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(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

**H. R.**

To amend the Electronic Fund Transfer Act to require the Board of Governors of the Federal Reserve system to prescribe regulations relating to network competition in credit card transactions, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. GOODEN of Texas introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Electronic Fund Transfer Act to require the Board of Governors of the Federal Reserve system to prescribe regulations relating to network competition in credit card transactions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Credit Card Competi-  
5 tion Act of 2023”.

1 **SEC. 2. COMPETITION IN CREDIT CARD TRANSACTIONS.**

2 (a) IN GENERAL.—Section 921 of the Electronic  
3 Fund Transfer Act (15 U.S.C. 1693o–2) is amended—

4 (1) in subsection (b)—

5 (A) by redesignating paragraphs (2), (3),  
6 and (4) as paragraphs (3), (4), and (5), respec-  
7 tively; and

8 (B) by inserting after paragraph (1) the  
9 following:

10 “(2) COMPETITION IN CREDIT CARD TRANS-  
11 ACTIONS.—

12 “(A) NO EXCLUSIVE NETWORK.—

13 “(i) IN GENERAL.—Not later than 1  
14 year after the date of enactment of the  
15 Credit Card Competition Act of 2023, the  
16 Board shall prescribe regulations providing  
17 that a covered card issuer or payment card  
18 network shall not directly or through any  
19 agent, processor, or licensed member of a  
20 payment card network, by contract, re-  
21 quirement, condition, penalty, technological  
22 specification, or otherwise, restrict the  
23 number of payment card networks on  
24 which an electronic credit transaction may  
25 be processed to—

26 “(I) 1 such network;

1 “(II) 2 or more such networks,  
2 if—

3 “(aa) each such network is  
4 owned, controlled, or otherwise  
5 operated by—

6 “(AA) affiliated per-  
7 sons; or

8 “(BB) networks affili-  
9 ated with such issuer; or

10 “(bb) any such network is  
11 identified on the list established  
12 and updated under subparagraph  
13 (D); or

14 “(III) subject to clause (ii), the 2  
15 such networks that hold the 2 largest  
16 market shares with respect to the  
17 number of credit cards issued in the  
18 United States by licensed members of  
19 such networks (and enabled to be  
20 processed through such networks), as  
21 determined by the Board on the date  
22 on which the Board prescribes the  
23 regulations.

24 “(ii) DETERMINATIONS BY BOARD.—

1                   “(I) IN GENERAL.—The Board,  
2                   not later than 3 years after the date  
3                   on which the regulations prescribed  
4                   under clause (i) take effect, and not  
5                   less frequently than once every 3  
6                   years thereafter, shall determine  
7                   whether the 2 networks identified  
8                   under clause (i)(III) have changed, as  
9                   compared with the most recent such  
10                  determination by the Board.

11                  “(II) EFFECT OF DETERMINA-  
12                  TION.—If the Board, under subclause  
13                  (I), determines that the 2 networks  
14                  described in clause (i)(III) have  
15                  changed (as compared with the most  
16                  recent such determination by the  
17                  Board), clause (i)(III) shall no longer  
18                  have any force or effect.

19                  “(B) NO ROUTING RESTRICTIONS.—Not  
20                  later than 1 year after the date of enactment of  
21                  the Credit Card Competition Act of 2023, the  
22                  Board shall prescribe regulations providing that  
23                  a covered card issuer or payment card network  
24                  shall not—

1 “(i) directly or through any agent,  
2 processor, or licensed member of the net-  
3 work, by contract, requirement, condition,  
4 penalty, or otherwise—

5 “(I) inhibit the ability of any per-  
6 son who accepts credit cards for pay-  
7 ments to direct the routing of elec-  
8 tronic credit transactions for proc-  
9 essing over any payment card network  
10 that—

11 “(aa) may process such  
12 transactions; and

13 “(bb) is not on the list es-  
14 tablished and updated by the  
15 Board under subparagraph (D);

16 “(II) require any person who ac-  
17 cepts credit cards for payments to ex-  
18 clusively use, for transactions associ-  
19 ated with a particular credit card, an  
20 authentication, tokenization, or other  
21 security technology that cannot be  
22 used by all of the payment card net-  
23 works that may process electronic  
24 credit transactions for that particular  
25 credit card; or

1                   “(III) inhibit the ability of an-  
2                   other payment card network to handle  
3                   or process electronic credit trans-  
4                   actions using an authentication,  
5                   tokenization, or other security tech-  
6                   nology for the processing of those  
7                   electronic credit transactions; or

8                   “(ii) impose any penalty or disadvan-  
9                   tage, financial or otherwise, on any person  
10                  for—

11                  “(I) choosing to direct the rout-  
12                  ing of an electronic credit transaction  
13                  over any payment card network on  
14                  which the electronic credit transaction  
15                  may be processed; or

16                  “(II) failing to ensure that a cer-  
17                  tain number, or aggregate dollar  
18                  amount, of electronic credit trans-  
19                  actions are handled by a particular  
20                  payment card network.

