

From: Robert L Dupree
Proposal: FR 3063a, FR 3063b, and FR 3064a, FR 3064b (ICP #11-16)
Subject: Govt. Prepaid Card & Interchange Transaction Fees Surveys

Comments:

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Name: Robert L Dupree

Comments:

I would like to see a movement back to the way things were before the Glass-Steagall Act was repealed. Banks should be limited in their investments to lending money to either the Federal Government or to either individuals or business - depending on their charter. Everything is way out of hand. They behave like hedge funds and are move large quantities of securities in and out of the market using computers to time their activities. This adds to volatility and causes all classes of securities to be closely correlated with each other.



**National Association
of Federal Credit Unions**
3138 10th Street North
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NAFCU | Your Direct Connection to Education, Advocacy & Advancement

November 14, 2011

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW.
Washington, DC 20551

RE: FR 3064a (debit card issuers); Comments on the Federal Reserve Board's Debit Card Issuer Survey.

Dear Ms. Johnson:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the nation's federal credit unions, I am writing to provide NAFCU's comments on the Federal Reserve Board's (the Board) request for comment regarding surveys to be conducted to help implement § 920 of the Electronic Fund transfer Act (EFTA). NAFCU has thoughts on several issues regarding the survey. First, the survey does not provide sufficient detail regarding exactly how costs should be reported. Second, the survey should collect additional information regarding issuer costs beyond "allowed costs." Third, NAFCU is concerned with some aspects of the survey in regards to fraud. Fourth, the Board should consider surveying institutions or employing other methods to determine the cost for issuers with less than \$10 billion in assets.

Additional Details Required for Reporting Costs

It would be helpful if the survey provided more information regarding how issuers should report costs. The survey does provide a list of the "allowed costs" as defined in the regulation. Debit Card Interchange Fees and Routing, 76 Fed. Reg. 43,394, 43,430 (July 20, 2011) (to be codified at 12 C.F.R. pt. 235). The survey glossary of terms also provides a slightly more detailed description of the costs that should be included. Nonetheless, the survey could likely benefit from an improved and more precise description of exactly what costs issuers should include. Specifically, the Board's description of costs associated with authorization, clearance and settlement is somewhat vague. It is actually possible that some issuers would prefer the flexibility that comes hand-in-hand with the somewhat vague explanation of costs the survey provides. Nonetheless, more precise definitions generally and specifically with regard to authorization, clearance and settlement would be beneficial. Additional guidance in this regard will enhance uniformity and improve the accuracy of the survey results.

The Board Should Collect Additional Information Regarding Issuers' Costs

Second, it may ultimately prove useful if the survey gathers data on cost information beyond those costs the Board has currently chosen to include in the interchange rate. In its final rule, the Board explained, in detail, those costs that it chose not to include in the interchange fee.

Debit Card Interchange Fees and Routing, 76 Fed. Reg. 43,394, 43,427-29. The Board chose to exclude, among other things, the cost of producing and delivering debit cards, research and development and the cost of performing due diligence. The Board determined these costs were inappropriate to include because they are not specific to a particular transaction and thus were prohibited from inclusion by § 920. Nonetheless, it would be valuable to collect data on the actual, total cost of operating a debit card program, even though the statute only allows for recovery of some of those costs. Requesting data on the total cost of operating a debit card program would provide the Board additional information that may be instructive going forward. Further, as the Board is obviously aware, there has been a very sharp debate over some banks' decisions to implement a fee for debit card use. Further, there has been and likely will continue to be legislative efforts to amend § 920. Legislation considered in the Senate earlier this year that would have altered §920 and potentially required inclusion of several costs, which the Board excluded, actually garnered a majority in the Senate (54-45) but failed to pass because of a filibuster threat. Given the ongoing debate on this issue and the potential for change in the future, it might very well be helpful if the Board begins collecting data on all costs associated with debit card interchange in this survey.

Suggested Changes to the Section Regarding Fraud

The section regarding fraud could be improved in some ways. First, the Board specifically asked for comment regarding the check list of fraud activities. The check list is a good starting point, and the "other" option does provide issuers the opportunity to add costs not included in the survey. However, the check list should be a non-exhaustive list that issuers can add to as necessary. Accordingly, it would be helpful if the survey allows issuers to add more than one field under the "other" option. Further, one type of fraud that does not appear to be covered in section 7b is cardholder fraud, which occurs when a card is used to purchase items by the cardholder, then fraudulently reported as stolen after the fact. Another concern is that 7b request that fraudulent transaction be reported in only one category. Some fraud may not neatly fall within one defined category. Consequently, issuers may not retain information in a way that makes it easy to report each instance of fraud in such clearly defined categories, without overlap.

In addition, NAFCU strongly recommends that the Board request additional information regarding fraud related losses that can be linked to data breaches. This information should not be an additional option within 7b as information compromised during a data breach may ultimately lead to fraud that could fall under any of the categories listed in 7b. Instead, the survey should ask if the issuer can link particular losses to a specific data breach or breaches. If so, the survey should ask the issuer to itemize the total losses associated with each data breach. This information would be helpful in a number of ways. First, it may prove useful as the Board considers the fraud adjustment in the future. Second, given the growing number and the severity of data breaches over the last several years, data of this nature would obviously be useful. The data would likely serve as the most comprehensive summary of costs associated with data breaches, at least among large institutions. Further, the information could be used to help target areas, industries or procedures where data protection could be improved.

The Board Should Gather Information from Exempt Issuers

Finally, NAFCU requests that the Board survey issuers with less than \$10 billion in assets. NAFCU has discussed this issue with Board staff and is aware of the Board's position. To briefly summarize the issue, NAFCU – like much of the financial services industry – believes the capped interchange rate will ultimately become the default rate for all card issuers, regardless of size. Accordingly, it is logical to base the capped rate on the actual costs for all card issuers. Although the Board stated that it will only survey institutions with more than \$10 billion in assets (because the statute only explicitly applies to such institutions) nothing in the statute explicitly restricts the Board from surveying smaller institutions regarding their costs. In fact, § 920(a)(3)(B) specifically grants the Board discretion to gather information it “considers appropriate and in the public interest.” If, as many expect, the capped rate impacts the entire industry, the Board would be well served by beginning to collect cost data for all issuers beginning now. Setting a capped rate based only on the costs of large issuers but that ultimately impacts all issuers, regardless of size certainly impacts the public interest. Smaller institutions would be disproportionately impacted if the scenario above comes to pass. Consequently, member of credit unions and community bank customers would be impacted, potentially creating highly undesirable unintended consequences regarding both the cost and availability of debit cards. Accordingly, it is both (1) prudent and (2) within the Board's authority to survey institutions with less than \$10 billion in assets regarding the costs of processing debit card transactions. The survey should not be mandatory. However, with some simple outreach efforts, the Board could likely collect data on a regular basis from a significant number of small, medium and large debit card issuers with less than \$10 billion in assets. Given that there would be little, if any, additional burden on the Board, there is no reason not to invite issuers with less than \$10 billion in assets from completing the survey. At the same time, gathering information on smaller issuers may prove helpful in allowing the Board to respond sooner in the event that Congress or the Board determines that the costs of smaller issuers should be considered.

NAFCU appreciates the opportunity to share our thoughts on the proposed survey. The interchange fee issue continues to be a key concern to our members. If you have any questions or concerns, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Dillon Shea". The signature is fluid and cursive, with the first name "Dillon" and last name "Shea" clearly distinguishable.

Dillon Shea
Regulatory Affairs Counsel

November 14, 2011

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

**Re: Proposed Agency Information Collection Activities; Comment Request:
Interchange Transaction Fees Surveys – Issuers (FR 3064a)
FR Doc. 2011-23614; Billing Code 6210-01-P**

Dear Ms. Johnson:

On behalf of RBS Citizens, National Association and Citizens Bank of Pennsylvania (the “Banks”), we welcome the opportunity to respond to the comment request (the “Comment Request”)¹ issued by the Board of Governors of the Federal Reserve System (the “Board”) on September 15, 2011 regarding the proposed Regulation II Debit Card Issuer Survey, FR 3064a (the “Interchange Issuer Survey”). The Comment Request solicits input on several proposed surveys, including the Interchange Issuer Survey, which will be used by the Board to gather industry information necessary for the Board to meet its obligations under Section 920(a) of the Electronic Funds Transfer Act (the “EFTA”),² as added by Section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”),³ and Regulation II.⁴

By way of brief background, RBS Citizens, National Association is a national banking association located in Providence, Rhode Island and Citizens Bank of Pennsylvania is a state-chartered savings bank located in Philadelphia, Pennsylvania. The Banks are the wholly-owned subsidiaries of Citizens Financial Group, Inc. (“CFG”), a financial holding company registered with, and subject to the regulations of, the Board. CFG is a U.S. subsidiary of The Royal Bank of Scotland Group PLC, Edinburgh, Scotland.

The Banks support the positions described in the Associations’ comment letter. As a threshold matter, the Banks write in general support of the comment letter submitted jointly by the American Bankers Association, The Clearing House Association L.L.C., the Consumer Bankers Association, the Credit Union National Association, The Financial Services Roundtable, the Independent Community Bankers of America, the Mid-Size Bank Coalition of America, and the National Association of Federal Credit Unions (collectively, the “Associations”), and specifically in support those portions of the Associations’ comment letter addressing issues related to the proposed Interchange Issuer Survey. As noted by the Associations, the Banks believe that the proposed Interchange Issuer Survey lacks necessary specificity to ensure responses and data provided by regulated issuers is consistent and useable by the Board in performing its obligations under Section 920 of the EFTA and Regulation II.

The Banks also support the Associations’ conclusion that the cost data requested by the Interchange Issuer Survey may be incomplete and fail to consider the *full* costs of an issuer’s debit program, including those not currently considered by the Board to be recoverable by issuers through interchange fees. Moreover, as proposed, the Interchange Issuer Survey requests certain information, particularly that regarding network incentives, that is of limited value on an individual or aggregate basis and may lead to inaccurate conclusions given the nature of the request and the manner in which a response would be required to be reported in the Interchange Issuer Survey. Information regarding certain fees, incentives and rebates can only be interpreted fairly in the context of the unique facts and circumstances related to a particular issuer’s relationship with a particular network and the network’s affiliates, and would be of limited use on an aggregate basis. As a result, this information would not be appropriately relied upon by the Board in establishing additional policies or guidance under Regulation II that would be more generally applicable to all regulated issuers.

For these reasons, the Banks respectfully request that the Board carefully consider the Associations’ comment letter and revise the final issuer Interchange Issuer Survey in a manner that captures issuer cost data related to electronic debit transactions without unnecessary burden on those issuers, including increasing the specificity of the information request to ensure consistent reporting by all regulated issuers.

The Banks additional comments to the Interchange Issuer Survey. As noted, the Banks fully endorse and support the Associations’ comment letter; the remainder of this letter addresses the Banks’ responses on those portions of the Comment Request where the Board has specifically asked a question or requested comment and the Banks have particular insights.

¹ *Proposed Agency Information Collection Activities; Comment Request*, 76 Fed. Reg. 57,037 (Sept. 15, 2011).

² 15 U.S.C. § 1693o-2(a).

³ Pub. L. No. 111-203, 123 Stat. 1376 (2010).

⁴ *Debit Card Interchange Fees and Routing*, 12 C.F.R. Part 235.

1. *Confidential treatment of Interchange Issuer Survey data.*⁵ Data and information provided in response to the Interchange Issuer Survey is of the greatest utility to the Board when it represents a clear and concise summary of the actual costs and fees paid by an issuer. To the extent that this information is provided on a network-specific basis, it would necessarily become more commercially-sensitive to the issuer and therefore be entitled to confidential treatment under the Freedom of Information Act.⁶ Accordingly, the Interchange Issuer Survey and the final instructions thereto should incorporate the Board's existing policies and regulations regarding the confidential treatment of business and financial information, the release of which would be competitively harmful to the disclosing issuer. The final Interchange Issuer Survey should therefore provide issuers with specific guidance and method for providing confidential portions of the Interchange Issuer Survey to the Board. The contents of the confidential information could easily be used by the Board on an aggregate basis, but would not be released with respect to the specific issuer.
2. *Issuer reporting should be conducted at holding company level.*⁷ Issuers subject to the reporting requirements of the Interchange Issuer Survey and Regulation II are determined by the consolidated asset size of their operations and the operations of their affiliates. To the extent that reporting burdens impose additional costs on issuers, these reporting requirements should be structured at the holding company level to permit the issuer and its affiliates to allocate such costs appropriately within the organization. CFG notes that it took more than 160 hours to respond to the Board's 2010 survey instrument, which is at least twice the estimated average response per issuer contained in the Comment Request. CFG estimates that requiring the Banks to report separately on a biennial basis would require the use of multiple functional areas within both institutions and would add approximately 50 percent in time and costs to the response.

Additionally, the Interchange Issuer Survey and Regulation II necessitate that issuers make capital investments and allocate additional management time to establish the cost-tracking scheme and methods necessary to report information requested by the Interchange Issuer Survey. Requiring this investment be made independently across all issuers will increase the compliance costs associated with Regulation II without providing the Board with corresponding increases in the benefits associated with the reported information.

The Banks believe that such estimates of time and costs for the proposed responses are likely similar across all regulated issuers, the Banks suggest that reporting at the holding company level, rather than at an issuer-by-issuer basis within a holding company structure, is a more cost effective and efficient method of reporting on the Interchange Issuer Survey, while simultaneously providing the Board with sufficient information to meet its obligations under Section 920(a) of EFTA.

3. *PIN and signature terminology is sufficient in Interchange Issuer Survey.*⁸ The Banks believe that use of the terms "PIN" and "signature" is sufficient in the Interchange Issuer Survey. References to "single-message" and "dual-message" are understood to mean the same as PIN and signature, respectively, even if there are specific instances where a PIN or signature are not required for an electronic debit transaction.
4. *Prepaid reporting should be done separately.*⁹ The processing environment for electronic debit transaction initiated by a prepaid card is significantly different from electronic debit transactions related to a general debit card established by an issuer for access to a cardholder's demand deposit or other transaction account. These differences include scale, pricing and functionality of the prepaid program vis-à-vis an issuer's general debit card program. Accordingly, the Banks believe that prepaid card activity should be reported separately.
5. *Guidance in the Interchange Issuer Survey should be modified to reflect additional specificity requested in Associations' comment letter.*¹⁰ The Banks believe that the instructions and definitions used in the Interchange Issuer Survey provide an insufficient level of clarity. However, as noted in the Associations' comment letter, additional clarity regarding the terms used in defining issuer costs and fees should be amended to reflect a final Interchange Issuer Survey that ensures that all data from responding issuers is consistently provided and enables the Board to accurately evaluate the full costs and fees associated with debit program management.
6. *If a fraud prevention activity checklist is used, items should be clearly defined.*¹¹ To the extent that the Board uses a checklist of fraud prevention activities, the Banks believe that the Board should clearly define each item within the checklist. However, the checklist should not be an exclusive list or limit an issuer's ability to include activities (and the associated fees and costs) that

⁵ See 76 Fed. Reg. 57,040 (regarding discussion of confidential treatment of reported information).

⁶ See 5 U.S.C. 552(b)(4).

⁷ See 76 Fed. Reg. 57,040 (requesting comment on "feasibility of requiring each chartered entity that issues debit cards to comply a separate survey rather than requiring a holding company to complete one survey for all its chartered entities[.]").

⁸ See 76 Fed. Reg. 57,040 (requesting comment on PIN and signature versus single-message and dual-message terminology for processing electronic debit transactions).

⁹ See 76 Fed. Reg. 57,040 (requesting comment on reporting of general-use prepaid card data).

¹⁰ See 76 Fed. Reg. 57,041 (requesting comment on whether guidance in the proposed survey is sufficient).

