ABA Staff Analysis: Frequently Asked Questions
Final Rule: Debit Card Interchange Fees and Routing
Updated September 2011

INTERCHANGE FEE STANDARD

1. What is the permissible cap on interchange fees?

The regulation caps fees at a higher level than in the proposed rule, but at a much lower level than current market prices. The new cap consists of a base fee of 21 cents, plus 1 cent for fraud prevention costs, plus 5 basis points of the dollar value of the transaction to cover fraud losses. The 1 cent for fraud prevention costs is subject to review as part of another interim final rule with a comment period closing on September 30, 2011.

For an average $40 dollar transaction, the capped fee would be 24 cents. A $500 transaction would be capped at 47 cents. It is important to note that these are only caps and that the networks may set lower interchange rates.

2. When do the interchange fee caps go into effect?

The effective date has been moved back to October 1, 2011 from the original date of July 22, 2011.

3. Are all card issuers subject to the price caps?

No. The regulation’s price caps apply to debit card issuers with assets in excess of $10 billion. Debit card issuers with assets below $10 billion are exempt from the price cap portion of the regulation.

4. How will small banks subject to the exemption be impacted?

While the regulation exempts banks with assets under $10 billion, the networks are not obligated to maintain two pricing schedules, one for exempt banks and a separate one for covered banks. Nevertheless, it appears that at least initially they will. However, the networks have acknowledged that over time, market pressures, including those resulting from the networks exclusivity rules, may alter the fees paid to exempt banks. In addition, all banks are subject to the exclusivity and routing requirements.

5. What are the qualifications for the small bank exemption?

The issuer, together with its affiliates must have assets of less than $10 billion as of the end of the calendar year preceding the date of the debit transaction. Assets include total worldwide banking and nonbanking assets (other than trust assets under management). Affiliate means any company that “controls, is controlled by, or is under common control with another company.”

6. How do banks subject to the exemption ensure that they are recognized as exempt?

The Board will be publishing annually lists of institutions above and below the small issuer exemption asset threshold on which networks may rely. The list will be based on assets as of December 31, 2010 and posted on the Board’s website. The Board noted that there may be a small number of debit-card issuers who do not appear on the list. It expects networks to determine the process for certifying that a bank not on the Board’s exempt list is exempt.

7. How does the bank qualify for the fraud prevention adjustment?

To be eligible to receive the adjustment, an issuer must certify that it meets the requirements as enumerated in the regulation to develop and implement policies and procedures reasonably designed to:

- Identify and prevent fraudulent electronic debit transactions;
- Monitor the incidence of, reimbursements received for, and losses incurred from fraudulent debit transactions;

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• Respond appropriately to suspicious electronic debit transactions so as to limit the fraud losses that may occur and prevent the occurrence of future fraudulent electronic debit transactions; and

• Secure debit card and cardholder data.

8. **Are general purpose reloadable prepaid cards subject to the interchange fee standards?**

Yes, in some cases for covered issuers. The scope of prepaid cards exempt from the regulation has been narrowed in the final rule. To be exempt under the “general purpose reloadable card” exemption, funds from the account may only be accessed via the card. This means that if the product offers features such as online bill pay (where payments are made via ACH or paper drafts) or allows other payments to be made via ACH or check, then it does not qualify for the exemption. The effect is to expand coverage to general purpose reloadable cards that have features similar to existing full service transaction account products.

Further, this exemption is limited after July 21, 2012 only to general purpose reloadable cards that do not charge overdraft fees and do not charge a fee for the first ATM withdrawal per month from an ATM that is part of the issuers designated network.

9. **Are health savings accounts, flexible spending accounts, and health reimbursement accounts subject to either the interchange fee standards or the network exclusivity and routing provisions?**

Depending on how they are structured, they may be exempt from the interchange fee standard. For example, if the account is held under a *bona fide* trust agreement or qualifies as a prepaid card, it would be exempt.

These debit cards are subject to the exclusivity requirements, but have been granted an extension on the effective date due to unique technical challenges associated with these types of cards. See question 29.

