

THE DURBIN AMENDMENT – Discount For Cash

The Durbin Amendment is Section 920 in the Dodd-Frank Wall Street Reform and Consumer Act, which is part of the broader Financial Regulation Reform and Consumer Act passed by the Senate in May 2010.

The Durbin Amendment was included in the Dodd-Frank bill by Senator Richard Durbin (D-Illinois). Among other things, it requires the Federal Reserve to set 'reasonable and proportional' rates and fees for debit interchange rate.

On June 29, 2011, the Federal Reserve ruled on the Durbin Amendment. The effective date for most of the Durbin requirements was October 1, 2011.

Based on their ruling, the Federal Reserve capped transaction fees for debit cards at 21 cents per transaction for large institutions (greater than \$10 billion in assets) with an additional allowance of 5 basis points (.05%) of transaction value to account for fraud losses, and an additional \$.01 cent per transaction for fraud prevention (if certain fraud prevention standards established by the Board are met). For the average \$38.00 debit card transaction, the interchange fees will be around \$.24, a decrease of about 45% from pre-Durbin rates.

The Durbin Amendment only regulates debit networks (pin debit). Credit card rates are not discussed. The amendment is rather complex. A few of the critical takeaways are:

- October 1, 2011 is the final deadline for implementation of most of the Durbin Amendment rules; specifically, a two-tiered network option from VISA/MC and the interchange rate cap.
- A cap of 21 cents on debit card swipe fees, with a one cent charge per transactions for fraud prevention if issuers meet pre-determined provisions, and a .05% ad valorem fee for fraud losses based on transaction amount. See example above.
- The two-tiered network option for debit cards. This provision in theory will drive competition by giving merchants a choice as to which debit network they process transactions over. For example, present arrangements effectively force merchants to process many Visa transactions over the STAR network, even if competitors like PULSE and NYCE offer to conduct the same transaction at a lower processing price.
- Banks with less than \$10 billion in assets are exempt from the Durbin Amendment regulations.
- July 21, 2011, merchants can impose a \$10 minimum on **credit card transaction and can offer cash discounts at the register for cash or debit purchases**. This was previously banned in VISA® and MasterCard® merchant agreements. Remember, the Consumer Financial Protection Bureau is empowered on July 21st. They have the legal right to intercede on behalf of consumers who may question certain merchant practices, rates, product offers and related matters.