



National Association of Federal Credit Unions
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B. Dan Berger
Executive Vice President
Government Affairs

May 11, 2010

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, D.C. 20510

Re: Oppose Senator Durbin's Interchange Amendment #3932 to the Restoring American Financial Stability Act of 2010 (S.3217)

Dear Leader Reid and Leader McConnell:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association exclusively representing the interests of our nation's federal credit unions, I am writing to express our concerns with, and opposition to, Senator Durbin's Amendment #3932 to the *Restoring American Financial Stability Act of 2010 (S.3217)*.

We do not believe this amendment is germane to the *Restoring American Financial Stability Act*. These complex issues have not been examined in hearings by the Senate in the 111th Congress. By allowing the government to arbitrarily set a price for debit card acceptance, credit unions that issue debit cards would be forced into an impossible decision – either raise prices for members or stop issuing debit cards altogether.

We are certain that this amendment, as it stands, could hurt credit unions and their 92 million members, and we ask you to oppose it.

Most credit unions offer their card programs to their members at break-even levels, or at a loss. If this revenue were artificially reduced or eliminated, they simply couldn't afford to offer debit cards and would likely be forced to sell their card portfolios to larger banks. Contrary to merchant claims, there are many costs associated with an electronic payments system, not the least of which is the transfer of risk from the merchant to the financial institution, especially when it comes to fraud. Put simply, if someone stole your debit card and bought \$10,000 worth of electronics from a big box retailer from money in your account, who would you call to restore your money? Would you call the merchant and ask them to put the money back in your account? Or would you call your debit card issuer and ask them to help you restore those funds? Under that scenario, the merchant has already been paid for the goods, and the financial institution assumes the risk of helping you restore your account.

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If this amendment passes, consumers would be left vulnerable and unprotected against predatory practices that are currently prohibited by law. Merchants would be allowed to flat-out refuse to accept a customer's card unless an arbitrary minimum or maximum payment amount – set entirely at the merchant's discretion – is met. Credit union members would be vulnerable to surprises when they arrive at the cash register only to find that their card will cost more than other forms of payment and they must make larger purchases. This could have a potentially negative impact on low-income shoppers, who may be forced to spend more on debit purchases than they had budgeted for just to meet any artificial minimums set by the merchant at check-out. Furthermore, this amendment would essentially enrich the merchant at the cost of consumers and their financial institutions, as there is no guarantee that any new income generated by merchants as a result of this amendment would be passed along to consumers in the form of lower prices or savings.

The small issuer exemption provides very little if any protection for credit unions. If credit unions continue to charge market based interchange fees, merchants will likely overtly or covertly discriminate against credit union cards in favor of price-controlled large institution products or some merchants will just refuse to accept credit union cards altogether. This has the potential of changing the current scenario where the plastic card in your wallet from your credit union is no different from a plastic card issued by the nation's largest banks. This amendment could create a scenario where credit union debit cards are viewed as second-class cards in the eyes of and merchants, and in turn, consumers.

It is with these concerns in mind that we urge the Senate to reject Senator Durbin's amendment #3932 and all efforts to make changes to the interchange rate structure in the *Restoring American Financial Stability Act of 2010*, S. 3217.

Should you have any questions or require any additional information please do not hesitate to contact myself or Javier Sanchez, NAFCU's Associate Director of Legislative Affairs, at 703-522-4770.

Sincerely,



B. Dan Berger
Executive Vice President, Government Affairs

cc: Members of the United States Senate