

SCHWARTZ & BALLEN LLP
1990 M STREET, N.W. • SUITE 500
WASHINGTON, DC 20036-3465
WWW.SCHWARTZANDBALLEN.COM

TELEPHONE
(202) 776-0700

FACSIMILE
(202) 776-0720

MEMORANDUM

June 29, 2011

To Our Clients and Friends

Re: Federal Reserve Rule Implementing Durbin Debit Interchange Amendment

The Federal Reserve Board (“Board”) today adopted a final rule implementing the Durbin Amendment to the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Durbin Amendment directs the Board to issue rules relating to debit card interchange fees, network exclusivity, and transaction routing.

The Durbin Amendment requires the Board to establish standards for assessing whether the amount of any interchange transaction fee that an issuer may receive or charge with respect to an electronic debit card transaction is reasonable and proportional to the costs incurred by the issuer. The amendment also directs the Board to adopt regulations prohibiting “network exclusivity” for debit payments.

The final rule provides the following:

- Adopts a single interchange fee cap of 21 cents, with an additional 5 basis points of the value of the transaction for fraud costs
- Issuers and payment card networks are prohibited from restricting the number of payment card networks on which an electronic debit transaction may be processed to less than two unaffiliated networks
- Excludes three-party systems such as American Express from coverage because they are not “networks” that route transactions
- Exempts issuers that, together with affiliates, have assets of less than \$10 billion, from complying with the interchange fee cap, but not from network exclusivity and transaction routing provisions
- Issuers (other than small issuers) are required to file reports with the Board providing data such as costs incurred with respect to electronic debit transactions, interchange transaction fees and fraud-prevention costs

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The effective dates of the final rule are as follows:

- October 1, 2011 for the interchange fee standards and the routing restrictions
- April 1, 2012 for the prohibition on network exclusivity as applied to issuers and payment card networks
- April 1, 2013 for debit cards that use transaction qualification, including certain health benefit cards and general-use prepaid cards

A copy of the final rule can be found at our website at <http://www.schwartzandballen.com/news.html>

If you have any questions, please call Gilbert Schwartz, Robert Ballen, Tom Fox, Heidi Wicker or Lauren Bianchini at (202) 776-0700.