



May 10, 2024

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

**Re: Docket No. R-1818, RIN 7100-AG-67
Notice of Proposed Rulemaking: Debit Card Interchange Fees and Routing**

Dear Secretary Misback,

7-Eleven, Inc. (“SEI”) appreciates the opportunity to submit this comment in response to the Federal Reserve Board’s (“Board” or “Fed”) Notice of Proposed Rulemaking (“NPRM”) on debit card interchange fees and routing. Congress has entrusted the Board with the critical role of guaranteeing reasonableness, proportionality and competition in the debit card industry. We believe that the current rate established in 2011 is not reasonable and proportional to the allowable costs incurred by the issuer with respect to the transaction. As such, SEI writes to express its support for the Board’s proposal to reduce the maximum debit interchange fee for regulated debit card issuers and to establish a regular process for updating the interchange fee limit every other year.

SEI is one of the largest, best-known, and most successful franchise systems in the world. SEI franchises nearly 7,300 7-Eleven convenience stores in the U.S. to approximately 4,700 independent franchise business owners, the majority of whom own and operate just one 7-Eleven store. In addition, SEI operates close to 6,000 corporate stores under 7-Eleven, Speedway, Stripes, and other banners. SEI operates in 44 states, employing over 72,000 people.

Given our size and experience in the convenience industry we know that consumers would benefit from lower fees and less fraud. Though we operate in an intensely competitive marketplace the equation is simple: when stores save on cost, customers save on prices. This is why we support the Board in their recognition that it is time for the regulated rate to be reduced and for the fees covering fraud losses and fraud prevention to be adjusted. These steps are much needed and long overdue. However, the Fed’s new proposed fee limits are still too high and do not reflect the current reality of the data as discussed below. SEI urges the Board to consider lowering the limit further when writing its final rule. The debit fee limits that the Fed established in 2011 were higher than they should have been then, and as the NPRM notes, they are unquestionably excessive now. Additionally, due to past behavior which has forced the Board to intervene twice to ensure availability of effective routing across competing debit networks, SEI believes it is imperative that the Board safeguard the process for future fee limit adjustments so that banks and card networks are not able to manipulate that limit by inflating or misrepresenting costs. Lastly, transparency will be key for future fee limit adjustments to work in the best interest of businesses, consumers and

the way Congress intended when it passed the Durbin Amendment and mandated that debit interchange fees be “reasonable and proportional to the cost incurred by the issuer with respect to the transaction.” 15 U.S.C. § 1693o-2(a)(3)(A).

Interchange fees are a significant cost and challenge for SEI and our franchise owners. Interchange represents one of the largest operating costs for SEI and our franchise owners, and it is an area where we, on a relative basis, have limited ability to influence or contain costs. Interchange costs have increased substantially over the past decade with little in the way of increased utility and functionality for cardholders. What increased functionality, utility and fraud prevention has been afforded to cardholders over this timeframe has principally been funded by merchants. SEI and our franchise owners strive to provide consumers with the differentiated assortment of products and services they want, whenever and wherever they desire. Accepting a broad set of payment methods is consistent with this convenience proposition. Visa and MasterCard debit card fees are ultimately absorbed by merchants and end consumers.

The current proposed rulemaking by the Fed would lower the debit swipe fee base component from a maximum of 21 cents to 14.4 cents. Though this reduction is a step in the right direction, the Fed’s latest data found that the average allowable costs of covered issuers are “approximately half” of what they were when the rate was initially set. Therefore, SEI argues that it is unreasonable that the NPRM only reduces the base component fee by less than one-third.¹ The NPRM says that it bases its 14.4 cent proposal on a “fixed multiplier” of 3.7 times the actual average covered issuer cost of 3.9 cents, but this fixed multiplier caters too strongly toward low-volume, high-cost issuers in an attempt to hit an arbitrary target of full cost recovery for 98.5% of covered issuer transactions. Additionally, the multiplier is much higher than it was when the Fed finalized its current rule. It would provide a margin of 370%. Businesses in developed market economies simply do not make margins coming anywhere close to 370%.

The proposed rule allows the largest banks who have the vast majority of debit transactions to enjoy a debit interchange windfall that nearly quadruples the amount of their costs. This is neither reasonable nor fair to the merchants and consumers who are forced to pay higher prices when swipe fees are fixed at windfall levels. The final rule should further reduce the 14.4 cent base component limit to a level that reflects that the average allowable costs for covered issuers are now “approximately half” of what they were when the base component fee was set at 21 cents.

