

United States Senate
Washington, DC 20510-1304

June 7, 2016

Charles W. Scharf
Chief Executive Officer
VISA Inc.
900 Metro Center Blvd
Foster City, CA, 94404

Dear Mr. Scharf:

I write to seek information about a new fee that Visa apparently began charging in April to certain banks and credit unions that issue Visa payment cards. This fee, called the Delayed De-Conversion Assessment, applies a charge of 5 basis points to the Visa payment volume of any card issuer that (1) has experienced a material decline in Visa payment volume or the number of issued Visa cards; or (2) has demonstrated its intent to change its card network affiliation. Simply put, Visa appears to be imposing a significant penalty on card issuers that try to shift their business from Visa to a competing card network or that see their business shifted to competing networks through market forces. This raises troubling questions about the fee's impact on network competition and the burdens the fee creates for small banks and credit unions.

In order to better understand this new fee and its implications, I request that you provide information within 30 days in response to the following questions:

1. Has Visa made information about the Delayed De-Conversion Assessment fee publicly available so small banks, credit unions, consumers and other stakeholders can learn more about the fee and why it is being imposed?
2. What is the specific amount of decline in Visa payment volume and/or number of issued Visa cards that triggers Visa's imposition of the Delayed De-Conversion Assessment fee on small banks and credit unions?
3. Has Visa notified small banks and credit unions about the specific amount of the decline that would trigger Visa's imposition of this fee?
4. Do small banks and credit unions have the opportunity to negotiate and/or contest Visa's imposition of the Delayed De-Conversion Assessment fee on them?
5. It is my understanding that Visa card issuers were notified in April that the Delayed De-Conversion Assessment fee would be effective immediately. Were small bank and credit union issuers given any advance notice of the fee's creation in order to give those issuers the opportunity to change card network affiliations before the fee took effect?
6. How will Visa ensure that issuers do not interfere with competitive choices of networks on debit transactions due to their concerns about having the Delayed De-Conversion Assessment fee imposed?
7. How does the Delayed De-Conversion Assessment fee serve the best interests of small bank and credit union issuers?
8. How does the Delayed De-Conversion Assessment fee serve the best interests of consumers?

Additionally, I note that this new fee has arisen at a time when some are calling for a repeal of the amendment I authored to the Dodd-Frank Wall Street Reform and Consumer Protection Act. Advocates of repeal want to return to the pre-amendment days when the dominant card networks and their big bank allies set the fees and rules for the electronic payments system without regulatory oversight. My amendment has worked to enhance competition between card networks and preserve the ability of small banks and credit unions to compete fairly in the card issuance market. Visa's new fee could diminish competition between networks and penalize small bank and credit union issuers. Visa's new fee shows that the need for reasonable regulation to ensure transparency, competition and choice in the electronic payments system has not diminished. Continued vigilance by Congress and regulators is necessary to help ensure that the credit and debit card systems operate fairly for all Americans, including retailers and their customers.

Thank you for your attention to this matter. I look forward to your response.

Sincerely,

A handwritten signature in blue ink that reads "Dick Durbin". The signature is written in a cursive, flowing style.

Richard J. Durbin
United States Senator