



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: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with Regulation II (Debit Card Interchange Fees and Routing) (FR II OMB No. 7100-0349).

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.

Office of Management and Budget (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, or by fax to (202) 395-6974.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files. These documents also are available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears above.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to

collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA submission, supporting statements, and approved collection of information instrument(s) are placed into OMB's public docket files.

Final Approval under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection:

Report title: Recordkeeping and Disclosure Requirements Associated with Regulation II (Debit Card Interchange Fees and Routing).

Agency form number: FR II.

OMB control number: 7100-0319.

Frequency: On occasion.

Respondents: State member banks, national banks, insured nonmember banks, savings associations, and federally-chartered credit unions.

Estimated number of respondents: Implement policies and procedures, 1 respondent; Review and update policies and procedures, 541 respondents; Annual notification and change in status, 541 respondents.

Estimated average hours per response: Implement policies and procedures, 160 hours; Review and update policies and procedures, 40 hours; Annual notification and change in status, 1 hour.

Estimated annual burden hours: Implement policies and procedures, 160 hours; Review and update policies and procedures, 21,640 hours; Annual notification and change in status, 541 hours.

General description of report: Regulation II, Debit Card Interchange Fees and Routing (12 CFR part 235), implements, among other things, standards for assessing whether interchange transaction fees for electronic debit transactions are reasonable and proportional to the cost incurred by the issuer with respect to the transaction, as required by section 920(a) of the Electronic Fund Transfer Act (EFTA) (15 U.S.C. 1693o-2(a)). Regulation II limits the interchange transaction fee that covered issuers can charge for debit card transactions. Under the rule a covered debit card issuer is allowed to receive or charge an amount of no more than 1 cent per transaction for the costs associated with preventing fraudulent electronic debit transactions (“fraud-prevention adjustment”), if the issuer complies with the standards and requirements set forth in the rule. In addition, issuers must retain records demonstrating their compliance with the requirements in Regulation II for at least five years after the end of the calendar year in which the electronic debit transaction occurred. Any person or issuer subject to an investigation or enforcement proceeding involving Regulation II must retain records pertaining to the matter until the final disposition of the matter, unless an earlier time is allowed by court or agency order.

Legal authorization and confidentiality: Section 920(a)(3) of the EFTA (15 U.S.C. 1693o-2(a)(3)), as added by section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, authorizes the Board to (1) prescribe regulations regarding interchange transaction fees that an issuer may charge with respect to electronic debit transactions, and to establish standards to assess whether the amount of any such fee is reasonable and proportional; and (2) require any issuer or payment card network to provide the Board such information as deemed necessary. Section 920(a)(5) of the EFTA

(15 U.S.C. 1693o-2(a)(5)) further provides that the Board may allow for an adjustment to the interchange transaction fee amount received or charged by an issuer if “(1) such adjustment is reasonably necessary to make allowance for costs incurred by the issuer in preventing fraud in relation to electronic debit card transactions involving that issuer; and (2) the issuer complies with the fraud-related standards established by the Board.”

Section 920(a)(5) also provides detailed requirements pertaining to the fraud-related standards to be established by the Board and authorizes the Board to promulgate such standards by rule. In addition, the EFTA (15 U.S.C. 1693o(a) and 1693o-2(d)) authorizes enforcement of compliance with the requirements implemented under the EFTA by the Board for entities that the Board has enforcement authority over under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), which covers member banks (other than national banks), branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et seq.).

Regulation II’s fraud-prevention recordkeeping requirements (12 CFR 235.4(b)) and disclosure requirements (12 CFR 235.4(c) and (d)) are required in order for an issuer to obtain a benefit (i.e., to be eligible to receive or charge the fraud-prevention adjustment). Regulation II’s general recordkeeping requirements for issuers (12 CFR 235.8(c)) are mandatory. The records and notifications required under sections 235.4(b)–(d) and 235.8(c) of Regulation II are generally not submitted to the Board or the other federal financial regulatory agencies. Accordingly, normally no confidentiality issues arise under the Freedom of Information Act (FOIA) (5 U.S.C. 552). In the event such

records or notifications are obtained by the Board through the examination or enforcement process, such information may be kept confidential under exemption 8 of the FOIA, which protects information contained in or related to the examination or supervision of a financial institution (5 U.S.C. 552(b)(8)).

Current actions: On April 8, 2019, the Board published a notice in the *Federal Register* (84 FR 13919) requesting public comment for 60 days on the extension, without revision, of the FR II. The comment period for this notice expired on June 7, 2019. The Board received two comments. After considering the comments received on the proposal, the Board will proceed with the extension, without revision, of the FR II.

Detailed Discussion of Public Comments

Comments were received from an individual and from a group of banking associations. The comment from the individual expressed support of the Dodd-Frank Act, and generally expressed opposition to any relaxation of rules implementing the Dodd-Frank Act. The comment from the group of banking associations supported the Board's proposal to maintain certain current recordkeeping processes while urging the Board to resist requests to reopen Regulation II to avoid further regulatory burden associated with the Durbin Amendment to the Dodd-Frank Act (if any such requests were received). The Board's recommended renewal, without revision, of the existing recordkeeping requirements is consistent with the views expressed in these comments.

Board of Governors of the Federal Reserve System, July 15, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

Billing Code 6210-01-P

[FR Doc. 2019-15313 Filed: 7/17/2019 8:45 am; Publication Date: 7/18/2019]