December 8, 2025

Via Electronic Delivery

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

Re: Debit Card Interchange Fees and Routing

Dear Ms. Misback:

In light of recent developments, the American Bankers Association, America's Credit Unions, the Association of Military Banks of America, the Bank Policy Institute, the Clearing House, the Defense Credit Union Council, the Electronic Payments Coalition, the Independent Community Bankers of America, and the National Bankers Association (the "Associations") write to respectfully urge the Board of Governors of the Federal Reserve System ("Board") to withdraw its 2023 proposed amendments to Regulation II (the "2023 Proposed Rule").[1] As discussed in further detail below, with inconsistent holdings from federal district courts,[2] the future of Regulation II appears uncertain. Moreover, given the passage of time, the 2021 data upon which the 2023 Proposed Rule relies does not support informed decision making, and any future Regulation II rulemaking would need to consider more current data available to the Board. As

[1] Debit Card Interchange Fees and Routing, 88 Fed. Reg. 78,100 (Nov. 14, 2023).
[2] *See Corner Post, Inc. v. Board of Governors of the Federal Reserve System,* No. 1:21-cv-00095 (D. N.D. Aug. 6, 2025) ("*Corner Post*"), and *Linney's Pizza v. Board of Governors of the Federal Reserve System* No. 3:22-cv-00071-GFVT (E.D. Ky Sept. 15, 2025) ("*Linney's Pizza*").

such, the Board should withdraw the 2023 Proposed Rule while it awaits further clarity from the courts and considers more current data.

The Board should affirmatively withdraw the 2023 Proposed Rule. As previously mentioned, the 2023 Proposed Rule would amplify the damage already done by Regulation II, including by driving up costs to consumers for basic deposit accounts (disproportionately harming low-income and underserved consumers), and degrading the ability of financial institutions (including smaller, exempt issuers) to serve their communities. [3] Moreover, there is no statutory requirement that the Federal Reserve revise Regulation II, the proposal is not designed to ensure issuers receive a reasonable rate of return, would deny an even greater percentage of issuers the ability to recover their costs, and arbitrarily omits many readily-quantifiable and statutorily-permissible issuer's costs the Board should include in calculating its cost-based price cap.[4] At the same time, Federal Reserve research indicates that the proposed lower interchange rate is unlikely to redound to the benefit of consumers in the form of lower retail prices.[5]

The Board has indicated that it does not intend to finalize the 2023 Proposed Rule until there is legal certainty upon conclusion of active Regulation II litigation.[6] However, the Board has neither acted upon nor withdrawn the 2023 Proposed Rule in the two years since its publication. While the Administrative Procedure Act ("APA") may not legally require the Board to formally withdraw a proposed rule that has idled without further action, the Board should issue a notice of withdrawal to provide clarity to the public and regulated entities.[7] Withdrawing the 2023 Proposed Rule would reduce public confusion and signal clearly that the matter of revising Regulation II is closed until litigation clarifies its legal status.

The 2023 Proposed Rule now rests in the shadow of federal district court decisions that take different views on the legal and methodological basis of the existing Regulation II and the 2023 Proposed Rule. The Board should not proceed with a final rule, or any further proposed rulemakings, until there is legal certainty in *Corner Post* and *Linney's Pizza*, which could be years away. In any event, a rule amending Regulation II will need to consider the final outcome of these cases, which would require withdrawal of the 2023 Proposed Rule and publication of a revised proposal, or a re-write of Regulation II's interchange fee standards entirely. Rather than leaving the debit card market in a state of uncertainty for the foreseeable future while waiting for the

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[3] *See* Letter to Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, from The American Bankers Association et al. (May 10, 2024).

[4] *See* id. As the Bank Policy Institute and The Clearing House Association have explained in the recent litigation, the correct reading of the Durbin Amendment requires the Board to include all transaction specific costs, plus allow a reasonable rate of return. *See e.g., Corner Post,* ECF No. 65 at 37.

[5] *See* for example, Wang, Z., Schwartz, S., and Mitchell, N. (2014). The Impact of the Durbin Amendment on Merchants: A Survey Study. Federal Reserve Bank of Richmond and Javelin Strategy & Research, 194; Sarin, N. and Mukharlyamov, V. (2025). "Price Regulation in Two-Sided Markets: Empirical Evidence from Debit Cards."; Evans, D., Chang, H., and Joyce, S. (2013). "The Impact of the U.S. Debit Card Interchange Fee Caps on Consumer Welfare: An Event Study Analysis."

[6] *See* Remarks by Board Governor Christopher Waller at The Clearing House Annual Conference 2024, New York, New York, https://bpi.com/bpinsights-nov-16-2024/ ("The legal uncertainty around things now, with *Chevron*, *Corner Post*, all the legal cases, for me … I'd like a little more clarity on how the courts are going to be interpreting things, like how we interpret Reg II, before we put up a big new proposal or new stage").

[7] Withdrawal of the 2023 Proposed Rule would also be consistent with the Administration's goals of unleashing prosperity through deregulation, and specifically to "alleviate unnecessary regulatory burdens placed on the American people." See 90 Fed. Reg. 9,065 (Feb. 06, 2025) (Exec. Order No. 14192).

resolution of these ongoing court challenges, the Board can provide greater certainty to debit card issuers, payment card networks, and merchants alike by withdrawing the 2023 Proposed Rule.

Finally, with the passage of time, the 2021 data upon which the 2023 Proposed Rule was based does not support informed decision making. As previously requested, the Board should publish the summary data from its calendar year 2023 survey, which was submitted to the Board on May 1, 2024, nearly 19 months ago.[8] As we have detailed in prior correspondence with the Board, the debit card market has undergone substantial change since 2021, including revisions to the payment card network rules designed to shift fraud losses from merchants to card issuers, rapid growth in contactless and mobile wallet usage, and the implementation of the Board's 2022 amendments to Regulation II concerning card-not-present ("CNP") transactions. While such changes still would not be fully reflected in the 2023 survey data, its publication would provide clarity on the current state of play in the debit market. For instance, the 2023 survey data may provide insight into the initial effects of the Board's CNP routing amendments, which took effect on July 1, 2023.[9] Based on an industry survey, our members report significant growth in fraudulent CNP transactions as well as issuer fraud losses on single message networks, even though these rule changes were only effective for half of the survey year and few merchants had implemented changes to make routing determinations for single-message-network CNP transactions. According to the "Key Findings" from the Federal Reserve's 2024 Financial Institution Risk Officer Survey, fraud losses "were most notable in debit cards."[10] As a result, the Associations expect the published 2023 survey data to reflect increases in issuer costs related to fraud for the 6 months of that year in which the rule change was effective. The Associations respectfully request that the Board publish the summary data from its calendar year 2023 survey as soon as possible and withdraw the 2023 Proposed Rule.

Ultimately, the Associations are of the strong view that the only way forward that honors the Board's statutory obligations and prudent regulatory conduct is to withdraw the 2023 Proposed Rule. 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.

Sincerely,

American Bankers Association
America's Credit Unions
Association of Military Banks of America
Bank Policy Institute
The Clearing House
Defense Credit Union Council
Electronic Payments Coalition
Independent Community Bankers of America
National Bankers Association

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[8] *See* Letter to Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, from The American Bankers Association et al. (July 28, 2025).
[9] 12 C.F.R. § 235.7(a).
[10] The Federal Reserve. *Key Findings From the Annual Federal Reserve Financial Services (FRFS) Financial Institution Risk Officer Survey*. (2024)
https://www.frbservices.org/binaries/content/assets/crsocms/news/research/2024-risk-officer-survey-results.pdf.