



Electronic Transactions Association
Industry Relations Policy Positions

EXECUTIVE SUMMARY:

The Electronic Transactions Association (ETA) and its members represent the broad facets of the merchant acquiring industry that serve as the frontline for retail electronic payments. ETA members serve an essential role in expanding the acceptance and ubiquity of electronic payments at business locations of all types and sizes throughout the U.S. and beyond.

Through its mission and program of work, ETA is committed to advancing the professional business standards of these merchant service providers. ETA seeks to strengthen the integrity, trust, and image of these entities and to satisfy the expectations of the card brands and other interested parties with regard to ensuring the integrity and growth of the payments system.

As a recognized and valuable stakeholder in the payments system, the ETA has adopted a set of policy positions on industry issues that reflect the broad interests of its constituents. These policies were developed with input from ETA's members and reflect the association's commitment to promote the growth and integrity of the transaction processing industry in a cooperative effort with each of the card brands.

Through these policy positions, ETA seeks to achieve the following goals:

- Enhance the System of Interchange to Promote Adaptability and Growth;
- Attain Greater Consideration of Interchange Compliance Issues;
- Provide Merchants the Option to Assess Surcharge Fees;
- Protect and Maintain Industry Self-Regulation of Data Security Standards;
- Assure Consistent Application of Card Industry Rules and Regulations; and
- Achieve Direct Sponsorship for Qualified Payments Companies.



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ISSUE: Interchange System

The current system of Interchange has driven the tremendous growth of safe and secure electronic payments and provides significant benefits to consumers, retailers and the financial services industry. Over the course of the past few years, numerous entities have scrutinized the interchange system. This attention has been primarily related to the price of conducting transactions rather than the infrastructure required to process transactions through the Interchange system. Interested parties include federal regulators, assessing the need and viability of controlling said pricing; as well as merchants and other stakeholders who have initiated numerous acts of litigation and public relations campaigns attempting to influence the rates levied for these services.

The companies in the merchant acquiring industry are primary stakeholders in driving the ubiquitous acceptance of retail electronic payments. As such, they have a vested interest in an interchange system that is secure, equitable, growth-oriented and enables the highest levels of consumer convenience and confidence. The continued evolution of the current processes will enhance the time-tested and valuable interchange system by ensuring a structure that is adaptable, responsive and a driver of growth and value for all participants.

ETA POSITION:

- ETA advocates private sector governance of interchange and opposes any government effort to regulate or establish price controls on interchange rates.
- ETA advocates that the card companies to promote an interchange rate setting process that is recognized by participants and interested parties as: transparent, fair, appropriately communicated and driven by market forces.
- ETA advocates that the card brands continue to provide meaningful interchange-based incentives for penetration of new markets, new payment technologies and methodologies for the purpose of enabling the continued growth of the industry.



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ISSUE: Interchange - Operational and Technical Issues

Visa and MasterCard issue rate, structure and technical changes to their respective interchange systems at various and often differing times during the year.

Changes to operating rules that affect business processes, procedures, technology systems and equipment of both service providers and merchants create a significant compliance burden on the acquiring community. Currently, these changes are reported through "member" banks that pass on the information to non-bank acquirers and service providers in the payments system. Depending on the financial institution, the timing and thoroughness of information delivery varies widely and valuable time can be lost in the implementation process. This can be further exacerbated by compliance deadlines that do not provide adequate lead time for an orderly implementation.

Amendment of current practices will: (1) promote greater awareness and communication between the rule-making bodies and those who must implement the requirements; (2) improve full and timely compliance with operating rules and regulations, and (3) strengthen the overall security and efficacy of the interchange system.

ETA POSITION:

- ETA advocates that registered Independent Sales Organizations and 3rd party service providers in good standing should directly receive complete and accurate information regarding interchange and operating regulations, in a timely manner directly from the issuing organization. This includes notices of fee changes, new rate category announcements and other information relating to the management and processing of Interchange. Providing this information directly to recognized ISOs and 3rd party service providers will promote greater understanding and compliance with regulation/rule changes.
- ETA advocates that the card brands must ensure reasonable lead time for the entire payments community to respond to interchange rate and other technical changes to allow for an orderly implementation process.
- ETA advocates that the card brands establish a formal process, such as a defined comment period, to obtain the input of affected stakeholders with regard to the timing and impacts of changes and compliance requirements associated with the interchange system. Wherever possible, the card brands should cooperatively engage stakeholders in the rule making process as early as possible in advance of proposal development.



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ISSUE: Surcharge Fees

Except under very limited circumstances, current Visa and MasterCard U.S. operating regulations prohibit merchants from assessing cardholders a fee for accepting payment cards. This prohibits merchants from attaining offsetting compensation for expenses associated with accepting electronic payments. In turn, this deters increased acceptance and the convenience provided to consumers by offering a variety of payment options.

