



**America's
Credit Unions**

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March 7, 2024

The Honorable Sherrod Brown
Chairman
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Tim Scott
Ranking Member
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, DC 20510

Re: Today's Hearing: "The Semiannual Monetary Policy Report to the Congress"

Dear Chairman Brown and Ranking Member Scott:

On behalf of America's Credit Unions, I am writing regarding the Committee's hearing entitled, "The Semiannual Monetary Policy Report to the Congress." America's Credit Unions is the voice of consumers' best option for financial services: credit unions. We advocate for policies that allow the industry to effectively meet the needs of their nearly 140 million members nationwide.

Regulation II

America's Credit Unions strongly opposes the Federal Reserve Board's (the Board) recently proposed rule to drastically reduce the Regulation II (Reg II) debit interchange fee cap. First and foremost, the Board's contention that the statutory text of the Durbin Amendment mandates that they proceed with this rulemaking is false. There is no trigger that requires reconsideration of the cap; instead, the text directed the Board to establish a cap that was "reasonable and proportional" to the costs of the issuer. In 2011, the Board determined that the cap met this standard even though only 80 percent of covered debit card issuers would see cost recovery for their authorization, clearance, and settlement (ACS) costs—the largest banks. As of the Board's last data collection, only 77.4 percent of debit card issuers are experiencing full recovery of ACS costs—again leaving high-cost, low-volume issuers, including many credit unions, operating at a deficit. If anything, this data suggests the debit interchange cap should be raised, not lowered, to ensure community-based financial institutions are able to continue providing needed products and services to consumers.

Any Board action should be based on robust, thorough, and accurate data that reflects market realities for all covered issuers. The Board's proposal is based on data from 2021 that does not account for the far-reaching changes to Reg II requiring dual routing for card-not-present transactions that went into effect on July 1, 2023. This change has direct bearing on the data used to calculate the proposed interchange fee cap including the aforementioned ACS costs that are central to the justification for drastically reducing the cap. The impact of the new routing requirements is undetermined and must be quantified before proceeding with any additional rulemaking impacting this regulation. It is insufficient to simply review the Board's biennial

survey of large debit card issuers to assess the impact of the new routing requirement because it applies to all issuers, not just covered issuers with \$10 billion or more in total assets. That data, from 2021, was collected well before the rule was finalized in 2022, let alone became effective in July of 2023.

Regulation II has caused significant real-world economic harm to credit unions and their members—and its recent proposed expansion by the Board is only compounding that harm. The Durbin Amendment’s “exemption” of smaller financial institutions has proven to be largely illusory, as the Federal Reserve’s own data shows that regulatory thresholds in the interchange market do not insulate smaller issuers from harm. Specifically, Reg II data indicates that the average per transaction interchange fee for exempt single-message transactions has fallen by nearly 31 percent in inflation-adjusted dollars from 2011 to 2021.

We echo Governor Bowman’s concerns raised at the Board’s October 25th meeting regarding the unfair nature of this proposal and the Board’s reluctance to consider the impacts that such a drastic reduction could have on smaller issuers, including community-based financial institutions like credit unions. The biggest impact is likely to be on low- and moderate-income (LMI) individuals and families, as this reduced interchange fee cap could lead to higher borrowing costs and limited availability or complete discontinuation of certain products and services that are designed to help these LMI borrowers and their families. A Government Accountability Office (GAO) study ranked the Durbin Amendment “among the top five laws and regulations most cited...as having significantly affected the cost and availability of basic banking services.” It further concluded that the regulation was associated with increases in the costs of checking accounts and a decrease in the availability of noninterest checking accounts without monthly fees. The NCAAP raised concerns at the time of implementation that debit card interchange would disproportionately affect at-risk communities by limiting the availability of banking services, and we have seen that play out since enactment. The adoption of Regulation II in 2011 brought a significant decrease in the availability of free checking and an increase in other fees and costs by financial institutions to make up for lost revenue. These negative effects could only be amplified by a further reduction in the debit interchange fee cap that will once again force financial institutions to make up for this lost revenue in other areas. This impact is acute for credit unions as not-for-profit cooperatives that do not have the same opportunities to raise capital as banks. Studies estimate that as a result of the Durbin Amendment, there was a transfer of \$1 to \$3 billion annually from low-income households to large retailers and their shareholders, the primary beneficiaries of interchange regulations.

Additionally, the Board’s Cost Benefit Analysis of the proposed rule is riddled with inaccuracies. The Board asserts that consumers will likely benefit from cost savings passed through by merchants as a result of lower prices. The Federal Reserve’s own research shows that only about one percent of merchants passed their savings onto consumers through reduced prices following the adoption of the Durbin Amendment, and in fact, over 20 percent of merchants increased their prices. This behavior will not change with further cuts.

There have been little to no consumer savings that the proponents of the Durbin Amendment promised would happen. This proposed rule from the Board would only further exacerbate the difficulties imposed by this misguided law. Most importantly, it is not just covered issuers that would feel the impacts of this proposal, but rather all financial institutions would face pricing pressures and be forced to make difficult decisions that could negatively impact the communities they serve.

Central Bank Digital Currency (CBDC)

We would also like the opportunity to express our opposition to the creation of a central bank digital currency (CBDC) The creation of a central bank digital currency (CBDC) would represent a fundamental transformation of banking and payments and poses serious risks to consumers and the financial system. The creation of a CBDC deserves serious and exacting consideration that includes a focused enunciation of the issues Congress and the Federal Reserve would intend to solve through a CBDC that are singular and unique to the digital currency, novel and not duplicative of current innovations in the marketplace, and that do not worsen the provision of financial services for consumers or credit unions.

The consideration of a CBDC must proceed with several cornerstone principles. First, implementation of a CBDC should not proceed without congressional authorization and a clear structure and novel purpose. Second, any CBDC must utilize an intermediated model that preserves the direct relationship between consumers and financial institutions. This intermediation is necessary to ensure effective implementation of Anti-Money Laundering/ Combatting the Financing of Terrorism standards. Third, deposit substitution and its cascading effects must be sufficiently mitigated as to prevent reduction of the credit supply, to maintain affordable credit, and to ensure the safety and soundness of the financial system and overall economy.

At this time, any potential advantages of a CBDC are not worth the risks including financial stability, consumer privacy, misallocation of Federal Reserve resources, and government intrusion into banking services traditionally provided by the private sector.

Operation of the Federal Reserve's Overnight Reverse Repo Facility (ON RRP)

America's Credit Unions is concerned that the current rate offered by the Federal Reserve's Overnight Reverse Repo Facility (ON RRP) is draining deposits from credit unions. While the ON RRP was created to solve a problem during the 2007-2009 financial crisis, the ON RRP interest rate continues to attract money market funds. This form of subsidization for uninsured depositors allows money market funds to offer higher rates than the market would ordinarily support and continues to place pressure on credit union liquidity.

In Conclusion

On behalf of America's Credit Unions and their more than 140 million members, thank you for holding this important hearing. It is critical that the Committee understand the immense pressure credit unions—large and small—are under in terms of compliance and operational challenges.

Unlike other sectors of the financial services industry, credit unions embody the collaborative, people helping people philosophy. As such, we urge this Committee and regulators to work with the credit union industry to pursue an approach, both legislatively and regulatorily, aimed at ensuring credit unions can continue to serve their millions of members across the country.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Nussle". The signature is fluid and cursive, with a large loop at the beginning.

Jim Nussle, CUDE
President & CEO

cc: Members of the Committee on Banking, Housing, and Urban Affairs