May 27, 2010

Members of the United States House of Representatives
Washington, DC 20515

Re: **Credit union and community bank opposition to Senate interchange price-fixing amendment**

Dear Representative:

On behalf of the 13,000 community-based financial institutions serving more than 200 million American consumers that are represented by our associations, we write to make you aware of our strong opposition to an amendment included in the Senate version of the financial reform bill. The amendment would dramatically alter the electronic payments system and make it very difficult for card-issuing credit unions and community banks to continue to provide a wide array of products and services to consumers. The Senate adopted this amendment without any hearing on the impact of these provisions on consumers or the market, and in the face of tremendous political pressure from merchants intent on passing their costs off on others. We urge the House to reject this amendment.

First, the amendment would require the Federal Reserve, not the market, to set interchange rates for debit card purchases. This goes well beyond the scope of any legislation pending in the House. Instead of making the interchange rate process open, inclusive, and driven by market forces and competition, the amendment forces the Federal Reserve into the role of a price-fixing body. To make matters worse, the Fed is statutorily limited to consider only a fraction of the expense involved in running a debit program and global payments network, with no ability for negotiations. What's more, nothing in the amendment guarantees that consumers – whose interests should drive public policy in this area – will see any savings at all from the reduced interchange fee.

With regard to the thousands of community banks and credit unions that issue debit cards, we would like to make this point clear: *Despite what appears to be a "carve out," the Senate amendment would not shield small issuers or the consumers they serve from the harsh consequences of government price controls*. In practice, the networks and the merchants will make the government-set rate applicable to all issuers – the only practical course of action – limiting the interchange revenue on which small issuers rely to sustain their debit card offerings.

Our institutions—with their exclusive focus on local communities, underserved populations, and rural areas—issue debit and credit cards as a service to their local customers, and they continue to

do so fairly and honestly, often with better rates and terms than can be found at larger institutions. The key that makes this possible is the existing interchange system, which allows community banks and credit unions to compete directly with the largest banks in the debit and credit card marketplace.

The impact of the Senate amendment is not limited to interchange price fixing. The amendment grants merchants the unlimited ability to discriminate against certain "forms of payment." This provision is intended to encourage large retailers to enter into preferential arrangements with big banks, with discounts and incentives for consumers who use big-bank cards. Consumers who carry cards issued by credit unions and community banks will be out of luck.

The bottom line is this: A coalition of large merchants is seeking to reduce overhead costs by shifting the responsibility for the payments system entirely onto issuers and, ultimately, consumers. Whether through pending class action litigation in federal court, legislation in the states, or pending bills in the House, the merchants have pursued a number of different attacks on our institutions' ability to serve consumers, in addition to the recent expansive and harmful Senate amendment.

Community banks and credit unions ask all Members of the House and members of the conference committee on H.R. 4173 to oppose the price-fixing and anti-consumer interchange language adopted by the Senate. Interchange rates had nothing to do with the financial crisis and are outside the scope of this bill. As an appropriate next step, the provisions of the Senate amendment should be studied by the Congress to begin to understand the real world impact to consumers and the marketplace. In these challenging economic times, Congress should not enact legislation that will harm the millions of Americans served by credit unions and community banks.

Sincerely,

Dan Mica
President and CEO
Credit Union National Association

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President and CEO
Independent Community Bankers of America