¹¹ See 76 Fed. Reg. 57,041 (requesting comment on the usefulness of a fraud prevention checklist).

may be unique to the manner in which the issuer engages in fraud prevention activities. Such a non-exclusive checklist will also help ensure a greater likelihood of substantial compliance by survey respondents as the burden of reporting such information will be somewhat mitigated. As noted throughout this and the Associations' comment letters, clarity is vital to ensuring that all regulated issuers are providing consistent responses on the Interchange Issuer Survey. Additionally, clear and, as appropriate, broad definitions will ensure that fees, costs and other disparate elements of the widely-varying fraud prevention platforms and technologies are reported similarly, though internal nomenclature or policies with respect to such platforms and technologies may vary widely.

In the absence of a checklist, clear and non-exclusive examples should be provided in the general instructions to help issuers understand what should appropriately be included in the fraud prevention items in Section II of the Interchange Issuer Survey.

7. *Sufficiently clarity should be incorporated into items requesting data and information regarding network payments and issuer incentives.*¹² Network payments and issuer incentives are generally the essence of business terms and confidential commercial relationship developed between an issuer and the payment networks. To the extent that such information is requested by the Board in a checklist or similar form in the Interchange Issuer Survey, such information should be defined in sufficiently broad and clear terms to allow issuers to allocate and report incentives by type or purpose. However, as noted above, to the extent that this information represents commercial and financial information, the public release of which could potentially cause competitive harm to an issuer, such information should be clearly afforded confidential treatment by the Board and exempt from public disclosure. Additionally, the Banks support the Associations' position that, reporting certain payment and incentive information in isolation and without due consideration of the facts and circumstances related to the issuer's specific debit card program, may result in misleading and inaccurate interpretations of the issuer's compliance with Regulation II. Examples of relevant facts and circumstances referenced above include:

- Network-issuer relationship scale and impact of other network relationships; and
- Other, non-network/routing relationships or services provided by a network-affiliated company (e.g., transaction processing, ATM driving, card issuance, servicing).

8. *Customer servicing costs should be allocated and reported using a logical methodology.*¹³ The Banks believe that most issuers track customer inquiries by type (e.g., balance inquiry, debit or online bill payment) and have reporting systems in place to report at this level. Issuers should be permitted to report debit card servicing costs on an allocated basis using a logical and defensible methodology, at the issuer's discretion. For issuers unable to provide system-generated servicing costs for debit card transactions, a non-exclusive list of permissible allocation methodologies should include:

- Percentage of customers actively transacting via debit; and
- Percentage of all customer transactions (debit, check, teller, ATM, online bill payment, etc.).

* * * * *

RBS Citizens, National Association and Citizens Bank of Pennsylvania appreciate the opportunity to respond to the Board's Comment Request. We look forward to continuing to work closely with the Board to implement the requirements of the Dodd-Frank Act.

Sincerely,



Brad Conner
Vice Chairman, Consumer Banking
Citizens Financial Group

cc: Shagufta Ahmed, OMB Desk Officer

¹² See 76 Fed. Reg. 57,041 (requesting comment on payment and incentive allocations).

¹³ See 76 Fed. Reg. 57,040 (requesting comment on allocation of customer service costs).



Wells Fargo & Company
420 Montgomery Street
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November 14, 2011

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551
regs.comments@federalreserve.gov

Re: Proposed Agency Information Collection Activities; Comment Request:
Proposed Regulation II Debit Card Issuer Survey (**FR 3064a**), and Government-
Administered, General-Use Prepaid Card Issuer Survey (**FR 3063a**)

Dear Ms. Johnson:

This letter is submitted on behalf of Wells Fargo & Company and its affiliates (“Wells Fargo”) in response to the Comment Request for Proposed Agency Information Collection Activities under the Electronic Fund Transfer Act (“EFTA”) Section 920(a), published in the Federal Register on September 15, 2011 at 76 FR 57037 (the “Survey Proposal” or “Surveys” collectively and “Debit Issuer Survey,” and “Government Prepaid Issuer Survey”)¹. Wells Fargo appreciates the opportunity to comment and respectfully requests the members of the Board of Governors of the Federal Reserve System (“Board”) consider adopting the suggestions set forth herein.

The Wells Fargo vision to satisfy all of our customers’ financial needs and to help them succeed financially is a driving force in the way we do business. Engaging in responsible lending practices, encouraging consumers to make responsible and successful financial choices and conducting business with honesty and integrity, are already at the heart of our vision. It is our

¹ While the Board has requested comment on four surveys, we are limiting our response to the Debit Issuer Survey and Government Prepaid Issuer Survey.

practice to build our business processes and strategies in compliance with all applicable laws and regulations.

Wells Fargo supports the Board's commitment to improving the information collection pursuant to the EFTA and Regulation II ("Regulation"); this letter provides Wells Fargo's comments to the Survey Proposal.

Summary of Key Comments:

- I. Complete, Accurate and Specific Surveys Will Produce Results Suitable for Analysis to Fuel Further Refinement to Regulation II**
- II. Collection of All Costs Related to Electronic Debit Transactions is Essential for a Thorough Review of the Industry as it Relates to Section 920(a)**
 - A. Data Collection Should Not Be Limited to Current Status**
 - B. Further Classification Is Needed in Defining Costs**
- III. Gathering Information from Industry Participants in the Best Position to Provide it Ensures More Complete Information and Spreads the Reporting Burden More Fairly**

Discussion:

General Comments on the Surveys

As a bank issuer issuing many types of debit and prepaid cards, Wells Fargo is providing comments on the proposed Issuer Interchange Survey and Government Issuer Survey.

When finalized, the Surveys will be a key instrument for the Board in implementing Section 920(a), including changes to the Regulation. The Surveys could also influence the statute's future language. Inevitably, the Surveys and their results will have considerable impact on the debit card electronic fund transfer industry. Therefore, Wells Fargo believes it is critical the Surveys gather high quality data.

In reviewing these Surveys, there are a number of reoccurring themes which create general concerns and challenges with respect to the information requested in the Surveys, and hence, the perceived value and usefulness of the resulting data. We also strongly believe the Board is also called upon to ensure that each Survey respondent is provided sufficient time to reply to the Surveys, and request that none of the four Surveys be issued before mid-February 2012, and that all maintain a sixty (60) day response period. Given the timing of the effective date of the Regulation, we also request that the reporting time periods be set as January 1, 2011 through September 30, 2011], and October 1, 2011 through December 31, 2011 for the 2011 reporting period. Lastly, we encourage the Board to consider permitting respondents to report at a holding company level in order to ease the burden of multiple responses.

We encourage the Board to revise the Surveys to meet the goals set forth below.

I. Complete, Accurate and Specific Surveys Will Produce Results Suitable for Further Analysis to Fuel Further Refinement to Regulation II

Wells Fargo believes the Board will best fulfill its statutory mandate and serve the public and industry by utilizing Surveys that completely and accurately gather issuer cost data related to electronic debit transactions without placing an unnecessary burden on respondents. This process will ensure that the Board is well-informed with respect to the prevailing conditions and nuances of this type of payment method. Such information will ensure the ability to recognize and respond to changing conditions. Wells Fargo believes there are several areas within the Surveys which may be revised to increase their completeness, accuracy and specificity.

First, there is a lack of precision in some of the language used in various sections. Such ambiguity could result inconsistent responses, that would cause conflicting data aggregation and reporting, resulting in reduced data quality that could drive inconclusive and/or inaccurate findings.

For example, some Survey language significantly differs from some respondents' established business practices: the phrase "cost of authorization, clearing and settlement" in the Debit Issuer Survey. One way to assist in remedying this issue across respondents, so data can be accurately and fairly compared, would be for the Board to add more definitions and/or examples to assist the respondent. Wells Fargo urges the Board to provide more instructional information to allow issuers to more easily understand what is permitted in the Regulation and what numbers the Board is seeking.

Likewise, the Surveys must ensure that data from issuers using differing accounting systems are filtered to make them consistent, accurate and useful for comparison purposes. Currently, the Surveys lack any reconciliation of U.S. Generally Accepted Accounting Principles (GAAP) and International Financial Reporting Standards (IFRS). Without that reconciliation, the Survey results can be easily characterized as skewed, or even misleading, and therefore a poor basis for Board decision making. The Board has previously acknowledged such concerns surrounding data in its June 2011 report on the 2010 surveys.² One area in which this is particularly relevant is in allocating costs across products or years of reporting. Similarly, areas in which the cost method analysis may differ, such as per transaction or per volume or revenue metric, also cause variance that may limit the usefulness of the data. We encourage the Board to utilize its internal resources in addressing accounting disparities.

Similar to the above, Wells Fargo believes the Board should re-evaluate its inclusion of an issuer's incentive amounts (payments) in the Survey. Such inclusion appears to stem from a desire to categorize amounts (which may or may not be a direct payment) across all issuers for comparison purposes. Such payments are so individualized to each issuer and situation with a network, that such comparison is necessarily questionable. We urge the Board to consider

² Board of Governors of the Federal Reserve System, Report to Congress on Government-administered, General-use prepaid cards (July 2011).

eliminating the Survey section addressing incentives, and instead address the issue on an individual basis via examination. That process will inevitably be the process used to accurately gather and analyze such information in any event.

Finally, Wells Fargo encourages the propagation of an interactive process between respondents and the Board to increase the consistency of responses and the quality of the resulting data analysis. This is particularly important in this situation because the Regulation and its required reporting is new and untried. Such interaction could assist the Board in understanding the industry itself, issues facing the respondents, and lead to better survey criterion for the future, as well as assist a respondent's ability to comply with the Board's Survey requests, and regulatory requirements overall.

Wells Fargo accordingly believes increased direction to respondents, a conversion methodology, and establishment of an interactive process between the Board and respondents would substantially increase the usefulness and reliability of the Survey data.

II. Collection of All Costs Related to Electronic Debit Transactions is Essential for Thorough Review of the Industry as it Relates to Section 920(a)

A. Data Collection Should Not Be Limited to Current Status

To ensure the data collected via the Surveys provides meaningful and accurate cost data now and in the future, Wells Fargo recommends the Surveys be drafted to ensure that *all* relevant cost data be collected to ensure fair and accurate Survey results. Such data may vary from issuer to issuer based on several factors, such as accounting methodology (e.g. GAAP versus IFRS), but also as the data relates to other products, services, and contractual relationships of an individual issuer.³

It cannot be overstated that we, like many other issuers in the industry, strongly believe the scope of the Surveys and the current Regulation underestimate the cost of a true debit program. For example, there are certain costs directly related to a debit program that are not currently considered, such as those related to establishing the account, card production/mailing, customer service, statement costs, compliance expense, and research and development to facilitate the ongoing evolution of the product and supporting fraud prevention for our customer's benefit. It is understood that although many of these items are not directly related to a debit interchange fee, the fact remains that every complete service is an integrated sum of its parts, and no one part can be removed without affecting the entirety of the service. Therefore, in addition to ensuring collection of accurate and complete information with respect to the costs the Board has determined are allowable under the Regulation, Wells Fargo strongly urges the Board to continue collecting information with respect to costs the Board has currently determined are not allowable costs under the Regulation.⁴

³ We refer to Wells Fargo's previous comments submitted to the Board detailing electronic debit cost information in relation to proposed Regulation II, dated February 22, 2011 for general cost information, and September 29, 2011 with respect to fraud costs.

⁴ *Id.*

As another example, the changes in the law requiring an additional unaffiliated network as well as the emphasis on circumvention and evasion circumstances has caused the industry to spend significant amounts of time reviewing their current and future relationships as they relate to networks, vendors, merchants, and issuers. This will surely cause some shifts in the way the relationships are structured and compensated because the relationships have changed. Therefore, the Board should not assume that the information gathered in 2010 or 2011 continues to adequately represent the industry and the costs associated with various endeavors.

Similarly, we encourage collection of related costs for issuers' exempt products, and collection of such cost data from *all* issuers, including those currently exempt. Although the Board cannot compel responses from exempt issuers under its EFTA authority, requesting such information will help ensure the robust representation from the industry as a whole, thereby forming a firm and accurate basis from which the Board may act in the future.

B. Further Classification Is Needed in Defining Costs

One important recommendation in this area is for the Board to break down the costs into high level functional areas, such as by product type; e.g., ordinary debit cards, general use prepaid cards, etc. Prepaid cards traditionally have different associated costs (and considerations associated with them such as the different various relationships of the cardholder with the issuer). This length and type of relationship between the issuer and the cardholder affects many types of these product costs, from identification for activation to fraud detection.

Instituting the above practices with respect to the Surveys would evidence a mindfulness of the ever-changing electronic payments landscape, thereby effectively fulfilling the purpose behind Section 920(a).

III. Information from Industry Participants in the Best Position to Provide it Ensures More Complete Information and Spreads the Reporting Burden More Fairly

As noted above, significant effort is necessary for a respondent to address each area and question correctly and consistently. One area of particular concern for this is in the Government Issuer Survey, which requests an extensive amount of information and detail.

The role of an issuer in this type of prepaid debit program may be different than in other debit programs; often, an issuer in a government program is not privy to various points of the contractual relationship between the government entity and a third party administrator. While an issuer knows the fee amounts, it often performs transaction settlement on a consolidated basis. Therefore, segregating and reporting on individual fees associated with individual cards and transactions can be extremely impractical in certain circumstances.

Additionally, the Government Issuer Survey assumes all government programs operate in the same manner, and are accounted for in the same manner across all parties and their respective systems. That is frequently not the case, thereby causing integration problems when responding

to a Survey requiring aggregated data. Invariably, some responses will lack uniformity and therefore the possibility of a meaningful comparison is significantly compromised.

Likewise, attempting to respond on a smaller program, which is typically not separated on internal systems due to the cost of doing so, is a significant burden. This stems from the division required, the complexity of the Survey and the differing parties involved. For example, some of the larger programs may contain “mixed” funds such as a government-administered child support program, which may be administered by a state government differently than it might administer its unemployment program. In addition, differences may be evidenced by fees assessed on the card: a fee may be assessed for one program but not another offered by the same state. As a third example, those two programs may be served by the same broad based underlying card platform by the issuer yet the accounting for one or both programs may be addressed by the government body, and therefore the issuer does not have access to a large amount of the detailed information.

We urge the Board to re-evaluate the Government Prepaid Issuer Survey. We recommend requiring reporting by state rather than program. Additionally, we recommend the individual Survey questions be further defined and include examples.

Conclusion

Wells Fargo strives to provide our customers with flexible, wide-ranging and competitive financial products, superior service and education while fully complying with all applicable laws and regulations. We strongly support the Board’s commitment to further defining its Survey Proposal, and appreciate the opportunity to provide recommendations. We respectfully urge the Board to consider all of the comments and suggestions herein.

If you have any questions or would like to discuss any of the issues herein, please do not hesitate to contact me at (612) 316-4449 or Pamela.O.Lindula@wellsfargo.com.

Sincerely,

PAMELA O. LINDULA

Pamela O. Lindula
Senior Counsel



November 14, 2011

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

RE: Docket No. RFR 3064a

Submitted via e-mail to regs.comments@federalreserve.gov

Dear Madame Secretary:

As you may know, Best Buy is a leading multi-channel global retailer and developer of technology products and services. Every day our employees - 180,000 strong - are committed to helping deliver the technology solutions that enable easy access to people, knowledge, ideas and fun. We are keenly aware of our role and impact on the world, and we are committed to developing and implementing business strategies that bring sustainable technology solutions to our consumers and communities. We have operations in the US, Canada, Europe, Mexico and China. For more information about Best Buy, visit <http://www.bestbuy.com/>

We are submitting comments on the two mandatory surveys to collect information necessary to meet its obligation under EFTA section 920(a)(3) that will collect information on costs, debit card usage, and interchange fees. We support the reforms effective October 1 and believe the transparency provided by these surveys is important for all stakeholders in the U.S. payment system. Specifically, section 920 (a) (3) (b) which stipulates that the Federal Reserve "may require any issuer (or agent of an issuer) or payment card network to provide the Board with such information as may be necessary to carry out the provisions of this subsection and the Board, and on at least a bi-annual basis thereafter, shall disclose such aggregate or summary information concerning the costs incurred, and interchange transaction fees charged or received, by issuers or payment card networks in connection with the authorization, clearance or settlement of electronic debit".

