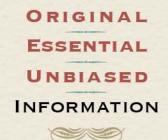
AFP® Association for Financial Professionals® Annual Conference

November 7-10, 2010 | San Antonio ---



Perspectives on Interchange and Card Acceptance in the Post-FinReg Era

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Agenda

- Overview of the Dodd-Frank Act (DFA)
 Card Provisions (The Durbin Amendment)
- Brief Review of Recent, Related Developments
 - DOJ action against networks regarding credit cards
 - Lawsuit challenging DFA debit interchange provisions on U.S. Constitutional grounds
- Open Discussion





DFA-Durbin Timeline

- 7/21/2010 DFA Passed; Durbin provisions allowing discounts, minimums effective immediately
- 9/13/2010 Issuer/Network/Acquirer surveys distributed by the Fed
- 10/12/2010 Surveys returned to the Fed (100+ issuers, over dozen card networks, Top 9 acquirers)
- 119/2010 "By end of year" Proposed regulatory language will be released by the Fed; 90-day comment period to follow
- 4/21/2011 DFA deadline for Fed to issue final Durbin Amendment regulatory requirements
- 7/21/2011 DFA deadline for Durbin implementation







Debit interchange fees

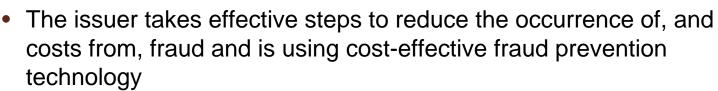
 Fed must establish standards to restrict interchange fees for a debit card transaction to an amount that is "reasonable and proportional" to the cost incurred by the issuer for that transaction



- There are exemptions for small bank and credit union debit card issuers (<\$10B in assets); federal, state, and local government program debit and prepaid cards; and reloadable prepaid cards
- Congress has directed the Fed to give particular consideration to the fact that debit cards function similarly to paper checks, which clear through the Fed at par



- Fed also tasked with establishing two related rules:
 - 1. Prevent other "network fees" from becoming back-door interchange fees
 - Allow for ad hoc adjustments to debit interchange fees reasonably necessary to cover the cost of an issuer <u>preventing</u> fraud within its own system, provided that:



 The adjustments are reduced by the amount the issuer receives for fraud-related debit chargebacks and other reimbursements



- 2. Network exclusivity and routing
 - Fed must establish rules preventing issuers and payment networks from restricting the payment card networks on which a debit card can be processed
 - Merchants (including online merchants)
 will be able to route a debit transaction
 over any payment network that can
 process the transaction (lowest cost
 routing)





3. Transaction discounts

Effective 7/21/10 merchants can offer discounts or other incentives for payment by cash, check, debit card, or even credit card...but all cards within a payment type (e.g. debit) must be treated equally (no bias based on issuer or type of card)



 The implication is that merchants can influence the types of payments used by consumers and, in the long term, alter the mix of payments



4. Credit card minimums

- Effective 7/21/10 merchants can set a minimum transaction amount for <u>credit</u> transactions up to \$10 but cannot distinguish between card issuers and payment networks (i.e. the minimum must apply to all credit card transactions)
- Federal agencies or institutions of higher education may also set a maximum dollar value for acceptance of credit cards (but cannot differentiate by issuer or payment card network)





Related Provisions

- Dodd-Frank allows for the Fed to regulate entity engaged in "payment, clearing, settlement activities"
 - This is very broad and might include issuers, networks, acquirers, or even other stakeholders



- Dodd-Frank also establishes the Consumer
 Financial Protection Bureau housed under the Federal Reserve
 - Agenda will focus on 'reining in big banks,' blocking rate hikes on credit cards, and targeting 'unfair' practices
 - Required reporting on government-sponsored and GPR prepaid



Related Developments

- The 10/4/10 DOJ settlement with Visa & MasterCard will allow merchants to discriminate based on the card brand or the card type:
 - Merchants will be able to use pricing discounts or other incentives to steer customers toward preferred card brands or card types
 - Merchants will also be able to offer discounts for card brands that carry lower fees than Visa or MasterCard
 - Note: AMEX has chosen not to settle with DOJ. Discover was not a party to the suit (DOJ deemed their rules not as restrictive as V/MA/AXP)
 - Note: Specific rules to be finalized after judicial review & possible comment period



Related Developments

- 10/12/10 TCF National Bank, a large debit card issuer, filed suit to block implementation of the Durbin Amendment
 - Suit asserts that the Fed mandate does not cover all the elements necessary to fully contemplate the costs required to "manage the debit card system and deliver the [debit] product"
 - Suit also claims that the <\$10B issuer exemption would "result in an irrational competitive disadvantage" for banks with \$10B+ in assets



Time to Share Our Thoughts









Considerations for Implementing Durbin

- 1. Reaction from: Merchants, Issuers, Acquirers, Networks, Consumers
- 2. Potential for Steering
- 3. Price/Cost Change Implications
- 4. Will Interchange savings pass to consumers?
- 5. Impact due to carve-out for Fraud
- 6. Impact on ongoing investment in network/new services (NFC, EMV, mobile)
- 7. PIN vs. Signature
- 8. Big vs. Small Issuers/Banks
- 9. An end to the lawsuits?
- 10. Potential Unintended Consequences
- 11. Credit Card Interchange Implications
- 12. Competitive effect/Impact on use of debit vs. other payments
- 13. Regulatory "Cap" vs. Competition

