



Credit Union National Association

cuna.org

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January 3, 2011

The Honorable Spencer Bachus  
Chairman, Designate  
Committee on Financial Services  
United States House of Representatives  
Washington, DC 20515

The Honorable Barney Frank  
Ranking Member, Designate  
Committee on Financial Services  
United States House of Representatives  
Washington, DC 20515

Dear Chairman Bachus and Ranking Member Frank:

On behalf of the Credit Union National Association (CUNA)<sup>1</sup>, I am writing to urge you to hold hearings as soon as possible on whether the exemption in Section 1075 of the Dodd-Frank Act (the Interchange Amendment) can be implemented to protect small issuers, as Congress intended. In light of the Federal Reserve Board’s recently proposed rules regarding the Interchange Amendment, hearings on this issue would be timely and critical to all interested parties in determining how best to ensure small issuers are not subjected to the artificially low debit interchange fee structure the Board is proposing for large issuers.

Since its introduction in the Senate, we have raised grave concerns that the Interchange Amendment lacked any enforcement mechanism for the small issuers’ exemption and that there is no guarantee the payment card networks will operate a two-tiered system the exemption necessitates for small issuers. While we believe that the language in Section 1705 authorizing the Board to write rules to avoid “evasion or circumvention” of the Interchange Amendment could be invoked to enforce the exemption, the Board’s proposal does not include such provisions.

Concerned that the exemption would not work as intended, and thus small issuers would be subject to the debit interchange fee structure developed for large issuers, we also expressed our concern that the Board would be arbitrarily limited to an incomplete set of costs when determining the debit interchange rate. We also raised concerns about the exclusivity and routing provisions that would require credit unions to join additional payment networks.

The Board’s proposal confirms our fears not only about the inadequacies of the purported protections for small issuers in Section 1075 but also regarding the unreasonably low fees allowed for large issuers -- no more than 12 cents per transaction -- that will undoubtedly be applied to small issuers in the absence of a workable exemption. Further, under one of the Board’s alternatives under the exclusivity provisions, all issuers including small ones would have to participate in four independent debit card networks -- at substantial costs to credit unions and other small issuers.

<sup>1</sup> CUNA represents nearly ninety percent of America’s 7,700 state and federally chartered credit unions and their 92 million members. About 70% of credit unions offer debit card services to their members.



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The Interchange Amendment has the potential to have tragic consequences not only for credit unions and their members, but also for any users of debit cards. There is no assurance in the law or the proposal that any savings for merchants as a result of the government-set interchange fee caps and other provisions will be shared with consumers; however, the Board's proposal ensures that interchange fees will be lower than the cost of providing payment services. This means that credit unions and other issuers will have to find other ways to recover these losses.

To be clear: credit unions do not want to charge their members more fees. However, the result of the loss of interchange fee income for small issuers and the unknown effects of the exclusivity and routing provisions will have a horrendous impact on credit unions that offer debit cards and their ability to build net worth. The impact on credit unions will be magnified because of statutory requirements that permit credit unions to build net worth (capital) exclusively from retained earnings. We believe that any significant reduction in interchange income will require higher fees paid by consumers. Thus, consumers will be left paying for the bonanza to merchants – which is not what Congress intended.

Congress held no hearings on the Interchange Amendment prior to enactment, and there is virtually no legislative history regarding this amendment. This is troubling given the fact that the legislation to which it was attached received considerable consideration by both chambers and was subject to an exhaustive conference committee process. We urge the Committee to hold hearings on these key implementation issues relating to Section 1075 and to encourage the Board to delay its rule until a comprehensive Congressional review on these critical, unsettled issues has been completed.

On behalf of America's credit unions and their 92 million members, thank you for your consideration. We look forward to working with you and the Committee on this matter and other issues of significance to credit unions.

Best Regards,

A handwritten signature in black ink, appearing to read "Bill Cheney", with a long, sweeping underline that extends to the right.

Bill Cheney  
President & CEO