



May 11, 2011

Senator Tim Johnson
Chairman, Senate Banking Committee
United States Senate
Washington D.C. 20510

Senator Richard Shelby
Ranking Member, Senate Banking Committee
United States Senate
Washington D.C. 20510

Congressman Spencer Bachus
Chairman, House Financial Services Committee
United States House of Representatives
Washington D.C. 20515

Congressman Barney Frank
Ranking Member, House Financial
Services Committee
United States House of Representatives
Washington D.C. 20515

Dear Chairmen Johnson and Bachus, Ranking Members Shelby and Frank:

On behalf of the nation's state bank and credit union regulators, the Conference of State Bank Supervisors (CSBS)¹ and the National Association of State Credit Union Supervisors (NASCUS)² are writing you to encourage your support for S. 575 and H.R. 1081, legislation to delay the implementation of final rules to be issued by the Federal Reserve (the "Fed") implementing the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act relating to the reasonable and proportional fees and rules for electronic debit transactions.

State bank and credit union regulators are concerned about the potential safety and soundness implications as well as the economic impact of this proposal. In particular, because a majority of community banks and state-chartered credit unions have less than \$10 billion in assets, state regulators support delaying implementation of any regulations to provide for additional time to study the exemption for issuers under \$10 billion in assets.

Congress' inclusion of the smaller issuer exemption recognized a need to protect smaller institutions from potential economic impact. However, we are concerned that regulations promulgated and taking effect within the law's timelines would have unintended negative consequences and would not be able to protect those institutions in the manner that Congress intended.

¹ CSBS is the nationwide organization of state banking regulators from all 50 states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. CSBS's members supervise approximately 5,600 state-chartered financial institutions with nearly \$4 trillion in combined assets.

² NASCUS is the professional association of 47 state governmental agencies that charter, regulate and examine the nation's state-chartered credit unions. (Delaware, South Dakota and Wyoming have no laws permitting state-chartered credit unions.) NASCUS' members supervise 3,000 state-chartered credit unions with appropriately \$420 billion in assets.

Specifically, we are concerned that the exemption may become unavailable in practice because of other market factors not addressed by the Fed rule. First, on a practical level, small banks and credit unions may not reap the benefits of the exemption if card networks do not implement a two-tiered fee schedule that will enable small financial institutions to receive fees above the proposed cap.

Further, state regulators believe additional study is needed to verify that the proposed cap on debit interchange fees is reasonable and proportional to the cost of the transaction, including fraud detection and prevention. If economic pressures force small debit card issuers to operate at a 12 cent interchange fee, it is possible that many banks and credit unions will stop issuing cards because their costs do not utilize the same economies of scale as larger financial institutions. This scenario raises safety and soundness concerns as a large revenue stream will be ceased, and will also incentivize further consolidation among debit card issuers and potentially drive bank customers and credit union members to alternative products outside of the banking system.

Finally, it is unclear whether the intended benefits to consumers will be realized under the statutory mandate. While limiting interchange fees to reasonable and proportional costs will certainly benefit merchants, there is no means of ensuring or documenting whether these savings will be passed on to consumers. Consequently, the effects borne by consumers because of additional costs incurred by their financial institutions may frustrate the intended consumer benefits, while simultaneously raising safety and soundness concerns. Due to these uncertainties, CSBS and NASCUS believe it would be prudent to take the necessary time to understand fully the economic consequences across the dual banking and credit union systems and determine the benefit, if any, to the consumer.

For all these reasons, we encourage you to support this legislation so that state and federal regulators can be afforded additional time to study this proposal and its impact on our regulated entities.

I encourage you to contact us if we can be of any assistance on this matter.

Sincerely,



Neil Milner, President
CSBS



Mary Martha Fortney, President
NASCUS