

May 20, 2015

**SUBMITTED VIA E-MAIL**

Members of the Senate Committee on  
Banking, Housing, and Urban Affairs  
Washington, D.C. 20510-0103

**Re: The Financial Regulatory Improvement Act of 2015**

Dear Senator,

The Merchants Payments Coalition (“MPC”) is writing to more formally share the concerns with the Committee membership that we have previously raised with Banking Committee staff and several committee members independently having to do with Section 110(d) of the draft Financial Regulatory Improvement Act of 2015 which we understand, is currently scheduled to be marked up by the Senate Banking Committee on Thursday. The section that raises significant concerns for our members would amend Section 920(a)(6)(A) of the Electronic Funds Transfer Act which was established by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”)<sup>1</sup> and has been fundamental to the success of debit payment card reform (Durbin amendment), which has benefited American consumers, businesses, and the economy more broadly.

By way of background, the MPC is a coalition of retailers, restaurants, supermarkets, drug stores, convenience stores, fuel stations, on-line merchants and other businesses that advocates to bring fairness, competition, and transparency to the payment card market. Collectively, the coalition’s member associations represent about 2.7 million stores with approximately 50 million employees.

Debit reforms implemented by the Federal Reserve under the Dodd-Frank Act have achieved notable successes. Today, the debit card payment market is more competitive than ever before, which has led to greater market efficiency and significant reductions in costs. Consumers have saved nearly \$6 billion per year in the three years that these reforms have been in place and merchants have saved more than \$2.5 billion.<sup>2</sup> These savings have permitted merchants to reinvest in their businesses, which has supported more jobs and economic activity. The Kansas City Federal Reserve has also documented that debit swipe fee reforms have led to greater availability of free checking for consumers.<sup>3</sup> These reforms have been a win-win and, if anything, they should be expanded.

---

<sup>1</sup> Pub. L. 111–203 (July 21, 2010).

<sup>2</sup> 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).

<sup>3</sup> See, e.g., Fumiko Hayashi, The New Debit Card Regulations: Initial Effects on Networks and Banks,

Section 110(d) of draft bill, however, would reduce the number of banks subject to these reforms, notwithstanding the fact that the regulation only apply to 1.5% of banks today (102 of more than 6,500 institutions).<sup>4</sup> And, only five credit unions are covered by the regulations. It should be noted that the exemption in current law that the draft bill would change is entirely different from the other dollar thresholds in the bill. On other items, parts of the Dodd-Frank Act apply or don't apply based solely on the size of the institution. But debit reform only limits swipe fees that are centrally fixed by the credit card networks. If banks set their own fees and compete on price, rather than relying on centrally fixed fees, those fees are not subject to the regulations. So, it is not just size but, critically, the decision by banks to rely on centrally set fees rather than compete that is required to make the reforms apply to them. For that reason, the size threshold should not be changed even if you believe that the other size thresholds in the bill should be indexed and increase over time. To limit the potential application of the Federal Reserve's debit interchange fee regulations to even fewer financial institutions than the 1.5% affected today would be the wrong approach, particularly when the data reported to the Federal Reserve shows that banks' costs of processing debit transactions has continued to go down since debit reform went into effect.

Since the release of the draft bill and learning of the controversial provision, MPC has actively engaged with the bill drafters and Banking Committee Members in hopes of having the language removed from the underlying bill. The MPC intends to continue working to have the language removed before mark-up, but until it is removed will remain opposed to the bill as is. Additionally, the MPC will not oppose any alternative that does not disrupt or undo the progress made in the current debit reform law. Thank you for your consideration of our request, and we look forward to working with you moving forward.

Sincerely,

Merchants Payments Coalition Executive Committee

Food Marketing Institute  
National Association of Convenience Stores  
National Grocers Association  
National Retail Federation  
National Restaurant Association

---

Federal Reserve of Kansas City (Economic Review, Fourth Quarter 2012).

<sup>4</sup> See generally, FDIC Q4 Banking Profile, available at <https://www2.fdic.gov/qbp/2014dec/all4a2.html>; see also American Banker statistics on banks and credit unions: <http://www.americanbanker.com/rankings/bt-most-assets-1073266-1.html>, <http://www.americanbanker.com/rankings/cus-most-assets-1074255-1.html>.

