



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

May 16, 2011

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: Recent Michaels Stores Data Breach highlights need for S. 575

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 write to once again urge your support and action on S. 575, the *Debit Interchange Fee Study Act of 2011*. This bipartisan legislation introduced by Senators Jon Tester and Bob Corker is critical to delay and study price caps on debit interchange transactions that, if allowed to go into effect, will hurt American consumers, including 92 million credit unions members nationwide.

Unfortunately, countless numbers of Americans are now turning to their credit unions and other financial institutions to resolve fraud related issues caused by a recent data breach at yet another major big box national retailer – Michaels Stores, Inc. Because both debit cards and corresponding PINs were compromised, victims have reportedly seen money taken directly out of their checking accounts, putting credit unions on the front line of combating fraud and protecting consumers. **Furthermore, in its e-mail to customers about this breach, John B. Menzer, the CEO of this big-box retailer told them “We recommend immediately contacting your bank and/or credit card company to check for and report any unauthorized charges, as well as seek their advice on how to protect your account....” That same e-mail offered no company “help line” or contact number for consumers to directly contact Michaels Stores to get help or relief.**

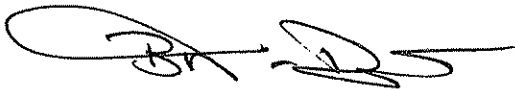
Sadly, this demonstrates what we have been communicating to you all along—that credit unions and other financial institutions, and not retailers, are the ones that assist consumers in picking up the pieces after a data breach occurs. This is a prime example of the role that debit interchange plays in ensuring the payments system operates smoothly and efficiently for consumers and financial institutions. Making the consumer “whole” comes with a cost such as replacing money pilfered from accounts, replacing compromised cards, setting up new accounts and heightened customer service demands that inevitably follow any major data breach, such as this. This cost, until now, has been made up by debit interchange. Unfortunately, the Federal Reserve’s proposed price-cap rule did not factor in all of the costs associated with debit card fraud. Furthermore, the ultimate cost of this Michaels Stores debit card data breach to financial institutions may not be fully calculated before the debit card price caps go into effect on July 21, 2011. This should give you serious pause, as it clearly demonstrates the need for the Senate to act in a timely manner on S. 575 to delay the implementation of these new price caps and study the issue further so that the best decisions can be made.

Finally, while the Durbin amendment carried a purported “exemption” from the price cap for institutions, including credit unions, under \$10 billion in assets, there continues to be mounting evidence that such an exemption will not work. Just last week, in testimony before the Senate Banking Committee, Federal Reserve Chairman Ben Bernanke reiterated his concerns about the effectiveness of this exemption, saying that “there is good reason to be concerned about it” and that “There are market forces that would work against the exemption.”

Strong evidence exists illustrating the need to delay and study this ill-conceived proposal. This matter is urgent and should not be taken lightly. The Tester-Corker legislation, S.575, is a common-sense approach to ensuring this issue is properly vetted before permanently changing the debit card processing system American consumers use regularly and have come to expect.

It is with the above concerns in mind that NAFCU urges the Senate to act on the Tester-Corker legislation in a timely manner. Should you have any questions or require additional information please do not hesitate to contact myself or NAFCU’s Vice President of Legislative Affairs, Brad Thaler, at (703) 842-2204.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Dan Berger", with a large, stylized flourish extending to the left.

B. Dan Berger
Executive Vice President, Government Affairs

cc: Members of the United States Senate