



May 10, 2024

**SUBMITTED VIA EMAIL [[regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)]**

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

**Re: Public Comment on NPRM, Docket No. R-1818, RIN 7100-AG67  
Regulation II: Debit Card Interchange Fees and Routing**

Dear Secretary Misback,

I write to express my support for the rule proposed in November 2023 by the Board of Governors of the Federal Reserve System (the “Board”) regarding Debit Card Interchange Fees and Routing (the “Proposed Rule,” Docket No. R-1818). As New York Attorney General, I serve as my state’s chief consumer protection enforcer, and I support the Proposed Rule because I believe it will provide meaningful benefits to consumers and small businesses in New York and nationwide.

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, the Board is required to ensure that “interchange” or “swipe” fees, which banks charge merchants for each debit card transaction, are reasonable and proportional to the banks’ costs for processing such transactions. Accordingly, in 2011, the Board issued a rule setting a cap of about 21 cents per transaction for such fees, applicable only to big and medium-sized debit-card-issuing banks (those with over \$10 billion in assets).

Debit cards are the most popular method of making noncash payments, and the swipe fees banks charged merchants for debit card transactions covered by the 2011 rule totaled almost \$13 billion in 2021, a record high.

The Board has not adjusted the 21-cent swipe fee cap since passing the 2011 rule, which was based on 2009 debit card transaction data. Meanwhile, data recently published by the Board show that banks' average costs for processing debit card transactions have dropped by half, falling from 7.7 cents per transaction in 2009 to just 3.9 cents in 2021. As a result, in 2021, the 21-cent swipe fee cap exceeded transaction-processing costs in over 99% of covered debit card transactions.

Despite the precipitous drop in per-transaction costs, average swipe fees have not dropped below the cap set in 2011, and instead have remained static. It is therefore high time to reduce the fee cap to a level commensurate with banks' costs.

The Board now proposes to lower the interchange fee cap to about 14 cents per transaction. Notably, this is still well over three times higher than banks' average per-transaction cost of 3.9 cents. The Board has explained that its goal is to set the cap high enough to fully cover banks' costs for over 98% of debit card transactions – even those transactions processed by banks that have failed to reduce per-transaction costs in line with industry practice. While I support the Board's Proposed Rule, I recommend that it consider lowering the cap even further, to incentivize outlier banks to bring down their debit card transaction costs, and to better serve consumers.

Because swipe fees are paid by merchants, the vast majority of consumers are likely unaware of them. But these fees nevertheless negatively affect consumers, as demonstrated by research cited by the Board showing that retailers pass along much of the burden of interchange fees in the form of higher prices. Moreover, these fees represent a significant portion of overall costs for many merchants – especially smaller independent retailers. Savings from lowered swipe fees, if not passed along directly to consumers, could be used to hire more employees or improve service. Indeed, because retailers in many markets operate in a highly competitive, low-margin environment, they will often face intense market pressure to pass along the savings from lowered swipe fees to their customers, either in the form of lower prices or improved products or services.

Lowering the cap on swipe fees could further benefit low-income consumers by increasing debit card acceptance by merchants who do not currently accept debit cards in certain circumstances, like e-commerce transactions or low-dollar purchases. Encouraging greater acceptance of debit cards for all sales would help those without access to alternative non-cash payment methods, like credit cards.

While the retail industry is generally highly competitive, the data cited by the Board suggest that market competition is failing to successfully curb bloated swipe fees. This is demonstrated by the fact that average fees for debit card

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transactions have stayed right at the 21-cent cap set in 2011, and that these fees are on average *over five times higher* than banks' per-transaction costs (again, 3.9 cents as of 2021). Regulatory intervention in the form of the Proposed Rule – or an even lower fee cap – is therefore warranted.

I thank the Board for considering these comments and for taking much-needed action in this area.

Respectfully submitted,

A handwritten signature in blue ink that reads "Letitia James". The signature is written in a cursive, flowing style.

LETITIA JAMES

New York Attorney General