We have a number of comments which we hope you will consider as you approach this effort:

1) **The statutory intent was for broad spectrum of parties**

We believe that by exclusively inventorying debit card issuers and payment networks the Fed will not have the full view of the "*costs incurred, and interchange transaction fees charged or received, by issuers or payment card networks*". Specifically Section 920 (a) (5) (B) (II) (IV) whereby the law stipulates that the Board shall [also] consider "*the fraud prevention and data security costs expended by each party involved in electronic debit transactions (including consumers, persons who accept debit cards as a form of payment, financial institutions, retailers and payment card networks)...*" (*emphasis added*). We strongly believe that by confining the survey only to issuers and payment card networks a singular view will be provided not allow the Board and public to gain an overall perspective of these costs which we believe is the intent of the statute.



2) Independent Assessment & Evaluation

To best achieve the intent of the law and increase transparency, we believe there should be an independent 3rd party inventory assessment and verification process implemented with the following objectives:

- a) assure that all parties can have confidence in the survey process and data;
- b) ensure recommendations based on any statistical or financial analysis of the survey results are independently validated;
- c) allow for a "balanced approach" which ensures that all stakeholders identified by the law have an opportunity to have a voice in reporting the *"costs incurred, and interchange transaction fees charged or received, by issuers or payment card networks"*.


We believe the Fed engaging a qualified 3rd party auditor is something which would serve the interests of all in the payments process and would allow for future rulemaking which would serve the collective interest but ultimately would benefit the most important stakeholder - the consumer.

3) Specific Survey Components which require retailer participation

We would like to highlight some specific items on the survey which we believe it would not be possible to accurately assess the true and valid costs without detailed input from the retail community. The questions around fraud prevention and data security and fraud losses (all types, card-not-present, counterfeit) require input from the retail community to ensure that all true payment system costs are accounted for and that the *actual* costs are calculated. As a retailer keenly aware of our multiple forms of payments costs and fraud prevention tools both here and in other countries we would like the opportunity to provide specific information in this area so any future policy decisions which have financial consequences are not unduly borne by those of us in the retail sector.

Due to the growing deleterious impact of payments on our core business and the way payments has evolved, attention is required for this process which is not transparent and should be. We have been forced to focus more resources, time and energy on ensuring that card issuers and networks will get back to the business of innovation and not rely on old, monopoly-driven business models which is what debit and credit card payment processes have become.

Thank you for considering our views and we would be happy to discuss these important payment systems issues and how they impact our customers and company at any time. If you have any questions please feel free to contact me or Doug Black at douglas.black2@bestbuy.com or 612.291.9590. We appreciate your public service.

Sincerely

 Dee O'Malley
 Director, Financial Services

Dee.O'Malley@bestbuy.com

612.291.2038



**INDEPENDENT COMMUNITY
BANKERS of AMERICA**

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President and CEO

via email: regs.comments@federalreserve.gov

November 14, 2011

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Re: Proposed Agency Information Collection Activities; Comment Request:

- FR 3064a - Debit Card Issuer Survey
- FR 3064b - Payment Card Network Survey
- FR 3063a or b - Government-Administered , General-Use Prepaid Card Issuer Survey

Dear Ms. Johnson:

The Independent Community Bankers of America¹ (ICBA) welcomes the opportunity to comment on the Board of Governors of the Federal Reserve System (Board) surveys related to its information collection requirements under Section 920(a) of the Electronic Fund Transfer Act (EFTA) and the related Regulation II, Debit Card Interchange Fees and Routing (Regulation II).

ICBA has signed a separate comment letter presented on behalf of the banking trade associations and we support the recommendations in that comment letter. The purpose of this submission is to explain the unique perspective of community banks and provide recommendations based solely on that perspective.

¹ The Independent Community Bankers of America represents nearly 5,000 community banks of all sizes and charter types throughout the United States and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever changing marketplace.

With nearly 5,000 members, representing more than 20,000 locations nationwide and employing nearly 300,000 Americans, ICBA members hold over \$1 trillion in assets, \$900 billion in deposits, and \$750 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

In summary, ICBA recommends the Board establish a voluntary focus group, representative of exempt issuers, to establish and support a consistent information collection methodology for measuring the impact of the EFTA and Regulation II on exempt individual institutions, and for extrapolating the impact on exempt issuers collectively. Additionally, ICBA volunteers its resources, as described in this letter, to assist the Board in implementing its monitoring program to measure the impact of the EFTA and Regulation II on exempt issuers as approved at the Board meeting on June 29, 2011. Please see the comments below for additional information.

ICBA Comments

ICBA appreciates the Board's sensitivity to the imposition of regulatory burden on small exempt issuers as noted by the Board's efforts to collect information regarding the differences between exempt and non-exempt issuer interchange fees from payment card networks. However, we believe additional information obtained directly from exempt issuers should supplement the information provided by the payment card networks in order to obtain meaningful metrics representative of all issuers.

ICBA supports the Board permitting exempt issuers to participate voluntarily in the Interchange Issuer Survey as noted in the joint comment letter submitted by the banking trade associations. Additionally, ICBA recommends the Board use a voluntary focus group representative of exempt issuers to establish and support a consistent information collection methodology for measuring the impact of the EFTA and Regulation II on exempt individual institutions, and for extrapolating the impact on exempt issuers collectively.

Although EFTA Section 920(a)(6) and Regulation II exempt most community banks from the regulation of debit card interchange fees, ICBA has previously expressed its deep concerns to the Board: 1) that due to marketplace dynamics community banks, over time, will experience the drastic reductions in interchange fee revenue imposed by Regulation II; 2) about community banks' direct exposure to the costs of the two-network requirement or network exclusivity provisions (from which community banks have no statutory exemption); and 3) that merchants may discriminate against community bank debit cards.

ICBA greatly appreciates the Board's recognition of these concerns and its adoption of a formal monitoring program to determine the effectiveness of the small issuer exemption in response to our concerns. This monitoring program requires Board staff to study and report on three items six and eighteen months after the October 1, 2011, effective date of Regulation II. These items include:

- changes in exempt issuers' interchange revenue;
- whether there is evidence that merchants reject debit cards issued by exempt financial

- institutions; and
- the impact of the two-network requirement in compliance with the network exclusivity provisions.

ICBA encourages the Board to also use the focus group referenced above in its small issuer monitoring program. ICBA is quite willing to assist the Board in implementing its monitoring program. Our assistance could include identifying potential focus group participants, as well as providing input on the development of tools to measure the impact of the two-network requirement and to determine whether there is evidence that merchants are discriminating against cards issued by exempt financial institutions. We are also willing to encourage community bank participation in any data collection efforts in ICBA publications.

Again, ICBA appreciates the opportunity to comment on the referenced information collection activities. If you have any questions about this letter, please do not hesitate to contact me at 202-821-4414 or viveca.ware@icba.org.

Sincerely,

/s/

Viveca Y. Ware
Senior Vice President, Regulatory Policy



November 14, 2011

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Re: Proposed Agency Information Collection Activities; Comment Request: Proposed Regulation II Debit Card Issuer Survey (FR 3064a), Payment Card Network Survey (FR 3064b) and Government-Issued, General-Use Prepaid Card Issuer Survey (FR 3063a)

Dear Ms. Johnson:

The Board of Governors of the Federal Reserve System (the “Board”) is continuing the process of implementing the debit card interchange fee provisions of Section 920(a) of the Electronic Fund Transfer Act (“Section 920(a)").¹ As a part of that process, the Board recently issued for public comment proposed debit card issuer and payment card network surveys that the Board proposes to use to facilitate its ongoing implementation and reporting obligations under Section 920(a) and related Federal Reserve Board Regulation II (“Regulation II”).² The American Bankers Association, The Clearing House Association L.L.C., the Consumer Bankers Association, the Credit Union National Association, The Financial Services Roundtable, the Independent Community Bankers of America, the Mid-Size Bank Coalition of America, and the National Association of Federal Credit Unions (collectively, the “Associations”) respectfully submit to the Board this comment letter in response to the Board’s request for comment on the proposed

¹ 15 U.S.C. § 1693o-2(a).

² Debit Card Interchange Fees and Routing, 76 Fed. Reg. 43,394 (July 20, 2011) (to be codified at 12 C.F.R. pt. 235).

Regulation II surveys, including the Debit Card Issuer Survey, FR 3064a (the “Interchange Issuer Survey”), the Payment Card Network Survey, FR 3064b (the “Interchange Network Survey”) and the Government-Issued, General-Use Prepaid Card Issuer Survey, FR 3063a (the “Government Issuer Survey”, and collectively, the “Surveys”),³ published in the Federal Register on September 15, 2011.⁴ The Associations appreciate the opportunity to comment on the Surveys.

The Associations are providing comments on behalf of their debit-card issuing members to address concerns regarding (1) the lack of defining detail in the specific categories of data proposed to be collected, which will result in inconsistent and incomplete responses; (2) the insufficiency of the scope of data proposed to be collected to fully portray issuer costs associated with electronic debit transactions; (3) the likelihood that certain information requested by the Board may be of limited practical utility and lead to inaccurate conclusions due to the nature of the information requested (e.g., incentive payments); and (4) ensuring that the burden of information reporting rests with the proper party, particularly with respect to the use of general-use prepaid cards in government-administered payment programs. Although the Associations principally represent issuers of debit cards, the relationship between payment card networks and issuers in connection with debit card issuance positions the Associations to comment on both the issuer-specific surveys and certain aspects of the Interchange Network Survey insofar as the Interchange Network Survey is likely to impact debit card issuers.⁵

EXECUTIVE SUMMARY

The Associations understand that the Surveys, once finalized, will be an essential tool for the Board in its ongoing implementation of Section 920(a) and updating of Regulation II. Given the impact Regulation II already has had in the four months since its final release at the end of June, the data gathered from the Surveys and the Board’s use of that data, including for ongoing reporting, will inevitably have significant impacts on the debit card marketplace. As such, the Associations have a vested interest in ensuring that the Surveys collect complete, accurate and useful data to ensure that the Board is positioned to make well-informed decisions that are firmly rooted in the prevailing conditions of the debit card marketplace, including facilitating the Board’s ability to identify and respond to emerging debit card market trends.

³ We note that the Board’s request for comment also solicited responses regarding FR 3063b to be completed by governments on a voluntary basis. The Associations will not be providing comments on FR 3063b.

⁴ Proposed Agency Information Collection Activities; Comment Request, 76 Fed. Reg. 57,037 (Sept. 15, 2011).

⁵ Although the Associations overwhelmingly represent debit card issuers, the Interchange Network Survey and the information collected pursuant thereto potentially has a significant impact on issuers. Accordingly, the Associations comment on certain aspects of the Interchange Network Survey as part of this letter.

The Board's objective should be to develop final Surveys that completely and accurately capture issuer cost data related to electronic debit transactions without unnecessary burden on those required to complete the Surveys. To achieve this objective, the Associations strongly encourage the Board to:

- Ensure that the Surveys are drafted with sufficient specificity and direction to elicit complete and accurate information reporting, while simultaneously allowing for cost accounting differences across issuers.
- Establish a formal, individualized approach to answering respondent questions about the Surveys and to conducting follow-up interviews with respondents to reconcile rather than discard any concerning responses.
- Ensure that the Surveys collect sufficient data to reflect *all* costs associated with debit card programs and debit card transactions, including costs that the Board currently deems not to be recoverable by issuers through interchange fees.
- Ensure that the Surveys do not collect data (e.g., incentive payment information) that only may be evaluated properly when considered in the context of the unique facts and circumstances of a particular issuer's debit card program or network relationships, and that is, therefore, of dubious value and likely to be misleading individually and when aggregated with data from other Survey respondents.
- Ensure that the reporting burden falls on the proper party, particularly with respect to government-administered, general-use prepaid cards.

We urge the Board to revise each of the Surveys to address the concerns raised in this comment letter and discussed in detail below. While we continue to believe that these Surveys can be a powerful tool for the Board in fulfilling its ongoing obligations under Section 920(a), we also believe that there would be substantial benefit to the Board, debit card issuers, payment card networks, and the debit card marketplace if the Surveys were revised.

DETAILED COMMENTARY

I. The Board's Data Collection Function under Section 920(a)

Section 920(a) provides that the Board shall, at least every two years, disclose aggregate or summary information concerning the costs incurred, and interchange transaction fees charged or received, by issuers or payment card networks in connection with debit card transactions.⁶ Section 920(a) provides the Board with the authority to require

⁶ 15 U.S.C. § 1693o-2(a)(3)(B).

issuers and payment card networks to provide information to enable the Board to carry out the cost and interchange fee data collection task.⁷ When the Board adopted Regulation II setting debit card interchange fee standards, the Board indicated that data and associated information regarding interchange fees received by covered and exempt issuers would be gathered from payment card networks annually to facilitate monitoring of the effectiveness of the interchange fee limitation exemption for small issuers.⁸

In furtherance of the Section 920(a) data collection mandate, the Board has issued drafts of four surveys related to its obligations under Regulation II, the final rule implementing Section 920(a).⁹ Two surveys, one for debit card issuers (the Interchange Issuer Survey) and one for payment card networks (the Interchange Network Survey), will collect information on costs, debit card usage, and interchange fees. Each of these surveys is mandatory for issuers and payment networks, as applicable, that the Board has determined are within the scope of Section 920(a). The other two surveys request information about the prevalence of the use of general-use prepaid cards in federal, state, and local government-administered payment programs¹⁰ and the interchange and cardholder fees charged with respect to such use. Issuers are required to complete the government-issued, general-use prepaid card survey (the Government Issuer Survey). Completion of the government-issued, general-use prepaid card survey for governments is optional.¹¹

II. Description of the Surveys

A. Interchange Issuer Survey (FR 3064a).

The Interchange Issuer Survey would collect data from issuers of debit cards (including general-use prepaid cards) that, together with affiliates, have assets of \$10 billion or more. The Interchange Issuer Survey would collect information on both signature and PIN transactions, and would seek information relating to all debit card transactions (including general-use prepaid card transactions) on both an aggregate basis (Section II)

⁷ *Id.*

⁸ Debit Card Interchange Fees and Routing, 76 Fed. Reg. at 43,404.

⁹ On September 13, 2010, the Board distributed three surveys to industry participants (an issuer survey, a network survey, and a merchant acquirer survey) designed to gather information to assist the Board in developing Regulation II. Industry participants, including payment card networks, trade groups, and individual firms from both the banking industry and merchant community, commented on preliminary versions of the 2010 surveys. The Surveys reflect the Board's reaction to those comments. The proposed Interchange Issuer Survey and Interchange Network Survey would replace the 2010 issuer and network surveys.

¹⁰ The government programs covered by the survey include any "federal, state, or local government-administered program, in which the [cardholder] may only use the card to transfer or debit funds, monetary value, or other assets that have been provided pursuant to such program." Supporting Statement for the Government-administered, General-use Prepaid Card Surveys, at 1 n.1.

