is one of the world's largest and most vibrant marketplaces for discovering great value and unique selection. In 2023, eBay enabled over \$73 billion of gross merchandise volume.

In 2010, Congress recognized that the U.S. debit market was broken, lacked competition, and needed reform. As part of the Dodd-Frank act, the Durbin Amendment brought pricing stability and transparency into the market and ensured competition in routing. Prior to the reforms, debit interchange fees increased without any review by the market, leaving U.S. merchants—including millions of eBay small business sellers—with no option but to pay these ever-increasing fees. Because Visa and Mastercard centrally set the fees, banks did not negotiate on costs and lacked any incentives to make their systems more efficient. Thankfully, the Durbin Amendment required the Federal Reserve to limit the interchange fees that large banks with over \$10 billion in assets may collect if they chose to have Visa or Mastercard set their rates. As a result, millions of U.S. merchants were no longer subjected to the unchecked fee increases, and finally had transparency and predictability in the cost of accepting debit cards.

Now, over a decade later, the issuing bank's average cost of authorizing, clearing, and settling (ACS) a debit transaction has reduced by almost half, to under 4 cents. But the rate of 21 cents + 5 basis points + 1 cent has remained the same. As a result, for several years, the largest issuing banks have been able to overcharge U.S. merchants billions of dollars a year. Therefore, it is not only appropriate but *essential* that the Fed move quickly to reduce the rate even further than proposed to bring it in line with the statute and provide deeply needed relief to small businesses across the country.



The Board Should Set a Lower Regulated Debit Interchange Fee Rate. The proposed rule would lower the average debit interchange fee from 24.5 cents on a \$50 transaction to 17.7 cents. First and foremost, the Board must stand firm against any requests to set a higher rate than the proposed 17.7 cents and instead set a lower rate in the final rule. As currently proposed, the new rate would guarantee the largest issuers a *higher* profit margin per debit transaction than the original rate did when it was set over a decade ago. This is inappropriate, harms small businesses, and is not in line with the statutory requirement that the debit rate be reasonable and proportional to the issuer's costs.

The Board Should Reduce the Cost-Recovery Target & Fixed Multiplier in the Formula. The proposed rule would ensure cost recovery for 98.5% of covered issuers' transactions. The problem with using that 98.5% figure is that most transactions have costs far below that percentile. Additionally, the 3.7 multiplier is excessive and could actually result in disincentivizing issuers from becoming more efficient. For example, if the average ACS costs increased by 1 cent per transaction, the proposed rate formula would result in an increase in the base interchange of 3.7 cents. Issuers would actually make a *larger* profit by becoming less efficient. Using 2021 numbers, issuers would make an additional \$1.5 billion profit off U.S. merchants a year by becoming less efficient. The Board, issuers, and merchants should all strive to make the system more efficient, not less.

With this in mind, the Board—at the very least—should reduce the cost-recovery target and fixed multiplier in the formula. In the Notice of Proposed Rule Making question #2, the Fed asked if it should select an alternative cost-recovery target with several options. Of the choices, option #5 (using a 95% cost recovery target and 2.7 multiplier) is the most appropriate and in line with the statutory requirements. That being said, eBay advocates for the Board to review and further limit the costs it allows issuers to include in reporting their ACS costs.

The Board Should Require an Annual Reporting and Rate-Adjustment Cadence. In question #1, the Board asked if a bi-annual cadence for reporting and adjusting the rate is appropriate. eBay has significant concerns with requiring issuers to only report costs on a bi-annual basis. Because issuers will be incentivized to keep debit cost acceptance as high as possible, this could skew the data in their favor. For instance, issuers could choose to shift costs to years when they report to weight it in their favor. Annual reporting of costs would be more appropriate and ensure against abuse. If the Board decides to keep the bi-annual reporting cadence, issuers should still be required to report each individual year's costs to ensure data integrity.

Additionally, the Board proposes for the rate to self-adjust on a bi-annual basis. This is a good idea in theory but should include some guardrails. The Board should implement a process for public review of the data and proposed changes, along with an opportunity for merchants to share feedback before the rate adjusts. Additionally, there must be a process of allowing for a formal audit of the data and review of the formula before any increase in the rate is implemented.

The Board Should Remove the Ad Valorem and Fraud-Prevention Adjustments from the Rate. In questions #4 & #5, the Board asks for comments on the *ad valorem* and fraud-prevention adjustments. Both should be removed from the rate moving forward. Sadly, the United States is the global fraud leader. According to the *Nilson Report*, the U.S. accounted for over 40% of card fraud and only 25% of transactions last year. According to the Board's own data, merchants



shoulder a greater portion of the fraud liability than issuers. This is particularly true in the e-commerce space where we shoulder the vast majority of fraud losses compared to issuers. Additionally, eBay, on behalf of our millions of sellers, must invest significant resources into fraud prevention. We bear these costs without the ability to seek indemnification from issuers, card networks or others. As part of our eBay Money Back Guarantee and eBay Make it Right protection programs, eBay pays for fraud losses and prevention measures on behalf of our sellers using our own operating budgets, further constricting already tight margins and investment capital. Therefore, it is inappropriate and unfair to expect merchants to also pay for the largest issuers' fraud losses and prevention costs. Every stakeholder should invest in driving fraud out of the system; however, the current and proposed interchange formula do the opposite. Allowing the largest issuers in the country to shift their fraud costs onto small businesses removes any incentive for them to drive fraud out of the system. The Board should remove both the *ad valorem* and fraud-prevention adjustments and make each entity responsible for their own costs.

The Board Should Hold Firm on the Timeline for the Rule to Take Effect. The Board proposes to have the revised rate take effect the first day of the next calendar-quarter that begins 60-days after the rule is finalized. eBay strongly encourages the Board to hold firm on this timeline and deny any request for delays. Merchants and the U.S. consumer have waited over a decade for relief from high debit swipe fees and deserve swift implementation.

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Thank you for the opportunity to comment on the proposed rule. With the adjustments suggested above, the final rule will ensure the rate is both reasonable and proportional to issuer costs as directed by the law. Additionally, it will bring real relief to the millions of U.S. eBay sellers and their customers. eBay appreciates the Board's commitment to reducing the rate and stands ready to work with you moving forward on this and other issues.

Sincerely,

Avritti Khandurie Mittal
Vice President of Global Payments
eBay