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**National Association of Federally-Insured Credit Unions**

**B. Dan Berger**  
President & Chief Executive Officer

September 20, 2022

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Kevin McCarthy  
Minority Leader  
U.S. House of Representatives  
Washington, DC 20515

**Re: Credit Union Opposition to H.R. 8874, the Credit Card Competition Act of 2022**

Dear Speaker Pelosi and Leader McCarthy:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) to share our strong opposition to H.R. 8874, the Credit Card Competition Act of 2022. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 133 million consumers with personal and small business financial service products. We appreciate the opportunity to share our thoughts on this incredibly important issue and how this legislation will harm credit unions and consumers.

The electronic payments system is a two-sided market, with consumers on one side and merchants on the other. Both sides benefit from the arrangement, with card networks setting interchange rates based on the cost of doing business and the cost of paying for fraudulent transactions. In the wake of the pandemic, many merchants are requesting cashless payments for employee safety and to streamline their operations. This is evidence that the electronic payments system offers real value to merchants and consumers alike. Any new caps or restrictions on interchange fees would only hurt community institutions such as credit unions as well as the American consumer.

When a consumer uses a credit or debit card to pay for a transaction, the merchant pays an interchange fee, or “swipe” fee, to the card-issuing bank for the benefits they receive from that transaction (such as immediate payment and fraud protection). Interchange fees cover a variety of expenses, including the cost of customer service, system improvements, online transactions, data security, and card production. Furthermore, interchange fees can vary significantly depending on whether or not a card was present for the transaction, whether the data is complete, the category of merchant, whether the card is credit or debit, the brand of the card, and whether the owner of the card is an individual, business, or other entity. They are not monolithic by any means.

The Credit Card Competition Act of 2022 is not about competition. It is about increasing the profits of big box retailers at the expense of consumers and financial institutions by creating

government intervention in a free market and establishing a back-door price control on the credit card system. The requirements in the legislation for multiple networks on credit cards mean that consumers will lose choice when it comes to credit cards, as big box retailers could now pick which network will process transactions and go with the cheapest and potentially less secure option. Card rewards that consumers expect to receive for a transaction could disappear depending on the retailer's choice, as could critical consumer protections such as fraud protection.

It is the height of hypocrisy that big box retailers, which take advantage of the many benefits of payment cards, do not want the consumers who use them to be able to have their benefits (such as the credit rewards they choose). If they do not like the rules of the payment card system, they can always accept cash. The credit card system allows consumers to purchase goods and services from merchants on credit that they may not be able to afford otherwise. Drastic changes to this system, like those proposed in this legislation, will increase the cost of credit to consumers. In a credit card transaction, the financial institution is assuming a risk in the transaction, while the retailer is getting paid. There is a cost to this system. Many big box retailers have cut jobs and turned to cashless payments because they can avoid hiring more cashiers—evidence that the electronic payments system offers real value to retailers as well. Ultimately, big box retailers receive far more value from accepting electronic payments than they pay in interchange fees and this legislation is just another money-grab for their industry.

We have seen the negative impacts of government intervention in the payments space already through Section 1075 of the Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010. This section, commonly referred to as the Durbin Amendment, imposed a cap on debit interchange fees for covered banks and credit unions, defined as those with assets of more than \$10 billion, and established new routing network requirements for debit cards. Notwithstanding the fact that the vast majority of credit unions fall well below this \$10 billion exemption threshold, many have seen a precipitous erosion of per-transaction debit interchange income despite being told that they were “exempted” by Durbin Amendment supporters. Advocates argued the \$10 billion threshold would protect the smallest institutions from the negative impacts of this amendment. They were wrong. This is now demonstrably false as shown by multiple *governmental* studies and surveys on the issue. For example, an annual survey for the Federal Reserve found that since 2016, more than 50 percent of credit unions with assets below the \$10 billion threshold have seen their per-transaction interchange rates decrease. This is a prime example of why the “exemption” for institutions under \$100 billion in assets in the Credit Card Competition Act of 2022 will **not** work for community financial institutions such as credit unions.

While the intent of the Durbin Amendment was to prevent card-issuers and networks from unfairly charging merchants higher rates and thus passing higher costs along to consumers, the evidence overwhelmingly suggests that it has not helped everyday Americans. According to

Federal Reserve data, this amendment has taken away \$6-8 billion per year from the revenue that banks and credit unions use to serve their customers and members. The erosion of interchange fees is particularly hard on credit unions, which are statutorily limited in what products they may offer and investments they can make. While a bank may be able to turn to capital markets or choose other investments, credit unions have very few options to replace this lost income. As not-for-profits, this ultimately hurts what they can do for their members. There is no evidence that merchants have passed along their savings to consumers in the form of price cuts, and the regulatory burden and loss of revenue for banks and credit unions has led to industry consolidation and the difficult choice to charge for services that were once free, such as checking accounts.

A February 2022 [GAO report](#) found that the Durbin Amendment was among the top five laws and regulations most cited as having significantly affected the cost and availability of basic banking services. Further, the merchants' promise of savings for consumers never happened—the merchants pocketed the savings. According to the [Federal Reserve Bank of Richmond](#), *after the Durbin Amendment was implemented, 98.8 percent of merchants did not pass along savings realized from debit regulation to consumers and over 20 percent increased prices.*

Since the Durbin Amendment was enacted, we have seen consumer prices increase, consolidation among community banks and credit unions, and several small debit networks have gone out of business. Big box retailers and ever-expanding e-commerce giants have been the beneficiaries of a massive financial windfall. The top retailers in the U.S. diverted an estimated \$250 billion in sales away from millions of small businesses. Their greed does not stop as they are now calling for more government intervention in the competitive payments marketplace to increase their advantage. These are many of the same merchants, such as Wawa, Target, and Home Depot, that have suffered massive consumer payment card data breaches over the last decade and looked to financial institutions to clean up their mess and restore consumers who were harmed—all while trying to fight the interchange system that helps financial institutions aid consumers when their payment cards have been compromised at these retailers.

As consumers are struggling to afford the cost of basic goods and services due to surging inflation, big box retailers should not be considering ways to put consumer spending at risk by interfering with the efficient way credit cards work today. Credit cards provide the lifeblood of credit availability for consumers and small businesses. Over 70 percent of U.S. GDP depends on consumer spending, and credit cards are what drive that. Efforts to extend new routing requirements to credit cards would create significant disruption to credit-issuing credit unions, specifically how they manage operational risk and the extension of credit, making the availability of credit for consumers and small business less certain.

Credit unions are committed to serving their members and, as such, must be able to make a reasonable return on payment card programs in order to continue to provide important

The Honorable Nancy Pelosi  
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Page 4 of 4

consumer financial services, such as free checking accounts and member help lines when data breaches occur. It is why I write you today, on behalf of the over 133 million member-owners of credit unions around the country who would be harmed if this legislation were enacted, to urge you to reject H.R. 8874, the Credit Card Competition Act of 2022.

Thank you for your attention and the opportunity to share our thoughts on this important issue. Should you have any questions or require additional information, please do not hesitate to contact me or Brad Thaler, NAFCU's Vice President of Legislative Affairs, at (703) 842-2204 or [bthaler@nafcuh.org](mailto:bthaler@nafcuh.org).

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Dan Berger', with a stylized flourish at the end.

B. Dan Berger

cc: Members of the U.S. House of Representatives