

May 10, 2024

BY ELECTRONIC MAIL

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

RE: Notice of Proposed Rulemaking (“NPRM”) on Debit Card Interchange Fees and Routing (Regulation II), Docket No. R-1818, RIN 7100-AG67

Dear Ms. Misback:

FirstBank Puerto Rico (“FirstBank” or “Bank”), a state nonmember bank under the supervision of the Federal Deposit Insurance Corporation, submits this comment letter in strong opposition to the Board of Governors of the Federal Reserve System’s (“Board”) proposal to reduce the regulated interchange fees cap under Regulation II¹, and to request that the proposal be withdrawn, subject to a thorough assessment of this proposal’s impacts taking into account as well the cumulative impact of recent finalized and pending regulations from other banking agencies.

FirstBank provides full service commercial and consumer banking services, mortgage banking services, as well as other financial products and services in Puerto Rico, Florida, U.S. Virgin Islands and British Virgin Islands. FirstBank conducts its business through its main office located in San Juan, Puerto Rico, and through various banking branches in the aforementioned regions. Since its inception, the Bank has played a fundamental role in improving the quality of life in the regions and communities we serve.

Following are details of the potential impact this proposal will have, including affecting consumers, particularly the low-to-moderate income (“LMI”) segment.

1. **Impact to LMI consumers:** Prior to the Board’s implementation of the Interchange Fee Cap in 2011, nearly 60% of large financial institutions, including FirstBank, offered free deposit account options to consumers, which fell to below 20% as per data from the first several years following the implementation of the Interchange Fee Cap². The Bank discontinued the free deposit account offering and now requires customers to maintain minimum balances or direct deposits to waive monthly fees. At that time, the implementation of the existing cap contributed to the increase in deposit account fees imposed by financial institutions to offset the reduction in revenue caused by the cap on interchange fees. We anticipate that the Board’s current proposal will once again impact consumers, given that it is highly likely that the Bank, and other financial institutions, will need to implement additional fees or increase current fees to offset the impact of the decrease in revenue caused by the changes to the interchange fees structure.

¹ 12 CFR §235

² Sarin, Natasha, “Making Consumer Finance Work,” Faculty Scholarship at Penn Carey Law, 2047 (2019), at 1537, available at https://scholarship.law.upenn.edu/faculty_scholarship/2047.

2. **The Board proposal uses incomplete data:** The Board's NPRM related to Regulation II used incomplete data from 2021, which reflects anomalous pandemic-related behavior. Furthermore, the collected data from 2021 only covers an unrealistic narrow set of bank costs, excluding many important real-world costs, such as: card production and delivery costs, international transaction fraud costs and losses, among other associated costs. The Board should ensure that it is collecting relevant, complete, and accurate data across all covered issuers as part of the proposed rulemaking process. Not only will this proposal constrain the revenue used to facilitate payments, secured systems and technology used, including for fraud prevention, but more importantly it will also deplete revenues used by financial institutions to provide low-cost banking services. We can anticipate that this will directly affect customers who struggle to meet minimum balance requirements or pay monthly maintenance fees on their deposit accounts. The Board should use more recent data to have a better perspective of the costs incurred by issuers in connection with debit card transactions performed in the calendar year 2023.

3. **Impact to investments in innovation and security:** In line with industry trends, the Bank's debit card transactions continue to grow consistently, growing 17% between 2021 and 2023. This increase includes card-not-present transactions, which have had a marked increase since 2019 and represent higher transactional costs for the Bank. Fraud events have also increased significantly, which have resulted in an increase of the Bank's fraud-related losses during this period. While new payment technologies continue to emerge to further facilitate payment transactions, as well as to provide more secure payment mechanisms, such as digital wallets, these technologies impact the transactional costs of a debit transaction. For example, certain digital wallet transactions will increase the cost of a debit card transaction by an estimated 43%. Therefore, a 31.4% reduction to interchange fees income could discourage non-exempt issuers from continuing with current levels of investment in fraud monitoring and prevention, or reducing critical investments in innovation and security. This would result in harm to consumers, small debit issuers, and other participants in the payment ecosystems.

FirstBank urges the Board to withdraw this proposal immediately, conduct research to update its data considering the Board's recently effective card not present transaction routing rule, and to not repropose further rulemaking in this area until the Board has completed significant additional research that calculates current costs to consumers and reflects the real-world experience of covered financial institutions.

Sincerely,

Ginoris López-Lay,
Executive Vice President
Director Strategic Management