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February 13, 2023

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

RE: Debit Card Interchange Fees and Routing [Docket No. R-1748, RIN 7100- AG15]

Dear Ms. Misback:

By way of this correspondence, the Independent Community Bankers of America (ICBA)¹ respectfully requests a two-year implementation period of the October 11, 2022, Debit Card Interchange Fee and Routing Final Rule.² This rule clarifies the requirement that debit card transaction must be routable for processing on at least two unaffiliated payment card networks and fully applies to card-not-present transactions. The final rule gives financial institutions until July 1, 2023, to comply, or roughly nine months from issuance.

ICBA is requesting an extension through January 2025 on behalf of our member community banks. This is consistent with the two-year implementation period we requested in our comment letter in response to the Board's Notice of Proposed Rulemaking.³ While we noted in

¹ *The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. ICBA is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education, and high-quality products and services.*

With nearly 50,000 locations nationwide, community banks constitute roughly 99 percent of all banks, employ nearly 700,000 Americans and are the only physical banking presence in one in three U.S. counties. Holding more than \$5.8 trillion in assets, over \$4.9 trillion in deposits, and more than \$3.5 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers' dreams in communities throughout America. For more information, visit ICBA's website at www.icba.org.

² 87 Fed. Reg. 61217, available at: [2022-21838.pdf \(govinfo.gov\)](https://www.govinfo.gov/procurement/2022-21838.pdf).

³ Independent Community Bankers of America, Comment Letter Re: Notice of Proposed Rulemaking (NPR) on Regulation II (Reg II): Debit Card Interchange Fees and Routing [Docket No. R-1748, RIN 7100-AG15] (Aug. 11, 2021), available at: https://www.icba.org/docs/default-source/icba/advocacy-documents/letters-to-congress/icba-reg-ii-frb-npr-comment-letter.pdf?sfvrsn=3bb00717_0.

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our letter, most community banks have dual routing available for card-not-present debit transactions as required by the final rule. However, a longer implementation period is appropriate to allow additional time to ensure a consistent consumer experience across alternative networks with differing message details. Furthermore, the supplemental time will allow banks the opportunity to adopt revised policies, procedures, and tools for monitoring risk associated with this new requirement. Further, we note that FedNow is scheduled for summer for 2023, which also tasks the same bank personnel with payment operations responsibilities.

Consumer Experience

As you are aware, card programs and transactions are supported by complex multifaceted fraud analysis occurring in under seconds for approved transactions. Consequently, there is a strong possibility that with issuers receiving transactions routed through networks not disclosed to the consumer, the card-not-present fraud controls might be different from the network branded on the front of the consumer's card. Community bank issuers, without being assured of robust fraud prevention data from these alternative networks, might have to decline consumer purchases, if the issuer cannot be fully confident that the card-not-present transaction is legitimate. As you know, debit cards are tied to consumers' checking accounts, and community bankers—working with their technology partners—consistently stop high risk and unauthorized transactions to protect consumers' funds. Consumers do not usually think about the networks used to process their debit card transactions. When a transaction at the point of sale is declined due to security concerns, the consumer generally faults the issuing bank and the network branded on the front of the card. With dual routing, consumer transactions could be declined due to a network undisclosed to the consumer.

In our previous comment letter, ICBA recommended that the Board conduct an analysis of the fraud prevention measures of all networks that process debit transactions to assess the proposal's effect on the prevalence of both Card-Present and CNP fraud. ICBA suggests that the Board engage the services of a qualified independent auditor to conduct analysis of the risk and fraud mitigation capabilities for all networks that process debit card transactions and publish the findings for industry review and comment. Once again, we reiterate the necessity of this prudent step prior to the implementation of the final rule.

To mitigate the risk of fraudulent transactions or transactions that are declined unnecessarily, ICBA respectfully urges the Board to delay these additional revisions to Reg II at this time. A longer implementation period will give banks more time to analyze the security measures taken by debit card networks and for networks to improve their security. If bankers and their technology partners do not have enough time to prepare, the effects could have a destabilizing effect on consumers, community banks, and the economic recovery.

Conclusion

As we have stated previously, the Durbin Amendment is poor public policy that has been empirically proven to harm consumers and the viability of community banks.⁴ This harm has disproportionately fallen on the smallest community banks and lowest income households.⁵ As we correctly warned before the Amendment's enactment, and as subsequent Federal Reserve analysis⁶ has shown, it is a highly unsuccessful policy, amounting to government price controls that were always destined to benefit large retailers at the expense of the consumers it purported to serve.

We urge the Board to extend the rule's implementation period so that the effective date is no earlier than two years after the final rule's publication in the Federal Register. This will give banks more time to assess the security practices of debit rails in the card-not-present environment and will give card networks more time to improve network security. ICBA believes that the recommendations made above will allow for a consistent consumer online shopping experience and a successful launch of FedNow. If you have any questions, please do not hesitate to contact Kari Mitchum, Vice President, Payments Policy at kari.mitchum@icba.org or 202-821-4445.

Sincerely,

/s/

Anne Balcer
Senior Executive Vice President,
Chief of Government Relations and Public Policy

Cc: Board of Governors of the Federal Reserve System

⁴ Evans, Chang, and Joyce, "The Impact of the U.S. Debit Card Interchange Fee Regulation on Consumer Welfare: An Event Study Analysis" (2013).

⁵ "Average Debit Card Interchange Fee by Payment Card Network," Board of Governors of the Federal Reserve System (2021), available at: <https://www.federalreserve.gov/paymentsystems/regii-average-interchange-fee.htm>.

⁶ Zhu Wang, Scarlett Schwartz, and Neil Mitchell, "The Impact of the Durbin Amendment on Merchants: A Survey Study." Federal Reserve Bank of Richmond Economic Quarterly, Third Quarter 2014, vol. 100, no. 3, pp. 183–208 at 194.