21                  “(C) APPLICABILITY.—The regulations  
22                  prescribed under subparagraphs (A) and (B)  
23                  shall not apply to a credit card issued in a 3-  
24                  party payment system model.

1                   “(D) DESIGNATION OF NATIONAL SECUR-  
2                   RITY RISKS.—

3                   “(i) IN GENERAL.—Not later than 1  
4                   year after the date of enactment of the  
5                   Credit Card Competition Act of 2023, the  
6                   Board, in consultation with the Secretary  
7                   of the Treasury, shall prescribe regulations  
8                   to establish a public list of any payment  
9                   card network—

10                   “(I) the processing of electronic  
11                   credit transactions by which is deter-  
12                   mined by the Board to pose a risk to  
13                   the national security of the United  
14                   States; or

15                   “(II) that is owned, operated, or  
16                   sponsored by a foreign state entity.

17                   “(ii) UPDATING OF LIST.—Not less  
18                   frequently than once every 2 years after  
19                   the date on which the Board establishes  
20                   the public list required under clause (i),  
21                   the Board, in consultation with the Sec-  
22                   retary of the Treasury, shall update that  
23                   list.

24                   “(E) DEFINITIONS.—In this paragraph—

1 “(i) the terms ‘card issuer’ and ‘cred-  
2 itor’ have the meanings given the terms in  
3 section 103 of the Truth in Lending Act  
4 (15 U.S.C. 1602);

5 “(ii) the term ‘covered card issuer’  
6 means a card issuer that, together with the  
7 affiliates of the card issuer, has assets of  
8 more than \$100,000,000,000;

9 “(iii) the term ‘credit card issued in a  
10 3-party payment system model’ means a  
11 credit card issued by a card issuer that  
12 is—

13 “(I) the payment card network  
14 with respect to the credit card; or

15 “(II) under common ownership  
16 with the payment card network with  
17 respect to the credit card;

18 “(iv) the term ‘electronic credit trans-  
19 action’—

20 “(I) means a transaction in  
21 which a person uses a credit card; and

22 “(II) includes a transaction in  
23 which a person does not physically  
24 present a credit card for payment, in-  
25 cluding a transaction involving the



1 entry of credit card information onto,  
2 or use of credit card information in  
3 conjunction with, a website interface  
4 or a mobile telephone application; and  
5 “(v) the term ‘licensed member’ in-  
6 cludes, with respect to a payment card net-  
7 work—

8 “(I) a creditor or card issuer that  
9 is authorized to issue credit cards  
10 bearing any logo of the payment card  
11 network; and

12 “(II) any person, including any  
13 financial institution and any person  
14 that may be referred to as an  
15 ‘acquirer’, that is authorized to—

16 “(aa) screen and accept any  
17 person into any program under  
18 which that person may accept,  
19 for payment for goods or serv-  
20 ices, a credit card bearing any  
21 logo of the payment card net-  
22 work;

23 “(bb) process transactions  
24 on behalf of any person who ac-

1 cepts credit cards for payments;  
2 and  
3 “(cc) complete financial set-  
4 tlement of any transaction on be-  
5 half of a person who accepts  
6 credit cards for payments.”; and

7 (2) in subsection (d)(1), by inserting “, except  
8 that the Bureau shall not have authority to enforce  
9 the requirements of this section or any regulations  
10 prescribed by the Board under this section” after  
11 “section 918”.

12 (b) EFFECTIVE DATE.—Each set of regulations pre-  
13 scribed by the Board of Governors of the Federal Reserve  
14 System under paragraph (2) of section 921(b) of the Elec-  
15 tronic Fund Transfer Act (15 U.S.C. 1693o–2(b)), as  
16 amended by subsection (a) of this section, shall take effect  
17 on the date that is 180 days after the date on which the  
18 Board prescribes the final version of that set of regula-  
19 tions.