



This document is scheduled to be published in the Federal Register on 11/14/2016 and available online at <https://federalregister.gov/d/2016-27299>, and on FDsys.gov

FEDERAL RESERVE SYSTEM

Agency information collection activities: Announcement of Board approval under delegated authority and submission to OMB

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY:

Notice is hereby given of the final approval of a proposal to extend for three years, with revision, the debit card issuer survey (FR 3064a; OMB No. 7100-0344) and to extend for three years, without revision, the payment card network survey (FR 3064b; OMB No. 7100-0344) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, with revision, of the following report:

Report title: Interchange Transaction Fees Surveys.

Agency form number: FR 3064a (Extended with revision) and FR 3064b (Extended without revision).

OMB control number: 7100-0344.

Frequency: FR 3064a – Biennial; FR 3064b – Annual.

Respondents: Issuers of debit cards (FR 3064a) and payment card networks (FR 3064b).

Estimated annual burden hours: FR 3064a: 89,280 hours; FR 3064b: 1,275 hours.

Estimated average hours per response: FR 3064a: 160 hours; FR 3064b: 75 hours.

Number of respondents: FR 3064a: 558; FR 3064b: 17.

General description of report: The FR 3064a and 3064b surveys are authorized by subsection 920(a) of the Electronic Fund Transfer Act, which was amended by section 1075(a) of the Dodd-Frank Act.¹ This statutory provision requires the Federal Reserve, at least once every two years,² to disclose aggregate or summary information concerning the costs incurred and interchange transaction fees charged or received by issuers or payment card networks in connection with the authorization, clearance or settlement of electronic debit transaction, as the Federal Reserve considers appropriate and in the public interest.³ It also provides the Federal Reserve with authority to require issuers and payment card networks to provide information to enable the Federal Reserve to carry out the provisions of the subsection.⁴ The obligation to respond to these surveys is mandatory.

In accordance with the statutory requirement, the Federal Reserve will release aggregate or summary information from the survey responses. In addition, the Federal Reserve will release, at the network level, the percentage of total number of transactions, the percentage of total value of transactions, and the average transaction value for exempt and not-exempt issuers obtained on the FR 3064b. The Federal Reserve has determined to release this information both because it can already be determined mathematically based on the information the Federal Reserve currently releases on average interchange fees and because the Federal Reserve believes the release of such information may be useful to issuers and merchants in choosing payment card networks in which to participate and to policymakers in assessing the effect of Regulation II on the level of interchange fees received by issuers over time.

However, the remaining individual issuer and payment card information collected on these surveys can be kept confidential under exemption (b)(4) of the Freedom of Information Act (FOIA) because staff has advised that, if released, this information would cause substantial harm to the competitive position of the survey respondents.⁵

Abstract: The Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) requires the Federal Reserve to disclose, at least every two years, such aggregate or summary information concerning the costs incurred for, and interchange transaction fees received by, issuers with respect to debit card transactions, as the Federal Reserve

¹ 15 U.S.C. 1693o-2.

² The subsection refers to biannual disclosures and the Federal Reserve interprets this to mean once every two years. See 76 FR 43458 (July 20, 2011).

³ 15 U.S.C. 1693o-2(a)(3)(B).

⁴ *Id.*

⁵ 5 U.S.C. 552(b)(4) (exempting from disclosure “trade secrets and commercial or financial information obtained from a person and privileged or confidential”).

considers appropriate or in the public interest. The data from these surveys are used in fulfilling that disclosure requirement. In addition, the Federal Reserve uses data from the payment card network survey (FR 3064b) to publicly report on an annual basis the extent to which networks have established separate interchange fees for exempt and covered issuers. Finally, the Federal Reserve uses the data from these surveys in determining whether to propose revisions to the interchange fee standards in Regulation II (12 CFR Part 235). The Dodd-Frank Act provides the Federal Reserve with authority to require debit card issuers and payment card networks to submit information in order to carry out provisions of the Dodd-Frank Act regarding interchange fee standards.

