



The Dodd-Frank Wall Street Reform and Consumer Protection Act: Interchange

Lawmakers included in the Wall Street reform law an amendment imposing interchange price-fixing despite vigorous and longstanding opposition from ICBA and community banks. ICBA will work with the Federal Reserve for the most favorable implementation of this ICBA-opposed provision, while also continuing to pressure Congress to repeal this provision in the law in the future.

Federal Reserve To Regulate Interchange Rates

- **Background:** The final bill gives the Federal Reserve authority to require that debit interchange rates be “reasonable and proportionate to the cost incurred by the issuer with respect to the transaction.”
 - **Small-Issuer Exemption:** The bill contains an exemption from Fed-established rates for issuers with less than \$10 billion in assets.
 - **Factors for Consideration in Setting Interchange Rates:** The Fed must take a number of factors into consideration in setting rates:
 - The similarity between card-based debit transactions and check transactions, which are required to clear at par;
 - The incremental cost of a transaction (other costs incurred by an issuer are explicitly excluded from consideration);
 - Fraud prevention costs incurred by the issuers, offset by fraud-related reimbursements (including charge-backs) received from consumers, merchants or payment card networks. Fraud-related adjustments are the subject of a separate rulemaking.
- **ICBA Position:** ICBA fought vigorously against this provision.
- **What's Next:** The Federal Reserve must issue rules in final form no later than nine months after enactment of the legislation, and those regulations (and rates) must be effective 12 months after enactment. ICBA will work with the Fed to make the small-bank exemption workable— notwithstanding our doubts. ICBA will also work to ensure that the Fed-set rates are high enough to offset operating and fraud expenses.
- **What It Means for Community Banks:** *The bill envisions that merchants will pay multiple rates based on the size of the card issuer and that the networks will be capable of charging these multiple rates. In practice, it will be difficult to make the small-issuer exemption work in the marketplace; it's more likely that the networks will default to applying the lowest rate to all cards, which is why ICBA vigorously opposed the provision. If community banks are forced to accept Fed-set rates, community banks will be under tremendous pressure to recoup lost interchange revenue, either through increased fees and reduced benefits on checking accounts or through the elimination of this popular consumer form of payment.*

Fed To Define Anti-Fraud Requirements

- **Background:** The Fed will issue regulations that set forth standards for fraud prevention to be met by issuers and that define the adjustments made to the interchange rate for the cost of meeting these fraud prevention standards.
- **ICBA Position:** ICBA strongly opposed this provision.
- **What's Next:** The Fed must issue regulations in final form no later than nine months after enactment of the bill. ICBA will work with the Fed to ensure that the standards are workable for banks of all sizes.
- **What It Means for Community Banks:** *Small issuers are not exempt from these standards. The interchange rates will not calculate fraud reimbursements unless the standards set by the Fed are met.*

Merchants Permitted To Set Minimum Transactions

- **Background:** The payment card networks are prohibited from preventing merchants from setting a minimum transaction amount for the acceptance of credit and debit cards. The minimum transaction may not exceed \$10. The Fed may increase this amount by regulation. Merchants may not discriminate among issuers or between payment card networks in applying these minimums.
- **ICBA Position:** ICBA strongly opposed this provision.
- **What's Next:** This provision is effective upon enactment of the bill.
- **What It Means for Community Banks:** *Community banks are not exempt from this provision and will see fewer small charges on credit and debit cards they issue. Merchants may see an increase in cash transactions.*

Merchants Given Leverage To Steer Consumers Toward Preferred Forms of Payment

- **Background:** Payment card networks are prohibited from preventing merchants from restricting the ability of a merchant to offer discounts or incentives for use of a method of payment (i.e., cash, check, debit card or credit card). However, merchants are prevented from discriminating among payment cards issued by certain institutions, must provide any discount or incentive uniformly across all issuers, and must continue to “honor all cards.”
- **ICBA Position:** ICBA strongly opposed this provision.
- **What's Next:** This provision is effective upon enactment of the bill.
- **What It Means for Community Banks:** *Community banks are not exempt from this provision and will likely see card volume shift from credit to debit as large retailers incentivize consumers to use PIN debit versus other methods of payment. While merchants are prevented from discriminating against community bank-issued cards, this provision will likely have the effect of encouraging large retailers to ramp up store-branded card programs and other in-house financing promotions, which are underwritten by large banks.*

Exclusivity Arrangements between an Issuer and a Network Prohibited

- **Background:** Card issuers are prohibited from limiting the number of debit networks on which a transaction may be processed to a single network or a network owned by a larger affiliate. This provision is targeted at Visa and the large issuers that enter into exclusivity arrangements that limit transaction routing to Visa or its wholly owned affiliate, the Plus network. The provision also appears to require that all issuers have at least two network logos present on a debit card.
- **ICBA Position:** ICBA strongly opposed this provision.
- **What's Next:** This provision requires Fed rule writing to provide clarity as to its intent. The rulemaking should be completed one year from enactment.
- **What It Means for Community Banks:** *Since it is largely targeted at large banks and their exclusive arrangements with the card networks, the impact on community banks should not be severe. While the Fed will need to provide clarity through its rulemaking, current interpretations suggest that the only change may be to require that any community bank that currently only has one network logo (also known as a “bug”) on its card may have to enter into an agreement with one other, non-affiliated network to meet the two-network requirement.*