



Credit Union National Association

cuna.org

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Members of the United States Senate:

On behalf of the Credit Union National Association, I am writing to encourage you to support the Tester-Corker Amendment related to debit interchange fee regulation when it comes to a vote later this week. **This is a key vote for America's 7,500 state and federally chartered credit unions and their 93 million members.**

The Federal Reserve Board (the Board) has been directed by Congress to establish standards for debit interchange fee rates which are reasonable and proportional to the cost incurred by the issuer with respect to the transaction.<sup>1</sup> Congress exempted debit card issuers with less than \$10 billion in assets from the regulation. The sponsor of the statutory language said after the language was passed that, “[Small issuers] would not lose any interchange revenue that they currently receive.”<sup>2</sup> While that may have been his intent – and the intent of Congress – it is clear that statement will not hold true, which is why the Tester-Corker amendment must be enacted.

Although most credit unions are exempt from the regulation, neither the statute nor the regulation makes credit unions immune from the impact of the regulation. All of the regulators of small issuers at the state and federal level have expressed concern regarding the impact of the debit interchange regulation on small issuers.

In February, Federal Reserve Board of Governors Chairman Ben Bernanke said,

“We are not certain how effective that exemption will be... It is possible that because merchants will reject more expensive cards from smaller institutions or because networks will not be willing to differentiate the interchange fee for issuers of different sizes, it is possible that the exemption will not be effective in the marketplace.”<sup>3</sup>

More recently, Chairman Bernanke said,

<sup>1</sup> Section 920(a)(3) of the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.).

<sup>2</sup> <http://durbin.senate.gov/public/index.cfm/pressreleases?ID=506e66c9-13bd-455c-ba21-d749148b5d5e>

<sup>3</sup> Senate Banking Committee Hearing on “Oversight of Dodd-Frank Implementation: A Progress Report by the Regulators at the Half-Year Mark.” February 17, 2011.



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“[The rule is] going to affect the revenues of the small issuers and it could result in some smaller banks being less profitable or even failing.”<sup>4</sup>

Similarly, Federal Deposit Insurance Commission Chairman Sheila Bair stated,

“I do think that this is going to reduce revenues at a number of smaller banks and they will have to pass that on to customers in terms of higher fees.”<sup>5</sup>

The National Credit Union Administration has also weighed in expressing concern. In a letter to the Federal Reserve Board, NCUA Chairman Deborah Matz stated,

“The current rule’s prohibition against network exclusivity and merchant routing restrictions could significantly increase both fixed and variable costs for these small institutions, resulting in an inability remain competitive with larger card issuers.”<sup>6</sup>

State bank and credit union regulators also have concerns:

“If economic pressures force small debit card issuers to operate at a 12 cent interchange fee, it is possible that many banks and credit unions will stop issuing cards because their costs do not utilize the same economies of scale as larger financial institutions.”<sup>7</sup>

The importance of interchange fees has been highlighted recently when consumers’ debit card information was breached at Sony and Michaels. Millions of consumers were affected by these breaches; the merchants responsible for the data losses referred their customers to their debit card issuers, which covered the costs of fraudulent transactions, debit card reissuances and other expenses. Interchange fees help cover the cost of these services, but the ability of credit unions to handle these merchant data breaches in this manner will be jeopardized if the debit interchange statute is implemented.

Proponents of debit interchange regulation claim that they are acting in the interest of consumers and point to Canada as an example of proper interchange regulation. However, the Canadian experience has been anything but beneficial to consumers.

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<sup>4</sup> Senate Banking Committee Hearing on “Oversight of Dodd-Frank Implementation: Monitoring Systemic Risk and Promoting Financial Stability.” May 12, 2011.

<sup>5</sup> Ibid.

<sup>6</sup> Letter from NCUA Chairman Deborah Matz to Federal Reserve Board of Governors Chairman Ben Bernanke. February 16, 2011. [http://www.ncua.gov/news/press\\_releases/2011/MA11-0216MatzInterchangeRule.pdf](http://www.ncua.gov/news/press_releases/2011/MA11-0216MatzInterchangeRule.pdf)

<sup>7</sup> Letter from the Conference of State Bank Supervisors and the National Association of State Credit Union Supervisors to Senators Timothy Johnson and Richard Shelby and Representatives Spencer Bachus and Barney Frank. May 12, 2011. <http://www.nascus.org/legislative/5-11-11-NASCUS-CSBS-Letter-Supporting-Interchange-Delay.pdf>

While there is significant debit interchange regulation in Canada, Canadians generally pay \$.60-.65 per transaction when they have more than 10-15 debit, check or ATM transactions per month.<sup>8</sup> This amounts to about \$50 per year in fees for Canadian consumers. We expect a similar experience for American consumers if the interchange amendment is allowed to be implemented. Credit unions and banks will be forced to raise fees to cover the cost of the regulation; consumers will end up bearing the brunt of debit interchange regulation. As the fragile American economy emerges from the most significant crisis since the Great Depression, surely this is not the outcome that Congress intended when it enacted the debit interchange legislation last year.

Senators Tester and Corker have introduced an amendment that represents a compromise on this issue. The amendment directs the regulators to study the impact of the statute and the proposed regulation on merchants, consumers and debit card issuers. It further directs the Board to issue a new rule if the regulators determine that all costs are not taken into consideration, consumers may be adversely impacted or the small issuer exemption is not effective. This is a fair approach to this issue that ensures that small issuer and consumer impact is taken into consideration when the Board regulates debit interchange fees.

**The Tester-Corker amendment is a common sense approach which credit unions strongly support.**

On behalf of the 93 million members of America's credit unions, we appreciate your consideration of this key credit union issue and strongly encourage you to vote for the Tester-Corker amendment.

Best regards,

A handwritten signature in black ink, appearing to read 'Bill Cheney', with a long horizontal flourish extending to the right.

Bill Cheney  
President & CEO

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<sup>8</sup> David Evans, Howard Chang, and Margaret Weichert. The Durbin Amendment: Myth vs. Reality. May 16, 2011. <http://www.pymnts.com/The-Durbin-Amendment-Myth-vs-Reality/>. 5.