July 22, 2015

<u>SUBMITTED VIA E-MAIL</u>

The Honorable Thad Cochran
Chairman, Committee on Appropriations
S- 128 The Capitol
Washington, D.C. 20510

The Honorable Barbara Mikulski
Ranking Member, Committee On Appropriations

Washington, D.C. 20510

Re: Financial Services and General Government Appropriations Act of Fiscal Year 2016

Dear Chairman Cochran and Ranking Member Mikulski,

The Merchants Payment Coalition (MPC) shares your desire to pass Financial Services and General Government Appropriations Act for Fiscal Year 2016. Unfortunately, we are left with no option but to oppose the bill in its current form, due to the inclusion of objectionable language within the Banking Committee's S. 1484, Financial Regulatory Improvement Act of 2015, that was attached during subcommittee consideration. We ask for your support in removing this controversial language before the full Senate Appropriations Committee completes consideration, therefore allowing us to support the underlying legislation.

The controversial language, that was previously raised with Banking Committee staff and members before committee consideration has to do with Section 110 (d) of S. 1484. This section 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[1]"). This provision has benefited American consumers, businesses, and the economy more broadly since enacted five years ago.

The MPC is a coalition of retailers, 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 since the reforms have been in place and merchants have saved more than $.25 billion.[2] These savings have permitted merchants to reinvest in their businesses, which has supported more jobs and economic activity. The Kansas City Federal

[1] Pub. L. 111-203 (July 21, 2010).
[2] *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).

Reserve has also documented that debit swipe reforms have led to greater availability of free checking for consumers.[3] These reforms have been a win-win and, if anything, should be expanded.

Section 110(d) of S. 1484, now a part of the Financial Services and General Government Appropriations Act for Fiscal Year 2016 would reduce the number of banks subject to these reforms, notwithstanding the fact that the regulation only applies to 1.5% of banks today (102 of the more than 6,500 institutions).[4] And only five credit unions are covered under the regulations. It should be noted that the exemption in current law that S. 1484 would change is entirely different from the other thresholds adjusted in the bill. On other items, parts of the Dood-Frank Act apply to or do not 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 shows that banks' costs of processing debit transactions has continued to go down since debit reforms went into effect.

The MPC appreciates your consideration of our concerns and objections to attaching S. 1484 to Financial Services and General Government Appropriations Act for Fiscal Year 2016. We are fully appreciative of the short time frame we have to work with as the Subcommittee completed consideration today and the bill is scheduled for full committee consideration tomorrow. We are ready to work with you to remove the objectionable language before the full committee completes consideration of the bill.

Sincerely,

Merchants Payments Coalition

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[3] *See, e.g.*, Fumiko Hayashi, The New Debit Card Regulations: Initial Effects on Networks and Banks, Federal Reserve of Kansas City (Economic Review, Fourth Quarter 2012).

[4] *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.