

The Durbin Amendment

Prohibition on Network Exclusivity and Routing Restrictions

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Scope

- Applies to “electronic debit transactions”
 - “Use of a debit card as a form of payment”
 - Goods, services, cash-back, not ATM
 - “In the United States”
 - Account must be located in the U.S.
 - Merchant must be located in the U.S.
- “To initiate a debit to an account”
 - Consumer or business accounts

Scope and Exemptions

- General-use prepaid card exemption only applies to interchange transaction fee rules
- Exemption does not apply to network exclusivity or routing restrictions

Network Exclusivity

- Must enable at least two unaffiliated networks for processing electronic debit transactions
 - Rule may be satisfied by enabling only one network for PIN and one (unaffiliated) network for signature transactions
 - Networks must be designed to accept
- Rule is not satisfied if network limited by:
 - Geographic area
 - Type of merchant or transaction

Network Exclusivity

- Network may not restrict or limit issuer's ability to "contract with" another unaffiliated network – prohibits rules affecting:
 - Enablement. May not limit or specify networks that are enabled on card
 - Branding. May not limit to network's "brand, mark or logo" on a card, or limit or restrict competing marks from appearing on a card
- Not required to put multiple logos on card

Routing Restrictions

- May not inhibit merchant from directing debit transactions to any enabled network
 - Merchant may encourage/discourage use of preferred authorization (PIN vs. signature)
 - No routing priorities except as default if merchant, acquirer or processor does not designate, or if required by state law
 - May not designate network based on type of access device issued to cardholder

Compliance Dates

- Network compliance for network exclusivity and routing restrictions was October 1, 2011
- Issuer compliance for routing restrictions was also October 1, 2011
- Issuer compliance for network exclusivity is effective April 1, 2012, with delayed effective dates for certain prepaid cards

Compliance Dates

- Non-reloadable prepaid cards: April 1, 2013
 - Cards sold before April 1, 2013 are exempt
- Reloadable cards: April 1, 2013
 - Cards sold before April 1, 2013 are not subject to rule unless and until:
 - Reloaded before April 1, 2013 → May 1, 2013
 - Reloaded after April 1, 2013 → 30 days after date of reloading

Other Durbin Changes

- Discounts for payment methods
 - Merchants may offer non-discriminatory discounts or in-kind incentives to use preferred payment type (debit, credit, cash, etc.)
- Min/Max non-discriminatory transaction amounts
 - Merchants may impose up to \$10 minimum for credit card charges
 - Fed agencies and higher education institutions may place cap on credit card charge amounts

Questions?

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