



**National Association of Federal Credit Unions**

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**B. Dan Berger**

*Senior Vice President  
Government Affairs*

July 15, 2008

The Honorable John Conyers  
Chairman  
House Judiciary Committee  
2138 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Lamar Smith  
Ranking Member  
House Judiciary Committee  
2142 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Conyers and Ranking Member Smith:

I am writing on behalf of the National Association of Federal Credit Unions (NAFCU), the only national trade association that exclusively represents the interests of our nation's federal credit unions, in conjunction with the Committee's markup of H.R. 5546, the *Credit Card Fair Fee Act* to express our strong opposition to this legislation.

The current electronic payment system has been tremendously important to the credit union industry as it allows even the smallest financial institutions to offer a valuable service that is substantially the same provided by large banks. Credit union members take comfort in the fact the MasterCard or Visa in their wallet is every bit as useful as one offered by industry giants such as Citibank and JPMorgan Chase. Credit and debit cards are one of the most widely used consumer financial services and therefore, are an important relationship building tool. The vast majority of our members offer debit cards and a smaller, though significant number, issue credit cards. NAFCU is weary of any changes to the current system that might make it more difficult for credit unions to offer these important member services.

H.R. 5546 will make it more difficult for credit unions to compete as credit unions are generally smaller in size and do not have the economies of scale of larger banks. The legislation clearly states that the three judge panel will set a single rate that is operative for all institutions and merchants that use the payment system. The legislation also states that the judges are to "consider the costs necessary to provide and access an electronic payment system for processing credit and/or debit card transactions as well as a normal rate of return" when determining prices. Having a price cap on interchange rates will have a disproportionate effect on credit unions, since they do not have the economies of scale of larger banks and have a higher per transaction cost for processing card payments.

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America's credit unions have significant restrictions on raising capital as well as stricter rules regarding the retention of assets. Consequently, credit unions have fewer avenues available to offset the loss from lower interchange fees revenue. If the single rate is set at a point that offers smaller institutions little or no return, it will most certainly become more difficult to compete in the payment card market.

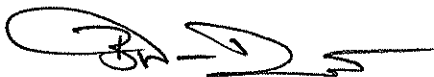
Furthermore, when sensitive financial information is stolen as part of a data security breach it is often the product of insufficient security precautions taken by merchants and retailers. The revenue provided by interchange fees help offset the costs of these breaches. The card-issuing financial institutions that are members of the Visa system, for instance, have the direct relationship with their customers who carry the Visa card, and because of Visa's "Zero-Liability" policy for cardholders, these institutions end up bearing most of the financial loss if fraud occurs.

The alarming regularity of data security breaches compounded by the increasing financial impact it has on credit unions has become far too frequent. Unfortunately, merchants and retailers are not held to the same standard in protecting personal and sensitive data as financial institutions and are virtually unregulated in this regard. Credit unions incurred \$100 million in plastic card fraud losses in 2005 and it is estimated that the cost associated with reissuing ATM and debit cards is up to \$20 per card. Therefore, it is ironic that the merchants are calling for a reduction in the same interchange fees that virtually pay for their mishandling of sensitive financial information.

A government set price for interchange rates would place credit unions at a competitive disadvantage against large national banks. As you well know, the financial services industry has already seen considerable consolidation in recent years. A decrease in interchange fee income would almost certainly force some small credit unions to merge; a result which does not benefit anyone. NAFCU therefore strongly opposes H.R. 5546.

If you have any questions or concerns, please feel free to call me, or Brad Thaler, NAFCU's Director of Legislative Affairs at 703-522-4470, ext. 204.

Sincerely,



B. Dan Berger  
Senior Vice President of Government Affairs

cc: Members of the House Judiciary Committee