Current Actions: On August 9, 2016 the Federal Reserve published a notice in the Federal Register (81 FR 52689) requesting public comment for 60 days on the extension, with revision, of the Interchange Transaction Fees Surveys. The comment period for this notice expired on October 11, 2016. The Federal Reserve received one joint comment letter addressing this collection, which are summarized and addressed below.

Summary Discussion of Public Comments and Recommended Responses⁶

The Federal Reserve received one joint comment letter from eight banking industry associations, which concerned the debit card issuer survey (FR 3064a). The commenters in this letter commended the Federal Reserve for proposing a full 90-day period for respondents to complete the survey, but suggested that the 90-day period commence in mid-February rather than mid-January, because respondents generally cannot begin collecting the requested data until February. The commenters suggested several changes to the online reporting tool which they argued would facilitate completion of the survey. The commenters also suggested that the survey no longer ask respondents to provide information on interchange fees repaid as a result of chargebacks and, separately, interchange fees repaid as a result of returns, but instead ask respondents to provide a single number that is interchange fees repaid as a result of chargebacks or returns. In addition, the commenters argued that the survey's definition of "costs of authorization, clearance, and settlement" fails to include all costs related to a debit card issuer's authorization, clearance, and settlement activities, and they recommended expanding the definition to include additional cost items. Lastly, the commenters suggested that international fraud losses be included as part of reported fraud losses.

In addition to revisions that were already suggested and were supported by the commenters, the Federal Reserve revised the debit card issuer survey to incorporate certain additional suggestions from the commenters. In particular, the Federal Reserve is commencing the survey at the beginning of February, providing a total line for interchange fees repaid as a result of chargebacks or returns, and making certain technical

⁶ On August 2, 2016, the Federal Reserve Board granted initial approval of these surveys. Notice of the proposed action was published in the *Federal Register* on August 9, 2016; the comment period ended on October 11, 2016. The Federal Reserve received one comment letter addressing the proposed revisions to the FR 3064 information collection.

changes to the reporting tool for the survey. The Federal Reserve is not expanding the survey to include international fraud losses or additional cost elements.

Detailed Discussion of Public Comments and Recommended Responses

Debit Card Issuer Survey (FR 3064a)

Section-by-section analysis

Section II: All Debit Card Transactions, Section III: All Single-Message (PIN) Debit Card Transactions, Section IV: All Dual-Message (Signature) Debit Card Transactions, and Section V: General-Use Prepaid Card Transactions

Question 3: Cost of authorization, clearance, and settlement—The Federal Reserve proposed to delete questions 3e and 3f which break out the fixed and variable cost components for line items *3b.1 In-house costs and 3b.2 Third-party processing fees*, respectively. The commenters strongly supported this proposal. They argued that the allocation of costs to fixed and variable components places an undue burden on respondents by forcing them to categorize costs in an artificial manner outside of respondents' standard cost accounting practices. The Federal Reserve believes that the commenters' support for this change validates the Federal Reserve's proposal to remove these items.

The commenters further believe that the definition of "costs of authorization, clearance, and settlement" fails to include all costs related to a debit card issuer's authorization, clearance, and settlement activities. The commenters provided a list of categories of costs that should be included and recommended that these categories be reported as individual cost items, if they are not already. Specifically, the commenters recommended expanding the definition to include the following items: costs associated with receiving, responding to, and resolving customer inquiries with respect to debit card transactions; debit card transaction compliance costs; debit card transaction non-sufficient funds handling costs; card production and delivery costs; and a portion of costs related to establishing and maintaining debit account relationships.

The Federal Reserve is keeping the set of data elements as proposed. Some of the proposed categories of costs (e.g., cardholder inquiry and non-sufficient funds handling costs) are already included in the survey, and all of the proposed categories are costs that the Federal Reserve determined would not be considered as part of the interchange fee standard in Regulation II. Including these additional cost categories and requiring issuers to report at a more detailed level would not significantly enhance the Federal Reserve's understanding of the relevant costs for Regulation II and would represent a significant burden to respondents.

