

10 May 2024

Ms. Ann E. Misback  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, D.C. 20551

**Re: Notice of Proposed Rulemaking: Debit Card Interchange Fees and Routing  
Docket No. R-1818, RIN 7100-AG67**

Dear Ms. Misback:

On behalf of the U.S. Public Interest Research Group (U.S. PIRG), I appreciate the opportunity to submit this comment regarding the Notice of Proposed Rulemaking on debit interchange fees. U.S. PIRG is an advocate for the public interest, and we serve as the national office of the nonprofit state Public Interest Research Groups. As a consumer advocacy group, we have long supported debit interchange fee reform and the Durbin Amendment, which made the debit interchange system fairer.

All consumers pay more at the store and more at the pump because of unfair, nonnegotiable, nontransparent merchant interchange fees imposed by the card networks Visa and Mastercard and embraced by all their card-issuing banks. These fees impose the greatest hardship on cash customers who subsidize card usage by paying prices for goods and services that are inflated by billions of dollars of anticompetitive interchange fees.

**The interchange “market” represents a market failure. Interchange rates are set, not by the banks that profit, but by Visa and Mastercard.** Ever-rising swipe fees act as a form of reverse competition to convince more banks to join the payment networks that set them. Consumers bear the brunt of the higher prices, as merchants are forced by payment networks’ rules to bake the interchange fee costs into the prices of the products they sell, yet are largely forbidden by card network rules from offering price signals to consumers to choose lower cost options for payment. Other jurisdictions, including Canada and the European Union, have imposed much more significant restrictions on interchange practices to correct this market failure.

The Durbin Amendment was a well-thought-out approach to the payment networks’ market failure, and it was a tremendous victory for competition and choice against an entrenched oligopoly, Visa and Mastercard, which is enabled by the power Wall Street mega-banks that issue the vast bulk of all debit cards. The Amendment provided the Federal Reserve Board with the authority to cap fees for debit interchange received by large card-issuing banks under a standard that requires the fees be “reasonable and proportional” to the card issuers’ cost of conducting the

transaction, rather than based on what the card networks call “value” which really means “whatever they want and they can get.”

**The Proposed Rule now put forward by the Federal Reserve Board recognizes that card issuers’ costs have decreased by about 50 percent on average since Regulation II was initially published in 2011, and the Proposed Rule takes measures to reduce the regulated debit rate in response.** That is a step in the right direction, but the Board should go further in its final rule and reduce the regulated rate by at least the same percentage that regulated issuers’ average costs have gone down under Regulation II. To do otherwise would fail the “reasonable and proportional” test under the Durbin Amendment’s standard. However, the Board’s current proposal would reduce the rate by less than a third even though costs have gone down by approximately half, and the Board’s proposal must be modified to address this.

**Improving competition and choice and lowering merchant costs in the debit system benefits consumers.** This is because competition works to pass along cost savings, and the merchant sector is highly competitive on price. In contrast, Visa, Mastercard and their big bank issuers benefit from inflation that is exacerbated by high interchange fees. In fact, on a recent earnings call to investors, Visa’s CEO and chief financial officer said that “inflation has ‘net-net’ been ‘positive’ for the company.”<sup>1</sup> Because the interchange fee system is structured to avoid competition and produce inflated fees, Congress acted on a bipartisan basis to have the Federal Reserve Board impose reasonable limits on these fees in the absence of marketplace competition. It is critical that the Board carry out Congress’ directive and bring the regulated rate down to a level that is reasonable and proportional to current transaction cost as Congress required.

**We understand that some commenters have cautioned the Board against reductions to the regulated rate out of concern that such reductions would impact the Bank On Program which seeks to make bank accounts available to unbanked Americans. It is important to note in response that accounts through the Bank On Program are currently made available by hundreds of financial institutions across the country, most of which are not covered by Regulation II because their assets fall below the \$10 billion covered issuer threshold.**<sup>2</sup> The Board’s proposed update to Regulation II will not affect those financial institutions’ operations or their ability to continue offering accounts through the Bank On Program. Additionally, with respect to Bank On accounts that are offered by the nation’s largest financial institutions (those that are considered covered issuers under Regulation II), the Proposed Rule, even with our suggested modification, will enable those issuers to continue enjoying a highly profitable rate of return on their debit transaction costs. While giant financial institutions and their advocates frequently claim that any diminution of their revenue will force them to cut off services or raise other fees on consumers, the economics of interchange reform do not compel them to do so, and if they do so there are many smaller financial institutions that would be well-positioned to pick up that consumer business and serve those consumers profitably.

---

<sup>1</sup> Visa Q2 2022 Earnings Call, April 26, 2022, available at <https://www.fool.com/earnings/call-transcripts/2022/04/27/visa-v-q2-2022-earnings-call-transcript/?source=iedfolrf0000001>.

<sup>2</sup> See <https://joinbankon.org/accounts/>

**In short, the Durbin Amendment was pro-consumer reform, and the Federal Reserve Board must now act to update the regulated rate to fully reflect the decrease in bank costs that we have seen over the years.** Failure to do so will deny consumers savings that Congress intended them to receive and that they deserve. We urge the Federal Reserve Board to modify and finalize its Proposed Rule accordingly, and to move forward without delay.

Thank you for your consideration of this comment.

Very truly yours,

Edmund Mierzwinski  
Senior Director  
U.S. PIRG

[edm@pirg.org](mailto:edm@pirg.org)