

December 17, 2010

The Honorable Ben Bernanke, Chairman  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

Dear Chairman Bernanke:

In response to the draft Federal Register notice regarding the Federal Reserve's proposed rules on debit card interchange fees and routing released yesterday, we are writing to voice our concerns about the implementation of these rules. Specifically, we are concerned about the feasibility of the required 9 month deadline for the Fed to issue its final rules regarding these fees as stipulated under Section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Given the broad scope of this required rulemaking and the enormity of its potential impact on consumers and merchants alike, we doubt that such an extremely short timeframe will be sufficient to produce thorough and thoughtful final rules that consider the myriad perspectives of all affected parties. Ultimately, hastily written rules may end up doing more harm than good to consumers and have negative effects on competition in the marketplace.

As you are well aware, Section 1075 of the Dodd-Frank Act specifically requires that the Fed issue by April 21, 2011 three final rules on interchange fees regarding a "reasonable and proportional" debit fee structure, fees for fraud prevention on debit transactions, and debit transaction network fees. Beyond those rules affecting debit transactions, Section 1075 also requires the Fed to produce new rules regarding the routing of transactions on payment card networks by July 21, 2011. There is also language included in the section to exempt small issuers under \$10 billion in assets from the new debit fee rules, as well as cards issued by federal, state, and local governments under government-administered benefits programs.

While these rules pose important public policy questions, there are lingering concerns regarding whether the Fed has had the time and input it needs to best address the intent of the

statute. It must be noted that Congress devoted little if any time to considering the impact of these changes before Section 1075 was enacted into law, with the House Financial Services Committee holding only one hearing on the general subject of interchange over the last two years and none on the subject of routing. Additionally, some concerns have been raised that, despite its intent, the small issuers' exemption may end up creating an unlevel playing field in the industry that hurts small issuers like community banks and credit unions by making their cards more expensive for merchants to accept. Such an outcome would run contrary to the general goal of benefiting consumers and promoting competition that we all share.

As a result, we believe that the prudent course of action for the Fed would be to proceed in a cautious and deliberate manner, using the full amount of time at its disposal under Section 1075 to conduct a judicious review of all the available comments. Doing so would allow for the Fed to solicit and consider additional input on these questions, as well as investigate any potential unintended consequences engendered by Section 1075. Proceeding deliberately and cautiously will also allow Congress the opportunity to conduct its own review of the intent and impact of the changes enacted in Section 1075 as part of its vigorous oversight of the new Dodd-Frank Act. It is our hope that this additional time will be sufficient for the Fed to produce rules that accurately reflect the intent of Section 1075 without unduly causing harm to consumers or competition in the marketplace.

Respectfully yours,

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JEB HENSARLING  
Member of Congress

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SPENCER BACHUS  
Member of Congress