

May 12, 2010

TO THE MEMBERS OF THE UNITED STATES SENATE:

The undersigned organizations, representing a diverse array of interests including small business, state organizations, dentists, retailers, restaurants, grocery stores, convenience stores and others, write in strong support of S. Amdt. 3932, sponsored by Senator Richard Durbin, regarding interchange fee reforms to S. 3217, the Restoring American Financial Stability Act of 2010 now before the Senate. Unless relief is granted, interchange “swipe fees,” which amounted to \$48 billion in 2008, will continue to rise as card companies and issuing banks seek even higher profits, primarily on the backs of our organizations’ members. This comes at a time when businesses, state agencies and charities – all of whom pay interchange fees – are struggling to help the economy grow again and when consumers can least afford pricing increases.

Despite Congress’ efforts to reign in abusive practices, credit card companies continue to take advantage of a major loophole in financial regulation. In fact, they announced interchange rate increases just months after the passage of the Credit Card Accountability, Responsibility and Disclosure Act of 2009 (Credit CARD Act), effectively circumventing many of the reforms instituted by Congress. More recently, Visa Europe announced last month that it was *voluntarily dropping* debit card interchange fees to 0.2% in Europe, a decrease of 60%, while earlier in the month Visa increased rates on similar transactions in the United States by some 30%. Quite literally, at a rate of approximately 2.0% on debit card interchange fees, which is *10 times higher* in the United States, American businesses are subsidizing European transactions.

Simple, common-sense reforms are needed to correct this market imbalance, which would give our organizations’ members additional tools to manage our costs related to interchange fees. First, the amendment would give the Federal Reserve the authority to conduct an open and fair rulemaking – without prescribing an outcome – in order to develop regulations to ensure that interchange fees imposed on debit card transactions be “reasonable and proportional” to the cost incurred in processing the transaction. Debit transactions are not an extension of credit and are directly drawn from a consumer’s checking account, yet the interchange rate on debit transactions continues to increase. **Small banks, credit unions and thrifts with assets of under \$1 billion would be carved-out from these rules, meaning that 92% of all banks, 98% of all credit unions, and 86% of all thrifts would be exempt, allowing them to continue to receive the same interchange fees they receive today.**

Second, the amendment would prohibit anti-competitive restrictions on discounts and the setting of minimum transaction levels, providing entities with the freedom to choose their preferred method of payment. Under current rules, any business, charity or government agency that

accepts credit or debit cards is prohibited from setting a minimum transaction level, such as \$3, even though the entity may actually lose money on the transaction because of slim profit margins. Visa and MasterCard can and do impose fines on small businesses up to \$5,000 *per day* for such offenses, which has the effect of ensuring that the card companies and big banks turn a profit even if the small business loses money on the transaction. In addition, the amendment allows businesses to incentivize the use of one card network over another (e.g., a discount may be provided for Discover cards if they carry a lower interchange rate) and allows businesses to offer discounts on certain forms of payment (e.g., a discount may be offered for cash, check, PIN debit, etc., all of which carry lower rates than credit cards). **This amendment would not enable merchants to discriminate against debit cards issued by small banks and credit unions. Visa and MasterCard require merchants to accept all cards within their networks, and this amendment does not change that requirement.**

By providing these and other important reforms, the Congress will send a strong message that it supports modernizing and updating our financial payments systems while providing relief to businesses owners who have seen their interchange credit card assessments skyrocket – for many businesses exceeding the cost of providing health care benefits to their employees.

In closing, we are very concerned about the unintended consequences of not addressing interchange fees will have on our industries as the card companies and big banks continue to seek higher profits as a direct result of financial regulatory reform legislation, and other failing portfolios, through ever increasing interchange fees. **We ask that you support S. Amdt. 3932, sponsored by Senator Durbin, to the Restoring American Financial Stability Act of 2010 when it comes up for a vote in order to ensure that financial regulation reform is comprehensive and complete.** We look forward to working with you and your staff to incorporate these meaningful, common-sense reforms as part of the financial regulatory reform legislation.

Sincerely,

**National Trade Associations**

American Apparel & Footwear Association  
American Association of Motor Vehicle Administrators  
American Beverage Licensees  
American Booksellers Association  
American Dental Association  
American Home Furnishings Alliance  
American Hotel & Lodging Association  
American Nursery & Landscape Association

