

May 15, 2024

The Honorable Patrick McHenry
Chairman
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
House Committee on Financial Services
4340 O'Neill House Office Building
Washington, DC 20024

RE: Opposition to Provision in H.R. 8337 that would Increase Main Street and Consumer Prices by \$4-5 Billion

Dear Chairman McHenry and Ranking Member Waters:

The Merchants Payments Coalition¹ (MPC) writes to express our strong opposition to H.R. 8337, Bank Resilience and Regulatory Improvement Act, a bill that would increase asset thresholds at which certain regulatory requirements apply to financial institutions. Our opposition is due to Section 101(b) of the bill, which would exempt all financial institutions with assets of up to \$50 billion from Federal Reserve Regulation II. Regulation II places reasonable limits on debit interchange fees that Visa and Mastercard centrally price-fix on behalf of card-issuing financial institutions and that merchants are required to pay on every debit card transaction. Although we take no position on the other provisions of H.R. 8337, the MPC opposes the legislation as long as Section 101(b) is included,

There is no justifiable need to change the asset threshold for Regulation II, and there are several compelling reasons not to do it. First, Regulation II only applies to fees that financial institutions allow Visa and Mastercard to price-fix on their behalf. Any financial institution, no matter its size, can set its own interchange fee rates and not be subject to any regulatory limits. But when card-issuing banks engage in collective interchange price-setting through Visa and Mastercard, market competition between banks over fee rates is absent and the rates rise to excessive levels. This failure of marketplace competition is why Congress acted in 2010 to direct the Federal Reserve to place reasonable limits on debit interchange fees. Visa and Mastercard continue to this day to centrally price-fix interchange rates on behalf of their card-issuing financial institutions, and as long as this market failure still exists, Congress should not roll back Regulation II's limits.

Second, H.R. 8337 would exacerbate inflation at the checkout counter and at the gas pump. Interchange fees are deducted from the transaction amounts that merchants receive when cards are used. Absent regulation, debit fees are nearly as large as retailers' entire net profit margins, meaning that retail prices must rise to make up for the fee amounts that are deducted or Main Street businesses will go bankrupt. Regulation II provides that if card issuers with over \$10 billion in assets allow Visa or Mastercard to fix debit interchange fees on their behalf, the fees must be reasonable and proportional to the cost incurred by the issuer with respect to the debit transaction. The average per-transaction cost for issuers currently subject to Regulation II is 3.9

¹ The Merchants Payments Coalition is a group of retailers, supermarkets, restaurants, drug stores, convenience stores, gas stations, online merchants, and other businesses focused on reforming the U.S. payments system to make it more transparent and competitive. MPC firmly believes in opening up the payments market and introducing competition, which in turn would lower costs and drive innovation. Learn more at [Home - Merchants Payments Coalition](#).

cents, and Regulation II allows those issuers to receive a generous 23-24 cents per transaction in debit interchange. That means under the regulation, the average debit transaction nets banks a profit of 500 percent over cost. Even bankers should be ashamed of complaining that 500 percent profits are not enough when retailers' average profits are 3 percent.

Of course, card issuers that have under \$10 billion in assets are exempt from Regulation II and are allowed to have Visa and Mastercard fix their fees without regulatory limits; those issuers currently receive debit interchange fees averaging 64 cents for signature debit transactions. H.R. 8337 would make several dozen large financial institutions with assets between \$10 billion and \$50 billion exempt from Regulation II, meaning they would be able to deduct dramatically more interchange fees that merchants and ultimately consumers would have to pay (even though those banks' costs would not have increased). This would produce an enormous windfall for several dozen banks while burdening all merchants and consumers with higher costs and prices. An MPC economic analysis calculates that H.R. 8337 would result in \$4 to 5 billion per year in increased debit interchange fees that merchants and their customers would bear.

Third, H.R. 8337 would significantly increase the interchange fees that merchants must pay to dozens of large banks while doing nothing to stop those banks from increasingly shifting the burden of debit fraud losses onto merchants and consumers. Since Regulation II was created, card issuers have become extremely efficient at working with Visa and Mastercard to charge back merchants for fraud losses when they occur—in 2009 large debit card issuers bore 61 percent of debit fraud losses, but in 2021 they bore only 33 percent of those losses. And, concerning, between 2009 and 2021 Visa, Mastercard, and their card issuers shifted more fraud losses onto cardholding consumers. In 2009, consumers paid 0.5 percent of debit fraud losses but they paid 19.5 percent of those losses in 2021. Given that merchants and consumers now pay significantly more for debit fraud losses than card issuers do, requiring those merchants and consumers to pay higher interchange without doing any rebalancing of how fraud losses are allocated does not make sense.

