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

RE: Debit Card Interchange Fees and Routing, R-1818

May 6, 2024

Dear Secretary Misback:

The Iowa Credit Union League (ICUL) is pleased to present this comment letter to the Board of Governors for the Federal Reserve. ICUL is a not-for-profit trade association that represents the interest of 68 credit unions within the state and their 1.6 million member-owners. Iowa credit unions are small compared with national banks and other financial institutions. Of the 71 credit unions in Iowa, 63 have less than \$750 million in assets and only one has more than \$10 billion. ICUL appreciates the opportunity to provide comments on the Board of Governors for the Federal Reserve's (the "Board") Debit Card Interchange Fees and Routing propose rule.

ICUL respectfully urges the Board to continue to recognize the difference between credit unions and very large financial institutions. Credit unions are specifically structured to support their members and local communities. They do not operate on assessing high fees, nor have the volume or add-on products to absorb increasing operational costs.

As mission-based organizations that provide minimal to low fees, competitive products, and accessible financial services, credit unions prioritize supporting and building relationships within their local communities. While we support the Board's intent to protect consumers, we strongly encourage the Board of Governors to reconsider its proposal. Specifically, we find the changes in this rule to present financial detriments to credit unions, particularly as they are not large financial institutions.

While Iowa credit unions understand the intention of the proposed rule, the impact on credit unions would be tremendous. If the items contained in the proposed rule were to be finalized without any changes, credit unions and the members they serve would suffer severe financial repercussions. The ability to set interchange fees in an amount that is commiserate with cost is integral to a credit union's financial stability. What little resulting income is gained from charging this type of fee is reinvested as a financial benefit to the credit union's members. We understand that the rule is intended to pass along a financial benefit to consumers, but this rule does not effectuate the intended result. Instead, this proposed rule will result in confusion among

consumers as well as financial harm to credit unions.

Request for Comment

The Board is requesting comments on many things. Among them, the Board is requesting comment on whether its economic analysis of the proposal, specifically regarding the EFTA section 904(a) analysis, appropriately describes the likely impact of the proposal on various participants in the debit card market. The Board is also requesting comment on whether there are additional impacts that it had not considered before issuing the proposed rule.

ICUL, on behalf of Iowa credit unions, is submitting the following comments on those items.

EFTA Section 904(a) Analysis

Impact on Merchants

As part of its analysis, the Board first finds that merchants would be impacted by the proposed rule by a “lowering of their costs of accepting debit card transactions¹.” As the Board explains, the proposed rule would “decrease a merchant’s costs by decreasing the merchant discount that the merchant pays to its acquirer for a debit card transaction².” However, the Board also notes that in 2011, the last time the Board instituted an interchange fee cap, “merchants did not consistently report making adjustments to their prices in response to the interchange fee cap³.” In fact, according to data collected by the Board, research performed over a decade later showed that whether savings were passed on to the consumer by the merchant was largely determined by the merchant size, not the amount of savings earned from the 2011 interchange fee cap⁴. Since the Board has already collected data to show that the outcome of an interchange fee cap does not guarantee “passed on” savings to the consumer, then instituting the same proposed rule but intending for a different result seems to be a potential for the same response.

Furthermore, the Board speculates that the proposed interchange fee cap may result in incentivizing merchants to being able to accept debit cards as a form of payment⁵. In particular, the Board hypothesizes that “while debit card acceptance is already high for most in-person transactions, the proposal may encourage greater adoption of debit cards in market segments where acceptance may be lower, such as card-not-present transactions⁶.” However, the Board does not include any commentary on any risk analysis that may be performed by merchants to determine whether or not it chooses to accept debit cards as a form of payment. While there may be a relationship between the cost incurred from debit card transaction and the percentage of risk associated with that transaction, the nature of that relationship is, at best, speculative.

In sum, it is our opinion since the Board cannot guarantee the actions of the merchants that this proposed rule is intended to incentivize, it therefore, cannot guarantee that the benefits received by the merchants will equate to a benefit for consumers. Yet, even so, the Board has proposed a

¹ 88 FR 218, 78114 (Nov. 14, 2023).

² *Id.* at 78115.

³ *Id.*; *See also*, Wang, Schu, Carlett Schwartz, & Neil Mitchell, *The Impact of the Durbin Amendment on Merchants: a Survey Study*, 100 Federal Reserve Bank of Richmond Economic Quarterly 183 (2014).

⁴ 88 FR 218 78115 (Nov. 14, 2023).

