



## Weekly Newsletter

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# Bank & Thrift

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## Fed Publishes Data for Average Debit Card Interchange Fees

On May 1, 2012, the Federal Reserve Board ("Fed") published information on the average debit card interchange fees paid in the fourth quarter of 2011.

The Fed's Regulation II provides that an issuer subject to the interchange fee standard (a non-exempt issuer) may not receive an interchange fee that exceeds 21 cents plus 0.05 percent multiplied by the value of the transaction, plus a 1-cent fraud-prevention adjustment, if eligible. This standard became effective October 1, 2011.

As part of its rulemaking process, the Fed collected 2009 data from payment card networks which showed the average interchange fee for all issuers was 43 cents. The 2011 data show the average interchange fee per transaction received by non-exempt issuers in the fourth quarter to be 24 cents, though the average interchange fee received by exempt issuers was 43 cents. The 2011 data also showed that since 2009: 1) The average interchange fee per signature debit transaction declined 57 percent for non-exempt issuers; 2) The average interchange fee per PIN debit transaction declined less than 1 percent for non-exempt issuers; and, 3) Exempt issuers paid 114 percent more than the average paid by non-exempt issuers for signature debit transactions and 32 percent more for PIN debit transactions.

Exempt issuers include certain government-administered debit cards, certain other prepaid cards, or debit card issuers with consolidated assets of less than \$10 billion. The Fed intends to collect and report this data annually.

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## Basel Committee Releases Consultative Document to Modify the Risk Framework of the Trading Book Capital Requirements

The Bank for International Settlements' Basel Committee on Banking Supervision ("Basel Committee") released a consultative document on May 3, 2012 that outlines a revised market risk framework and sets out initial proposals on specific measures to improve the trading book capital requirements. Comments are requested no later than September 7, 2012.

The Basel Committee identifies the following key elements of the proposals:

- Establishing a more objective boundary between the trading book and the banking book that materially reduces the scope for regulatory arbitrage - feedback is sought on two alternative approaches;
- Moving from value-at-risk to expected shortfall to better captures "tail risk";
- Calibrating the revised framework in both the standardized and internal models-based approaches to a period of significant financial stress, consistent with the stressed value-at-risk approach adopted in Basel 2.5;

- Comprehensively incorporating the risk of market illiquidity, again consistent with the direction taken in Basel 2.5;
- Implementing measures to reduce model risk in the internal models-based approach, including a more granular models approval process and constraints on diversification; and
- Revising the standardized approach to be more risk-sensitive and act as a credible fallback to internal models.

The Basel Committee is also proposing to strengthen the relationship between the models-based and standardized approaches by establishing a closer link between the calibration of the two approaches, requiring mandatory calculation of the standardized approach by all banks, and considering the merits of introducing the standardized approach as a floor or surcharge to the models-based approach.

Based on the comments received on the consultative document, the Basel Committee intends to release a more detailed set of proposals to amend the Basel III framework.

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## OCC Schedules Bank Director Workshop

The Office of the Comptroller of the Currency ("OCC") announced that it plans to host a workshop for directors of nationally chartered community banks and Federal savings associations in Cleveland, Ohio on June 25, 26 and 27. The workshop is entitled, "*A Director's Challenge: Mastering the Basics*," and is intended to provide practical information that expands bank directors' skills and understanding of issues facing their banks. It is geared primarily to directors of national community banks and Federal savings associations with assets of less than \$5 billion who would like to review the fundamental requirements of their position.

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## FFIEC IT Handbook Upgraded to InfoBase Technology

The Bureau of Consumer Financial Protection ("CFPB") announced on May 3, 2012 that the Federal Financial Institutions Examination Council ("FFIEC") had recently upgraded the functions and features of the InfoBase for the *FFIEC Information Technology Examination Handbook* ("IT Handbook"). The upgrades provide the FFIEC member agencies with new capabilities, including the ability to make updates on a more frequent basis. A "What's New" function on the InfoBase home page is now included and can be used to monitor recent changes.

The IT Handbook consists of 11 booklets covering a variety of technology and technology-related risk management guidance for financial institutions and examiners. As a result of the new dynamic environment, the individual booklets will no longer be available in hard copy.

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# Securities & Investment Management

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## SEC Reopens Comments Period for Proposed Amendments to the Financial Responsibility Rules for Broker-Dealers

The Securities and Exchange Commission ("SEC") announced that it is reopening the public comment period for proposed amendments to its net capital, customer protection, books and records, and notification rules for broker-dealers under the *Securities Exchange Act of 1934*, which were previously issued on March 9, 2007. The proposed rule amendments were designed to update the financial responsibility rules for broker-dealers and make certain technical amendments.

