

ewallet transactions. Mastercard requires that all Mastercard-branded debit cards loaded into ewallets be tokenized. And, in fact, nearly all such cards are tokenized by Mastercard—via decisions in which merchants have no say. Because Mastercard tokenizes these cards and then withholds detokenization, card-not-present ewallet transactions are not routable to competing networks—these networks are unable to process the transactions without the corresponding PANs. Mastercard thereby inhibits merchant routing choice by employing a technology that compels merchants to route transactions over Mastercard's network.

Additionally, Mastercard's agreements with ewallet providers require those providers to inform merchants that, by accepting card-not-present transactions through ewallets, merchants agree that transactions made with Mastercard-branded debit cards will be routed to Mastercard. Mastercard thereby inhibits merchant routing choice by contract.

### III. Proposed Order

The proposed order seeks to remedy Mastercard's illegal conduct by requiring Mastercard to provide PANs so that merchants may route tokenized transactions using Mastercard-branded debit cards to the available network of their choosing. Under the proposed order, Mastercard must also refrain from interfering with the ability of other persons to serve as TSPs, and it must not take other actions to inhibit merchant routing choice in violation of Regulation II, 12 CFR 235.7(b).

Section I of the proposed order defines the key terms used in the order.

Section II of the proposed order addresses the core of Mastercard's conduct. Paragraph II.A. requires Mastercard, upon request by an authorized acquirer, authorized network, or other authorized person in receipt of a Mastercard token, to provide the PAN associated with the token for purposes of routing the transaction to any competing network enabled by the issuer. This provision is designed to restore and preserve merchant routing choice so that merchants may accept ewallet tokens without being forced to route all such transactions over Mastercard's network. The order specifically requires that Mastercard provide PANs for ecommerce, card-not-present debit transactions in the ordinary course, including in a manner consistent with the timeliness with which Mastercard provides PANs for card-present transactions and without

requiring consideration for making the PANs available.

Paragraph II.B. prevents Mastercard from prohibiting or inhibiting any person's efforts to serve as a TSP or provision payment tokens for Mastercard-branded debit cards. This paragraph prevents Mastercard from taking other actions that would inhibit merchant routing choice in the context of tokenized transactions.

Paragraph II.C. prohibits Mastercard from, directly or indirectly by contract, requirement, condition, penalty, or otherwise, inhibiting the ability of any person that accepts or honors debit cards for payments to choose to route transactions over any network that may process such transactions, in violation of Regulation II, 12 CFR 235.7(b). This paragraph prevents Mastercard from taking other actions, even outside the context of tokenized transactions, that would inhibit merchant routing choice.

The proposed order also contains provisions designed to ensure Mastercard's compliance with the order. Section III requires Mastercard to provide notice to competing networks, acquirers, and issuers via an ad hoc Mastercard bulletin using language found in the proposed order's Appendix A. Section IV requires Mastercard to provide prior notice to the Commission before the commercial launch of any new debit product that requires merchants to route debit transactions to Mastercard's network. Sections V through VII contain provisions regarding compliance reports to be filed by Mastercard, notice of changes in Mastercard, and access to Mastercard documents and personnel.

As stated in Section VIII, the proposed order's purpose is to remedy Mastercard's alleged violation of the Durbin Amendment, EFTA Section 920(b)(1), 15 U.S.C. 1693o-2(b)(1), as set forth by the Commission in its complaint. Section IX provides that the order will terminate 10 years from the date it is issued. However, if the United States or Commission files a complaint in federal court alleging a violation of the proposed order (and the court does not dismiss the complaint or rule that there was no violation), then the order will terminate 10 years from the date such complaint is filed.

By direction of the Commission.

**April J. Tabor,**

*Secretary.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Community Living

#### Statement of Delegation of Authority

Notice is hereby given that I have delegated to the Administrator of the Administration for Community Living the authorities vested in the Secretary of Health and Human Services under the Rehabilitation Act of 1973 as amended in the Workforce Innovation and Opportunity Act (Pub. L. 113-128), to Chair the Interagency Committee on Disability Research for the purposes of promoting the coordination and collaboration of federal disability and rehabilitation research and related activities as stipulated in the ICDR's statutory mission.

This authority may be redelegated to the Director of the National Institute on Disability, Independent Living and Rehabilitation Research. Exercise of this authority shall be in accordance with established policies, procedures, guidelines, and regulations as prescribed by the Secretary. The Secretary retains the authority to submit reports to Congress and promulgate regulations.

This delegation is effective immediately. I hereby affirm and ratify any actions taken by subordinates that involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

Dated: January 10, 2023.

**Xavier Becerra,**

*Secretary.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2007-D-0201]

#### Dosage and Administration Section of Labeling for Human Prescription Drug and Biological Products—Content and Format; Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA, Agency, or we) is announcing the availability of a draft guidance for industry entitled "Dosage and Administration Section of Labeling for Human Prescription Drug and Biological Products—Content and