January 4, 2017

The Honorable Mitch McConnell Majority Leader United States Senate U.S. Capitol Building S-230 Washington, DC 20515

Speaker Paul Ryan Speaker of the House of Representatives H-232 The United States Capitol Washington, DC 20515 The Honorable Charles Schumer Minority Leader United States Senate U.S. Capitol Building S-221 Washington, DC 20515

Minority Leader Nancy Pelosi House Democratic Leader H-204 The United States Capitol Washington, DC 20515

Dear Leader McConnell, Minority Leader Schumer, Speaker Ryan and Minority Leader Pelosi:

The below signed national and state merchant trade associations strongly support the debit reforms that were included in the 2010 *Dodd-Frank Wall Street Reform and Consumer Protection Act*. While we agree there are pieces of the law that should be addressed, the debit reforms contained in Dodd-Frank are unique in that they brought the first piece of competition and transparency into a market that was historically void of it. The reforms in the law have benefitted American consumers, merchants, small financial institutions, and the economy as a whole. Repealing or weakening the law will provide a windfall for fewer than two percent of the country's largest banks and remove any and all competition from the debit routing market. As representatives of retailers and employers from every state and congressional district in the country, we ask you to join us in opposing any effort to weaken or repeal these important debit reforms.

In 2010, American consumers and merchants earned a hard fought victory over escalating, uncontrollable fees with the inclusion of the debit reform measures in Dodd-Frank. These reforms brought a level of transparency (for the first time small businesses could see and know exactly how much they would be charged for a debit transaction from one of the covered institutions) and a level of competition into a market where fees were traditionally set collectively behind closed doors and without regard to the costs imposed on American consumers and Main Street retailers. It is important to note, this amendment passed with over sixty votes and strong bipartisan support after open debate on the Senate floor seven years ago. This was an essential first step to move America's electronic payments system toward a truly open and free market.

To fully appreciate the need for reform in this area, it is important to understand the history of the U.S. debit market. Banks originally began issuing debit cards as a less expensive and faster

competitive alternative to the traditional paper check, and initially there were no "swipe fees" associated with debit cards, as with checks, which under federal law must clear at par. In time, the big credit card networks branded the cards as a way to make additional revenue for their banks by imposing swipe fees on the transactions. These fees were centrally set by the card networks, not the issuing banks, and merchants and their customers were required to pay these fees if they wanted to accept debit or credit cards issued by the card networks, without the ability to negotiate or even know the cost of acceptance.

The debit reforms included in Dodd-Frank directed the Federal Reserve to establish parameters on the allowable centrally-set fees that could be imposed on each of these check-replacement debit transactions by those banks with over \$10 billion in assets. It is important to note that any bank with under \$10 billion in assets is exempt from the fee limitation, and any bank above the threshold would be exempt if they simply choose to set their own fees as opposed to having them centrally set. These reforms took a balanced approach to achieve some level of transparency, predictability and competition with regard to the extreme growth in swipe fees, particularly among the very largest banks, realizing that over 98% of U.S. banks are exempt from the limit.

While critics of the reforms often focus on the limit on fees, which continue to guarantee the largest issuing banks in the country a 500 percent profit on debit transactions, the law also introduced competition into the debit routing space for the first time. The law requires that each debit card have a minimum of two unaffiliated networks enabled on the card. By requiring two networks, the large card brands, such as Visa, actually now have to compete with other debit networks for retailers' routing business. The result of the law has meant that networks compete on price, security and reliability in order to attract retailer business. Like the law's other reforms, consumers have benefited from routing competition as transactions have become not only less expensive, but also more secure. Repealing this provision would remove all competition from the debit market and make our national payment system less reliable and secure.

While the reforms were being debated in Congress in 2010, opponents raised several concerns that history has proven to be unsubstantiated. First, opponents of reforms claimed that small banks would be harmed and the exemption of 98% of the banks in the U.S. would not work. In fact, studies from the Federal Reserve Board¹ and the Government Accountability Office² have disproven this concern. In 2016, the Philadelphia Federal Reserve released a report that concluded small banks have not been harmed by the reforms, and in fact have benefitted. The report states, "...after the ceiling was imposed, the volume of transactions conducted with cards

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¹ http://www.federalreserve.gov/paymentsystems/regii-average-interchange-fee.htm

http://www.gao.gov/assets/650/648210.pdf

issued by exempt banks grew faster than it did for large banks."³ The report further found that interchange revenue for exempt banks continued to rise for small banks.⁴

Some also expressed fears that free checking would be reduced if reforms passed. That has not happened. Instead, according to the American Bankers Association's own figures, the percentage of customers receiving free checking has increased from 53 percent to 61 percent since the reforms.⁵ Debit reforms did not reduce free checking.