¹¹ As indicated above, given the scope and nature of the optional survey for government entities, the Associations will not be commenting on that survey. See *supra* n.9.

and also broken out by authentication method (i.e., PIN (Section III) and signature (Section IV)). The Interchange Issuer Survey would request information on accounts and cards associated with accounts domiciled in the United States, the District of Columbia, and U.S. territories.¹²

The Interchange Issuer Survey solicits information in four categories:

Respondent Information: Includes the name of the debit card issuer covered in the response and relevant contact information. Also includes whether the issuer issues general-use prepaid cards.

All Debit Card Transactions: Includes summary information for debit card (including general-use prepaid card) transaction volume and value; chargebacks to acquirers; costs of authorization, clearance, and settlement; payments and incentives paid by networks to issuers; costs for fraud prevention and data security; interchange fee revenue; fraudulent transactions; and fraud losses.

PIN Debit Card Transactions: Requests data for the same set of questions asked in the aggregate section above, but specifically about PIN debit card programs, including general-use prepaid cards.

Signature Debit Card Transactions: Requests data for the same set of questions asked in the aggregate section above, but specifically about signature debit card programs, including general-use prepaid cards.

The first Interchange Issuer Survey reporting period would cover the calendar year 2011, with data collected as of December 31, 2011.¹³ The Board proposes that each chartered financial institution that issues debit cards and has, together with its affiliates, at least \$10 billion in consolidated worldwide assets, will complete a separate survey, which would result in approximately 580 responses.¹⁴ The Board would use data from the Interchange Issuer Survey to prepare for public-disclosure aggregate or summary information concerning the costs incurred for, and interchange transaction fees received by, issuers with respect to debit card transactions. Importantly, the Board

¹² In the Supporting Statements released together with the Surveys, the Board asserts that U.S. territories include American Samoa, Federal States of Micronesia, Guam, Midway Islands, Northern Mariana Islands, Puerto Rico, Republic of Palau, Republic of the Marshall Islands, and U.S. Virgin Islands. *See, e.g.*, Supporting Statement for the Government-administered, General-use Prepaid Card Surveys, at 1 n.1. This list is over inclusive as the Federal States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands no longer are U.S. territories and should not be included in the scope of the Surveys.

¹³ The Interchange Issuer Survey would be made available by mid-February 2012 and would require that the survey be completed and submitted to the Board within sixty (60) calendar days from release. Thereafter, subject issuers would be required to complete the Interchange Issuer Survey every other calendar year.

¹⁴ See 76 Fed. Reg. at 57,040. As discussed in Section IV.E below, the Associations believe that far fewer than 580 chartered financial institutions in the United States issue debit cards.

would also consider the data from the Interchange Issuer Survey to determine whether to revise the interchange fee standards in Regulation II.

B. Interchange Network Survey.

The Interchange Network Survey would collect information from payment card networks. Importantly, payment card networks that operate both PIN and signature networks would be required to complete surveys and report data separately for each type of network.

The Interchange Network Survey would collect information in two areas:

Respondent Information: Includes the name of the network covered in the response and relevant contact information. Also includes whether the payment card network is a PIN or signature network, and whether the payment card network offers a tiered interchange fee rate schedule that differentiates between exempt issuers and non-exempt issuers, and the number of merchant locations at which debit cards issued on the network are accepted for payment.

Debit Card Transactions: Includes the volume and value of settled purchase transactions; as well as information across a variety of card and transaction types, including card-present and card-not-present transactions; general-use prepaid card transactions; and small issuer and pre- and post-effective date transactions. Also requests information on chargebacks and returns to merchants; the value of interchange fees; the value of network fees; and payments and incentives paid by networks to acquirers, merchants, and issuers.

The first reporting period of the Interchange Network Survey would cover calendar year 2011, with data collected as of December 31, 2011.¹⁵ The Board expects approximately 17 payment card networks to respond to the 2011 Interchange Network Survey.

The Board would use data from the Interchange Network Survey to prepare for public-disclosure aggregate or summary information concerning the costs incurred for, and interchange transaction fees received by, issuers with respect to debit card transactions. The Board would also consider the data from the Interchange Network Survey to determine whether to revise the interchange fee standards in Regulation II and to determine which networks have established separate interchange fee schedules for exempt and non-exempt issuers.¹⁶

¹⁵ The Interchange Network Survey would be made available online by mid-January 2012, and the Board would require that the survey be completed and submitted within thirty (30) calendar days from its release. Thereafter, networks would be required to complete an Interchange Network Survey annually.

¹⁶ With respect to networks that have established separate interchange fee schedules, the Board would note any variance between interchange fees received by exempt issuers before Regulation II became effective and those received after Regulation II became effective.

C. Government-Issued, General-Use Prepaid Card Issuer Survey.

The Government Issuer Survey would be required for approximately 20 depository institutions that issue general-use prepaid cards for federal, state, or local government-administered payment programs.¹⁷ On an annual basis, these issuers would provide information regarding government-administered payment programs. The Government Issuer Survey would collect information separately for each government administered program operated by an issuer, as well as aggregate data for all programs. The Government Issuer Survey would collect information on card programs using both signature and PIN transactions. The first reporting period would cover the calendar year 2011, collected as of December 31, 2011.¹⁸ The survey would comprise ten reporting sections:

Respondent Information: Includes the name of the card issuer covered in the response and relevant contact information.

Card Program Information: Requests summary and detailed information on card programs covered in the response.

Government-Administered Prepaid Cards: Requests summary information on the number of cards outstanding, and the allocation of cards outstanding between cards that can be used on both signature and PIN networks, cards that can be used on signature networks, and cards that can be used on PIN networks.

Funding: Includes value of funds loaded into prepaid card accounts, funds outstanding on prepaid card accounts, and all funds paid by all payment methods.

ATM Transactions: Requests information on the number of cards outstanding at year-end that can be used to make ATM cash withdrawals, the volume and value of ATM cash withdrawals, and the ATM fees charged for withdrawals by ATM operators at nonproprietary ATMs.

Purchase Transactions: Requests information on the volume and value of settled purchase transactions and the volume and value of settled purchase transactions by authentication method.

¹⁷ According to the Board, the estimate is based on “issuers known to issue government-administered, general-use prepaid cards, and who responded to the 2010 survey.” Supporting Statement for the Government-administered, General-use Prepaid Card Surveys, at 2 n.4.

¹⁸ The Government Issuer Survey would be made available online by mid-February 2012, with a response due to the Board within thirty (30) calendar days.

Interchange Fees: Includes interchange fee revenues received on settled purchase transactions and the allocation of the interchange fee revenues received on settled purchase transactions for signature transactions and PIN transactions.

Fees Paid by Issuers: Includes fees paid on ATM cash withdrawals and fees paid on over-the-counter at-bank (teller) cash withdrawals.

Revenues from Cardholder Fees: Includes total revenues received on all fees charged to cardholders and the allocation of all fees charged to cardholders between routine purchase transaction fees, monthly fees, balance inquiry fees, ATM fees, over-the-counter at-bank (teller) fees, account servicing fees, penalty fees, and all other fees.

Fees Assessed to Cardholders: Requests information on fees assessed to cardholders, including routine purchase transaction fees, monthly fees, balance inquiry fees, ATM fees charged to cardholders, over-the-counter at-bank (teller) fees, account servicing fees, penalty fees, and all other fees.

The Board would use the data from the Government Issuer Survey to support an annual report to Congress on the prevalence of the use of general-use prepaid cards in federal, state, and local government-administered payment programs and the interchange and cardholder fees charged with respect to such use.

III. Comments on the Surveys Generally

Given the divergent nature and purpose of the information and data sought in the Surveys, the Associations have specific comments on each of the Interchange Issuer Survey, Interchange Network Survey, and Government Issuer Survey. In reviewing the Surveys as a whole, however, there are a number of recurring themes that encompass the Associations' principal comments and concerns regarding the Surveys. These themes, discussed below in this Section III, may be manifested somewhat differently in each of the Surveys, but they create the same general concerns and challenges with respect to the information requested in the Surveys, including the precision with which the requested information is elicited, the scope of the information requested, and the potential that the context-specific nature of certain information collected may cause that information to be of limited utility for the Board's analysis, aggregation and reporting purposes under Section 920(a) and may lead to inaccurate conclusions.

A. The Surveys Lack the Requisite Precision Required to Elicit Complete, Consistent and Accurate Responses from Issuers.

To be effective, a data collection survey must have three elements: (1) a statistically significant sample set of respondents, (2) consistently determined and complete data

that is representative of all members of the target group of respondents, and (3) responses that facilitate meaningful comparison of collected data. Indeed, in a 2006 publication setting forth federal agency survey standards, the Office of Management and Budget noted that “[a]gencies must design [a] survey to achieve the highest practical rates of response, commensurate with the importance of survey uses [and] . . . to ensure that survey results are representative of the target population so that they can be used with confidence to inform decisions.”¹⁹ While the mandatory nature of the Surveys makes establishment of a sample set of responses straightforward, the general nature of the questions and lack of detailed instructions regarding requested data makes it highly likely that the data collected will be less than “representative of the target population” and will not support the type of meaningful analysis that “can be used with confidence to inform decisions.”

As the Surveys currently are drafted, issuers and networks are unlikely to complete the Surveys consistently.²⁰ For example, notwithstanding broadly applicable accounting principles (e.g., GAAP), cost accounting approaches may vary widely among respondents. As a result, each respondent will have a different perspective on cost inclusion (e.g., treatment/allocation of bundled costs). To be effective, the Surveys must facilitate the conversion of a respondent’s subjective approach to cost accounting into an objective data set that provides enough consistency in responses to make aggregation and comparison meaningful. The Surveys currently do not do so. Continuing the example above, the questions and associated instructions do not allow for reconciliation of the variance in accepted approaches (whether under GAAP or IFRS) for accounting for card program costs. And without reconciliation of these cost accounting differences, the collected data from the Surveys will be a suboptimal, and even misleading and skewed, guide for Board decision-making.

Indeed, the results of the Board’s data collection effort in connection with its Regulation II rulemaking effort bore out these risks. Of the 131 financial institutions that received Board surveys in September 2010 prior to the Board’s issuance of proposed rules to implement Section 920(a), 26 recipients did not respond, only 66 recipients reported sufficient information to support the critical data elements the Board evaluated in defining the interchange fee standards, and only between one-third and two-thirds of respondents provided usable information for a given cost calculation determined by the

¹⁹ Office of Management and Budget, Standards and Guidelines for Statistical Surveys, Standard 1.3 (2006).

²⁰ The Financial Accounting Standards Board (FASB) and the International Accounting Standards Board (IASB) are working on nearly a dozen joint projects designed to improve both U.S. Generally Accepted Accounting Principles (US GAAP) and International Financial Reporting Standards (IFRS), and ultimately to make the standards fully compatible. Further, the U.S. Securities and Exchange Commission is requiring a migration of U.S. listed companies to IFRS. Under the latest guidance, IFRS filings would begin for certain filers as early as 2015 and then continue in a staged fashion through 2017. Accordingly, as the transition is underway, respondents may be reporting costs or other transactions based on differing accounting conventions until full IFRS migration is complete.

Board as support for the interchange fee standards.²¹ The Board noted in its June 2011 report on the survey responses received in connection with the original Regulation II rulemaking that “[a]lthough the response rates for the surveys were high, most respondents did not provide information on every data element requested in the surveys.”²² In the context of the 2010 Government-administered, General-use Prepaid Card Survey (the “2010 Government Issuer Survey”), the Board acknowledged that inadequate and unusable issuer responses were, in part, attributable to limitations of its approach to the surveys. In its July 2011 report to Congress on the 2010 Government Issuer Survey, the Board explicitly acknowledged the need for refinements to its surveys to obtain better information reporting, indicating that the Board “is evaluating and refining its survey instruments in an effort to increase the overall response rate and quality of data reported in future surveys.”²³ Beyond the general need for refinement, the Board specifically highlighted the inability of the 2010 Government Issuer Survey to elicit meaningful responses from issuers:

Among the depository institution responses received, some respondents did not provide information on all data elements requested in the survey. For example, most issuers provided total interchange fees and cardholder fees charged for all the general-use prepaid government card programs for which they serve as the issuer, but only a subset of the issuers provided the data at the individual card program level as requested in the survey.²⁴

Because of the divergent nature of the issuer responses, the 2010 Government Issuer Survey data did not facilitate the Board’s ability to provide meaningful feedback to Congress, with the Board warning that it was “not able to report on an individual transaction basis the range of cardholder fees for federally administered programs because of limited data provided by depository institutions” (i.e., issuers).²⁵ Further, the data that was collected did not necessarily allow for the statistical analysis typically desired for the Board (or Congress) to make fully informed decisions, with the Board noting that “estimates generally cannot be combined or compared . . . due to differences in the composition of respondents.”²⁶

The Board will continue to face limiting constraints in implementing Section 920(a) via the Surveys unless the Board ensures consistency among the Survey responses and

²¹ 2009 Interchange Revenue, Covered Issuer Cost, and Covered Issuer and Merchant Fraud Loss Related to Debit Card Transactions, Board of Governors of the Federal Reserve System, at 3-5 (June 2011).

²² *Id.* at 5.

²³ Board of Governors of the Federal Reserve System, Report to the Congress on Government-Administered, General-Use Prepaid Cards, at 2 (July 2011).

²⁴ *Id.* at 4.

²⁵ *Id.* at 7 n.23.

²⁶ *Id.* at 4-5.

minimizes the number of responses that are not utilized for analysis and reporting. In addition to revising the Surveys to improve the consistency and completeness of the responses elicited, the Board should implement a formal, individualized approach to answering respondent questions about the Surveys and to conducting follow-up interviews once the initial Survey responses have been reviewed. This follow up process should rely on individual discussions with respondents rather than group meetings or multilateral forums wherever possible. One-on-one interviews and correspondence with respondents, particularly those that the Board considers to have provided concerning responses (e.g., statistical outliers), will facilitate more consistent and complete Survey responses and data collection. Moreover, this approach will ensure a more meaningful sample set of responses as it allows the Board to avoid discarding a significant number of responses.

While the Board attempted to be responsive to the concerns raised over the content of the 2010 Government Issuer Survey, the Surveys reflect limited improvement from their predecessors. Accordingly, we would expect the limitations that affected the original Regulation II surveys, including the 2010 Government Issuer Survey, to continue to limit the utility of the Surveys in 2011. Better guidance in the Surveys will result in more useful data,²⁷ and a dedicated follow up process will enhance the usability of responses.

B. The Surveys Should Ensure that Comprehensive Cost Data Is Collected with Respect to Debit Transactions.

As a corollary to the need for improved precision and clarity in the data collection effort, as discussed in Section A above, the Surveys also must ensure that the information queries facilitate collection of all meaningful cost data points so that the Board is presented with a complete assessment of the true costs of debit transactions. To that end, the Surveys should be drafted to ensure that the specific items of data collected balance the need for all respondents to understand what information should be included in a response without limiting respondents from providing appropriate data that may fall outside one of the enumerated response components. The need for this inclusive flexibility is particularly acute where an issuer concludes that other data elements recorded by its cost accounting system are properly included within the definition of allowable costs, or where an issuer accrues costs in different categories than those specified by the Board. In the ideal survey, the Board would be as explicit (and inclusive) as possible in the responsive examples given as part of the survey instructions, but not so limiting as to exclude other categories of information that may rightfully be included. Further, taking this approach is entirely consistent with the Office of Management and Budget survey guidance, particularly “ensur[ing] that survey results

²⁷ The Associations’ specific recommendations for each of the Surveys is discussed in detail in Sections IV, V and VI below.

are representative of the target population so that they can be used with confidence to inform decisions.”²⁸

In addition to ensuring collection of comprehensive information that fits within the categories of allowable costs the Board determined under Regulation II may be recovered through interchange fees, the Board also should continue to capture, through the Surveys, those costs associated with debit card-related activities that the Board has, at present, determined are not allowable costs recoverable through interchange fees. In this regard, we urge the Board to be mindful of the evolving electronic payments marketplace, which is likely to result in changing cost structures and cost allocations over time.²⁹ Collecting comprehensive debit program cost information, even if certain of such costs presently may not be eligible for cost recovery through interchange fees, will help the Board appreciate the broader debit transaction cost landscape and its future changes (including cost trends). While reporting on cost elements currently deemed by the Board to be ineligible for recovery through interchange fees will impose an incremental burden on issuers, the Associations believe that the benefits of providing such information to facilitate a broader understanding by the Board of debit program cost elements will exceed the additional reporting burden. Only with full cost data may the Board properly evaluate whether the interchange fee standards established under Regulation II reflect the costs to issuers incurred in the course of effecting debit transactions. Further, this inclusive cost survey approach will assist in the development of the record to support a revised interpretation of allowable costs in the future to reflect the evolving debit transaction market, should the Board be so inclined.