Allowing the assessment of fair and reasonable surcharge fees could promote greater card acceptance; allow merchants to pass on some or all credit card acceptance fees to cardholders directly thereby reducing overhead costs; and potentially reduce the ongoing and sometimes divisive debate over interchange rates.

ETA POSITION:

- ETA advocates that businesses should have the right to establish fair and reasonable surcharge fees that are properly disclosed to consumers in order to compensate for expenses associated with accepting payment cards
- ETA advocates that the card brands, as a general rule, allow merchants to charge a surcharge fee pursuant to general guidelines (e.g., minimum dollar thresholds, disclosure standards, etc.) as developed by the card brands.



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ISSUE: **Industry Self-Regulation of Data Security Standards**

Requirements by the major card brands for the proper handling of cardholder data and the mitigation of fraud are well established and continue to expand and change regularly to respond to emerging threats. Scrutiny from the general public and government officials has increased the pressure and potential for additional regulation related to the protection of card holder data. This has created a commensurate demand on the merchant acquiring industry to manage the increased breadth, depth and complexity of the rules related to data security. These requirements have direct impact on ETA constituents, as well as their customers, and have the potential to pose a significant burden on these companies in terms of ensuring and managing compliance.

ETA strongly supports industry self-regulatory efforts for the protection of cardholder data, foremost of which is the Payment Card Industry Data Security Standards (PCIDSS). It is committed to supporting education efforts to promote greater understanding, awareness and compliance with the PCIDSS among its members and other stakeholders. Further, ETA believes that the adoption of its stated recommendations will enhance compliance by all entities in the acquiring industry, as well as the merchants they serve; reduce redundant or inefficient regulatory requirements; and promote the overall integrity and safety of the electronic payments system.

ETA POSITION:

- ETA advocates that the PCIDSS become the common standard for data security, explicitly preempting the existing, individual security programs of the card brands (e.g., CISP, SDP, etc.). Development of this common standard should reflect the input of all members in the payments system to preserve the safety and integrity of the system.
- ETA advocates that a common standard be used among the card brands for merchant classification.
- ETA advocates that the PCIDSS be flexible and scalable to accommodate the unique needs of small businesses. The PCIDSS Council should develop standards, guidelines, and informational resources designed specifically to help small businesses protect and secure cardholder information.
- ETA advocates that the PCIDSS safe harbor exemptions be clarified and strengthened to address the evolving complexity of data security for those entities that make reasonable compliance efforts.
- ETA advocates that the card brands expand efforts to increase awareness of data security violations and to publicize best practices on how to avoid such infractions.



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ISSUE: **Consistent Application of Card Industry Rules and Regulations**

Past enforcement actions by the card brands relating to violations of data security and general operating regulations have appeared subjective and inconsistent with regard to the severity of penalties levied. The confidential nature of the rules enforcement system has led to allegations, conjecture, and speculation that these regulations are not uniformly and consistently applied to all system participants. This lack of disclosure has created public relations challenges as federal/state policy makers and the media attempt to understand and assess the effectiveness of the industry's self-regulatory efforts.

Improving access to information on operating requirements, enabling the right to due process and appeal, and providing appropriate disclosure on enforcement actions by the card brands will improve compliance, mitigate unfavorable perceptions associated with past actions, and make system participants more willing to disclose potential or known infractions thereby improving the efficacy and integrity of the payments system.

ETA POSITION:

- ETA advocates that all entities in the payments system should have timely, full and complete access to the requirements of any regulation they are subject to and the criteria for enforcement.
- ETA advocates that entities, directly or indirectly subject to the impact of an enforcement action by the card brands should have the basic rights of due process and appeal. Any entity, directly or indirectly subject to an enforcement action should have the right to demand reconsideration directly to the card brands in order to present any mitigating information relating to the incident for consideration.
- ETA advocates that in the spirit of transparency and fairness, the card brands should disclose aggregate summary information about enforcement actions in a manner that does not identify, or in anyway compromise the businesses involved or any active law enforcement investigations.



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ISSUE: Direct Sponsorship for Qualified Payments Companies

The current system of bank sponsorship for MasterCard and Visa has created an ambiguous and sometimes overly burdensome intermediary relationship between entities that set system rules, regulations and requirements and those on the front-line that must carry them out. This operating structure has evidenced limited value to the process of rules enforcement and, because information must be distributed through a downward hierarchy of communication, may have unintentionally exacerbated a lack of compliance by non-financial institution system participants.

ETA believes that the elimination of the sponsoring bank requirement for recognized and well-capitalized acquirer businesses would create a more efficient payments system, improve risk mitigation, and enhance overall industry compliance by providing the card companies with greater awareness/control over "who is doing what."

ETA POSITION:

- ETA advocates that MasterCard and Visa undertake a comprehensive review of the current acquirer/sponsorship model to evaluate the market potential and cost/benefits of establishing direct relationships with non-financial institutions, which satisfy established standards, and that would permit such non-financial entities to sponsor third parties.