Opponents of debit reforms argued that merchants would not pass along any savings achieved from capping interchange fees along to the consumer. History has also disproven this concern as well. The retail industry functions on razor thin profit margins and our members compete for customers on price every day. As a point of comparison, the general retail industry survives on a 2.44% profit margin, with the grocery industry even lower at 1.9%. Conversely, the banking and financial services industries enjoy up to 24.49% profit margins, far exceeding the national total market average of 6.4%. If a merchant can realize any savings in the system, it will use it to hold down prices, extend sales or increase value for its customers. The savings were proven in a study by economist Dr. Robert Shapiro who found that consumers have saved nearly \$30 billion since the reforms have been in place and merchants have saved more than \$10 billion. These savings have permitted merchants to reinvest in their businesses, which has supported tens-of-thousands more jobs and significant economic activity.

Unfortunately, opponents of reforms simply look at the shelf price of goods from one year to the next without consideration of outside pricing fluctuations not tied to swipe fees. For example, grocers must consider numerous factors including drought, product recalls, gasoline/energy costs, labor and health care expenses, among many other factors, when establishing a shelf price for goods. What is clear since the implementation of the reforms is that merchants' profit margins have remained low, and instead, savings have been passed to customers due to intense competition in the retail marketplace.

The facts are clear; hidden swipe fees remain a \$79 billion cash boon for the banks and card brands. The modest debit reforms are working, and if anything, Congress should act to strengthen them or address the excessive and hidden credit card fees American consumers and merchants pay every year. Banks' self-reported data have shown that their cost of processing

³ https://www.philadelphiafed.org/-/media/research-and-data/publications/banking-trends/2016/bt-how dodd frank affects small bank costs.pdf?la=en

⁴ https://www.philadelphiafed.org/-/media/research-and-data/publications/banking-trends/2016/bt-how dodd frank affects small bank costs.pdf?la=en

⁵ http://www.aba.com/Press/Pages/081815SurveyonBankCosts.aspx & http://www.prnewswire.com/news-releases/aba-survey-shows-majority-of-bank-customers-pay-nothing-for-monthly-bank-services-104516904.html http://pages.stern.nyu.edu/~adamodar/New Home Page/datafile/margin.html

⁷ See generally Robert J. Shapiro, The Costs and Benefits of Half a Loaf: The Economic Effects of Recent Regulation of Debit Card Interchange Fees (Oct. 1, 2013).

debit has actually decreased 44 percent since the reforms were implemented. By becoming more efficient, the largest issuers are now collecting a profit of almost 500 percent on a debit transaction currently under the cap. This is even further evidence that the reforms are working and that competition and transparency are indeed a good thing.

Thank you for your consideration of our concerns and opposition to the current misguided attempts to repeal the debit reforms that have benefited so many. We will continue to actively oppose any efforts to repeal or weaken the law and ask every Member of Congress to do the same.

Sincerely,

American Beverage Licensees

Food Marketing Institute

International Franchise Association

Merchant Advisory Group

National Association of College Stores

National Association of Convenience Stores

National Association of Shell Marketers

The National Association of Theatre Owners

National Association of Truck Stop Operators

National Council of Chain Restaurants

National Franchisee Association

National Grocers Association

National Restaurant Association

National Retail Federation

Petroleum Marketers Association of America

Service Station Dealers of American & Allied Trades

Society of Independent Gasoline Marketers of America

Retail Industry Leaders Association

Alabama Beverage Licensees Association

Alabama Grocers Association

Alabama Retail Association

American Petroleum and Convenience Store Association

Petroleum & Convenience Marketers of Alabama

Arizona Food Marketing Alliance

Arizona Petroleum Marketers Association

Arizona Retailers Association

8 "Volume and Cost Trends in the Debit Card Industry", Merchants Advisory Group White Paper: https://files.ctctcdn.com/26db5c23201/8b43b2a5-993d-4c1a-ac9b-07c8acc488ea.pdf

Arkansas Grocers and Retail Merchants Association

Arkansas Oil Marketers Association, Inc.

California Business Properties Association

California Grocers Association

California Independent Oil Marketers Association (CIOMA)

California Retailers Association

Coalition of Franchisee Associations

Colorado Licensed Beverage Association

Colorado Retail Council

Colorado/Wyoming Petroleum Marketers Association

Rocky Mountain Food Industry Association (Serving Colorado & Wyoming Grocers)

Connecticut Energy Marketers Association

Connecticut Food Association

Connecticut Retail Merchants Association

Delaware Food Industry Council

Florida Grocers Association

Florida Petroleum Marketers & Convenience Store Associations

Florida Retail Association

Florida Retail Federation

Franchisee Business Services

Georgia Alcohol Dealers Association

Georgia Association of Convenience Stores

Georgia Food Industry Association

Georgia Retail Association

Hawaii Food Industry Association

Horizon Retailers Association (representing Georgia)