⁵ *Id.* at 78115.

⁶ *Id.* at 78115.

rule that would inflict severe financial harm to financial institutions, and in particular Iowa credit unions. According to the law and as cited in the Board's own proposal, the Board is required to "demonstrate that the consumer protections of the proposed regulations outweigh the compliance costs imposed upon consumer and financial institutions⁷." We understand that the Board's best intention is to lower resulting costs to consumers incurred from debit card interchange fees, and we agree that consumers should not be subject to unreasonable fees. We cannot, however, support the Board's proposal as the proposed cap on interchange fees would be financially devastating to credit unions while the benefit to consumers would be speculative, at best.

Impact on Debit Card Issuers

The Board concludes that the primary way in which the proposal would "affect[] covered issuers would be by lowering their revenue from debit card transactions⁸." The Board specifies by saying that covered issuers' would see a decline in interchange revenue fees, considering that the average interchange fee able to be collected on debit card transactions would be decreased⁹. In the Board's opinion, lower interchange revenue allows "covered issuers [to] offset some or all lost interchange fee revenue through a combination of customer fee increases and issuer cost reductions¹⁰."

However, we feel the Board fails to take into account several factors which affect the rate of interchange fees. First, the Board does not consider that interchange revenue is commiserate with costs for Iowa credit unions. While large financial institutions may be able to lower interchange fee rates without incurring financial harm, Iowa credit unions are not those types of institutions. Rather, Iowa credit unions are required to maintain low fees as a financial benefit to their members, which does not afford Iowa credit unions the flexibility in developing revenue nor does it allow for them to charge excessive fees. We understand that some large financial institutions may be charging excessively high interchange fee rates, particularly those with a for profit business model, Iowa credit unions are charged with keeping fees at a minimum for their members. Lowering the cap on what little interchange revenue an Iowa credit union may gain is an impractical solution to a problem Iowa credit unions do not cause.

Second, the Board wrongfully assumes that Iowa credit unions have some level of control over the costs incurred. Iowa credit unions are not-for-profit organizations with a small hold of the national market share. This means that Iowa credit unions do not necessarily have the leverage larger, for-profit financial institutions may have. As a result, Iowa credit unions are not able to control the costs incurred from offering their members financial services while simultaneously being required to keep fees associated with those services to a minimum. We understand that the Board is intending to keep excessive fees from being passed on to consumers, but the proposed rule will not have the intended effect.

Impact on Consumers

As the Board indicates, there are two potential impacts that this proposed rule may have on

⁷ 15 U.S.C. § 1693b(a)(3).

⁸ *Id.* at 78115.

⁹ *Id.* at 78115.

¹⁰ *Id.* at 78115.

consumers. It may incentivize merchants to pass on savings to their consumers¹¹. In the alternative, the Board notes that the proposed rule could negatively affect consumers if, as a result, debit card issuers increase fees on debit cards, checking accounts, or make other adjustments that make these products less attractive to consumers¹². The outcome of these two potential impacts, as detailed by the Board is that “the net effect on consumers, both individually and in the aggregate, will depend on which of these two effects predominates, which would in turn depend on many factors and is thus difficult to predict¹³.”

The Electronic Funds Transfer Act (EFTA) requires the Board to demonstrate that “the consumer protections of the proposed regulations outweigh the compliance costs imposed upon consumers and financial institutions¹⁴.” If the Board cannot determine which outcome will occur, and thus, cannot determine if the consumer will benefit from the proposed rule, then it cannot also be upholding the statutory requirement to be able to balance the consumer protection against the compliance costs. We understand and appreciate that promulgating effective legislation is difficult. We also appreciate the Board’s candor about the potential positive and negative effects on consumers. However, Iowa credit unions should not be subject to a regulation which will cause them financial harm, especially when the Board cannot prove a direct, tangible benefit for the members of Iowa credit unions from the proposal.

Conclusion

We appreciate and thank the Board for extending the opportunity to comment and provide feedback on this proposed rule, and for considering what we’ve outlined in this letter. We have endeavored to provide helpful insights into the issues this rule presents to Iowa credit unions. We strongly urge and are hopeful that the Board will not finalize this proposed rule in its current form.

Sincerely,



Murray Williams
CEO/President
Iowa Credit Union League



¹¹ *Id.* at 78116.

¹² *Id.* at 78116.

¹³ *Id.* at 78116.

¹⁴ *Id.* at 78114; *see also*, 15 U.S.C. § 1693b(a)(3).