The full MPC membership list includes:

Food Marketing Institute  
National Association of Convenience Stores  
National Grocers Association  
National Retail Federation  
National Association of Chain Drug Stores  
Retail Industry Leaders Association  
National Restaurant Association  
Petroleum Marketers Association of America  
National Council of Chain Restaurants  
National Association of College Stores  
National Association of Truck Stop Operators  
International Association of Airport Duty Free Stores  
National Association of Theatre Owners  
American Beverage Licensees  
Bowling Proprietors Association of America  
National Association of Shell Marketers  
Interactive Travel Services Association  
Society of American Florists  
Society of Independent Gasoline Marketers of America  
International Franchise Association  
National Franchisee Association  
Coalition of Franchisee Associations  
National Small Business Association  
Digital Media Association  
Professional Beauty Association  
Retail Solutions Providers Association  
Alabama Grocers Association  
Arizona Food Marketing Alliance  
California Grocers Association  
California Retailers Association  
California Independent Grocers Association  
Cleveland Food Dealers Association  
Colorado Licensed Beverage Association  
Colorado Petroleum Marketers and Convenience Stores Association  
Connecticut Retail Merchants Association  
Delaware Food Industry Council  
East Central Ohio Food Dealers Association  
Florida Petroleum Marketers  
Georgia Association of Convenience Stores  
Georgia Food Industry Association  
Georgia Oilman's Association, Inc.  
Illinois Retail Merchants Association  
Independent Connecticut Petroleum Association

Independent Oil Marketers Association of New England  
Indiana Licensed Beverage Association  
Indiana Retail Council  
Kansas Licensed Beverage Association  
Kentucky Grocers Association and Kentucky Association of Convenience Stores  
Louisiana Retailers Association  
Maryland Retailers Association  
Maryland State Licensed Beverage Association  
Massachusetts Licensed Beverage Association  
Michigan Grocers Association  
Minnesota Grocers Association  
Minnesota Licensed Beverage Association  
Minnesota Retailers Association  
Missouri Petroleum Marketers and Convenience Store Association  
Montana Petroleum Marketers & Convenience Store Association  
Montana Restaurant Association  
Montana Retail Association  
Nebraska Petroleum Marketers & Convenience Store Association  
Nevada Petroleum Marketers & Convenience Stores Association  
New England Convenience Store Association  
New Hampshire Grocers Association  
New Jersey Food Council  
New Jersey Gasoline-C-Store-Automotive Association  
New Mexico Retail Association  
Empire State Petroleum Association  
Empire State Restaurant & Tavern Association  
The Food Industry Alliance of New York State  
North Carolina Association of Convenience Stores  
North Carolina Retail Merchants Association  
North Dakota Petroleum Marketers Association  
North Dakota Retailers Association  
Ohio Grocers Association  
Oklahoma Petroleum & Convenience Store Association  
Oregon Petroleum Association  
Ozark Empire Grocers Association  
Pennsylvania Food Merchants Association/Pennsylvania Convenience Store Council  
Pennsylvania Retailers Association  
Petroleum Marketers and Convenience Stores of Iowa  
Petroleum Marketers and Convenience Store Association of Kansas  
Petroleum & Convenience Marketers of Alabama  
Retail Merchants Association of New Hampshire  
Retailers Association of Massachusetts  
Retail Association of Mississippi  
Rhode Island Food Dealers Association  
Rocky Mountain Food Industry Association  
South Carolina Retail Association

South Carolina Petroleum Marketers Association  
South Dakota Association of Convenience Stores  
South Dakota Retailers Association  
South Dakota Petroleum & Propane Marketers Association  
Tavern League of Wisconsin  
Tennessee Grocers & Convenience Store Association  
Tennessee Oil Marketers Association  
Tennessee Retail Association  
Texas Grocery & Convenience Association  
Texas Petroleum Marketers and Convenience Store Association  
Texas Retailers Association  
Utah Food Industry Association  
Utah Retail Merchants Association  
Utah Petroleum Marketers & Retailers Association  
Vermont Grocers' Association  
Virginia Petroleum, Convenience and Grocery Association  
Washington Food Industry  
Washington Oil Marketers Association  
West Virginia Oil Marketers & Grocers Association  
West Virginia Motor Truck Association  
Wisconsin Petroleum Marketers & Convenience Store Association  
Wyoming Petroleum Marketers & Convenience Stores Association  
Wyoming Retail Merchants Association  
Wyoming State Liquor Association