Congress of the United States
Washington, DC 20515

June 13, 2011

The Honorable Ben S. Bernanke
Chairman
Board of Governors of the Federal Reserve System
2001 C Street, NW
Washington, DC 20429

Dear Mr. Chairman:

We write regarding the issuance of a final rule by the Federal Reserve System regarding section 920 of the Dodd-Frank Act, commonly known as the "Durbin Amendment." As you know, the Durbin Amendment authorizes the Federal Reserve to prescribe regulations regarding certain aspects of interchange fees. We are concerned that the application of a final rule could have harmful and unintended consequences for consumers in Puerto Rico and the U.S. Virgin Islands, where a substantial segment of the mostly low-income consumer populations in these U.S. jurisdictions uses "PIN-only" debit cards, not "signature" debit cards, which are more common in the states. As you prepare to issue a final rule, we respectfully request that, within the applicable laws, rules, and regulations, you carefully consider how the rule will affect the PIN-only debit card markets in Puerto Rico and the Virgin Islands, and that you structure the rule to ensure that these markets are not adversely impacted.

Unlike the mainland United States, Puerto Rico and the Virgin Islands are very debit card-oriented cultures. The small number of banks that operate in our two jurisdictions issue PIN-only debit cards to a large segment of the islands' consumers, particularly low-income consumers. Because such cards require a user to enter a PIN prior to completing the transaction, they are less susceptible to fraud. This feature of PIN-only debit cards reduces the costs that banks incur to monitor unauthorized uses of their cards and allows banks to offer inexpensive or free banking accounts to consumers. Without the low-cost banking option of PIN-only debit cards, many residents of Puerto Rico and the Virgin Islands, which rank among the poorest jurisdictions in the United States, would not have access to banking services, and would instead resort to unscrupulous lenders.

The PIN-only debit card market in Puerto Rico and the Virgin Islands could be jeopardized by the proposed rule issued by the Federal Reserve on December 16, 2010. Under that rule, the interchange fee received by large issuers could be limited to 12 cents per transaction. In addition, every issuer, regardless of size, would be required to connect with at least two unaffiliated network providers. These proposals treat PIN-only and signature debit cards identically, even though the characteristics of the two markets differ in important respects.

If enacted together, the two proposals could threaten the ability of issuers in Puerto Rico and the Virgin Islands to continue offering affordable banking options to low-income consumers. The first proposal—to limit the interchange fee to 12 cents per transaction—would reduce the already low profit earned by PIN-only debit card issuers, which provide such cards at little or no cost to the consumer. The proposal could thus lead issuers to cease offering a PIN-only debit card to certain consumers or to restrict the range of purchases for which the card could be used.

The second proposal—to require all issuers to affiliate with additional network providers—would further restrict low-income consumers' access to affordable banking options, particularly if this proposal were combined with the first. We can understand why providing merchants with the choice of multiple network providers with which to process their debit card transactions may appear to be sound policy, in that the proposal furthers competition among network providers for a merchant's business. However, in Puerto Rico and the Virgin Islands, there are too few consumers for some issuers to support the costs to affiliate with multiple network providers. We have been advised that, in our jurisdictions, a small bank or credit union generally issues fewer than 30,000 debit cards. Most of these cards are affiliated with the ATH Network, a regional network that, we understand, offers a lower interchange fee—and thus lower costs to retailers—than national networks, such as Visa, MasterCard, Maestro, and NYCE. A requirement that all issuers affiliate with at least two national network providers would result in additional costs to the issuer—costs associated with enabling connectivity, preventing fraud across a second network, and the issuance of new cards to all cardholders, among other costs. These costs—particularly if coupled with the 12-cent cap on interchange fees—could lead issuers to cease offering inexpensive or free PIN-only debit cards to low-income consumers.

Finally, in setting the interchange fee, we ask that you consider the actual costs to issuers in Puerto Rico and the Virgin Islands, which are often higher than such costs in the states. Labor, equipment, and utilities are generally higher in our jurisdictions than in the states, because most items must be shipped from other locations and because of scale limitations. In addition, the major national networks consider our jurisdictions to be part of the Latin America and Caribbean Region, which has different price structures and compliance requirements than the U.S. Region. In particular, this designation requires issuers in Puerto Rico and the Virgin Islands to comply with more expensive standards of "chip" card technology, from which issuers in the states are exempt. All of these factors increase the cost for an issuer to offer debit cards to consumers in Puerto Rico and the Virgin Islands, as compared with issuers in the states.

As you prepare to issue a final rule to implement the Durbin Amendment, we urge you to structure the rule to protect the well-functioning PIN-only debit card markets in Puerto Rico and the Virgin Islands. Thank you for your attention to this issue, which is of great importance to our constituents.

Sincerely,

Pedro R. Pierluisi
Member of Congress

Donna M. Christensen
Member of Congress