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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. OP-1196
Request for information on debit card fee study
Federal Register 21 May 2004**

Dear Ms. Johnson,

The American Bankers Association (“ABA”) is pleased to submit our comments on the Federal Reserve Board’s (“Board”) request for information on whether the existing disclosures required by the Electronic Fund Transfer Act (“EFTA”) adequately inform consumers of fees imposed by a financial institution that holds the consumer’s account for using a debit card at the point of sale (“POS”). The Board is asking for comment on the need for, and potential benefits of, requiring additional disclosures in the periodic statement, including disclosure of the amount, source, and recipient of each such fee as well as a summary of the total amount of such fees for the period and calendar year-to-date.

The ABA brings together all elements of the banking community to represent the interests of this rapidly changing industry. Its membership – which includes community, regional, and money center banks and holding companies, as well as savings associations, trust companies, and savings banks – makes ABA the largest banking trade association in the country.

As the Board notes, the EFTA already requires the account-holding financial institution to disclose the amount of its debit card fees, both in the initial disclosures as well as the periodic statement. We respectfully submit that we believe that the existing disclosures are more than adequate to inform and alert customers of these fees and that altering these disclosures or adding to them will achieve little in terms of educating customers, but will impose unnecessary costs and add to the ever-growing and frustrating regulatory burden.

Initial disclosures. Fees imposed by the account-holding institution for using a debit card at POS are akin to fees imposed by the account-holding institution for using an automated teller machine (“ATM”)

not owned by the account-holding institution, commonly referred to as “foreign ATM transaction fees.” EFTA requires that both the foreign ATM transaction and POS debit card use fees be disclosed in the initial disclosures. We believe that fees, including debit card fees, are one of the most important determinants for consumers in their choice of checking account. Accordingly, most consumers review the fee schedule already required by EFTA as well as the Truth in Savings Act when they shop for and choose a checking account. These current disclosures are more than adequate to alert consumers to debit card fees. We do not believe that it would be appropriate or helpful, for example, to highlight in the initial disclosures the POS debit card fees imposed by financial institutions: other fees are equally, if not more important, depending on the individual customer and expected use of the account. Highlighting these debit card fees will distract consumers from fees that may be more important and relevant to them.

Periodic statements. Even if some consumers overlook the financial institution’s POS debit card fees in the initial disclosures, they will notice them when they review their periodic statement or view their account activity online. As the Board notes, Regulation E (which implements EFTA) requires financial institutions to disclose fees for electronic fund transfers. Though these fees may be aggregated with other fees or itemized individually, most institutions disclose them as a single line item and do not aggregate them. In this fashion, customers reviewing their statements can easily discern the amount and type of fees imposed. We are not aware of any complaints that customers are overlooking these fees or that they need to be disclosed differently.

The Board has asked whether such PIN-use fees should be separately disclosed or whether such fees may be aggregated with other disclosed fees. We believe that both should be permitted. Most institutions currently disclose the fees separately, but for those that may combine them with others, the cost of making the change is unjustified.

The Board has also asked whether additional disclosures should be required to be included in periodic statements. For example, it asks whether the periodic statement should identify the “source and recipient of any such fee.” We cannot see any value for the consumer in identifying that information. From the consumers’ perspective, the financial institution alone is responsible for the fee. Consumers have little interest in knowing how the institution devises or divides that fee. Those who have questions or complaints about such fees will complain to the institution and are little interested in an explanation of who gets what.

Moreover, adding this information will clutter the periodic statement, obscuring information more important and relevant to customers and discouraging them from reviewing the statement. The clutter and disincentive to review their statements or account activity will make it harder for them to understand their accounts, including fees, and to detect errors and unauthorized transactions.

The Board has also requested comment on whether the periodic statement should include a summary of the total amount of such fees for that reporting period and calendar year-to-date. We also believe that this will be of limited value and will unnecessarily lengthen the periodic statement. The cost of imposing this requirement simply does not justify any limited or isolated benefit.

For those consumers incurring multiple fees, the sheer visual effect of multiple line items of the same fee, which are typical today, has the greatest impact. A periodic aggregated amount will add little. Those consumers interested in the aggregate for the period can easily determine the total amount charged with the help of a calculator or basic math skills.

Moreover, any value to disclosing fees in aggregate, whether periodic or annual, is limited and will become more limited because, in growing numbers, consumers are reviewing their checking account activity online, relying less on periodic statements to do so. Online review provides a more up-to-date view: the monthly statement is usually somewhat dated by the time of receipt because of the lag between the end of the statement period and receipt of the statement. For this growing population of customers who rely on online banking to review account activity, disclosing the aggregate numbers will be meaningless.

Given the minimal benefits – which go only to those consumers who incur POS debit card fees and also read their statements, and many do neither -- the costs of requiring that fees be aggregated on a periodic or annual basis are not justified. To comply with such a requirement, financial institutions would incur significant costs for systems changes. These include adding new fields and buckets necessary to add new line items, calculations, and potentially additional digits to accommodate a figure greater than currently needed. The costs of program changes should not be underestimated. Moreover, they will, in part, be borne by consumers.