The Associations also contend that, to provide comprehensive and accurate data, respondents will need a reasonable amount of time to complete the Surveys and that the timing of data collection should coincide with the availability of finalized year-end information. Accordingly, respondents should be given not less than sixty (60) days to complete the Surveys to ensure that complete information may be gathered. Further, the Associations recommend that the Surveys not be issued until February 15th or later each year to allow time for year-end closing and preliminary audit and review of debit card program data for the previous calendar year. The Associations also recommend releasing all of the Surveys simultaneously rather than in the staggered manner currently contemplated (e.g., the Interchange Issuer Survey released in mid-February and the Interchange Network Survey released in mid-January) to avoid industry confusion.

²⁸ Office of Management and Budget, Standards and Guidelines for Statistical Surveys, Standard 1.3.

²⁹ Further, as the Board noted in the Surveys, debit card technology is rapidly evolving, with likely expansion of authentication types, networks and associated cost categories. This new technology potentially causes historic terms to lose precision or meaning. As such, the Board periodically should evaluate the Surveys for clarity and precision on account of technological advancements, beginning with the Surveys to be issued after 2012.

C. The Board Should Avoid Requesting Information that cannot be Meaningfully Evaluated and/or Aggregated without Substantial Risk of Being Misleading, Particularly Regarding Incentive Payments.

The objectives of consistency and comprehensiveness that necessitate more precise survey questions and collection of broader cost data should also be applied to avoid requests for information that is so unique or particular to individual payment card networks or issuers that the data from a survey response cannot be meaningfully used. While we encourage the Board to make the revisions recommended herein to ensure better respondent participation and quality data collection, the Board should also be mindful to avoid inquiries where the responses will depend so greatly on the unique facts and circumstances of the respondent that collection of the data via the Surveys would be of limited comparative utility, likely would lead to inaccurate conclusions when evaluated individually or on an aggregate basis, and may require disclosure of proprietary information (e.g., information regarding incentive structures).

The primary purpose of the Surveys is articulated in 920(a)(3)(B): to carry out the Board's mandate "to establish standards for assessing whether the amount of any interchange transaction fee described in [Section 920(a)(2)] is reasonable and proportional to the cost incurred by the issuer with respect to the transaction"³⁰ and to report on cost information of, and interchange fees received by, "issuers or payment card networks in connection with the authorization, clearance or settlement of electronic debit transactions."³¹ In evaluating the types of information the Surveys should seek, the Board must be vigilant in ensuring that the data collected drives meaningful decision-making and is useful to the Board, its constituencies – especially Congress – and the debit card marketplace as a whole. The Associations submit that collecting information that cannot properly be evaluated out of context and that is not easily aggregated or compared will not yield meaningful results. As described in Sections IV and V below, this issue is particularly apparent with respect to the Board's proposed collection of data related to incentive payments from networks to issuers.³²

To the extent that the Board concludes that it is necessary to collect this type of information via the Surveys, the Associations urge the Board to make additional clarifications to the request for information consistent with the discussion in Section III.A above. The need for clarity in the Survey is particularly acute for incentive payments from networks to issuers because of the individualized nature of these

³⁰ 15 U.S.C. § 1693o-2(a)(3)(A).

³¹ 15 U.S.C. § 1693o-2(a)(3)(B).

³² Incentives paid from networks to issuers are highly individualized, often heavily negotiated, may be offset by a variety of customized payment arrangements from issuers to networks, and are difficult to evaluate consistently across issuers. Indeed, the Board recognized the individualized nature of incentive payment in its follow up Frequently Asked Questions on Regulation II issued in September 2011, indicating that a signing bonus, for example, may be allocated by an issuer in any reasonable and consistently applied manner. Board of Governors of the Federal Reserve System, Frequently Asked Questions About Regulation II (Debit Card Interchange Fees and Routing) § 235.6 Q1.

payments, which adds to the subjective nature of the information and the related complexity in disclosing payment data. Specific recommendations for the Interchange Issuer Survey are discussed in Section IV.D below.

IV. Comments on the Interchange Issuer Survey

A. The Interchange Issuer Survey Does Not Provide Sufficient Guidance to Issuers to Elicit Complete and Accurate Cost Information that Will Facilitate Consistent and Meaningful Cost Analysis.

1. The Interchange Issuer Survey Contains Insufficient and/or Inappropriate Guidance Related to Authorization, Clearing and Settlement Costs to Generate Meaningful, Comparable Data.

The Interchange Issuer Survey essentially defines “cost of authorization, clearing and settlement” in the negative, dedicating the majority of its limited instructions to describing what is excluded from these costs,³³ as opposed to what is included in “transactions monitoring costs, network processing fees, and third-party processing fees.” Other than an admonishment to “[i]nclude transactions monitoring costs, network processing fees, and third-party processing fees,” the Interchange Issuer Survey provides no additional useful guidance on what costs should be included in reported data on authorization, clearing and settlement of electronic debit transactions. For example, the Interchange Issuer Survey should identify fixed and variable costs of equipment, hardware, software and labor as costs that should be included in reported data.

Failure to provide additional clarity around costs eligible for consideration as authorization, clearing and settlement costs will be problematic for both issuers and the Board. The challenges will arise because issuers will, once again, be uncertain how to respond to the survey questions and, consequently, the data collected will vary from issuer to issuer and may not be reflective of all relevant issuer costs. Indeed, the Board acknowledged this issue in addressing responses to the 2010 cost surveys.³⁴

2. The Interchange Issuer Survey Contains Insufficient and/or Inappropriate Guidance on Approach to Allocation of Costs Across Issuing Programs and Accounting Periods.

³³ In the definition of costs of authorization, clearing and settlement, the Interchange Issuer Survey indicates “[t]hese costs do not include, for example, costs related to corporate overhead, account relationships, rewards programs, non-sufficient funds handling, non-sufficient funds losses, cardholder inquiries, card production and delivery, fraud-prevention costs that are not incurred as part of authorization, and fraud losses. These costs do not include costs associated with funds loads (or deposits) or account set-up and maintenance.”

³⁴ See, e.g., 76 Fed. Reg. at 43,433 n.132.

In a number of instances, the Interchange Issuer Survey seeks to allocate costs across issuer programs and accounting periods. While the principle of allocation is both necessary and appropriate, the Interchange Issuer Survey arguably takes an unclear or, in some instances, flawed approach to allocation, particularly with respect to allocation among various issuing programs and costs incurred across multiple accounting periods (e.g., in different fiscal years).

With respect to “costs shared with other card programs or activities,” the Board is proposing an allocation based on number of transactions. Given the variance among service provider pricing and issuer cost accounting approaches, a “per transaction” cost allocation may not always be as meaningful or accurate as an allocation based on other reasonable criteria. Rather, as the Board noted with respect to an issuer’s allocation of incentive payments for purposes of determining whether the issuer has received net compensation from a payment card network, issuers should be permitted to allocate shared program costs using any reasonable and consistently applied approach.³⁵ For example, while third party processing costs typically are priced on a per transaction basis, other costs, such as initial or supplemental development work directly related to authorization, clearing and settlement, may be allocated more appropriately based on a volume or revenue metric.

The Interchange Issuer Survey also should provide additional clarity regarding how to account for in-year capital expenditures that may benefit multiple accounting periods. The guidance suggests reporting “costs that are depreciated or amortized during 2011.” Presumably the Board desires to capture the actual depreciation or amortization expense for 2011 on a GAAP basis, but the desired approach is unclear. Similarly, there is no mechanism in the Interchange Issuer Survey to account for or otherwise reconcile the timing differences between an original sales transaction and an associated chargeback, which may vary by 270 days or more. As a result, measurement of chargebacks in 2011, in fact, may have additional costs that would have been accrued in 2010 and not reflected in the 2011 data. For example, dispute resolution procedures instituted prior to finalization of the chargeback. Further, there will be transactions in 2011 that have associated chargebacks in 2012. The Interchange Issuer Survey, however, does not address these types of timing differences, which may have a meaningful impact on an issuer’s electronic debit transaction costs.

- B. The Scope of Cost Information Requested by the Interchange Issuer Survey Is Too Narrow and Does Not Elicit Adequate Debit Program Cost Information from Issuers.
 - 1. The Interchange Issuer Survey Should Be Revised to Capture Full Debit Program Costs.

³⁵ Board of Governors of the Federal Reserve System, Frequently Asked Questions About Regulation II (Debit Card Interchange Fees and Routing) § 235.6 Q1.

As discussed in Section III above, the Associations believe that it is critical that the Surveys be used to capture all debit program costs. With respect to the Interchange Issuer Survey, we urge the Board to adopt a more inclusive approach to capturing debit card program cost data. In compiling the Interchange Issuer Survey, the Board included only those categories of cost information that the Board has currently defined as allowable costs that are recoverable through interchange fees. However, other cost categories are relevant to the Board's understanding of the full range of debit card transaction and program costs. For example, costs of establishing and maintaining debit account relationships, resolving customer inquiries with respect to debit transactions, debit card program compliance costs and other cost elements specific to debit card transactions and programs that the Board elected not to define as allowable costs under Regulation II nevertheless have bearing to ensure that the Board comprehends the full landscape of debit card program costs and to facilitate adjustments to the definition of allowable costs in the future.

To facilitate the above, we believe that the cost categories in the Interchange Issuer Survey should be enhanced to more accurately reflect issuer costs associated with debit card transactions and programs. As a general principle, we believe that aggregate lump sum data requests, while helpful, are not as useful to the Board as collecting total cost data that is broken down in the Interchange Issuer Survey into various specific cost categories (not dissimilar to the approach used in the 2010 surveys, but with more accurate categories). Further, we believe that detailed cost breakdowns place the Board in a better position to analyze debit-related costs and to provide relevant information to Congress, particularly with respect to interchange policy. This detailed congressional reporting, in turn, allows Congress (and the Board) to consider fully the practical ramifications of Section 920(a) and Regulation II. For example, instead of lumping all potentially allowable costs into general "costs of authorization, clearing and settlement" in the Issuer Interchange Survey with minimal breakdown and no opportunity for issuers to explain their cost allocations, we encourage the Board to define individual subcategories of data that constitute allowable costs with additional open-ended opportunities for issuers to provide reporting according to their own cost categories, including narrative explanation of the makeup of and justification for such categories.

In revising the Issuer Interchange Survey, we recommend that the Board follow a similar approach to the 2010 issuer survey and include the following categories of cost data in Question 3 on "costs of authorization, clearing and settlement" (which would appear in Sections II, III and IV), expanded to include all non-fraud debit program costs, irrespective of whether currently defined by the Board as allowable costs under Regulation II:

- In-house Costs
 - Processing Costs (including fixed and variable costs of equipment, hardware, software and labor)

- Authorizations
- Clearing and Settlement
- Chargeback and other Billing Error Processing
- Transaction Posting and Statement Production
- Card Production and Deployment (including costs to replace fraudulent cards)
- Cardholder Interface and Customer Service
- Rewards and Incentive Programs, including program administration, rewards and affinity partner revenue sharing
- Research and Development Costs associated with debit card programs
- Third-Party Fees
 - Authorizations
 - Clearing and Settlement
 - Chargeback and other Billing Error Processing
 - Transaction Posting and Statement Production
 - Card Production and Deployment (including costs to replace fraudulent cards)
 - Cardholder Interface and Customer Service
- Network Fees
 - Transaction Processing, including cost of authorization
 - Non-Transaction Processing Fees (membership, licensing, etc.)
- Other Costs

As noted above, we also strongly recommend including an “Other Costs” category to give issuers the discretion to disclose additional debit program costs not contemplated by the fixed survey categories, which is critical to the success of the Interchange Issuer Survey as a tool for collecting complete cost information. Such a category allows issuers to disclose relevant costs to the Board and simultaneously affords the Board the ability to review potential emerging (and, at a minimum, potentially not contemplated) issuance costs. As part of the “Other Costs” category, the Board should ensure that the Interchange Issuer Survey allows for explanation from issuers for each included cost, which explanation should include both a description of the cost and the rationale for inclusion.

2. The Interchange Issuer Survey Should be Revised to Breakout General Debit Card Program Costs and General-use Prepaid Card Program Costs.

The Board requested comment as to whether issuers should report general-use prepaid card data combined with other transaction data or should report general-use prepaid

card activity separately. We agree that there is significant utility in segregating general-use prepaid card information (which should include information for both exempt and non-exempt general-use prepaid cards) and separately recording and measuring that data. Despite apparent processing similarities for authorization, clearing and settlement, standard debit card programs have significantly different cost considerations and structures from general-use prepaid cards.

The costs of standard debit and general-use prepaid programs differ for at least two reasons. First, general-use prepaid debit programs for many large issuers (i.e., issuers with \$10 billion or more in assets) are significantly smaller in scale than their standard debit programs, and thus do not have the requisite economies of scale to generate lower costs per transaction. Second, general-use prepaid cards usually operate on different processing systems (typically outsourced to third party processors) due to the significantly different underlying account structures of general-use prepaid cards when compared to standard debit cards. As a result, aggregating the two types of debit cards conceals the true costs to issuers associated with general-use prepaid cards.

3. To Facilitate Collection of a Broad Sample of Debit Card Program Cost Structures, the Board Should Allow for, but not Mandate, the Interchange Issuer Survey to be Completed by Exempt Issuers.

Given the Board's desire to collect information that will allow it to make well-informed decisions based on a robust understanding of the debit card marketplace, we recommend that the Board expand the Interchange Issuer Survey to allow exempt issuers (for example, those with assets below \$10 billion) to participate voluntarily in the Interchange Issuer Survey. Importantly, exempt issuer participation should not be mandatory; rather, participation should be at the exempt issuer's option. Offering exempt issuers the opportunity to complete the Interchange Issuer Survey on a voluntary basis allows the Board to observe debit card transaction and program cost information with respect to financial institutions not subject to the interchange fee standards. Collecting data on the costs incurred to provide debit programs and transactions by a broader range of issuers will allow the Board (and Congress, if such information is reported) to obtain a holistic perspective of the highly competitive debit card marketplace when evaluating Regulation II and adjusting the interchange fee standards.

- C. The Interchange Issuer Survey Oversimplifies the Mechanics and Typical Issuer Approach to Accounting for Fraudulent Transactions and Associated Fraud Losses.

Fraud associated with debit cards is a significant concern for all issuers, and the Associations strongly support the Board's continued emphasis on fraud and issuer recovery of its associated costs, including in the Interchange Issuer Survey. The approach of the Interchange Issuer Survey in accounting for and addressing fraud losses,

however, should be improved. As an initial matter, given the diverse nature of issuer debit card programs, we question whether there is utility in providing a fraud prevention checklist that dictates issuer responses (although we encourage inclusion of a non-exclusive list of the types of fraud prevention activities that issuers should account for in reported cost data). The items currently included in the proposed checklist (“transaction monitoring, merchant blocking, data security, and PIN customization”) are useful guides or examples but it is unlikely that these categories, as currently conceived, are applied uniformly in issuer cost accounting or other reporting structures. If the intent is for the Board to gather information regarding evolving fraud detection and prevention techniques, then the Interchange Issuer Survey should request such information explicitly. This is not to say, however, that the Board should not give helpful examples of fraud prevention costs that should be reported in the Interchange Issuer Survey. As indicated above, the Board should provide such specific examples of the types of information that should be reported, but the examples should not be limiting or issuers are likely to underreport relevant data.

