THE VOICE OF FOOD RETAIL

Feeding Families Enriching Lives

March 22, 2016

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Docket ID FFIEC–2014–0001
Re: Review of Regulations under the Economic Growth and Regulatory Paperwork Reduction Act – Comments on 12 CFR Part 235 [Reg II] on Debit Card Interchange Fees and Routing.

Food Marketing Institute (FMI) is pleased to offer our comments and perspective on 12 CFR Part 235 [Regulation II] on Debit Card Interchange Fees and Routing as part of the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA). FMI firmly believes the debit card interchange fee and routing reforms are effective, successful and have introduced long needed transparency and competition into the market.

In 2010, Congress reformed the debit market by directing the Federal Reserve Board (FRB) to set interchange caps that are reasonable and proportional to their costs in processing debit transactions. The caps apply to those banks with over $10 billion in assets. It is important to note that any bank over the threshold could opt to come out from under the caps if it chooses to set its own interchange rate instead of having it centrally set by the card brands. Unlike how banks traditionally set prices on their products, banks have chosen to have the card brands centrally set the interchange prices for the debit and credit cards that they issue. Therefore, if a bank elects to start setting its own prices they would no longer be subject to the caps. After reviewing the banks' costs of accepting debit and being heavily lobbied by the banks, the FRB capped debit interchange at such a level that it ensured the majority of issuers were guaranteed to enjoy substantial profits for processing debit.

It is important to note that over 98% percent of banks are exempt from the interchange caps and continue to collect higher interchange on debit transactions. In spite of the high cap, American consumers have benefited from the reforms. By bringing the first piece of transparency and predictability into the debit market, for the first time, merchants have an idea of how much it costs them to accept debit cards issued by the largest banks and have passed any savings they have seen along to the customer. The grocery business is incredibly competitive and operates on very low profit margins; any time a grocer can find savings, they pass it along to their customers in an effort to keep costs as low as possible and remain competitive.

FMI and other merchant groups would argue that the Federal Reserve Board set the caps higher than necessary. The banks' own self-reporting has shown their costs of accepting debit has decreased since the reforms were implemented. By law, the FRB must review the debit caps this year. We hope the FRB considers the banks' data that shows their costs have gone down and lowers the caps, respectively.

Additionally, the current FRB debit rule allows banks to collect an additional five basis points for fraud prevention. As the U.S. continues to migrate to EMV, merchants would argue that the ability for banks to collect both for fraud prevention and shift the liability for fraudulent transactions onto the merchant is essentially double dipping. The allowance for collecting the additional basis points should be removed once a bank issues chip-enabled cards.

In addition to the interchange fee caps, the debit reform law also brought competition into the debit routing market for the first time. The law requires a card issuer to enable every debit card with more than one routing option for the merchant to choose from. Merchants could now choose network routing options based both on cost and security. This was an essential first step in finally opening up the market to real competition. By giving the merchant the ability to pick a routing network for a debit transaction, networks would actually have to compete both on price and services for the merchant's business. This is a very important piece of the debit reforms and FMI, our members and the entire merchant community believe it should not only be preserved but strongly enforced and even further opened up to more routing options beyond just two.

The cost of routing is only one piece that a merchant considers when choosing a network. The grocery industry is fully PIN-enabled. Grocers accept PIN transactions every day on all SNAP and electronic WIC transactions. PINs establish that the person presenting the card is indeed authorized to use that card. The same is true with PIN debit; it is a much more secure transaction than the antiquated signature form. Unfortunately, current card network rules prohibit merchants from requiring a PIN on a transaction, which in turn subjects merchants to greater criminal activity and removes the merchant's legal right to choose how to route a debit transaction. To further protect the consumer, the merchant and the entire payment ecosystem from greater criminal activity, the FRB should aggressively enforce the merchant routing choices guaranteed in the debit reform law.

Like all industries, those in the grocery business are always concerned with over-government regulation and overly burdensome red-tape, and we appreciate the FRB's interest in reviewing current regulations. Grocers believe that regulations should only address situations where the market is broken or cannot self-correct. The debit card market was ideal for reform as the lack of competition harmed both the consumer and our economy as a whole. It is clear that the 2010 debit reform laws have proven to not be an undue burden, nor have they harmed the banks clearly exempt under the law. Instead, the reforms took the much needed first step to bring transparency and competition into a market that has been hidden from both the merchant and consumer for far too long. Reforming the debit market was the first step in a much needed process of opening our U.S. payments system up to real competition and transparency for all to better understand the true cost of accepting cards.

Thank you again for your interest in this very important issue and for the opportunity to comment on the positive outcomes from these reforms. While we believe the caps should be lowered and there should be more competition in the routing space, not less, we strongly stand behind the law.

Sincerely,

Jennifer Hatcher
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