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

Description:

Comment ID: 160121

From: Albertsons Companies, Kevin Lovell

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

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

Comments:

NONCONFIDENTIAL // EXTERNAL

Dear Secretary Misback

As a grocery industry leader and member of the board of FMI - The Food Industry Association, I welcome the opportunity to comment on the Debit Card Interchange Fees and Routing, Regulation II, Notice of Proposed Rulemaking (NPRM), Docket No. R-1818, RIN 7100-AG-67. I appreciate the Federal Reserve Board of Governors' action to reduce the debit regulated rate and establish every other year updates. However, the proposed cap and methodologies used to set automatic updates do not reflect a "reasonable and proportional" level as mandated by law and demonstrated by Federal Reserve data.

The grocery industry is one of the most competitive in our economy. Grocers negotiate prices on every product they sell and every service they use with vendors and operate on razor thin profit margins – about 1-2% on average. Grocers are doing everything possible to avoid passing inflationary production costs onto shoppers. Competition in the grocery sector is fierce, and the battle for market share helps keep prices down for shoppers. As more grocery customers have progressively increased their use of credit and debit cards over this time, our operations costs have been squeezed. A "reasonable and proportional" debit regulated rate is keenly important to the slim-margined grocery industry.

Since the current Regulation II rate went into effect in 2011, banks' costs to process payments have gone down dramatically, while the regulated capped rates charged to merchants for the same debit payments have never been adjusted until this NPRM. As the law makes clear, collectively set debit rates charged to merchants must be "reasonable and proportional" in relation to the costs incurred by the card issuers and must be adjusted as the costs to banks fall. The three components that comprise the rate – base component, ad valorem loss fee component, fraud prevention adjustment – and the methodologies must be modified before every other year updates are set, and careful oversight and auditing of issuer reported data by the Federal Reserve must be implemented to ensure that issuer costs are not misrepresented or inflated.

The NPRM's proposed rate of 14.4 cents represents a decline in the base component fee of less than one-third from the current Regulation II rate of 21 cents, which does not reflect the nearly 50 percent actual decline in issuer costs. As noted in the NPRM, "several data points show that the allowable costs incurred by covered issuers have fallen significantly since the original Regulation II rulemaking." The formula for calculating the base interchange fee component must have a fixed multiplier of no higher than 2.7.

As noted in the NPRM, since 2011 "the issuer fraud losses on which the Board based the ad valorem component have fallen," as has the median ratio of issuer fraud losses to transaction value. Those changes in the data alone warrant a reduction in the current ad valorem fee under the Board's existing methodology. The proposed four basis point fee is not sufficiently "reasonable and proportional" given the reduced number of covered issuer fraud losses. The ad valorem fraud fee component should be awarded on an issuer-by-issuer basis.

Congress mandated that the Federal Reserve Board establish fraud prevention standards that "require issuers to take effective steps to reduce the occurrence of, and costs from, fraud in relation to electronic debit transactions," and under the statute an issuer can only receive a fraud prevention adjustment if the issuer "complies" with the Board's standards. The fraud prevention adjustment must be meaningfully evaluated on an issuer-by-issuer basis. The eligibility for both the fraud prevention adjustment and fraud loss component should be rewarded to only those covered issuers that are actually and demonstrably taking effective steps to reduce debit fraud.

The NPRM's proposal for every other year rate adjustments is critical and should include the above methodology changes. The Federal Reserve Board should implement oversight and auditing of issuer reported data to ensure that issuer costs are not misrepresented or inflated.

Thank you again for this opportunity to comment on the NPRM. The grocery industry and other main street merchants serving communities around the country appreciate that the Federal Reserve Board has taken a step in the right direction to revise the debit regulated rate, the first time since the law's implementation in 2011, and to establish a process for every other year updates. It is imperative for our customers and food retailers that a final rule establishes a "reasonable and proportional" level and methodologies according to the Federal Reserve's own data on actual transaction costs and the shift in fraud burden.

Regards,

Kevin Lovell
kevin.lovell@safeway.com
Albertsons Companies