In addition, the Interchange Issuer Survey fundamentally underestimates the complexity and costs associated with debit card transaction fraud monitoring, particularly in terms of loss allocation among varying methods of fraud. In proposing rigid categories of fraud, including “card-not-present, counterfeit, lost and stolen, account takeover and other,” the Board appears to ignore the perpetually evolving nature of fraud and fraud prevention techniques. Further the Interchange Issuer Survey erroneously assumes that these categories are mutually exclusive (i.e., the sum of all categories equals total fraud transactions and fraud losses), with no guidance or ability to address overlapping fraud categories (e.g., a card-not-present transaction conducted with a counterfeit or lost and stolen card). The Board also should ensure that the Interchange Issuer Survey captures all costs associated with fraud. For example, the Interchange Issuer Survey should be revised to include the customer service costs associated with potentially fraudulent account activity, which may be both time and resource intensive. Given the importance of fraud monitoring and fraud costs to issuers, the Interchange Issuer Survey should be revised to acknowledge and allow for the reporting of costs associated with the full variety of present and future fraud prevention methodologies and associated costs.

D. The Interchange Issuer Survey Request for Data Related to Network Incentive Payments Does Not Facilitate Meaningful Data Analysis Due to the Issuer-Specific Nature of These Types of Payments.

Incentives paid from networks to issuers are generally incomparable across issuers without significant individualized reconciliation. The payments vary greatly from issuer to issuer and network to network, often are painstakingly negotiated between networks and issuers, and depend heavily on the nature, scope and duration of the relationship between the issuer and the network and the reciprocal payments to be made by the issuer to the network over the life of their agreement. This individualized nature makes incentive payments difficult to evaluate across issuers, and makes this type of

information unsuitable for collection in a general survey format or reporting on an aggregate basis. For example, some networks charge assessments that can be offset against network-to-issuer incentives, some do not. Some issuers use networks for processing services, some do not. Indeed, the Board recognized the individualized nature of incentive payments in its follow up Frequently Asked Questions on Regulation II issued in September, indicating that a signing bonus, for example, may be allocated by an issuer in any reasonable and consistently applied manner.³⁶ Given that incentive payments are unique to each issuer's relationship with its network and can only be accurately evaluated under Section 920(a) and Regulation II through an individualized examination, the value in collecting this information through the Surveys and of aggregating the resulting data is dubious.

To the extent that the Board is concerned about circumvention or evasion of Regulation II, we note that enforcement of those provisions, including any information gathering related thereto, is the proper purview of the applicable regulatory agency vested with enforcement authority over the applicable parties to the incentive arrangement. To that end, it is both more productive and more appropriate for the Board and other applicable regulators with supervisory authority over issuers to consider these types of payments in the context of an individual bank examination rather than as part of a generally applicable survey – information that may be highly useful in the examination context may not be useful (or worse may be misleading) as part of a multilateral information gathering process. Whether a particular incentive arrangement between a debit card issuer and a payment card network constitutes circumvention or evasion (either as net compensation or applying the more general facts and circumstances test) will depend, to a great degree, on unique and specific characteristics of the relationship between the issuer and the network. Accordingly, we recommend that the Board not request this information as part of the Interchange Issuer Survey.

If the Board maintains the Interchange Issuer Survey's requests for incentive payment information, clarity in the information request is paramount, and the Associations recommend two clarifications to the instructions. First, the Board should revise the instructions to Question 4 to state the following: "Payments and incentives paid by network to issuer and included in net compensation calculations pursuant to Regulation II, Section 235.6(b)." Second, the Board should clarify that the instructions included in the header of "Section II: All Debit Card Transactions," which were "Please enter totals only for transactions and associated costs related to debit cards linked to U.S.-domiciled accounts involving a merchant located in the United States during the calendar year (CY) 2011," also apply to "Question 4: Payments and incentives paid by network to issuer."

³⁶ Board of Governors of the Federal Reserve System, Frequently Asked Questions About Regulation II (Debit Card Interchange Fees and Routing) § 235.6 Q1.

E. The Interchange Issuer Survey Should Be Completed at the Issuer Holding Company Level and Not by Individual Financial Institutions that Are Part of Holding Company Structures.

By the Board's own account, it anticipates approximately 580 respondents to the Interchange Issuer Survey.³⁷ We contend, however, that the pool of potential respondents with actual debit transaction data will be much lower. While there may be 580 financial institutions that meet the participation criteria (i.e., are part of an affiliated group that has at least \$10 billion in assets), many of them are individual affiliates of a larger group, but do not issue debit cards. Accordingly, we anticipate that many of the 580 potential respondents will provide "zero" answers individually. Further, most affiliated institutions will share debit program cost structures, and to the extent they do not, holding company respondents can provide blended cost data without adversely impacting the collection results.

On this basis, the Associations request that the Board allow for completion of the Surveys on a consolidated basis at the holding company level rather than at the individual affiliate level. Requiring individual issuer responses, as opposed to holding company-level responses, will be burdensome with little apparent benefit. The Board took this holding company reporting approach in the 2010 interchange issuer survey, and we recommend the same approach for the Issuer Interchange Survey to avoid the burden on issuers of having to complete a number of surveys for their affiliate financial institutions that do not issue or otherwise incur costs associated with debit cards.

V. Comments on the Interchange Network Survey

A. The Interchange Network Survey Should Only Contain Two 2011 Measurement Periods: Before October 1 and October 1 Through Year End.

Within the Interchange Network Survey, the Board proposes three distinct measurement periods for the 2011 reporting year: before July 1, July 1 through September 30, and October 1 and after. While we recognize the utility in the Board's emphasis on pre- and post- Regulation II effective date financial metrics, we submit that the better approach is a two period dichotomy that examines only data before October 1 and from October 1 through year end. Presumably the Board desires to test the impact of the Regulation II on the practices of the networks in paying/assessing fees. If that is the Board's goal, then the better measurement periods are before and after the new interchange fee standards took effect (i.e., October 1).

In that regard, many of the preparatory steps and contractual adjustments required to comply with Regulation II became effective on October 1, and not during the July 1 to September 30 "implementation" period. For example, during this implementation

³⁷ Supporting Statement for the Interchange Transaction Fees Surveys, at 6.

period, regulated issuers and networks modified their agreements to eliminate continued payment of incentives that would violate the interchange fee standards as of October 1. Further, annual incentive payments earned during the first nine months of the year, prior to the October 1 effectiveness of the interchange fee standards, may have been paid during this period as part of the parties' fulfillment of preexisting contractual obligations. Similarly, issuers may have returned to networks unearned incentives paid for future performance that is now proscribed by Regulation II during this period.

To the extent that the Board is interested in observing network and issuer behavior leading up to the October 1 effective date during the "implementation" period, that information likely is of limited value to the Board. As indicated above, although there were intense periods of negotiation between networks and issuers during the implementation period, such negotiations and resulting arrangements (1) would have had no impact on transaction volumes prior to October 1, (2) often involved unwinding existing arrangements proscribed by Regulation II, and (3) addressed new commercial terms that generally were not fully in force until October 1. Further, as discussed below, to the extent that the Board desires to gather this information to test for circumvention or evasion by identifying any "channel stuffing" or similar "under the wire" payments, we submit that testing for circumvention or evasion should be performed by the applicable regulatory agency with enforcement authority over a party.

B. The Interchange Network Survey Emphasis on Network Incentive Payments Does Not Facilitate Meaningful Data Reporting Due to the Issuer-Specific Nature of These Types of Payments.

As with the Interchange Issuer Survey, we maintain the position that the highly individualized nature of incentive arrangements between issuers and networks in effect (or entered into) after October 1 make them poor candidates for meaningful evaluation or aggregation for reporting through the Surveys. For all of the reasons highlighted in Section IV.D above, we submit that the Board should refrain from seeking information on incentive or similar payments from networks to issuers, leaving that evaluation to issuer and network regulators who are positioned to evaluate such information in context.

VI. Comments on the Government-Administered, General-Use Prepaid Card Issuer Survey

A. Certain of the Government Issuer Survey Reporting Requirements Are Unduly Burdensome on Issuers Because of the Role Issuers Play in These Programs.

Consistent with the views expressed regarding the Interchange Issuer Survey and the Interchange Network Survey, the Associations believe that the Government Issuer

Survey should seek robust information with respect to costs associated with government programs. We also believe that issuers likely are in the best position to provide certain financial information to the Board regarding prepaid cards associated with government-administered payment programs.³⁸ Nevertheless, the issuance of government-administered, general-use prepaid cards is fundamentally different than the issuance of other types of debit cards. The difference arises because the role of the issuer in these government-administered programs is unique.

The Government Issuer Survey should be revised to enhance the precision of the categories of information requested in a manner that is tailored to the unique characteristics of government-administered payment programs. For example, there are a number of general “catchall” fee concepts in the current draft Government Issuer Survey that require better definition and clarity of scope (e.g., “account servicing fees” and “penalty fees”). Failure to provide clarity regarding these types of categories will result in the same data comparison (or survey response) challenges the Board encountered in 2010. In addition, certain categories of information are treated differently depending on the nature of the government program (e.g., number of benefit recipients, which may be households, dependents or individuals depending on the program), so when the Survey asks for recipient information (e.g., in Section II, Questions 6-7) without providing for additional opportunity to specify how the particular government program categorizes recipients, the resulting numerical data cannot be meaningfully compared. Further, issuers often are not in the best position to provide data to the Board on how benefits under a particular government-administered payment program are determined or allocated; rather, this information is best obtained from the government entity administering the program.

B. The Government Issuer Survey Reporting Requirements Should be Drafted to Reflect the Unique Nature of Government Programs and the Associated Costs.

In a number of instances, the Government Issuer Survey should be revised to clarify the information the Board is requesting to ensure that appropriate government program information, including with respect to costs, is collected. For example, Section X of the Government Issuer Survey requests minimum and maximum amounts for each program fee. As currently written, we submit that requesting “minimum transaction fee” and “maximum transaction fee” in dollars creates ambiguity as to how issuers should respond. First, it is unclear whether these minimum/maximum amounts should be reported at the program-level or at the transaction-level. In addition, many government

³⁸ While some of the data requested in the Surveys is publically available at the state-level via a Freedom of Information Act request, it is standard practice for issuers to mark competitively-sensitive data as “trade secret,” “confidential” or “proprietary.” Specifically, Government Issuer Survey questions requesting the details of contract terms and government agency compensation structures request issuers to disclose sensitive commercial or financial information. We submit that all program-specific information is proprietary and that the Board should not release any information that would individually identify specific programs or issuers.

programs are not structured to include a standard minimum or maximum rate, but may calculate fees based on transaction amount or may allow for fee waivers in certain circumstances (e.g., a \$2 flat fee for a certain transaction may be waived for the first two occurrences of the transaction, but then apply for any subsequent occurrences). As a result, reporting a single dollar value in the case of a minimum percentage would not be feasible or accurate. We submit that the Board should provide clarity and further guidance for how to respond to the minimum and maximum transaction fee questions when a government program's fee structure may differ from what is contemplated by the Government Issuer Survey.

Similarly, the Government Issuer Survey should account for other unique cost structures of government programs. For example, many government agencies mandate that their benefit programs include at least one free over-the-counter transaction at an issuer's proprietary branches per payment period – allowing cardholders over-the-counter access to funds. In-person interactions are the most expensive customer-servicing channels that an issuer provides. The expense increases even further, however, when including fees issuers incur when prepaid card recipients access funds by over-the-counter or ATM transactions at non-proprietary locations. The Government Issuer Survey should, to the extent not already covered, collect issuer unreimbursed cost information associated with customer service via the teller channel and at nonproprietary ATMs. Considering these costs will greatly assist the Board in evaluating the unique cost structure involved in providing cardholder services to recipients of government programs, including how the costs associated with the requirement for cardholder access to funds should be reflected in interchange levels.

Government programs also are unique for the high concentration of cards that may be loaded with multiple sources of funds. In that regard, the Government Issuer Survey often is unclear whether it is asking for information by card or by program, which creates unique challenges for these “stacked” (i.e., multi-purse) cards where a single card may include balances for multiple government programs. For example, Section III, Question 1a asks for “cards on which multiple benefit or payment types are received,” which makes sense in the context of an aggregate/all program response, but less so with respect to a particular program. The same is true for all of Section IV, which asks for information regarding “Funding” without making it clear (1) whether the survey seeks only government funding information, (2) whether the survey seeks information on a per-program basis, or (3) whether the information should be recorded on a per-card basis. A stacked card with \$100 in social security and \$50 in Medicaid funding could yield a response of \$100, \$50 or \$150 to each of the Section IV questions, each of which theoretically could be a correct response. The Government Issuer Survey should allow for explanations for these categories to ensure meaningful comparison of data. As with the Interchange Issuer Survey and Interchange Network Survey discussed above, precision is critical to generating meaningful information on which the Board (and in the case of this Survey, Congress) may rely.

C. Given the Size of Many Government Programs, the Survey Should Establish a Meaningful Threshold for Requiring Program-specific Data.

A single issuer may issue general-use prepaid cards for multiple government-administered payment programs, ranging in size from social security payments on behalf of the United States government to court-ordered child support payments in a single county.³⁹ The number of cards issued, the volume of transactions, and the amount of funds disbursed will vary significantly depending on the particular government program for which an issuer issues cards. In many cases, an issuer may issue for a number of smaller programs, and to break out transaction and cost data for each of these programs would create an extraordinary burden on the issuer.

To mitigate this burden, we suggest that the Board create a *de minimis* threshold based on number of cards issued and total program dollar value that would allow for aggregate data reporting. For government programs below the threshold, cost data would be collected, but presented in the aggregate rather than by individual program. For government programs above the threshold, full reporting for the individual program would be required.

* * *

Thank you for considering the views expressed in this letter. We appreciate the opportunity to share our views and would be pleased to discuss any of them further at your convenience. Please feel free to contact Paul Saltzman, President and General Counsel of The Clearing House Association (Paul.Saltzman@theclearinghouse.org, (212) 613-0138), or Rob Hunter, Deputy General Counsel of The Clearing House Association (Rob.Hunter@theclearinghouse.org, (336) 769-5314), who have been coordinating the participation in this letter of all the Associations listed below.

Sincerely,

_____/s/
Frank Keating
President and CEO,
American Bankers Association

_____/s/
Paul Saltzman
President,
The Clearing House Association L.L.C.

³⁹ Government-administered, general-use prepaid card programs can involve federal funds that are disbursed by the U.S. Treasury on behalf of federal agencies to the cardholders or federal funds that are directed to state agencies, which, in turn disburse funds to cardholders under state- or locally operated card programs. In other instances, state or local agencies provide the funding, and state, county, or city governments manage the disbursement of funds through their card programs. See Board of Governors of the Federal Reserve System, Report to the Congress on Government-Administered, General-Use Prepaid Cards, at 1.