The current NPRM would also reduce the *ad valorem* component of the Fed’s debit fee limit, which the Fed designed to cover issuer fraud losses, from 0.05% of the transaction amount to 0.04% in light of the Board’s recognition that “the issuer fraud losses on which the Board based the *ad valorem* component have fallen.”² Again, a reduction is warranted, but the final rule must acknowledge and factor in that big card-issuing banks are increasingly charging back debit fraud losses to merchants and cardholders while continuing to claim that they need higher interchange fees to cover those same fraud losses. Through introduction of EMV standards, impacting both inside merchandise sales transactions and fuel transactions, significant fraud risk

¹ Federal Reserve Board, “2021 Interchange Fee Revenue, Covered Issuer Costs, and Covered Issuer and Merchant Fraud Losses Related to Debit Card Transactions,” October 2023, at p. 3.

² 88 Fed. Reg. 78100.

has been transferred to merchants. SEI has invested hundreds of millions of dollars to upgrade or replace fuel pumps and in-store “Pin Pad” payment devices. Meanwhile, substantial IT development costs have been incurred to support the EMV requirements. Even with these investments, merchants, including SEI, are now absorbing the largest share of ongoing fraud risk.

The Fed’s most recent data found that for covered bank issuers, from 2011 to 2021 the percentage of losses from fraudulent transactions absorbed by issuers decreased from 59.8% to 33.5%, while the percentage of losses absorbed by merchants increased from 38.3% to 47% and the percentage absorbed by cardholders increased from 1.8% to 19.5%.³ The data is clear: merchants absorb more of the costs of fraud losses than the bank issuers absorb. Therefore, the bank issuers should not be able to require merchants to prepay for issuer fraud losses through interchange. The *ad valorem* component of the fee should be eliminated unless and until issuers once again pay for more of the fraud losses than merchants.

The NPRM would also increase the current issuer fraud-prevention adjustment from 1 cent to 1.3 cents per transaction. The Board should not make this adjustment available for all covered issuers, but rather the Board should require each issuer to demonstrate in each data collection period that the issuer is complying with steps that are actually effective in reducing fraud. For example, it is clear from the Fed’s latest data collection that fraud is low and getting lower for single-message (i.e., PIN-authorized) debit transactions, while fraud is high and getting higher for dual-message (i.e., Visa and Mastercard signature-authorized) debit transactions.⁴ Why should issuers automatically get the fraud prevention adjustment amount if they are steering transactions toward more fraud-prone networks and forms of authentication? The law Congress passed requires issuers to comply with fraud prevention standards that are effective in reducing fraud, and the Fed must do a better job of holding issuers to it. SEI has made significant investments to prevent debit fraud, including the aforementioned installation of expensive EMV terminal technology, and issuers should likewise do their part before getting rewarded with the fraud prevention adjustment.

SEI supports the Board’s proposal to regularly update the debit swipe fee limits every other year, especially considering that the limits have not been updated at all in the 13 years since Regulation II was issued. We also urge the Fed to monitor the cost data being submitted by covered issuers to watch out for issuers that try to inflate or misrepresent their costs in an attempt to include non-allowable costs into the calculation. There is an unfortunate history of banks and card networks trying to evade the requirements of the Durbin Amendment, forcing the Fed, the Federal Trade Commission, and the Department of Justice to take action. The Fed must be vigilant in watching out for continued banking industry efforts to manipulate the system under the regular updating mechanism.

Lastly, SEI is concerned that the proposed survey does not provide merchants with an opportunity or formal procedure for raising concerns about submitted cost data. Given the track

³ Federal Reserve Board, “2021 Interchange Fee Revenue, Covered Issuer Costs, and Covered Issuer and Merchant Fraud Losses Related to Debit Card Transactions,” October 2023, at p. 3.

⁴ Federal Reserve Board, “2021 Interchange Fee Revenue, Covered Issuer Costs, and Covered Issuer and Merchant Fraud Losses Related to Debit Card Transactions,” October 2023, at p. 20.

record mentioned above, we deem it prudent for the Board to implement measures of transparency and accountability in the reporting process, rather than simply relying on the banks to report accurate cost data. Mechanisms to verify or evaluate the banks' data would incentivize them to report in an accurate and timely fashion.

In closing, SEI urges the Board to move forward with its proposed fee reductions and its process for regular future adjustments, but with lower fee levels and with careful safeguards to prevent bank and card issuer manipulation of the process. Doing so will benefit businesses, customers and communities across the United States. Thank you for your time and consideration of this important issue.

Sincerely,

David Seltzer
Senior Vice President & Chief Financial Officer
7-Eleven, Inc. (SEI)