In short, Visa, Mastercard and their large card-issuing banks have structured the interchange fee system to avoid competitive market pressures. As a result of this broken market, Congress had to step in to place reasonable limits on debit interchange fees for the sake of Main Street merchants and their customers. But Visa, Mastercard and large card issuers continue to dominate the debit market and maintain centralized interchange fee-fixing, and Regulation II's reasonable limits are therefore still needed to keep excessive fees in check. Changing the asset threshold for Regulation II while leaving the underlying market failure of centrally-fixed interchange rates unaddressed would be the wrong policy choice.

H.R. 8337 would reward price-fixing, expand bank profit margins that already average 500 percent, and stick Main Street and consumers with \$4-5 billion in increased prices. It would drive inflation up at exactly the wrong time.

We would be happy to work with each of you and with the Committee on legislation to bring more competition to the payment card market. But H.R. 8337 represents the wrong approach, and because of Section 101(b) we oppose that legislation. We look forward to continued engagement with you on issues involving the payment card market.

Sincerely,

American Beverage Licensees
American Booksellers Association
Coalition of Franchisee Associations
Energy Marketers of America
FMI - The Food Industry Association
Franchisee Business Services
Independent Restaurant Coalition
International Franchise Association
Merchant Advisory Group
Merchants Payments Coalition
Middle Atlantic College Store Association
National Association of Convenience Stores
National Association of College Stores
National Association of Theatre Owners
National Council of Chain Restaurants
National Franchisee Association
National Grocers Association
National Lumber & Building Material Dealers Association
National Restaurant Association
National Retail Federation
National Small Business Association (NSBA)
National Sporting Goods Association
NATSO, Representing America's Travel Centers and Truck Stops
Northwest College Bookstore Association
Retail Industry Leaders Association
SIGMA: America's Leading Fuel Marketers
Workplace Solutions Association
Mid-Atlantic Petroleum Distributors' Association
New England Convenience Store & Energy Marketer Association
Northeast Campus Stores Association
Rocky Mountain Skyline Bookstore Association
SAASOA
Southwest College Bookstore Association
Tri-State Bookstore Association (MN, ND, SD)
Western Petroleum Marketers Association
Alabama Beverage Licensees Association
Alabama Grocers Association
Alabama Restaurant & Hospitality Association
Alabama Retail Association
Petroleum & Convenience Marketers of Alabama (P&CMA)
Alaska Cabaret, Hotel, Restaurant & Retailers Association
Alaska Fuel Storage & Handlers Alliance, Inc. (AFSHA)

Arizona Petroleum Marketers Association (APMA)
Arizona Restaurant Association
Arizona Retailers Association
Arkansas Grocers and Retail Merchants Association
Arkansas Oil Marketers Association (AOMA)
Arkansas Restaurant Association
United Beverage Retailers of Arkansas
California Fuels + Convenience Alliance
California Grocers Association
California Restaurant Association
California Retailers Association
Coloradans for S.A.F.E.T.Y.
Colorado Petroleum Marketers and Convenience Store Association
Colorado Restaurant Association
Colorado Retail Council
Connecticut Energy Marketers Association (CEMA)
Connecticut Food Association
Connecticut Package Stores Association
Connecticut Restaurant Association
Delaware Association of Chain Drug Stores
Delaware Food Industry Council
Delaware Restaurant Association
Delaware Small Beverage License Council
Restaurant Association of Metropolitan Washington
Florida Independent Spirits Association
Florida Petroleum Marketers Association, Inc.
Florida Restaurant & Lodging Association
Georgia Alcohol Dealers Association
Georgia Food Industry Association
Georgia Oilmen's Association
Georgia Restaurant Association
Hawaii Energy Marketers Association
Hawaii Food Industry Association
Hawai'i Restaurant Association
Idaho Petroleum Marketers and Convenience Store Association
Idaho Restaurant & Lodging Association
Idaho Retailers Association
Illinois Fuel & Retail Association
Illinois Licensed Beverage Association
Illinois Restaurant Association
Illinois Retail Merchants Association
Indiana Association of Beverage Retailers
Indiana Food & Fuel Association