The commenters suggested that international fraud losses be included as part of reported fraud losses. The commenters argued that international fraud losses should be considered as part of the fraud losses associated with domestic transactions for U.S.-issued debit cards because the data compromise leading to the fraudulent debit card activity frequently occurs in the United States and generates fraudulent international transactions even if the cardholder never leaves the United States. The commenters likened this to the Federal Reserve allowing respondents to include costs from international transaction processing centers when reporting the costs associated with U.S.-issued debit cards. The commenters acknowledge that the Federal Reserve's authority to regulate debit card activity is restricted to the United States, but argued that this does not preclude the Federal Reserve from considering costs that occurred outside of the United States, if those costs could not have been incurred but for the issuance of a U.S. debit card.

International fraud losses arise from international transactions, not domestic transactions, and are therefore outside the scope of Regulation II.⁷ As such, international fraud losses are analogous to ATM fraud losses, which are also not included. The commenters noted that costs incurred at international transaction processing centers are included, but that is because costs incurred at those processing centers are still associated with domestic transactions, whereas international fraud losses are not associated with domestic transactions. Thus, international fraud losses will not be reported.

Question 6: Interchange fee revenue—The commenters suggested that the survey no longer ask respondents to provide information on interchange fees repaid as a result of chargebacks and, separately, interchange fees repaid as a result of returns. The commenters argued that payment networks providing interchange fee information do not readily provide a breakdown of chargebacks and returns, such that respondents are often forced to make arbitrary allocations. The commenters suggested that the survey instead ask respondents to provide a single value consisting of interchange fees repaid as a result of chargebacks or returns.

The Federal Reserve added a line item in which respondents are asked to provide the value that commenters argue is readily available: interchange fees repaid as a result of chargebacks or returns. However, the Federal Reserve will continue to also ask respondents to provide a breakdown of this total number into interchange fees repaid as a result of chargebacks and, separately, interchange fees repaid as a result of returns. Respondents will, as always, have the option of entering “not reported” for those items.

General Instructions

The Federal Reserve proposed to make the survey available in mid-January, with a deadline in mid-April, thereby giving respondents a full 90 days in which to provide responses. The commenters commended the Federal Reserve for proposing a 90-day

⁷ Regulation II applies only to electronic debit transactions that are initiated at a merchant located in the United States. See paragraph 235.2(h)-5 of the Official Commentary on Regulation II.

completion period, but suggested that the 90-day period begin in mid-February rather than in mid-January. The commenters noted that issuers will not have the required data to respond to the survey before mid-February; for instance, processors and networks often do not provide invoices to issuers until mid-January or later. Also, commenters argued that the necessary personnel are unavailable to begin completing the survey until other end-of-year closing activities are complete.

The Federal Reserve is making the survey available at the beginning of February instead of mid-January, and due in early May rather than mid-April, in order to address the timing concerns raised by the commenters.

The commenters also proposed three changes to the online reporting tool for the survey. First, commenters recommended that the online survey round entries to the nearest whole dollar. Second, commenters recommended that entries be right-justified. Third, commenters suggested that there be a way for respondents to consolidate all of entries, across all sections, into a single editable spreadsheet. The Federal Reserve is making all of these changes, subject to any unanticipated technical difficulties that may arise in the current interface.

Payment Card Network Survey (FR 3064b)

The Federal Reserve received no comments on the Payment Card Network survey (FR 3064b).

Board of Governors of the Federal Reserve System, November 8, 2016.

Robert deV. Frierson
Secretary of the Board.

Billing Code 6210-01-P
[FR Doc. 2016-27299 Filed: 11/10/2016 8:45 am; Publication Date: 11/14/2016]