

May 18, 2016

Chairman Jeb Hensarling
House Financial Services Committee
2228 Rayburn House Office Building
Washington, DC 20515

Ranking Member Maxine Waters
House Financial Services Committee
2221 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

The below signed national and state merchant trade associations understand you are currently drafting a bill to make changes to the 2010 *Dodd-Frank Wall Street Reform and Consumer Protection Act*. We appreciate your interest in this issue and support addressing areas of the law that may need reconsideration. However, there is an important piece of the law that is working to bring competition and transparency to the payments ecosystem and should remain intact. The debit reforms contained in Dodd-Frank, also referred to as the “Durbin Amendment,” brought the first piece of competition and transparency into a market that was historically void of it. The reforms in the law have benefitted American consumers, merchants, small financial institutions, and the economy as a whole. We strongly support the Durbin Amendment and will oppose any effort to weaken or repeal it.

American consumers and merchants earned a hard fought victory over escalating, uncontrollable fees with the inclusion of the debit reform measures in Dodd-Frank. These reforms brought a level of transparency (for the first time small businesses can see and know exactly how much they will be charged for a debit transaction from one of the covered institutions) and a level of competition into a market where fees were traditionally set collectively behind closed doors and without regard to the costs imposed on American consumers and retailers. This was an essential first step to move America’s electronic payments system toward a truly open and free market.

To fully appreciate the need for reform in this area, it is important to understand the history of the U.S. debit market. Banks originally began issuing debit cards as a less expensive and faster competitive alternative to the traditional paper check, and initially there were no “swipe fees” associated with debit cards, as with checks, which under federal law must clear at par. In time, the big credit card networks branded the cards as a way to make additional revenue for their banks by imposing swipe fees on the transactions. These fees were centrally set by the card networks, not the issuing banks, and merchants and their customers were required to pay these fees if they wanted to accept debit or credit cards issued by the card networks, without the ability to negotiate or even know the cost of acceptance.

The debit reforms included in Dodd-Frank directed the Federal Reserve to establish parameters on the allowable centrally-set fees that could be imposed on each of these check-replacement debit transactions by those banks with over \$10 billion in assets. It is important to note that any bank with under \$10 billion in assets is exempt from the cap, and any bank above the threshold would be exempt if they simply choose to set their own fees as opposed to having them centrally set. These reforms took a balanced approach to achieve some level of transparency, predictability and competition with regard to the extreme growth in swipe fees, particularly among the very largest banks, realizing that over 98% of U.S. banks are exempt from the cap.

While the reforms were being debated in Congress in 2010, opponents raised several concerns that history has proven to be unsubstantiated. First, opponents of reforms claimed that small banks would be harmed and the exemption of 98% of the banks in the U.S. would not work. In fact, studies from the Federal Reserve Board¹ and the Government Accountability Office² have disproven this concern. Just this spring, the Philadelphia Federal Reserve released a report that concluded small banks have not been harmed by the reforms, and in fact have benefitted. The report states, "...after the ceiling was imposed, the volume of transactions conducted with cards issued by exempt banks grew faster than it did for large banks."³ The report further found that interchange revenue for exempt banks continued to rise for small banks.⁴

Some also expressed fears that free checking would be reduced if reforms passed. That has not happened. Instead, according to the American Bankers Association's own figures, the percentage of customers receiving free checking has increased from 53 percent to 61 percent since the reforms. Debit reforms did not reduce free checking.

Opponents of debit reforms argued that merchants would not pass along any savings achieved from capping interchange fees along to the consumer. History has also disproven this concern as well. The retail industry functions on razor thin profit margins and our members compete for customers on price every day. If a merchant can realize any savings in the system, it will use it to hold down prices, extend sales or increase value for its customers. The savings were proven in a study by prominent economist Dr. Robert Shapiro who found that consumers have saved nearly \$30 billion since the reforms have been in place and merchants have saved more than \$10 billion. These savings have permitted merchants to reinvest in their businesses, which has supported tens-of-thousand more jobs and significant economic activity.⁵

¹ <http://www.federalreserve.gov/paymentsystems/regii-average-interchange-fee.htm>

² <http://www.gao.gov/assets/650/648210.pdf>

³ https://www.philadelphiafed.org/-/media/research-and-data/publications/banking-trends/2016/bt-how_dodd_frank_affects_small_bank_costs.pdf?la=en

⁴ https://www.philadelphiafed.org/-/media/research-and-data/publications/banking-trends/2016/bt-how_dodd_frank_affects_small_bank_costs.pdf?la=en

⁵ See generally Robert J. Shapiro, The Costs and Benefits of Half a Loaf: The Economic Effects of Recent Regulation of Debit Card Interchange Fees (Oct. 1, 2013).

Unfortunately, opponents of reforms simply look at the shelf price of goods from one year to the next without consideration of outside pricing fluctuations not tied to swipe fees. For example, grocers must consider numerous factors including drought, product recalls, gasoline/energy costs, labor and health care expenses, among many other factors when establishing a shelf price for goods. What is clear since the implementation of the reforms is that merchants' profit margins have remained low, and instead, savings have been passed to customers due to intense competition in the retail marketplace.

The facts are clear; debit reforms are working, and if anything, Congress should act to strengthen them or address the excessive and hidden credit card fees American consumers and merchants pay every year. Bank self-reported data has shown that the cost of accepting debit has actually decreased 44 percent since the reforms were implemented. By becoming more efficient, the largest issuers are now collecting a profit of almost 500 percent on a debit transaction currently under the cap.⁶ This is even further evidence that the reforms are working and that competition and transparency are indeed a good thing.

