January 8, 2024 <u>*VIA ELECTRONIC DELIVERY*</u>

Ms. Lorie K. Logan
President and CEO
Federal Reserve Bank of Dallas

Re: Proposed Revisions to Regulation II's Interchange Fee Cap

Dear President Logan:

On behalf of the Louisiana Bankers Association, the New Mexico Bankers Association, and the Texas Bankers Association, we write today to express our serious concerns about the Federal Reserve's proposed revision of the interchange fee cap in Regulation II (Debit Card Interchange Fees and Routing). Our members include banks of all asset sizes, from the smallest in the nation to the largest, and each of them will be impacted – either directly or indirectly – by the proposed Regulation II revisions.

First, we are very concerned that the proposed reduction of the fee cap's base component of 21 cents to 14.4 cents does not adequately reflect the per-transaction transaction-processing costs found in today's marketplace. As staff noted in the proposed rule, when the base component amount was initially set, it corresponded to an "inflection point in the distribution of per-transaction transaction-processing costs across covered issuers that reported these costs on the Board's **voluntary survey**." (*Emphasis added)*

We believe the base component of the fee cap has been skewed since its inception because it is based on the ***voluntarily*** reported data of institutions over $10 billion in assets without regard to the asset sizes of the institutions that chose to report their per-transaction transaction-processing costs in 2009. Per-transaction transaction-processing costs for a $10 billion institution aren't the same as the per-transaction transaction-processing costs for a $100 billion institution, yet Regulation II's debit card fee cap fails to take this into account.

Furthermore, because all institutions have been impacted by the debit fee cap imposed by Regulation II, the across-the-board reduction of the base component for covered institutions fails to recognize that institutions under $10 billion will be disproportionately impacted. The fact that these institutions aren't covered by the statutory language in the Durbin Amendment does not mean they will not be impacted. In actuality, the impact on banks under $10 billion in assets will be felt more acutely. Since the adoption of Regulation II's debit fee cap, banks under $10 billion in assets have experienced a drastic reduction in per-transaction interchange. And, according to the Board of Governors' 2022 "*Average Debit Card Interchange Fee by Payment Card Network",* between 2011 and 2021, small institutions that were exempt from Regulation II saw a 16 percent decline in revenue for single-message network transactions. With the Board's proposed 31.43% decrease in the base component, these institutions will see an even greater reduction. How does the Board envision these small institutions will be able to cover the costs

of their debit card transactions? Will it help American consumers if their banks no longer offer debit cards?

Next, staff noted in the proposed rule that the *ad valorem* component of the debit fee cap is being reduced from 5.0 basis points (multiplied by the value of the transaction) to 4.0 basis points (multiplied by the value of the transaction) because "the issuer fraud losses on which the Board based the *ad valorem* component have fallen". Echoing the concern expressed with the base component decrease, we believe the proposed revision fails to recognize that all issuers – not just those with more than $10 billion in consolidated assets – will be impacted by the *ad valorum* component's reduction. The Board's data shows the number of debit card payments fraud from 2012 to 2015 **more than doubled** from 13.7 million in 2012 to 28.7 million in 2015 and, from 2011 to 2021, across all debit and general-use prepaid card transactions for covered issuers, fraud losses to all parties as a share of the transaction steadily increased. This increase is disproportionately felt by the smallest issuers, especially those below $10 billion. The Durbin Amendment ostensibly only covered institutions over $10 billion; however, all issuers have been impacted, and the proposed reduction in the *ad valorem* component of the fee cap will hit issuers below $10 billion the hardest. If the Federal Reserve Board believes issuers under $10 billion in assets have experienced fewer fraud losses, where is the data justifying this reduction?

Finally, while we appreciate the slight increase in the fraud-prevention adjustment, we simply do not believe it adequately compensates issuers for their investments in fraud prevention. The Federal Trade Commission's *Consumer Sentinel Network Data Book 2022* indicates there were more than 68,000 reports of debit card fraud in 2022 – almost 200 debit cards compromised every day. And, according to the Fed's *2021 Interchange Fee Revenue, Covered Issuer Costs, and Covered Issuer and Merchant Fraud Losses Related to Debit Card Transactions* Report, overall fraud incidences nearly tripled from 2011 to 2021. Cyberattacks against banks are at record levels and rising sharply, meaning debit card issuing banks are investing more than ever in fraud prevention protocols to keep their customers' information safe. The proposed increase in the fraud-prevention adjustment is helpful in offsetting these costs. However, coupled with the more than 30% reduction in the base component and 20% reduction in the *ad valorem* component of the debit fee cap, the fraud-prevention adjustment inadequately provides issuers of all asset sizes with the ability to cover their debit card costs.

We appreciate your willingness to take our views into consideration and hope you will share our concerns not just with your counterparts at the other 11 Federal Reserve Districts, but also with the Federal Reserve Board as a whole. Please do not hesitate to contact us with any questions you may have.

Sincerely,

Ginger Laurent
Louisiana Bankers Association

John Anderson
New Mexico Bankers Association

Chris Furlow
Texas Bankers Association