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

Description:

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From: Partnership for Southern Equity, Sterling J. Johnson

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Comments:

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Your comment: To Whom It May Concern, The Partnership for Southern Equity (PSE) is a 501 (c)(3) organization who advances policies and institutional actions that promote racial equity and shared prosperity for all in the growth of metropolitan Atlanta and the American South. We are writing today in comment regarding proposed amendments to the Durbin Amendment of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Namely, this correspondence is to address the need for banking interchange fee regulation and other fees imposed by banks for the purpose of revenue generation. As currently constructed, it is our belief that additional research and information is needed regarding the proposed amendments, particularly around their impacts on consumers, entrepreneurs, and low-wealth communities of color. There has been some narrative that the policy was harmful against its intended audience (businesses and consumers) and while it is true that resulting evolution in the banking fee structure has not translated into the cost saving intended by the initial policy, declarations that the Durbin Amendment was itself harmful against the communities it was designed to protect is both presumptive and premature. As a result, we would argue the inverse to these points of clear opposition. The policy was not ineffective but rather met its intended purpose, leading to changes in institutional behavior that manifested in other deleterious effects on consumers and emerging entrepreneurs. In short, the effectiveness of the policy led to the development of new practices in the banking industry that expanded on their extraction from families and consumers in ways the original interchange fee legislation sought to prevent. Additionally, the argument that increased protections against interchange fees will both cause additional fee increases and deeper banking disparities for communities of color, inclusive of small and local entrepreneurs is not without merit. However, the need in that event becomes not a rollback on protections but expansion that includes more comprehensive legislation that protects against fees in all forms. Arguments against further regulation also have not demonstrated an effective "but-for" analysis, illustrating how the lack of interchange free intervention would have benefitted consumers. What occurs in its absence is an accounting for the impact of subsequent transaction fees but not an accurate accounting of the ways in which this policy has protected against both these fees AND higher interchange fees. Some have argued that the corollary of this policy has been increases in banking access for communities of color. Lost in the argument against the decade

plus since the Durbin Amendment has been the rise and availability of alternative digital banking products, many of which have grown in popularity because of the lack of consumer fees associated with their utilization. In our estimation, the unintended negative impacts felt by businesses and consumers was less a function of ineffective policy but a reflection of the values of greed and extraction. Market interventions that restrict the banking industry (and other institutions) from generating nebulous fees for the sake of profit is the most consumer-friendly approach. Conversely, without deeper data driven insight, we do not see it as prudent to correlate the Dodd Frank amendment to the resulting negative externalities. Summary for Consideration 1. The existing research has framed this as a two-sided market failure, but the impacts within said market(s) are superimposed on consumers, so there is no second market, just one market where consumers are being extracted from. Compounding this is the push for cashless establishments, which have significant impacts on communities of color/low wealth and increased demand for banking products, which is unrelated from the Durbin Amendment. Declines in underbanked communities then are not solely generative by the traditional banking industry but alternative banking options, Chime, SoFi, Greenwood, Apple cash, etc. 2. Unclear whether lowering interchange fees has been effective but that is because of policy administration and not the letter and intent of the policy itself. The issue has been the way that banks have subsequently used loopholes in other areas to extract from consumers/entrepreneurs. That is an issue of corporate greed, not a bad policy. 3. The presumption of causation is not fully accurate. Who is to say that changes in our market and banking structure would not have been exacerbated without Dodd Frank intervention? As in, there was nothing preventing them from either increasing interchange fees or enacting other fee structures. Without additional analysis on the clear impact or return on investment for consumers, entrepreneurs, and communities of color we do without a doubt believe there will be additional negative impacts on communities of color, which the Partnership for Southern Equity would not be in support of. Data must be developed to make informed decisions regarding potential impacts. We are open to discussing our position and providing guidance on how to make this and other policies more equitable. Please feel free to reach me, at sjohnson@psequity.org to set up a time to meet. Thanks again and we look forward to talking soon.