10. **Can charge cards or credit cards be classified as debit cards?**

Generally, no, but there are exceptions. The Board notes that cards that access credit accounts are not considered debit cards regardless of whether the cardholder pays the credit balance through preauthorized transfers from an account. However, under Regulation E, lenders may not condition extension of credit on a consumer’s repayment by means of preauthorized electronic fund transfers, though they may offer reduced APRs or other cost-related incentives for an automatic repayment feature, so long as the automatic payment feature is not the only loan program offered for that type of credit. In addition, the regulation provides that credit cards will be considered debit cards if the issuer conditions a cardholders’ ability to preselect transactions for early repayment on the cardholder maintaining an asset account at the issuers.

11. **Are deferred debit cards covered by the regulation?**

Yes. Deferred debit cards, like other debit cards, may be used to initiate debits to the cardholders’ account. With deferred debit cards, the issuer may not debit the funds until a pre-arranged period of time after posting the transaction to the cardholder’s account. During this time, funds typically are unavailable to the cardholder. Such cards are covered by the act.
NETWORKS AND EXCLUSIVITY ROUTING

Exclusivity

12. What is the prohibition on network exclusivity?

This refers to the requirement found in Section 235.7(a) stating debit card issuers may not restrict the number of payment card networks on which a debit transaction may be processed to fewer than two unaffiliated networks. This means debit card issuers will be required to offer the merchant the ability to route transactions over signature networks and PIN debit networks that are not affiliated with one another.

13. What debit card issuers are affected by this regulation?

This regulation affects all debit card issuers. There is no exemption for small institutions or for government administered cards or for covered reloadable prepaid cards. All debit card issuers including those of prepaid cards and health care flexible spending accounts must comply.

14. How does a debit card issuer comply with the network exclusivity requirements?

Debit card issuers will be in compliance if they have at least two unaffiliated payment card networks available for processing an electronic debit transaction. For example, a debit card issuer that has one payment card network available for signature transactions and another payment card network available for PIN debit transactions would be in compliance as long as the PIN debit network and the signature network were not affiliated with one another.

15. What if a debit card issuer only offers payment card networks that are affiliated?

The debit card issuer will be required to enable an unaffiliated PIN debit network by April 1, 2012. The debit card issuer does not have to end the relationship it has with the affiliated PIN debit network, but it must allow another unaffiliated network to be enabled on the card to allow the merchant the freedom to select that network.

16. Can a merchant route a transaction on any network it chooses?

No. Merchants have the choice of routing transactions only on networks that a debit card issuer enables on their cards.

If a customer chooses to authorize a transaction using a signature, the merchant must route the transaction over the enabled signature network. Given the difficulties associated with enabling two signature networks, the Board allows a debit card issuer to have one such network on the card and be in compliance.

If a customer chooses to authorize a transaction using a PIN, the merchant must route the transaction over a PIN network that is enabled on the card. There may be only one PIN network that is not affiliated with the signature network. There may be multiple PIN networks enabled. If there are multiple PIN networks then the merchant can choose one of those enabled PIN networks to direct the transaction.

17. How does this affect issuers of debit cards that only enable PIN transactions or signature transactions?

Debit cards that can be accessed solely through PIN transactions will be required to have two or more unaffiliated PIN networks enabled on the card. This will allow the merchant to have a choice of routing options. These cards will not be required to enable signature transactions.

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Similarly, if a card is limited to signature access only, it would be required to have two or more unaffiliated signature networks. It would not be required to enable PIN debit access on the card.

18. Can a debit card issuer add an unaffiliated regional PIN network to comply with the new regulation?

A regional PIN network could meet the regulation’s requirements under certain conditions. The regional PIN network must not, by rule or policy, restrict its operation to a limited geographical area or impose other limitations based on merchant or on the type of transaction. The regional PIN network must be willing to expand its coverage in response to increased merchant demand for access to the network.

A payment card network that only functions at a particular merchant, or type of merchant, or shopping mall would not meet the requirements of enabling an unaffiliated PIN debit network.

19. Do issuers need to reissue debit cards when new payment networks are enabled?

No. The regulation does not require that debit cards that are enabled to process transactions on two or more affiliated networks bear the brand, logo, or trademark of each card network.

