

June 11, 2010

Dear Colleague:

Please join our bipartisan letter to the Wall Street Reform Conferees, urging them to strip out a controversial provision that will devastate credit unions and community banks and harm every consumer that uses debit and credit cards to pay for everyday essentials and large purchases alike.

The Senate-passed bill includes an ill-conceived and harmful amendment that will regulate "interchange fees"—those fees paid between banks as part of every card transaction made by a consumer. The most troublesome provision of this amendment, the requirement that the Federal Reserve set the price for debit card transactions, will cripple our smallest lenders. If the Senate amendment remains in the conference report, it will pass merchants' cost of doing business onto others and small lenders will no longer be able to offer free debit card products to our constituents. Even customers and cardholders of larger institutions will be affected because they will no longer receive free fraud and identity theft protection, valued programs currently supported within the existing interchange system. Simply stated, this amendment hurts our constituents because it will raise the price of basic banking products.

Australia's experience demonstrates that consumers suffer when the government regulates interchange fees. In 2003, the Australian reserve bank mandated that card issuers reduce interchange fees by 50 percent and eliminate "no surcharge" rules. A 2008 study by London economists, however, concluded that this intervention harmed consumers in ways neither intended nor foreseen. In fact, the study showed that, on average, the annual fees paid by consumers for standard credit cards increased by 22 percent, while annual fees for reward cards increased by between 47 and 77 percent. As a result, Australian *cardholders* paid approximately AU\$480 million more in additional fees on credit cards *each year*. We should not repeat this experience in America—not when our constituents might be priced out of banking services altogether or when those already stretched taxpayers who can afford the additional fees will be forced to shoulder this additional burden.

What will our constituents receive in return if merchants are able to offload their fees onto consumers? Will their gallon of gas or milk be cheaper? Will they pay less for that digital camera or flat panel TV? No—they'll pay the same prices they have been. That's because retailers have no intention of passing along *any* savings to consumers. Did you know—before the Senate voted on this hand-scribbled, on-the-fly amendment—that there wasn't a *single* Congressional hearing on the relationship between interchange fees and debit cards in either Chamber? It's true. Perhaps if there had been hearings on debit cards, Senators would have been informed, like House Members were on credit cards, that big box retailers were going to pocket the difference. In a House Financial Services Committee hearing on October 8, 2009 related to credit cards, Committee Members heard the following exchange:

"What if we included in this bill language that said all savings from this bill had to be passed through to consumers, and they had to be posted transparently . . . Would you have any objection to that?" –Rep. Meeks

"Sure. Absolutely." –Mallory Duncan, General Counsel, National Retail Federation

“You would have an objection?” –Rep. Meeks

“I would have an objection.” –Mallory Duncan

In the words of Ron Robinson, the convenience store owner who testified at a 2008 House Judiciary Committee hearing, “There isn’t a businessman that does not intend to keep the margin.” Mr. Duncan further stated that merchants would determine what, if any benefit, a consumer could receive. “One store might decide, for example, that we are going to give you *free gift wrapping* if you use a cheaper form of payment. . . . So it is savings to the consumer, but not in the same way as a dollars savings that you would see.” Free gift wrapping? Thanks, but no thanks. Our constituents would prefer that interchange fees be used to pay for valuable services, like free access to checking accounts and free fraud and identity theft protection—not services they neither need nor request.

Unfortunately, for our neediest, it gets worse. The Senate amendment destroys the economics of prepaid debit card programs. Federal, state, and local governments increasingly rely on prepaid debit cards to deliver banking products to underserved and unbanked recipients because they provide a convenient, lower cost form of payment. They would need to re-evaluate those programs if this amendment is included. Worse, the Senate amendment allows merchants to set minimum purchase levels for all forms of debit cards, including prepaid cards. If a grocery store sets a minimum threshold of \$25 to use a card, will the young mother needing only a gallon of milk and a loaf of bread purchase \$20 worth of additional merchandise she doesn’t need—or will she choose to wait until later in the month when her grocery bill exceeds her local merchants’ arbitrary threshold? We shouldn’t force her to make such a choice.

We have all heard from our local banking institutions about the devastating impact of this legislation, and we have yet to hear of any consumer benefit. Interchange fees are rates negotiated between private parties in a private free-market transaction. Even setting aside for a moment the destructive impact on community banks and credit unions, we should not allow the federal government to dictate the terms of a private transaction—particularly in a case such as this, where government intervention would drastically harm our constituents.

There is a solution to all these unanswered questions and unintended consequences—to strip this provision out of the Wall Street bill. After all, interchange fees had nothing to do with the financial crisis. The current interchange fee system may not be perfect, but it is based upon the free market, and it works. It works for consumers because it helps pay for services they have come to expect and rely upon, and it works for merchants, who benefit from guaranteed payment, lower labor and processing costs, and increased sales.

Please join us on the attached Letter to the Conferees to remove the regulation of debit cards and interchange fees from the Conference Report. To sign on, please contact Jon Pyatt with Rep. Wasserman Schultz at 5-7931, or at Jonathan.Pyatt@mail.house.gov or Brian Werstler with Rep. Marchant at 5-6605, or at Brian.Werstler@mail.house.gov.

Sincerely,

DEBBIE WASSERMAN SCHULTZ
Member of Congress

KENNY MARCHANT
Member of Congress