Idaho Petroleum Marketer and Convenience Store Association

Idaho Retailers Association

Northwest Grocery Association (representing Idaho, Oregon and Washington grocers)

Illinois Food Retailers Association

Illinois Licensed Beverage Association

Illinois Petroleum Marketers Association

Illinois Retail Merchants Association

Indiana Grocery & Convenience Store Association

Indiana Retail Council

Indiana Petroleum Marketers & Convenience Store Association

Iowa Grocery Industry Association

Iowa Retail Federation

Petroleum Marketers & Convenience Stores of Iowa

Kansas Food Dealers Association

Kansas Licensed Beverage Association

Petroleum Marketers & Convenience Store Association of Kansas

Retail Grocers Association of Greater Kansas City

Kentucky Association of Beverage Retailers

Kentucky Grocers & Convenience Stores Association, Inc.

Kentucky Petroleum Marketers Association

Kentucky Retail Federation

Louisiana Oil Marketers & Convenience Stores Association

Louisiana Retailers Association

Maine Energy Marketers Association

Maine Grocers & Food Producers Association

Retail Association of Maine

Maryland Retailers Association

Maryland State Licensed Beverage Association

Massachusetts Food Association

Massachusetts Package Stores Association

Retailers Association of Massachusetts

Associated Food and Petroleum Dealers (Michigan, Ohio and surrounding States)

Michigan Association of Convenience Stores

Michigan Food and Beverage Association

Michigan Grocers Association

Michigan Petroleum Association

Michigan Retailers Association

Mid-Atlantic Petroleum Distributors' Association

Minnesota Grocers Association

Minnesota Petroleum Marketers Association

Minnesota Retailers Association

Minnesota Service Station & Convenience Stores Association

Tavern League of Minnesota

Mississippi Petroleum Marketers & Convenience Stores Association

Mississippi Retail and Grocers Association

Missouri Grocers Association

Missouri Petroleum Marketers & Convenience Store Association

Missouri Retailers Association

Montana Equipment Dealers Association

Montana Petroleum Marketers & Convenience Store Association

Montana Restaurant Association

Montana Retail Association

Montana Tire Dealers Association

Nebraska Grocery Industry Association

Nebraska Petroleum Marketers & Convenience Store Association

Nebraska Retail Federation

Ohio Council of Retail Merchants

Oklahoma Petroleum Marketers & Convenience Store Association

Retail Association of Nevada

New England Convenience Store and Energy Marketers Association

New Hampshire Retail Association

Fuel Merchants Association of New Jersey

New Jersey Food Council

New Jersey Liquor Stores Alliance

New Jersey Retail Merchants Association

New Mexico Grocers Association

New Mexico Petroleum Marketers Association

New Mexico Retail Association

Empire State Restaurant & Tavern Association

Food Industry Alliance of New York State

New York Association of Convenience Stores

New York Retail Council

New York State Liquor Stores Association

North Carolina Petroleum & Convenience Marketers Association

North Carolina Retail Merchants Association

North Dakota Petroleum Marketers Association

North Dakota Retail Association

Ohio Grocers Association

Ohio Petroleum Marketers & Convenience Store Association

Oklahoma Grocers Association

Retail Liquor Association of Oklahoma

Associated Oregon Industries

Oregon Neighborhood Store Association

Malt Beverage Distributors Association of Pennsylvania

Northwestern Pennsylvania Food Council

Pennsylvania Food Merchants Association

Pennsylvania Retailers' Association

Rhode Island Food Dealers Association

South Carolina Petroleum Marketers Association

South Carolina Retail Association

South Dakota Petroleum and Propane Marketers Association

South Dakota Retailers Association

Tennessee Fuel & Convenience Store Association

Tennessee Grocers & Convenience Store Association

Tennessee Retail Association

Tennessee Wine & Spirits Retailers Association

Greater Austin Merchants Association

South Texas Merchants Association

Texas Food and Fuel Association

Texas Package Stores Association

Texas Retailers Association

Utah Food Industry Association

Utah Retail Merchants Association

Vermont Retail & Grocers Association

Virginia Asian American Store Owners Association

Virginia Petroleum, Convenience & Grocery Association

Virginia Retail Federation

Virginia Retail Merchants Association

Washington Association of Neighborhood Stores

Washington Food Industry Association

Washington Retail Association

WMDA Service Station & Automotive Repair Association (Representing Washington D.C.,

Virginia & Maryland)

West Virginia Oil Marketers and Grocers Association

West Virginia Retailers Association

West Virginia Oil Marketers & Grocers Association

Alliance of Wisconsin Retailers

Tavern League of Wisconsin

Wisconsin Grocers Association

Wisconsin Petroleum Marketers and Convenience Store Association

Wyoming Retailers Association

Wyoming State Liquor Association

Cc: Members of the House of Representatives