20. How does this regulation affect a debit card issuer’s existing contractual restrictions regarding engaging other payment card networks?

This regulation prohibits network restrictions that limit or restrict a debit card issuer from enabling a payment card network on a debit card. This prohibition includes contracts between the network and the issuer as well as any applicable network rules. In addition, any restrictions networks had placed on adding new network logos or brands to the cards are also prohibited.

21. How will this regulation affect a debit card issuer that allows debit transactions to be initiated through another device?

This regulation applies to any debit transaction whether it is initiated by a fob, or token, or chip, or any other device that is issued in connection with a debit card.

Routing

22. How will this regulation affect network and issuer restrictions on how merchants can route debit card transactions?

Issuers and payment card networks will be prohibited from influencing how a merchant routes these transactions, either directly or indirectly. Issuers and payment card networks will be prohibited from using any agents, processors, or licensed member of the network to limit a merchant’s ability to route transactions over any enabled network by contract, requirement, condition, or penalty or otherwise.

It is important to note that merchants have the choice to direct transactions to “any payment network that may process such transactions” and that is limited to those networks that the issuer designates.

23. How will merchants be able to steer transactions?

Merchants will be allowed to steer, or encourage, consumers to use the PIN network instead of using their signature to authorize a transaction by prompting them to enter their PIN rather than asking them their choice of “debit” or “credit.”

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24. How will transactions be routed if there are multiple unaffiliated networks available?

The merchant will be allowed to decide which enabled network shall process the transaction. Issuers and card networks will be prohibited from taking this power from the merchant. However, if the merchant does not indicate a routing choice, the issuer or card network may designate a default network to process the transaction.

25. Can a payment card network provide incentives or compensation to merchants to encourage them to route transactions to that network?

Yes, the Board does not consider this a restriction placed on merchants.

26. Are merchants required to make network routing decisions in real time?

No, merchants may designate routing decisions in advance via a routing table or it could delegate routing decisions to its acquiring bank or processor.

EFFECTIVE DATES

27. When do debit card issuers need to be in compliance with the new exclusivity requirements?

All debit card issuers must be in compliance with the network exclusivity rules by April 1, 2012.

28. When do payment card networks need to be in compliance with the new requirements?

All payment card networks must be in compliance by October 1, 2011. This earlier date will allow merchants to benefit from debit cards that are already compliant with the requirement to have unaffiliated networks available to process transactions.

29. When must debit cards connected to health savings accounts and flexible spending accounts be in compliance?

These types of cards receive an extension to April 1, 2013 because current PIN networks are not technically capable of meeting Internal Revenue Service (IRS) requirements regarding the transactions. These cards use the Inventory Information Approval System (IIAS) network at the point of sale that validates whether a purchase falls into the “allowable” category for that card. Existing PIN networks do not have the ability to do this.

30. When must prepaid debit cards be in compliance?

The Board received comments asking for additional time for prepaid card issuers to manage down their existing inventory of cards to mitigate the risk of having to destroy noncompliant card stock. The Board reviewed the comments and made changes based on the type of prepaid card in question.

1. Non-reloadable general-use prepaid cards must be in compliance by April 1, 2013. Cards sold prior to this date are not subject to the requirements of the new regulation.

2. Reloadable general use prepaid cards must be in compliance by April 1, 2013.
   ○ Cards sold prior to April 1, 2013 are not subject to the new regulation unless and until they are reloaded.

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Cards sold and reloaded prior to April 1, 2013 will have an effective date of May 1, 2013.
Cards sold prior to April 1, 2013 and reloaded after April 1, 2012, the effective date is 30 days after the reloading.

FAQ Updates

31. Where should banks address inquiries that are specific to their card network?

The best source of information for each bank is their assigned relationship manager. However, both MasterCard and Visa have established alternate methods for banks to contact them regarding implementing changes related to interchange and routing.

MasterCard
Durbin_Info@MasterCard.com.

Visa
888-847-2488
esupport@visa.com

Questions? Contact ABA’s Nessa Feddis or Steve Kenneally for more information.