_____/s/
James D. Aramanda
CEO,
The Clearing House Payments Company
L.L.C.

_____/s/
Richard Hunt
President,
Consumer Bankers Association

_____/s/
Bill Cheney
CEO,
Credit Union National Association

_____/s/
Rich Whiting
General Counsel and Executive Director,
Financial Services Roundtable

_____/s/
Camden R. Fine
President/CEO,
Independent Community Bankers of
America

_____/s/
Russell Goldsmith
Chairman and CEO of City National Bank,
Chairman of the Midsize Bank Coalition of
America

_____/s/
Fred R. Becker, Jr.
President/CEO,
National Association of Federal Credit
Unions

cc: Shagufta Ahmed
OMB Desk Officer
Office of Information and Regulatory Affairs
Office of Management and Budget
New Executive Office Building
Room 10235
725 17th Street, NW
Washington, DC 20503

APPENDIX A

The American Bankers Association

The American Bankers Association (“ABA”) represents banks of all sizes and charters and is the voice for the nation’s \$13 trillion banking industry and its 2 million employees. ABA’s extensive resources enhance the success of the nation’s banks and strengthen America’s economy and communities. Learn more at www.aba.com.

The Clearing House

Established in 1853, The Clearing House is the oldest banking association and payments company in the United States. It is owned by the world’s largest commercial banks, which employ over 2 million people and hold more than half of all U.S. deposits. The Clearing House Association L.L.C. is a nonpartisan advocacy organization representing—through regulatory comment letters, amicus briefs and white papers—the interests of its owner banks on a variety of systemically important banking issues. The Clearing House Payments Company L.L.C. provides payment, clearing, and settlement services to its member banks and other financial institutions, clearing almost \$2 trillion daily and representing nearly half of the automated clearing-house, funds-transfer, and check image payments made in the U.S. See The Clearing House’s web page at www.theclearinghouse.org.

The Consumer Bankers Association

The Consumer Bankers Association (“CBA”) is the only national financial trade group focused exclusively on retail banking and personal financial services—banking services geared toward consumers and small businesses. As the recognized voice on retail banking issues, CBA provides leadership, education, research, and federal representation on retail banking issues. CBA members include most of the nation’s largest bank holding companies as well as regional and super-community banks that collectively hold two-thirds of the industry’s total assets.

The Credit Union National Association

The Credit Union National Association (“CUNA”) is the largest credit union advocacy organization in the country, representing approximately 90 percent of our nation’s nearly 7,300 state and federal credit unions, which serve about 92 million members. CUNA benefits its members by partnering with state credit union leagues to provide proactive legislative, regulatory, and legal representation, the latest information on credit union issues, economic reports, regulatory analyses and advocacy, compliance assistance, grassroots and political advocacy efforts, and education. Visit www.cuna.org for more information about CUNA.

The Financial Services Roundtable

The Financial Services Roundtable (“Roundtable”) represents 100 of the largest integrated

financial services companies providing banking, insurance, and investment products and services to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the CEO. Roundtable member companies provide fuel for America's economic engine, accounting directly for \$74.6 trillion in managed assets, \$1.1 trillion in revenue, and 2.4 million jobs.

The Independent Community Bankers of America

The Independent Community Bankers of America ("ICBA"), the nation's voice for community banks, represents nearly 5,000 community banks of all sizes and charter types throughout the United States and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. With nearly 5,000 members, representing more than 20,000 locations nationwide and employing nearly 300,000 Americans, ICBA members hold over \$1 trillion in assets, \$900 billion in deposits and \$750 billion in loans to consumers, small businesses and the agricultural community. Visit ICBA at www.icba.org.

Midsize Bank Coalition of America

The Midsize Bank Coalition of America ("MBCA") is a group of 22 US banks formed for the purpose of providing the perspectives of midsize banks on financial regulatory reform to regulators and legislators. The 22 institutions that comprise the MBCA operate more than 3,300 branches in 41 states, Washington, D.C., and three U.S. territories. Our combined assets exceed \$322 billion (ranging in size from \$7 to \$25 billion) and, together, we employ approximately 60,000 people. Member institutions hold nearly \$241 billion in deposits and total loans of more than \$195 billion.

The National Association of Federal Credit Unions

Founded in 1967, the National Association of Federal Credit Unions ("NAFCU") exclusively represents the interests of federal credit unions before the federal government. Membership in NAFCU is direct; no state or local leagues, chapters or affiliations stand between NAFCU members and its headquarters in Arlington, VA. NAFCU provides its members with representation, information, education, and assistance to meet the constant challenges that cooperative financial institutions face in today's economic environment. NAFCU represents nearly 800 federal credit unions, accounting for 63.9 percent of total FCU assets and 58 percent of all FCU member owners. NAFCU represents many smaller credit unions with limited operations as well as many of the largest and most sophisticated credit unions in the nation, including 82 out of the 100 largest FCUs. Learn more at www.nafcu.org.

MasterCard Worldwide
Law Department
2000 Purchase Street
Purchase, NY 10577-2509
tel 1-914-249-2000
www.mastercard.com



November 14, 2011

Via Electronic Mail

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

RE: Survey Materials Related to Board Obligations Under Section 920 of the Electronic Fund Transfer Act ("EFTA"); FR 3063a, FR 3063b, FR 3064a, and FR 3064b

Dear Ms. Johnson:

MasterCard Worldwide ("MasterCard")¹ submits this comment letter in response to the notice and request for comment issued by the Board of Governors of the Federal Reserve System ("Board") regarding various survey materials the Board proposes to use in fulfilling certain information collection and reporting obligations imposed on the Board by Section 920(a) of the EFTA.² MasterCard appreciates the opportunity to provide its comments on the survey materials.

Generally Applicable Comments

Use of Estimates in Responses. MasterCard appreciates the challenges the Board faces in developing a survey tool that accurately collects information over time and can be relied upon when reporting aggregate results. We believe the general structure and format of the proposed surveys is an improvement from the surveys that were used in 2010 to inform the Board's formulation of Regulation II. However, we believe there is room for further improvement. We note that the proposed survey instructions direct a respondent to use "NR" when the respondent

¹ MasterCard advances global commerce by providing a critical link among financial institutions and millions of businesses, cardholders and merchants worldwide. In the company's roles as a franchisor, processor and advisor, MasterCard develops and markets secure convenient and rewarding payment solutions, seamlessly processes more than 23 billion payments each year, and provides analysis and consulting services that drive business growth for its banking customers and merchants. With more than one billion cards issued through its family of brands, including MasterCard®, Maestro® and Cirrus®, MasterCard serves consumers and businesses in more than 210 countries and territories, and is a partner to 21,000 of the world's leading financial institutions. With more than 32.9 million acceptance locations worldwide, no payment card is more widely accepted than MasterCard.

² See Proposed Agency Information Collection Activities; Comment Request, 76 Fed. Reg. 57,037 (Sept. 15, 2011).

is unable to report an “accurate figure” for a particular question. In our view, a major deficiency in the 2010 survey process was the substantial under-reporting of costs that resulted, in part, from issuers using the NR designation when they were able to provide a reliable estimate of a cost but not a precise cost figure. This deficiency forced the Board to rely on incomplete data, which resulted in skewed results. To improve the quality of the data collected, we believe it is essential that respondents have the ability to provide reliable estimates in cases where precision or complete accuracy is not feasible. Therefore, we strongly suggest that the Board revise the instructions for the issuer surveys so that respondents are able to report reliable estimates if they are unable to report a figure with certainty.

Clarification on Territorial Scope. The following three jurisdictions are included within the list of U.S. territories in the definition of “United States” in the Glossary section of the proposed surveys—the Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands.³ Based on publicly available information maintained by the U.S. Department of State and the U.S. Department of the Interior, these three jurisdictions are not U.S. territories, but rather independent and sovereign countries. We are aware of no reason why the views of the Departments of State and Interior as to political status should be not be controlling on this point. To remove any doubt for networks and issuers as to the scope of jurisdictions covered by the surveys and the Board’s Regulation II, we ask the Board to revise the list of U.S. territories by deleting these three jurisdictions.

Treatment of Information Under Freedom of Information Act (“FOIA”) Requests. The Board notes in the Supplementary Information that survey data collected from issuers and networks “may be kept confidential” under exemption (b)(4) of FOIA, if the release of such data would cause substantial harm to the competitive position of the respondent. The Board solicited comment on what survey information might meet this criteria. MasterCard believes that all of the information requested in the proposed surveys is confidential and proprietary and would meet the criteria for the (b)(4) exemption. Any public disclosure of this confidential business information, other than in aggregate form as required by Section 920(a)(3)(B) of the EFTA, would result in substantial competitive harm to MasterCard and other respondents. Moreover, disclosure should not be made of aggregate information in cases where the number of respondents is highly limited and their relative market share with respect to disclosed information is publicly available because such information can readily be disaggregated. MasterCard strongly encourages the Board to make clear when it finalizes the survey materials that it will treat all issuer and network information collected through the surveys as exempt under exemption (b)(4) of FOIA, and will deny any FOIA request for such information. We also encourage the Board, when fulfilling its statutory mandate to disclose aggregate information under Section 920(a)(3)(B), to disclose only such information as the Board is statutorily required disclose (*i.e.*, only information with respect to interchange transaction fees and costs incurred by issuers), and to exercise that same restraint in connection with any reports that may be made to Congress regarding such fees and costs. In MasterCard’s view, any disclosure that does not meet this basic test would be inconsistent with the statute and could have a significant impact on issuer and network competition in the debit card market.

³ See also 76 Fed. Reg. 57,037 (footnotes 3 and 7).

Comments on the Payment Card Network Survey – FR 3064b

Pre- and Post-Effective Date Reporting of Information on an Exempt and Non-Exempt Basis.

Under the network survey, networks would be required to report certain information on transactions using debit cards of exempt issuers and transactions using debit cards of non-exempt issuers across three separate timeframes: (i) January 1, 2011 through June 30, 2011; (ii) July 1, 2011 through September 30, 2011; and (iii) October 1, 2011 through December 31, 2011. The Board requested comment on whether it is possible for networks to report the specified information in the manner requested. While it is possible for MasterCard to report the specified information in the manner requested, we note that any breakouts for the first two time periods would be assumption-based because our issuer registration process was ongoing during the run-up to the October 1, 2011 effective date of Regulation II. A preferred approach would be to simply request that networks report information for the time periods on either side of the October 1, 2011 effective date. This approach would be more accurate as a practical matter and would reduce the administrative burden associated with developing assumption-based figures. If the Board rejects this approach, we ask that the instructional information for the network survey account for the assumption-based method of reporting and make clear that estimates are an acceptable form of reporting for time periods before the effective date of Regulation II.

Request for Calendar Year Data on Exempt Cards and Issuers. Under the network survey, the Board has requested calendar year information for cards covered by the general-use prepaid card exemption, and for transactions involving debit cards issued by exempt and non-exempt issuers. The proposed information collection will result in skewed data in so far as all debit and general-use prepaid card volume was “exempt” prior to the October 1, 2011 effective date of Regulation II. To the extent this aspect of the survey materials may be used for purposes of developing a benchmark for assessing the debit card market pre- and post-effective date, we encourage the Board, consistent with our comments above, to simply request that networks report the requested information for the time periods on either side of the October 1, 2011 effective date.

Availability / Release of the Survey; 60-Day Response Time Requested. In the Supplementary Information, the Board notes that the network survey would likely be available online by mid-January 2012, and proposes that networks be given 30 days to complete the survey. Our fiscal year ends on December 31 and we report our financial earnings in the following February. This reporting cycle coincides with year-end closing requirements and the preparation of our annual report for filing with the Securities and Exchange Commission. As a practical matter, this means that we will not have any annualized data available until February. It is our understanding that this issue is not unique to MasterCard and would impact any networks with a similar fiscal year. We therefore ask the Board to change the proposed survey release date to mid-February, which would be consistent with other regulatory reporting obligations. However, even if the Board makes the network survey available in mid-February, it is our view that the proposed 30-day timeframe for completing the survey is simply too short for us to collect and ensure accurate reporting of the requested information. We also note that the 30-day turnaround time for networks is significantly shorter than the 60-day timeframe the Board proposes to give issuers to complete their survey, and that the Board has provided no explanation for the different treatment. We do not believe that giving networks an additional 30 days to complete the survey would impair or delay the Board’s own information collection and reporting obligations. As such, we

request that networks be given a 60-day window within which to complete the survey, consistent with the timeframe that would be given to issuers.

Reporting of Incentive Payments. The proposed survey would be used to collect information on network incentive payments to acquirers, merchants, and issuers; however, the survey's instructions for reporting this information lack clarity, and do not account for the likelihood that many such payments will have been made in 2011 under agreements that were not drafted in contemplation of Regulation II and, therefore, may not categorize incentive payments as the Board has in the proposed survey. This will necessitate that networks estimate these amounts or report "NR" if estimates are not permitted. Moreover, issuers (which also are required to report on incentives) may categorize incentive payments differently than networks. In recognition of this fact, we ask the Board, as part of the instructions for completing the survey, to allow networks to take the approach outlined for issuers in the Board's Regulation II FAQs for § 235.6(b) and use any reasonable consistently-applied method of accounting for incentive payments, and make clear that estimates consistent with that methodology are acceptable in connection with completing the survey.

Comments on the Debit Card Issuer Survey – FR 3064a

Capturing All Authorization, Clearing, and Settlement Costs. MasterCard continues to believe that it is vitally important for the issuer survey to collect the full range of issuer cost information so that the Board can fulfill its statutory mandate over time for assessing whether the established amount of debit interchange that a covered issuer may receive in connection with a transaction is reasonable and proportional to the cost incurred by the issuer with respect to the transaction. The proposed survey is deficient in this regard because it, like the Board's 2010 survey, fails to collect many costs that are relevant to the Board's statutory obligation and instructs issuers to report only data in the categories specified.

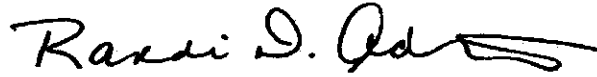
Comments on the Government-Issued, General-Use Prepaid Card Survey – FR 3063a

The survey would be used to collect information regarding the "minimum and maximum" fees that may be assessed to cardholders in connection with the cards that are covered by the survey. While the reporting of this information is feasible, we note that fees to cardholders may vary on the basis of limitations or requirements that are not identified in the survey (*i.e.*, government-imposed requirements, statutory or otherwise, on allowable program fees). These government-imposed requirements are likely to skew the results on a basis that is not within an issuer's control. The Board could address this by noting the existence of government-imposed requirements in the survey instructions and in any reports to Congress, and by publishing information on the nature of any such requirements across each of the states.

* * * * *

Again, MasterCard appreciates the opportunity to provide comments on the Board's survey materials. If you have any questions regarding our comments, please do not hesitate to contact the undersigned at (914) 249-6715 or randi_adelstein@mastercard.com, or our counsel at Sidley Austin LLP in this matter, Joel D. Feinberg, at (202) 736-8473.

Sincerely,

A handwritten signature in black ink, reading "Randi D. Adelstein" followed by a stylized flourish.

Randi D. Adelstein
Vice President
U.S. Public Policy and Regulatory Counsel

cc: Joel D. Feinberg, Esq.



Ryan McInerney
Chief Executive Officer
Consumer Banking

Via Email: regs.comments@federalreserve.gov

November 14, 2011

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C. 20551

RE: Proposed Agency Information Collection Activities; Comment Request:
Debit Card Issuer Survey (FR 3064a)

Dear Ms. Johnson:

The Board of Governors of the Federal Reserve System (the "Board") has requested comment on the proposed Debit Card Issuer Survey to collect volume and cost information related to issuer debit and prepaid card portfolios as required by Section 920(a) of the Electronic Funds Transfer Act. JPMorgan Chase & Co., on behalf of JPMorgan Chase Bank, N.A., a major debit card issuer, and its other subsidiaries, appreciates the opportunity to submit this response.