The costs will be multiplied and the effectiveness of the disclosures on consumers diluted if other fees, in addition to the POS debit card fees, are required to be aggregated. Recently, the Board proposed requiring financial institutions to separately list the sums of charges for non-sufficient funds and overdraft, both by period and calendar year-to-date. Why are some fees more important to others? Will *all* fees have to be disclosed in the aggregate as proposed for the POS debit card fees and overdraft fees? It should be recognized that incremental changes incur programming costs each time. In addition to piling on the regulatory burden and costs, the ever-lengthening statements will distract consumers and discourage them from reviewing statements.

The Board should also, in any report on its study, make clear that the POS debit card fees imposed by the financial institution are not added to the amount of the transaction. There appears in some reports to have been some confusion on this matter. Some have asserted that consumers are confused when they review their statement on the basis that the transaction amount reflected in the periodic statement is greater than the

amount the merchant charged because the bank's fee is added to the transaction amount. They have claimed that consumers are then calling the financial institution for an explanation. These assertions seem to assume that the POS debit card fee imposed by the financial institution is added to the merchant's charge. We do not believe that Regulation E permits this or that financial institutions are disclosing the transactions in this fashion. Any report on the study should clarify this matter.

Receipts. The Board also has requested comment on whether the disclosures required for receipts should be changed. We strongly advise that the disclosures not be altered. First, as a practical matter, it is not feasible to disclose the account holding institution's fee at the time of disclosures. Second, even if it were, banks would have to redesign accounts and eliminate some pricing features and options, to the detriment of their customers.

There have been questions about whether the POS debit card fee imposed by the account-holding institution should be disclosed at the POS. We believe that that question has basically been answered, "No," by the study by the General Accounting Office entitled, "Automated Teller Machines: Issues Related to Real-time Fee Disclosure" United States General Accounting Office GAO Report to Congressional Committees," (Report number B-284431) from July 2000. (Found at: <http://www.gao.gov/new.items/g100224.pdf>)

As noted earlier, fees imposed by the account-holding institution for debit card use at the POS are similar to fees imposed by the account-holding institution for using an ATM not owned by the account-holding institution. The GAO explored the feasibility of disclosing such fees at the time of the ATM transaction. Its report outlined many of the significant technical challenges and costs and the limited benefits of doing so. The same analysis of the significant costs and technical challenges of disclosing the ATM fee at the time of transaction apply to POS fees. Indeed, POS terminals, given their lack of sophistication and capability compared to ATMs, present even greater challenges and potential costs. Moreover, most current POS terminal screens are inadequate to disclose the information in a readable fashion. ***As a practical matter, it is not feasible to disclose POS fees at the time of the transaction,***

The GAO report outlines in some depth the technical challenges of conveying the account-holding institution's debit card fee to the merchant at the time of the transaction. (See pages 17 to 22 of study.) Those challenges expand across the entire debit card process, from the terminal, whether it be a POS terminal or an ATM, to the network, to the internal processes and infrastructure of the account-holding institution. Nothing in the debit card transaction processing environment has changed to alter this analysis.

Even if those technical obstacles were overcome, there would still be times when accurate information would be unavailable. For example, if the system temporarily were to go down and the transaction approved

based on stand-in processing, whether the customer should be assessed a fee would not be known because the information is unavailable.

Moreover, if POS debit cards fees imposed by the account-holding institution were to be disclosed at the POS terminal, financial institutions would have to redesign accounts and eliminate popular terms. For example, many financial institutions that impose POS debit card fees, waive those fees if a certain balance is maintained. However, neither the institution nor the consumer can know whether the customers will meet that threshold balance in mid-cycle. If the fee must be disclosed at the time of transaction, the financial institution would have to eliminate this feature or complicate it to the point that the consumer would not understand or be able to know when fees might be imposed.

Similarly, some financial institutions allow customers a certain number of free POS debit card transactions per month. However, it may not know whether the customer has reached that maximum at the time of the POS debit card transaction because there may be transactions already made but not posted at the time of the transaction.

As noted, as a practical matter, it is not feasible to construct a system that would allow disclosure of the account-holding institution's POS debit card fee at the time of transaction. Even if it were practical, financial institutions would have to eliminate or alter popular account terms. Moreover, the costs would drastically outweigh any limited benefit. Current disclosures already adequately inform and alert consumers to these fees.

Conclusion. ABA appreciates the opportunity to comment on this request for information. ABA believes that the current requirements related to POS debit card fees imposed by the account-holding institution properly and effectively inform and alert customers to those fees. Any additional disclosures will create unnecessarily add costs, costs which ultimately are borne by consumers.

Regards,



Nessa Eileen Feddis