Indiana Credit Union League

The association of Indiana credit unions

August 11, 2021

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

Re: Debit Card Interchange Fees and Routing (Docket No. R-1748, RIN 7100-AG15)

Dear Ms. Misback:

The Indiana Credit Union League (ICUL) appreciates the opportunity to submit comments on the Notice of Proposed Rulemaking involving Debit Card Interchange Fees and Routing. The ICUL member credit unions represent 99% of assets and members of Indiana's credit unions, with those memberships totaling more than 2.7 million consumers.

The expansion of the routing requirements to all "card-not present" debit transactions will adversely affect the credit unions and their members. Indiana credit unions actively offer payment products and support as a service to their members that allows them to have access to their funds and to purchase items from merchants. This has been a critical service during the COVID-19 pandemic. While credit unions receive revenue from debit card transactions, that revenue is used to offset the expenses associated with this service, a significant portion of which covers fraud items that credit unions are required to absorb. The proposed expansion of the routing requirement to all "card-not-present" transactions would negatively impact these revenues, which will ultimately impact the services provided to credit union members.

In the decade since the Dodd-Frank Wall Street Reform and Consumer Protection Act passed and the Federal Reserve implemented its interchange fee caps and network exclusivity and network restriction provisions, studies have shown that revenue to card issuers has substantially decreased while the largest retailers have reaped the benefits without passing the savings on to their customers. Conversely, card issuers, like credit unions, frequently use interchange revenue to offer free checking accounts with lower minimum balance requirements, rewards programs, and complex fraud prevention programs that all directly benefit consumers. Further extending the network exclusivity and network restrictions to card-not-present transactions will only make this revenue shift to large retails worse and would harm consumers who likely would see a decrease in the benefits they receive from card issuing financial institutions.

In making this proposal, the Federal Reserve Board suggests that the proposed rule is merely a clarification of existing network requirements for debit cards noting that when the initial Regulation II was promulgated that card-not-present transactions were not as common and that the market had not developed solutions to broadly support multiple networks over which merchants could route such transaction. Implicit in this proposal is that it is a simple leap to assume that adding a second network option for debit transactions in card-not-present transactions is commensurate with having a second network option for card-present transactions. This is a false assumption and there should be significantly

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more consideration of the distinctions between card-not-present transactions and card-present transactions and the role that networks play in these transactions. The primary difference in these transactions is that the risk of fraud is significantly higher in card-not-present transactions and the costs of debit card fraud are overwhelmingly borne by card issuers.

One significant way that card issuers have been able to mitigate the increased risk of card-not-present transactions is to more tightly limit the networks (and thus the types of transactions) through which a transaction can be routed. Different networks and transaction types offer different protections against fraud, including the ability of issuing institutions to charge back fraud to the merchant. Credit unions manage the transactions they support with these differences in mind and work to offer members the most secure experience, minimizing fraud events. This proposed rule would make it more difficult for fraud-conscious credit unions and members to manage how debit transactions are processed leaving it up to merchants to choose the networks on which transactions are routed. Unfortunately, because merchants bear very little of the cost of fraud, their decision-making may not be as focused on fraud prevention but would be on their own cost savings at the expense of consumer protection.

This proposal makes it difficult for credit unions and their members to manage how transactions are processed. Consumers expect their financial institutions to protect them against any fraud and expect the financial institutions to make them whole regardless of whether transaction is fraudulent or is due to the consumer's lack of prudent safekeeping of the access device. Credit unions will be placed in an even more precarious position because there are less controls for them to mitigate the risk. Our industry has worked hard to improve payments security and it will be unfortunate for the proposed requirements to remove the tools that financial institutions have in place to protect consumers.

Operationally, we have concerns, too. Because there has been no study of the impact of this new requirement, there is uncertainty about how the new requirement will affect a credit union's operations and core processing system. In addition, the changes would likely impact contractual agreements with cardholders that credit unions would need to address. Those contracts will need to be updated to address any new changes, which in turn, adds another layer of cost.

The Indiana Credit Union League appreciates the opportunity to comment on this Notice of Proposed Rulemaking. Expanding network requirements for debit card transaction processing for card-not-present should not be approached as a minor technical clarification, but instead should be fully studied to understand the fraud risks and additional costs to card issuers and consumers. We encourage the Board of Governors of the Federal Reserve to abstain from moving forward with the proposed provisions and call for more study and a significant revision. During these trying times for credit unions and our nation, forcing credit unions to divert resources to comply with this harmful proposed rule will ultimately end up affecting consumers by inhibiting them from getting faster payment options offered through a competitive payment marketplace.

If you have any questions about our letter, please do not hesitate to give me a call at (317) 594-5320.

Sincerely,

John McKenzie

John McKenzie
President, Indiana Credit Union League