

May 12, 2011

To: Members of the U.S. Senate
Members of the U.S. House of Representatives

Re: Interchange Rule “Carve-Out”

Recently, a coalition of retailers sent a letter to Congress asserting that the exemption or “carve-out” under the Durbin debit interchange amendment will work for community-based banks. As the national and state banking trade associations that represent and speak for community-based banks in 50 states, we are writing to let you know that the claims by the retailers are false and that the “carve-out” for institutions below \$10 billion will not work.

When Congress passed the debit interchange amendment it provided this so-called “carve-out” for institutions with less than \$10 billion in assets. This “carve-out” was not put in place at the request of community-based banks, but rather to move this 11th hour amendment forward during consideration of the Dodd-Frank Act. This purported “carve-out,” which was opposed by community-based banks then and today, will not work and cannot be made to work. In fact, Federal Reserve Board Chairman Ben Bernanke said in testimony before the Senate Banking Committee today that he “can’t say with certainty” that the exemption will work, that there “are market forces that work against it,” and that there is “good reason to be concerned.”

Simply put, having two different prices for the exact same product (transaction processing) is not sustainable in a competitive marketplace.

Here are the facts. Market share always flows to the lowest priced product – whether it is a candy bar, a sweater, or a debit card. By artificially lowering prices at larger financial institutions by as much as 85 percent compared to prices that would be offered by smaller institutions, the Federal Reserve’s proposed rule to implement the Durbin amendment actually creates an incentive that drives business primarily to large institution providers. Merchants – and particularly big-box retailers and chain grocery stores – will no doubt provide incentives to encourage customers’ use of these lower cost alternatives, whether it is through partnerships with large financial institutions or other efforts that promise customer benefits for doing so. The economic incentives in the form of cost savings, and the amount of money at stake, are too great for retailers to ignore. (To understand the amount of added profit involved, witness Home Depot’s CFO recent statement that the interchange price caps will benefit Home Depot, not consumers, in the amount of \$35 million per year.)

For community-based institutions the result is much more dire: they will either lose customer accounts to larger financial institutions as those customers chase other benefits, or they will be pressured to reduce their interchange fee level to those of their larger competitors to maintain their customer base. The expected loss of revenue also will curtail community banks’ ability to support free checking and other valuable banking services. In sum, community-based institutions lose either way. And this cannot be fixed. Even the most well-researched and carefully crafted rule cannot overturn the laws of economics.

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The Durbin interchange amendment and the subsequent Fed rule amount to little more than a windfall for big-box retailers. It is misleading for the merchant community to suggest that no one will be harmed by the Fed's rule when it is they who stand to profit so much from it.

Congress took little time to consider the real harm to community-based financial institutions and the communities they serve when it passed this provision without the benefit of hearings or study. Bipartisan legislation (H.R. 1081 and S. 575) introduced in the House and Senate allows policymakers to gather all the facts around debit card interchange, including whether a carve-out for community banks can work. The time to pass that legislation is now.

We believe policymakers should take the time to get this important issue right. Failure to do so is too big a risk to take.

Sincerely,

American Bankers Association
Alabama Bankers Association
Alaska Bankers Association
Arizona Bankers Association
Arkansas Bankers Association
California Bankers Association
Colorado Bankers Association
Community Bankers Association of Ohio
Connecticut Bankers Association
Delaware Bankers Association
Florida Bankers Association
Georgia Bankers Association
Hawaii Bankers Association
Heartland Community Bankers Association
Idaho Bankers Association
Illinois Bankers Association
Illinois League of Financial Institutions
Indiana Bankers Association
Iowa Bankers Association
Kansas Bankers Association
Kentucky Bankers Association
Louisiana Bankers Association
Maine Bankers Association
Maryland Bankers Association
Massachusetts Bankers Association
Michigan Bankers Association
Minnesota Bankers Association
Mississippi Bankers Association

Missouri Bankers Association
Montana Bankers Association
Nebraska Bankers Association
Nevada Bankers Association
New Hampshire Bankers Association
New Jersey Bankers Association
New Mexico Bankers Association
New York Bankers Association
North Carolina Bankers Association
North Dakota Bankers Association
Ohio Bankers League
Oklahoma Bankers Association
Oregon Bankers Association
Pennsylvania Bankers Association
Puerto Rico Bankers Association
Rhode Island Bankers Association
South Carolina Bankers Association
South Dakota Bankers Association
Tennessee Bankers Association
Texas Bankers Association
Utah Bankers Association
Vermont Bankers Association
Virginia Bankers Association
Washington Bankers Association
Washington Financial League
West Virginia Bankers Association
Wisconsin Bankers Association
Wyoming Bankers Association