CUNA
Credit Union National Association
cuna.org
DANIEL A. MICA
PRESIDENT & CEO
601 Pennsylvania Ave., NW | South Building, Suite 600 | Washington, DC 20004-2601 | PHONE: 202-638-5777 | FAX: 202-638-7734

June 23, 2010

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

Dear Senators and Representatives

On behalf of the Credit Union National Association (CUNA), I am writing regarding H.R. 4173, the Wall Street Reform and Consumer Protection Act. CUNA is the largest credit union advocacy organization in the United States, representing nearly 90% of America's 7,700 state and federally chartered credit unions and their 92 million members. With great reluctance, our member credit unions have directed us to oppose the enactment of H.R. 4173 because of the inclusion of the debit interchange provision, and urge you to vote NO on the conference report.

Nearly everyone recognizes that credit unions did not cause the financial meltdown and that they had no part in it; however, credit unions continue to be collateral damage, even in the proposed solutions. We have worked with Congress over the last year in an attempt to minimize the adverse impact that this legislation will have on credit unions and their members, while at the same time recognizing that consumers of financial products, especially those provided by currently unregulated entities, need greater protection. Without the interchange provisions, the bill strikes a careful balance in protecting consumers while providing meaningful financial reform. However, the debit interchange provision, in its current form, would cause credit unions, and their members, considerable harm and as a result, we believe this provision – included without any study of its impact, hearing or comprehensive debate – upsets the carefully constructed balance that the bill has achieved as it has progressed through the legislative process.

Our opposition to the debit interchange provision is rooted in the following:

- The small issuer carve-out will not work because there is no mechanism in the legislation to ensure that it will. The provision does not require the payment card networks to operate a two-tier interchange rate system, and there is no incentive for them to do so. Because of this, we believe the interchange rate received by credit unions would converge on the large-institution rate.

AMERICA'S CREDIT UNIONS®
PO Box 431 | Madison, WI 53701-0431 | 5710 Mineral Point Road | Madison, WI 53705-4454 | PHONE: 608-231-4000

- The costs that the Federal Reserve would be permitted to consider in setting the debit interchange rate are not inclusive of all of the costs credit unions experience when operating a debit card program; therefore, the rate set by the Federal Reserve will be necessarily lower than the cost of operating a debit card program.
- Consumers, therefore, will be adversely affected by both the new fees assessed to recoup the losses caused by the artificially low debit interchange rate, and are guaranteed no benefit in terms of reduced prices from merchants resulting from a lower debit interchange rate.

If the carve-out does not work, credit unions and their members will be harmed because small issuers will ultimately be subject to the debit interchange rate set by the Federal Reserve for large issuers. This rate would be set using a rulemaking process that is critically flawed because the Federal Reserve would be prohibited from considering all of the costs issuers must pay in order to operate a debit card program. If all costs are not considered, the Federal Reserve will have no choice but to establish a rate much lower than that which is necessary to cover the costs of the program, and credit unions will be put in a position to recoup these losses through other means. Reluctantly, credit unions may be forced to add fees to checking accounts and other products to recoup these fees in the interest of safety and soundness. These fees will have a disproportionate affect on low- and moderate-income consumers, the same consumers who are most likely to be credit union members.

To be clear: <u>But for this provision, we would not oppose H.R. 4173</u>. Moreover, we greatly appreciate – and have communicated to our members – the work that the Members of the Senate Banking Committee and House Financial Services Committee have done to address other credit union concerns in this legislation on issues that include prudential regulation, systemic risk, examination and enforcement, deposit insurance, remittances, access to mainstream financial institutions, and regulatory burden. Nevertheless, the debit interchange provision would not only adversely affect how credit unions provide access to members' accounts, but also it would almost certainly increase costs to credit union members. If this legislation is enacted with this provision, consumers will see new fees that are a direct result of the bill. Certainly, increased consumer costs were not what proponents of H.R. 4173 originally intended, but it will be the reality for consumers unless the debit interchange provision is removed or modified significantly.

On behalf of America's credit unions, we respectfully ask that you vote NO on the conference report on H.R. 4173.

Sincerely,

Daniel A Mica

Daniel A. Mica
President & CEO