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

Description:

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Comments:

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The Federal Reserve Board of Governors (Board) should withdraw the proposed rule for the following reasons:

* This proposal lines the pockets of big box retailers and merchants while harming credit unions and their member-owners. Research and history have shown that following the introduction of the current fee cap, the availability of free and low-cost accounts for consumers declined while merchants saved money. Further reducing the fee cap and by extension debit interchange revenue will only exacerbate these issues.
* This directly impacts consumers. The Electronic Fund Transfer Act (EFTA) requires the Federal Reserve to consider the impact of its regulations on consumers, and research shows that consumers were harmed when the debit interchange fee cap was introduced in 2011 as costs were passed on by issuers. Similar harm is likely to occur if the Federal Reserve reduces the fee cap as proposed.
* This affects credit unions of all asset sizes. The Board has not adequately considered the impact of its proposal on exempt issuers; credit unions that have assets of less than $10 billion. The Federal Reserve's data along with research examining the initial effects of the 2011 fee cap show that even smaller, exempt issuers were harmed when debit interchange rates were reduced for larger issuers. The Federal Reserve's transaction-weighted methodology is flawed. Credit unions that lack scale would be unfairly penalized, as would many other issuers denied full recovery of their costs.

Regulatory pressure on sources of fee income and the high cost of growing debit fraud will put pressure on credit unions to consolidate or eliminate critical programs that low-income populations rely on to end a cycle of debt and reach their financial goals.

Credit unions are less able to absorb reductions in interchange revenue due to their unique, not-for-profit structure. Credit unions with limited capacity to operate debit programs as loss leaders may face pressure to merge, especially in an environment where there is a regulatory agenda to limit fee income.

A proposed reduction in the debit interchange fee cap could disproportionately affect low-income and minority households by reducing the availability of free and low-cost accounts and services. After the Durbin Amendment capped interchange fees, consumer checking account fees grew to cover lost revenue. Low-income households faced challenges maintaining the required minimum balances.

Cash being the preferred choice among low-income households creates problems at the time of electronic payments as most current payment methods require linkage to a financial institution's account, debit card, or credit card.

Further reduction in interchange revenue could also threaten credit unions' ability to return savings and benefits to their members. America's Credit Unions' data shows more than 3,500 credit unions offer free checking accounts.

The cost of preventing and mitigating fraud is growing for credit unions. However, the proposal adopts a limited fraud prevention adjustment which would deny full cost recovery for actual fraud losses for half of covered issuers.

The credit union industry is consolidating due to increased regulatory burdens and compliance costs. The Board's proposal is likely to accelerate this process given that the only way for debit issuers to reduce transaction costs is to achieve scale. When the current fee cap was adopted in 2011, only two out of then 7,386 credit unions were subject to the debit interchange cap. The number of credit unions has decreased by 37.6 percent, and 21 credit unions are now subject to the cap.

The potential closure or scaling down of low-income credit unions would exacerbate financial exclusion for low-income communities, leaving them with fewer options for accessing basic financial services.

The proposed amendments to the debit interchange fee cap will harm credit unions and their members because the Durbin Amendment affects all debit card issuers, even those considered "exempt" (issuers below $10 billion in total assets).

REGULATION II DATA:

From 2012 to 2022, issuers collectively lost nearly $106 billion in interchange revenue, a figure that largely represents what merchants kept in their own pockets. The Federal Reserve Bank of Richmond research reveals the vast majority of merchants did not pass along any of their regulatory savings onto consumers.

A Government Accountability Office (GAO) study ranked the Durbin Amendment among the top five laws and regulations most cited as having significantly affected the cost and availability of basic banking services. Research on the initial effects of the current debit interchange fee cap adopted in 2011 showed the resulting decline in debit interchange revenue translated into reduced access to free accounts, higher fees, and a rise in the number of unbanked consumers.

A study by Federal Reserve economists showed that following the 2011 fee cap, free noninterest checking accounts offered by exempt financial institutions declined by 15.5 percent.

A 2022 study found that fees including minimum balance requirements and maintenance charges fall disproportionately on low- and moderate-income (LMI) communities and majority-minority neighborhoods compared to non-LMI areas.

Among the 21 covered credit union issuers directly subject to the fee cap, the NCUA designates 10 as low-income.

The Board's historical data shows that after introducing the fee cap, debit interchange revenue from single-message network transactions declined 29 percent for exempt issuers.
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