American Veterinary Medical Association  
Automotive Aftermarket Industry Association  
Consumer Electronics Association  
Consumer Electronics Retailers Coalition  
Digital Media Association  
Drycleaning & Laundry Institute  
Entertainment Merchants Association  
Food Marketing Institute  
Footwear Distributors and Retailers of America  
International Association of Airport Duty Free Stores  
International Association of Amusement Parks & Attractions  
International Council of Shopping Centers  
International Festivals & Events Association  
International Franchise Association  
Jewelers of America  
National Association of Chain Drugstores  
National Association of College Stores  
National Association of Convenience Stores  
National Association of Recording Merchandisers  
National Association of Shell Marketers  
National Association of Theatre Owners  
National Associations of Concessionaires  
National Council of Chain Restaurants  
National Franchisee Association  
National Golf Course Owners Association  
National Grocers Association  
National Home Furnishings Association  
National Parking Association  
National Restaurant Association  
National Retail Federation  
National Ski Areas Association  
National Small Business Association  
NATSO, Representing America's Travel Plazas and Truck Stops  
Outdoor Amusement Business Association, Inc.  
Outdoor Industry Association  
Pet Industry Joint Advisory Council  
Petroleum Marketers Association of America  
Petroleum Retailers & Auto Repair Association  
Retail Industry Leaders Association  
Service Station Dealers of America and Allied Trades  
Small Business Majority

Society of American Florists  
Society of Independent Gasoline Marketers of America  
Specialty Equipment Market Association  
Taxicab, Limousine & Paratransit Association  
Tire Industry Association  
Travel Goods Association  
United States Association of Importers of Textiles and Apparel  
World Floor Covering Association

### **State Trade Associations**

Alaska Cabaret, Hotel, Restaurant & Retailers Association  
Arizona Petroleum Marketers Association  
Arizona Restaurant and Hospitality Association  
Arkansas Hospitality Association  
Arkansas Oil Marketers Association  
California Independent Oil Marketers Association  
California Retailers Association  
Colorado/Wyoming Petroleum Marketers Association  
Delaware Restaurant Association  
Empire State Petroleum Association  
Florida Petroleum Marketers Association  
Florida Restaurant & Lodging Association  
Fuel Merchants Association of New Jersey  
Georgia Oilmen's Association  
Georgia Restaurant Association  
Hawaii Restaurant Association  
Idaho Petroleum Marketers and Convenience Store Association  
Illinois Petroleum Marketers Association /Illinois Association of Convenience Stores  
Independent Connecticut Petroleum Association  
Indiana Hotel & Lodging Association  
Indiana Petroleum Marketers and Convenience Store Association, Inc.  
Indiana Restaurant Association  
Kentucky Petroleum Marketers Association  
Kentucky Restaurant Association  
Louisiana Oil Marketers & Convenience Store Association  
Louisiana Restaurant Association  
Maine Energy Marketers Association  
Michigan Petroleum Association  
Michigan Restaurant Association

Mid-Atlantic Petroleum Distributors Association  
Minnesota Petroleum Marketers Association  
Mississippi Petroleum Marketers & Convenience Stores  
Missouri Petroleum Marketers and Convenience Store Association  
Montana Petroleum Marketers and Convenience Store Association  
Montana Restaurant Association  
Nebraska Petroleum Marketers & Convenience Store Association  
Nebraska Restaurant Association  
Nevada Petroleum Marketers & Convenience Store Association  
New Jersey Restaurant Association  
New Jersey Retail Merchants Association  
New Mexico Petroleum Marketers Association  
New Mexico Restaurant Association  
New York State Restaurant Association  
North Carolina Petroleum & Convenience Marketers  
North Dakota Petroleum Marketers Association  
Ohio Petroleum Marketers & Convenience Store Association  
Ohio Restaurant Association  
Oklahoma Petroleum Marketers & Convenience Store Association  
Oregon Petroleum Association  
Pennsylvania Petroleum Marketers and Convenience Store Association  
Pennsylvania Retailers' Association  
Petroleum & Convenience Marketers of Alabama  
Petroleum Marketers & Convenience Store Association Kansas  
Petroleum Marketers & Convenience Stores of Iowa  
Restaurant Association Metropolitan Washington  
Restaurant Association of Maryland  
Retail Council of New York State  
Rhode Island Hospitality Association  
South Carolina Petroleum Marketers Association  
South Carolina Hospitality Association  
South Dakota Petroleum & Propane Marketers Association  
South Dakota Retailers Association  
Tennessee Fuel & Convenience Store Association  
Tennessee Hospitality Association  
Texas Petroleum Marketers and Convenience Store Association  
Texas Restaurant Association  
Utah Petroleum Marketers & Retailers Association  
Vermont Fuel Dealers Association  
Virginia Petroleum, Convenience and Grocery Association  
Washington Oil Marketers Association/Pacific Northwest Oil Heat Council

Washington Restaurant Association  
West Virginia Hospitality & Travel Association  
West Virginia Oil Marketers and Grocers Association  
Western Petroleum Marketers Association  
Wisconsin Petroleum Marketers & Convenience Store Association  
Wisconsin Restaurant Association  
Wyoming Lodging and Restaurant Association