JPMorgan Chase & Co. (NYSE: JPM) ("Chase") is a leading global financial services firm with assets of \$2.2 trillion and operations in more than 60 countries. The firm is a leader in investment banking, financial services for consumers, small business and commercial banking, merchant acquiring, financial transaction processing, asset management and private equity. A component of the Dow Jones Industrial Average, JPMorgan Chase & Co. serves millions of consumers in the United States and many of the world's most prominent corporate, institutional and government clients under its J.P. Morgan and Chase brands. Information about JPMorgan Chase & Co. is available at www.jpmorganchase.com.

A. Executive Summary

The Board has proposed a new biennial survey to assist in meeting its obligation to provide aggregate information concerning the costs incurred and interchange fees charged or received by debit card issuers in connection with the authorization, clearance and settlement of electronic debit transactions.

As described below, Chase has concerns regarding certain aspects of the proposed survey. In particular, Chase believes: the Board should define a post-submission reconciliation process that accurately summarizes issuers' submissions; certain requested cost data is too narrowly focused; and certain information requested in the Payments and Incentives section is not relevant and potentially confusing. In addition, Chase offers comments on several specific questions the Board poses.

B. Survey Structure/Instructions

1. Post Submission Reconciliation Process. As the Board recognizes, there likely will be inconsistencies among debit card issuer survey responses as a result of different interpretations, recordkeeping methods, etc., making it difficult to fairly aggregate cost data submitted by all issuers. While Chase believes the overall survey instructions are reasonable, Chase encourages the Board to define and implement a post-submission reconciliation process to enable the Board and issuers to better understand potential inconsistencies across responses and ensure the aggregate data accurately reflects industry costs. It is in the interest of all industry participants and policy-makers for the aggregate information to be clear and accurate.
2. Expand the Collection of Cost Data. Chase recommends that the Board provide an additional survey section to capture an issuer's entire debit card issuing costs, with authorization, clearance, and settlement costs included as a subcategory. The proposed survey gathers only "allowable cost" data, which will limit the Board in the long run and misrepresent the true cost of delivering debit card services. As the Board knows, the debit card business is dynamic. It is possible that as the industry evolves, the definition of allowable costs also will change. It is in the Board's interest to have a holistic view of debit card issuer costs so that it can evaluate marketplace and industry developments and respond appropriately. In addition, the Board likely will need to provide additional information to Congress in the future. We respectfully suggest the Board and the payment system overall will be better served by having all the cost components readily available.
3. Payments and Incentives Section. The survey's structure for gathering payments and incentives data is too broad and non-specific and, in combination with the proposal to collect data only on "allowable costs", likely will result in an incomplete and/or inaccurate perspective on issuer costs. As the Board understands, incentive arrangements are unique and varied and cannot be accurately represented in a standardized survey. Since Section 920(a)(3) of the Electronic Funds Transfer Act does not require the Board to report beyond issuer cost data, Chase recommends eliminating this section all together. However, if the Board considers it important to collect this information, Chase recommends that, at a minimum, the survey instructions be modified to request only payments and incentives that relate to debit card transaction

processing. This change would then align the requested data with the rest of the survey. That said, if the Board adopts Chase's recommendation to gather all issuer cost data, then the current Payments and Incentives section would be acceptable.

Chase also recommends that the Board revise the instructions for this section to state explicitly whether the Payments and Incentives data to be included are those relating to exempt products only or also to non-exempt products.

4. Exempt/Non-Exempt Debit Card Reporting Clarification. Chase recommends that the survey instructions clarify how to provide exempt versus non-exempt debit card data. Sections II.1 and II.2 of the survey appear to require both exempt and non-exempt debit card transaction volume data but Sections II.3 through II.13 appear to require only non-exempt debit card cost data. The survey instructions should be revised to state this explicitly.
5. Shared Cost Instructions. The instructions preceding Section II.3 indicate that all shared costs should be allocated based on transaction volume. However, transaction volume is not always the most accurate way to allocate costs. Often allocations are more accurately reflected by other key volume drivers (e.g., number of debit cards, number of customers, etc). Using the appropriate volume driver(s) will improve the quality of the aggregate data collected. Chase recommends that the instructions be modified to provide that the issuer should specify and use the allocation method(s) that, in the issuer's reasonable discretion, most accurately allocates its card program costs.
6. Rebate/Discount Clarity. Many expenses incurred by a debit card issuer can be billed to the issuer at a standard "rack rate" with a subsequent rebate/discount based on another performance factor (e.g., volume). We recommend the instructions for Section II.3 be revised to provide specific direction on how rebates/discounts are to be reflected in the survey. Since rebates/discounts are not associated with "incentives" (i.e., Section II.4), Chase assumes that costs should be reflected as net of rebates/discounts.

C. Specific Comments Requested

1. Reporting at Chartered Entity Level. Chase believes that modifying the 2010 debit card issuer survey to require each chartered entity to complete a separate survey rather than requiring a consolidated holding company report is feasible and appropriate.
2. Authentication Method Terminology. Chase recommends using the designations "PIN" and "Signature" when referencing single-message transactions and dual-message transactions, respectively, as these terms are generally understood in the industry.

3. Issuer Combining General Use Prepaid Data. The Board proposes revising the 2010 debit card issuer survey to combine general-use prepaid card transactions with other debit card transactions. The Board bases this proposal, at least in part, on the higher authorization, clearance and settlement costs issuers reported in the 2010 survey for prepaid card transactions compared to other debit card transactions. The Board apparently attributes these higher reported costs to the possibility that issuers reported data from more cost categories than the survey requested. The Board further indicates that, in the Board's view, there are no distinctions between authorization, settlement and clearance processes and, therefore, associated costs for prepaid card transactions and other debit card transactions; hence, the Board appears to have concluded there is no need or benefit to reporting prepaid card data separately. However, Chase believes costs associated with prepaid card transactions, even if narrowly focused on authorization, settlement and clearance processes, indeed often are higher than other debit card transactions. Prepaid card portfolios have different characteristics than general debit card portfolios and transaction volumes overall tend to be smaller. In fact, many prepaid card portfolios are heavily supported by third party vendors, which increases the associated costs borne by those issuers. Chase strongly encourages the Board to continue recognizing prepaid card transaction costs as separate since there may, in fact, be legitimate authorization, clearance and settlement differences that should be documented and analyzed. At a minimum, gathering the data separately should help answer the question as to whether there are, in fact, differences.
4. Usefulness of Checklist in Fraud Prevention Section. The Board includes a checklist of fraud prevention activities in Section 5.c of the proposed survey, and has inquired whether the checklist is useful and the identified activities are appropriate, or whether other specific activities should be identified at this time. Chase believes that the checklist is useful and that the activities currently identified are appropriate. Chase further agrees that the listed activities can be updated in subsequent surveys based upon those "other" activities that issuers identify, if any.
5. Ability to Report Customer Service Costs. Chase can report the subset of customer service costs as requested in the survey. However, doing so accurately may require allocation methods not based on transaction volume. As indicated above, the survey instructions should be modified to allow the issuer to allocate expenses based on the volume driver(s) producing the most accurate allocation for that issuer.

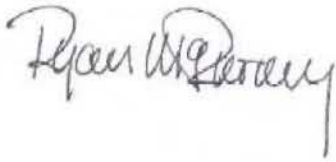
D. Estimate of Respondent Burden

In its "Supporting Statement for Interchange Transaction Fees Surveys", the Board estimates that the typical issuer will spend 80 hours completing the survey. Chase believes this estimate is significantly understated. Based on the time and effort

involved completing the 2010 cost survey, Chase believes the typical issuer may spend up to 500 hours completing the proposed new survey.

Thank you again for the opportunity to comment. If you have any questions about the foregoing please contact Michael Lipsitz at 312-732-4223.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Ryan M. McInerney". The signature is fluid and cursive, with the first name "Ryan" being more prominent.

Ryan M. McInerney

cc: Shagufta Ahmed, OMB Desk Officer
Office of Information and Regulatory Affairs
Office of Management and Budget
New Executive Office Building, Room 10235
725 17th Street, NW
Washington, DC 20503



Alex Miller
Associate General Counsel
Global Business Operations

By Electronic Delivery

November 14, 2011

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave., N.W.
Washington, DC 20551

Re: Information Collections FR 3064a and 3064b

Ladies and Gentlemen:

This letter is submitted on behalf of Visa Inc. ("Visa") in response to the proposed information collections FR 3064a, Debit Card Issuer Survey ("Issuer Survey"), and 3064b, Payment Card Network Survey ("Network Survey") under section 920 of the Electronic Fund Transfer Act ("EFTA"). The stated purpose of these collections is to enable the Board to meet its obligations under section 920(a)(3) to disclose aggregate or summary information concerning the costs incurred and interchange fees charged or received by issuers and payment card networks in connection with the authorization, clearance or settlement of electronic debit transactions. We understand that the information collected in these surveys will also inform the Board's establishment of standards for assessing whether the amount of interchange transaction fees subject to the limitation in section 920(a)(2) of the EFTA are reasonable and proportional to the issuer costs and the Board's allowance of any fraud prevention adjustment under section 920(a)(5) of the EFTA.

As a general matter, Visa encourages the Board to view these information collection efforts as processes as opposed to simple requests for information. Visa believes that the categories of information requested are not well defined or well understood. The Board is requesting information that is primarily cost data. These data currently are not required to be collected in any standardized way, and any descriptions of these data developed by the Board, no matter how detailed, will inevitably be subject to varying interpretations by the issuers and networks responding to the surveys. In order to maximize the validity and consistency of the data collected, Visa believes that, in addition to refining the survey forms in response to comments received on the proposed information collections, the Board should consider educational efforts to explain the final forms to issuers and networks and review the data it ultimately receives to identify and resolve possible differing interpretations of the information

requested. In addition Visa has a number of specific comments on the proposed surveys, as set forth below.

Timing

Visa believes that the timing of the Network Survey will be difficult. The Network Survey contemplates that it would be posted in January with responses due within 30 days. Full year 2011 data, however, will not be available until late January and, even then, will be preliminary. The Issuer Survey is contemplated to be made available in mid February with a 60-day response period; however, a footnote suggests that in future years the Issuer Survey will be available in mid January. It is not apparent why the Network Survey needs to be completed before the Issuer Survey. As the Issuer Survey is currently expected to be completed in mid April, Visa believes that the Network Survey responses should be due at the same time.

Exempt Transactions

The Network Survey calls for distinguishing exempt from non-exempt transactions both due to the exemption for smaller issuers and due to the exemption for certain prepaid cards. As networks and issuers were only required to separately identify these transactions for the fourth quarter of 2011, these data will be less reliable for the first three quarters of 2011.

Allocations

The Issuer Survey states that for shared costs, costs should be allocated based on the number of transactions. No similar statement is included in the Network Survey. While Visa does not believe that a cost allocation based on number of transactions is necessarily the most appropriate allocation in all circumstances, Visa recognizes that some standardization of allocation methodologies may be necessary in order to maximize the comparability of data. In this regard, a number of Visa fees apply across exempt and non-exempt products and, in the case of sponsored BINs, across exempt and non-exempt issuers. These fees will need to be allocated accordingly. Visa assumes that allocations by the networks on any basis permitted for issuers would be appropriate.

Incentive Payments to Issuers

The Issuer Survey and the Network Survey request data regarding the payments and incentives paid by networks to issuers. The scope of the payments and incentives covered by these data requests is not clear, and could result in inconsistent responses. Certain payments to issuers are included in the "net compensation" calculation under the rules adopted by the Board to implement section 920. Despite the regulatory language and a number of clarifying frequently asked questions, certain elements of the net compensation calculation remain uncertain. Visa

believes that the Board needs to provide further clarification on the payments to issuers that are contemplated by these requests in the Surveys.

Cost Categories

The Issuer Survey and the Network Survey request costs and payments by categories. These categories are often broken down into subcategories. As noted above, there is no standard method for classifying cost data and the Board's cost categories or subcategories may not match categories used by individual institutions, requiring allocations of costs within the categories of costs that are tracked by the institutions. Because networks and issuers track costs and payments in different ways, there may be no standardized approach to dealing with many costs and payments and therefore no way to avoid the allocation process and the attendant imprecision of the data collected. To a certain extent, Visa believes this difficulty cannot be avoided in the near term. However, in certain circumstances industry cost classifications have been developed and should be used by the Surveys. For example, in the area of fraud costs in the Issuer Survey, Visa believes that the following categories would more closely track industry practice: Card-not-present, Counterfeit, Lost, Stolen, Not received as issued, and Other, with the listed category "Account takeover" included in "Other."

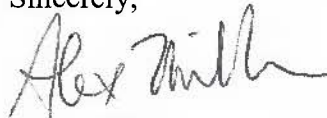
Jurisdiction

The Issuer Survey and the Network Survey define the United States to include the Federal States of Micronesia, the Republic of the Marshall Islands and Palau. Due to changes in their legal status, Visa does not believe that these jurisdictions should be considered to be territories or possessions of the United States under the Board's rules to implement section 920.

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We appreciate the opportunity to comment on this matter. If you have any questions concerning the issues raised in this letter, do not hesitate to contact me.

Sincerely,



Alex Miller
Associate General Counsel



November 14, 2011

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System,
20th Street and Constitution Avenue, NW
Washington, DC 20551

Submitted Electronically

Docket No. FR 3064a (debit card issuers) and FR 3064b (payment card networks)

Re: Proposed Agency Information Collection Activities on Debit Card Interchange Fees and Routing

The Food Marketing Institute (FMI) appreciates the opportunity to respond to the notice and request for comment from the Federal Reserve Board of Governors on proposed agency information collection activities on debit card interchange transaction fees and routing.

FMI is the national trade association that conducts programs in public affairs, food safety, research, education and industry relations on behalf of its 1,500 member companies – food retailers and wholesalers – in the United States and around the world. FMI's members in the United States operate approximately 26,000 retail food stores and 14,000 pharmacies. Their combined annual sales volume of \$680 billion represents three-quarters of all retail food store sales in the United States. FMI's retail membership is composed of large multi-store chains, regional firms, and independent supermarkets. Our international membership includes 200 companies from more than 50 countries. FMI's associate members include the supplier partners of its retail and wholesale members.

We have three general comments regarding the debit card issuer and payment card network surveys:

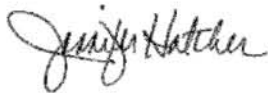
- 1) We would like to commend the Federal Reserve for the detail sought in question #3 of the debit issuer survey (3064a) regarding the costs of authorization, clearance and settlement (ACS). We were pleased to see the survey request separate data on in-house costs, third party processing fees, and network processing fees as we view those categories as separate from ACS costs, and believe it is critical for the Federal Reserve to have that separate item level cost detail.
- 2) Both surveys do a great deal to quantify existing fraud in the system, but based on the statutory language that requires the Federal Reserve to review fraud prevention costs expended by all parties in the payments chain, we would like to see a greater effort either through these surveys or elsewhere that engages the merchant and merchant acquiring communities in this process so

that the fraud prevention costs expended by all parties will be taken into account going forward. We would also encourage the Federal Reserve to focus data collection efforts more on fraud prevention efforts and the effectiveness of those efforts. We believe this could partially be done by adding a section to the payment card network survey (3064b) to explore what criteria networks are requiring for an issuer to get a fraud prevention adjustment and what research the networks have that proves those criteria are effective in preventing or reducing fraud.

- 3) We would encourage the Federal Reserve in an effort to enforce the anti-circumvention provisions from the statute to add a section to the payment card network survey (3064b) that requires networks to report and provide details on any changes to their network fee structures from October 1, 2011. Additionally, we believe networks should report on any changes to their chargeback policies from October 1, 2011.

Thank you in advance for the opportunity to provide feedback on the Federal Reserve Board's proposed agency information collection activities on debit card interchange transaction fees routing. We are happy to provide any additional information that would be helpful.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jennifer Hatcher".

Jennifer Hatcher
Senior Vice President, Government Relations
Food Marketing Institute