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May 19, 2011

The Honorable Frank Lautenberg
United States Senate
Washington, DC 20510

The Honorable Robert Menendez
United States Senate
Washington, DC 20510

Dear Senators Lautenberg and Menendez:

Merchant data breaches occur quite frequently and, when they do, America's credit unions work with their members to stop fraudulent transactions and reissue compromised debit and credit cards. In recent weeks, two major data breaches – by Sony and Michaels – have affected millions of consumers across the country.

The Michaels breach victimized consumers in 20 states, including New Jersey. According to Michaels, the following stores in your state were affected by the breach:

410 State Rte 10, East Hanover
240 Rt 17 N, Paramus
300 Nassau Park Blvd, Princeton
325 Hwy 202, Flemington
1701 US Hwy 22 Ste 65, Watchung
348 State Rt 3 W, Clifton

If constituents affected by these or other breaches contact your office, we hope you will encourage them to contact their card-issuing credit union for assistance. In most cases, the credit union will work with the credit union member to investigate, reissue the debit card, and block future suspicious transactions. Credit unions do this because everyone agrees that consumers victimized by merchant data loss need assistance; and they won't get any assistance from the merchant responsible for the breach. Credit unions are able to provide these member services because of the interchange fees that merchants pay to participate in the payment system.

Unfortunately, the ability of credit unions to provide these services to their members is threatened by a regulation proposed by the Federal Reserve Board, which would cap the debit interchange fee significantly below the cost of providing debit card services. While most credit unions are exempt by statute from the regulation, there are legitimate concerns regarding whether this exemption will work. In fact, Federal Reserve Board Chairman Bernanke has questioned on multiple occasions the effectiveness of the statutory exemption. If the rules are permitted to go into effect, exempt credit unions and other debit card issuers may be forced to increase fees to consumers to cover the loss of debit interchange revenue. This will make debit cards more expensive and potentially less available for some consumers.

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We believe this issue deserves additional consideration before implementation. Senators Tester and Corker have introduced legislation (S. 575) to delay the implementation of the debit interchange fee regulation and study its impact on consumers, issuers and merchants. They plan to offer their bill in the near future. On behalf of America's 7,600 state and federally chartered credit unions and their 93 million members, we ask that you support this legislation when it comes to the floor for a vote.

Thank you very much for your consideration.

Best regards,

Bill Cheney
President & CEO