We appreciate your consideration of our perspective on the debit reforms, and we stand ready to work with Committee moving forward.

Sincerely,

American Beverage Licensees
Food Marketing Institute
Merchant Advisory Group
National Association of College Stores
National Association of Convenience Stores
National Grocers Association
National Restaurant Association
National Retail Federation
Service Station Dealers of American & Allied Trades
Retail Industry Leaders Association
Alabama Beverage Licensees Association
Alabama Grocers Association
Petroleum & Convenience Marketers of Alabama
Arizona Food Marketing Alliance
Arizona Retailers Association
Arkansas Grocers and Retail Merchants Association
Arkansas Oil Marketers Association, Inc.

⁶ "Volume and Cost Trends in the Debit Card Industry", Merchants Advisory Group White Paper:
<https://files.ctctcdn.com/26db5c23201/8b43b2a5-993d-4c1a-ac9b-07c8acc488ea.pdf>

California Business Properties Association
California Grocers Association
California Independent Oil Marketers Association (CIOMA)
California Retailers Association
Colorado Licensed Beverage Association
Colorado Retail Council
Colorado/Wyoming Petroleum Marketers Association
Connecticut Energy Marketers Association
Delaware Food Industry Council
Rocky Mountain Food Industry Association (Serving Colorado & Wyoming Grocers)
Connecticut Retail Merchants Association
Florida Grocers Association
Florida Petroleum Marketers & Convenience Store Associations
Florida Retail Association
Florida Retail Federation
Georgia Alcohol Dealers Association
Georgia Association of Convenience Stores
Georgia Food Industry Association
Georgia Retail Association
Idaho Petroleum Marketer and Convenience Store Association
Idaho Retailers Association
Northwest Grocery Association (representing Idaho, Oregon and Washington grocers)
Illinois Food Retailers Association
Illinois Licensed Beverage Association
Illinois Petroleum Marketers Association
Illinois Retail Merchants Association
Indiana Grocery & Convenience Store Association
Indiana Retail Council
Iowa Grocery Industry Association
Iowa Retail Federation
Kansas Food Dealers Association
Kansas Licensed Beverage Association
Petroleum Marketers & Convenience Store Association of Kansas
Retail Grocers Association of Greater Kansas City
Kentucky Association of Beverage Retailers
Kentucky Grocers & Convenience Stores Association, Inc.
Kentucky Retail Federation
Louisiana Retailers Association
Maine Energy Marketers Association
Maine Grocers & Food Producers Association

Retail Association of Maine
Maryland Retailers Association
Maryland State Licensed Beverage Association
Massachusetts Food Association
Massachusetts Package Stores Association
Retailers Association of Massachusetts
Associated Food and Petroleum Dealers (Michigan)
Michigan Association of Convenience Stores
Michigan Grocers Association
Michigan Petroleum Association
Michigan Retailers Association
Mid-Atlantic Petroleum Distributors' Association
Minnesota Grocers Association
Minnesota Retailers Association
Minnesota Service Station & Convenience Stores Association
Tavern League of Minnesota
Mississippi Petroleum Marketers & Convenience Stores Association
Mississippi Retail and Grocers Association
Missouri Grocers Association
Missouri Retailers Association
Montana Equipment Dealers Association
Montana Petroleum Marketers & Convenience Store Association
Montana Restaurant Association
Montana Retail Association
Montana Tire Dealers Association
Nebraska Grocery Industry Association
Nebraska Petroleum Marketers & Convenience Store Association
Nebraska Retail Federation
Retail Association of Nevada
New Hampshire Grocers Association
New Hampshire Retail Grocers Association
Retail Merchants Association of New Hampshire
Fuel Merchants Association of New Jersey
New Jersey Food Council
New Jersey Liquor Stores Alliance
New Jersey Retail Merchants Association
New Mexico Petroleum Marketers Association
New Mexico Retail Association
Empire State Restaurant & Tavern Association
Food Industry Alliance of New York State

New York Association of Convenience Stores
New York Retail Council
New York State Liquor Stores Association
North Carolina Petroleum & Convenience Marketers Association
North Carolina Retail Merchants Association
North Dakota Petroleum Marketers Association
North Dakota Retail Association
Ohio Grocers Association
Ohio Petroleum Marketers & Convenience Store Association
Oklahoma Grocers Association
Retail Liquor Association of Oklahoma
Associated Oregon Industries
Malt Beverage Distributors Association of Pennsylvania
Northwestern Pennsylvania Food Council
Pennsylvania Food Merchants Association
Rhode Island Food Dealers Association
South Carolina Petroleum Marketers Association
South Carolina Retail Association
South Dakota Retailers Association
Tennessee Fuel & Convenience Store Association
Tennessee Grocers & Convenience Store Association
Tennessee Retail Association
Tennessee Wine & Spirits Retailers Association
Greater Austin Merchants Association
Texas Food and Fuel Association
Texas Package Stores Association
Utah Food Industry Association
Utah Retail Merchants Association
Vermont Retail & Grocers Association
Virginia Asian American Store Owners Association
Virginia Petroleum, Convenience & Grocery Association
Virginia Retail Federation
Washington Association of Neighborhood Stores
Washington Food Industry Association
Washington Retail Association
WMDA Service Station & Automotive Repair Association (Representing Washington D.C.,
Virginia & Maryland)
West Virginia Retailers Association
West Virginia Oil Marketers & Grocers Association
Alliance of Wisconsin Retailers

Tavern League of Wisconsin
Wisconsin Grocers Association
Wisconsin Petroleum Marketers and Convenience Store Association
Wyoming Retailers Association
Wyoming State Liquor Association

Cc: House Leadership and Members of the House Financial Services Committee