Indiana Restaurant & Lodging Association
Indiana Retail Council
FuelIowa
Iowa Grocery Industry Association
Iowa Restaurant Association
Iowa Retail Federation
Kansas Restaurant & Hospitality Association
Fuel True: Independent Energy and Convenience
Kentucky Association of Beverage Retailers
Kentucky Grocers & Convenience Store Association
Kentucky Petroleum Marketers Association
Kentucky Restaurant Association
Kentucky Retail Federation
Louisiana Oil Marketers and Convenience Store Association
Louisiana Restaurant Association
Louisiana Retailers Association
Hospitality Maine
Maine Energy Marketers Association
Maine Grocers & Food Producers Association
Retail Association of Maine
Maryland Retailers Alliance
Maryland State Licensed Beverage Association
Restaurant Association of Maryland
Massachusetts Food Association
Massachusetts Package Stores Association
Massachusetts Restaurant Association
Retailers Association of Massachusetts
Michigan Association of College Stores
Michigan Petroleum Association/Michigan Association of Convenience
Stores
Michigan Restaurant & Lodging Association
Michigan Retailers Association
Fueling Minnesota
Hospitality Minnesota
Minnesota Grocers Association
Minnesota Service Station & Convenience Store Association
Mississippi Petroleum Marketers & Convenience Stores Association
Mississippi Hospitality and Restaurant Association
Missouri Grocers Association
Missouri Petroleum & Convenience Association
Missouri Restaurant Association
Missouri Retailers Association
Montana Equipment Dealers Association

Montana Petroleum Marketers and Convenience Store Association
Montana Restaurant Association
Montana Retail Association
Montana Tavern Association
Nebraska Grocery Industry Association
Nebraska Hospitality Association
Nebraska Retail Federation
Nebraska Petroleum Marketers & Convenience Store Association
Nevada Petroleum Marketers & Convenience Store Association
Nevada Restaurant Association
New Hampshire Grocers Association
New Hampshire Lodging & Restaurant Association
New Hampshire Retail Association
Fuel Merchants Association of New Jersey
New Jersey Food Council
New Jersey Liquor Stores Alliance
New Jersey Restaurant & Hospitality Association
New Mexico Petroleum Marketers Association
New Mexico Restaurant Association
Empire State Energy Association, Inc.
Food Industry Alliance of New York State
New York Association of Convenience Stores
New York Retailers Alliance
New York State Liquor Store Association
New York State Restaurant Association
Retail Association of Nevada
College Stores Association of North Carolina
North Carolina Petroleum & Convenience Marketers (NCPCM)
North Carolina Restaurant & Lodging Association
North Carolina Retail Merchants Association
North Dakota Hospitality Association
North Dakota Petroleum Marketers Association
Ohio Association of College Stores
Ohio Energy and Convenience Association
Ohio Restaurant & Hospitality Alliance
Oklahoma Grocers Association
Oklahoma Petroleum Marketers & Convenience Store Association
Oklahoma Restaurant Association
Retail Liquor Association of Oklahoma
Oregon Fuels Association – OFA
Oregon Restaurant & Lodging Association
Malt Beverage Distributors Association of Pennsylvania
Pennsylvania Food Merchants Association

Pennsylvania Petroleum Association
Pennsylvania Restaurant & Lodging Association
Puerto Rico Restaurant Association (ASORE)
Energy Marketers Association of Rhode Island (EMARI)
Rhode Island Hospitality Association
Rhode Island Liquor Operators Collaborative
ABC Stores of South Carolina
South Carolina Association of College Stores
South Carolina Convenience & Petroleum Marketers Association (SCCPMA)
South Carolina Restaurant & Lodging Association
South Carolina Retail Association
South Dakota Licensed Beverage Dealers & Gaming Association
South Dakota Retailers Association
South Dakota Retailers - Restaurant Division
Tennessee Fuel & Convenience Store Association
Tennessee Grocers & Convenience Store Association
Tennessee Hospitality & Tourism Association
Tennessee Wine & Spirits Retailers Association
Greater Houston Retailers Cooperative Association, Inc.
Texas Food & Fuel Association
Texas Package Stores Association
Texas Restaurant Association
Texas Retailers Association
Utah Food Industry Association
Utah Petroleum Marketers & Retailers Association
Utah Restaurant Association
Utah Retail Merchants Association
Vermont Chamber of Commerce
Vermont Fuel Dealers Association (VFDA)
Vermont Retail & Grocers Association
Virginia Food Industry Association
Virginia Restaurant, Lodging & Travel Association
Virginia Retail Federation
Virginia Petroleum & Convenience Marketers Association (VPCMA)
Washington Food Industry Association
Washington Hospitality Association
Washington Independent Distributors of Energy (WIDE)
West Virginia Hospitality & Travel
West Virginia Oil Marketers & Grocers Association
Tavern League of Wisconsin
Wisconsin Association of College Stores
Wisconsin Fuel & Retail Association (WFRA)

Wisconsin Grocers Association

Wisconsin Restaurant Association

Wyoming Hospitality & Travel Coalition

Wyoming Petroleum Marketers & Convenience Store Association

Wyoming State Liquor Association