

May 6, 2010

To: Members of the U.S. Senate

Re: Opposition to Amendments to Regulate Interchange Fees

A number of interchange proposals are being filed to amend S. 3217, the Restoring American Financial Stability Act of 2010. If enacted, these proposals would severely disrupt the functioning of our nation's electronic payments system, to the detriment of consumers, small businesses, and the broader economy. The undersigned state bankers associations and the American Bankers Association (ABA), representing the thousands of banks throughout the country, strongly oppose such efforts and urge your opposition to any interchange amendment to be considered on this bill.

Such amendments amount to express government price setting of business-to-business transactions and would hurt the ability of local banks to serve their communities, including communities served by minority depository institutions (MDIs) and insured Community Development Financial Institutions (CDFIs). Most importantly, these amendments would harm consumers by driving up the cost of credit and by limiting the benefits consumers have come to expect.

Interchange is a fee paid by merchant banks to card issuing banks when a consumer uses a credit or debit card to make a purchase. The fee partially reimburses the issuing bank for the significant costs and risks of issuing cards, including infrastructure expenses, fraud risk, and the real risk of non-payment. These interchange amendments would not remove these costs, but would transfer them directly from the merchant to the issuing bank and the consumer.

Community banks, MDIs, and insured CDFIs rely on interchange revenue to provide card and other services to their customers. An analysis of bank call report data indicate that interchange revenue amounts to approximately 10 percent of non-interest income for these banks, which goes to support free checking and other essential banking services. Should this revenue be eliminated by government intervention, these institutions and the communities they serve would be harmed, as many of these services would disappear or lead to significantly higher costs for consumers. This is particularly true for MDIs that, according to reports, already experience a high cost of doing business due to the high turnover and instability of account holders. Interchange revenue helps to offset some of these costs.

The Senate will consider a number of amendments proposed by Senator Richard Durbin and others on behalf of merchants to regulate interchange and lower their cost of doing business, including a proposal to allow merchants to discriminate against certain cards used by consumers, and another proposal to require consumers to carry cash to pay for smaller purchases. Both would inconvenience consumers. Merchants also want the Federal Reserve to dictate interchange prices on debit cards, claiming that debit transactions should process at the same price as clearing checks, notwithstanding the inappropriateness of such dictates in the free market and the fallacy that checks cost nothing to process. One proposal goes as far as to mandate that government agency purchasers be given the lowest interchange rate in the marketplace, arguing that the government should have a privileged place and not be subject to free market forces.

Regardless of the proposal, the amendments amount to more of the same: merchants want all the benefits of accepting card payments, including increased profits, almost instant credit, and guaranteed payment, but don't want to pay their fair share to receive those benefits. Instead, merchants want Congress to dictate market prices and shift the cost of doing business onto consumers.

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Government marketplace intrusion such as that advocated by merchants would have serious consequences for consumers, lenders, and local communities, and should not be decided on the Senate floor during the regulatory restructuring debate. The vast majority of the proposed interchange amendments have never been before a Senate committee for deliberation and formal hearing, and thus Congress has no idea what consequences such actions would have for consumers and the broader economy.

Interchange is a purely business-to-business transaction and the costs associated with such transactions should be left to the marketplace to determine. Congress should not be in the business of setting such prices, nor should it be taking action that harms consumers and the community-based institutions that serve local communities. We strongly urge you to oppose interchange amendments proposed during Senate debate of S. 3217, the Restoring American Financial Stability Act of 2010.

Thank you for consideration of our views.

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 Association of Community Banks
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