The SEC indicates that it never acted on the proposal and is now reconsidering the amendments. The SEC is providing an additional thirty day comment period following publication in the *Federal Register*.

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## CFTC Proposes Interpretive Statement on the Applicability of Confidentiality and Indemnification Provisions to Foreign Regulators

On May 1, 2012, the Commodity Futures Trading Commission ("CFTC") approved the release of a Proposed Interpretive Statement on the confidentiality and indemnification provisions in the *Dodd-Frank Wall Street Reform and Consumer Protection Act* ("Dodd-Frank Act") that have been included in the *Commodity Exchange Act* at new Section 21(d). The CFTC states that the provisions of Section 21(d) should not operate to inhibit or prevent foreign regulatory authorities from accessing data in which they have an independent and sufficient regulatory interest. Under the Proposed Interpretive Statement foreign regulators would generally be exempted from the indemnification and confidentiality provisions and would have access to data in Swap Data Repositories ("SDR"). The exemption would only apply to data that is required to be reported and if the SDR is recognized by the country's law and regulations. Comments are requested by June 6, 2012.

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## Enforcement Actions

The Securities and Exchange Commission ("SEC") and the Commodity Futures Trading Commission ("CFTC") recently announced the following enforcement actions:

- The SEC charged an individual and several other individuals and companies who participated in the execution of two separate schemes to illegally sell stock that resulted in more than \$3 million in ill-gotten gains.
- The SEC charged a firm and two executives with making misleading statements to investors, concealing a liquidity crisis, and failing to disclose that it controlled the relevant secondary market. The firm agreed to settle the SEC's charges, without admitting or denying the findings, and to pay \$11.5 million in disgorgement, \$1.1 million in prejudgment interest, and a penalty of \$14 million.
- The CFTC charged a firm and two individuals with fraud and misappropriation in connection with commodity futures trading.
- The CFTC charged an individual and his firm with fraud, misappropriation and registration violations in connection with an off-exchange leveraged foreign currency Ponzi scheme

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## Recent Supervisory Actions against Financial Institutions

Last Updated: May 7, 2012

Agency	Institution Type	Action	Date	Synopsis of Action
Federal Reserve Board	Bank Holding Company	Written Agreement	04/25	The Federal Reserve Board entered into a Written Agreement with a Tennessee-based bank holding company to address dividends and distributions, debt and stock redemptions and capital to ensure that it serves as a source of strength for its state nonmember bank and nonbank subsidiaries.
Federal Reserve Board	Bank Holding Company	Written Agreement	04/24	The Federal Reserve Board entered into a Written Agreement with a California-based bank holding company to address dividends, debt and stock redemptions and capital to ensure that it serves as a source of strength for its national bank subsidiary.
Federal Reserve Board	Bank Holding Company	Written Agreement	04/24	The Federal Reserve Board entered into a Written Agreement with a Washington-based bank holding company to address dividends and distributions, and debt and stock redemptions to ensure that it serves as a source of strength for its state nonmember bank and nonbank subsidiaries.
Federal Reserve Board	State Member Bank	Prompt Corrective Action	04/24	The Federal Reserve Board issued a Prompt Corrective Action Directive against a Missouri-based state member bank to address capital deficiencies.
Federal Reserve Board	Bank Holding Company; Money Transmitter	Cease and Desist; Civil Money Penalty	04/16	The Federal Reserve Board issued a consent Order to Cease and Desist and an Order to Assess Civil Money Penalty to a state member bank to address allegations that the bank breached certain representations and warranties in connection with its participation in the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility ("AMLF").
Federal Reserve Board	Bank Holding Company	Written Agreement	04/12	The Federal Reserve Board entered into a Written Agreement with a New Mexico-based bank holding company to address dividends, distributions and other payments, and debt and stock redemptions to ensure that it serves as a source of strength for its state nonmember bank and nonbank subsidiaries.
Federal Reserve Board	Bank Holding Company	Written Agreement	04/12	The Federal Reserve Board entered into a Written Agreement with a California-based bank holding company to address dividends and distributions, and debt and stock redemptions to ensure that it serves as a source of strength for its national bank and nonbank subsidiaries.
Office of the Comptroller of the Currency	National Bank	Cease and Desist	04/05	The Office of the Comptroller of the Currency issued a cease and desist order against a national bank for violations of the Bank Secrecy Act and its underlying regulations. In particular, the bank's compliance program was found to have deficiencies related to internal control, customer due diligence, independent BSA and money laundering audit function, monitoring of its remote deposit capture and international cash letter instrument processing in connection with foreign correspondent banking, and suspicious activity reporting related to that monitoring.

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