

April 1, 2011

**AMERICANS  
for TAX REFORM**

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**AMERICANS FOR PROSPERITY**



**PROPERTY RIGHTS  
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**Human Events**

RE: Support Delaying Debit Card Price Controls, S. 575/H.R. 1081

Dear Member of Congress,

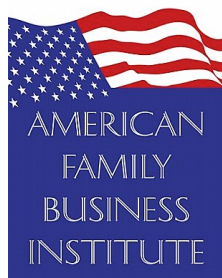
We the undersigned organizations and individuals – together representing millions of Americans – urge your support of S. 575 and H.R. 1081 or any effort to delay and further study burdensome price controls on debit card transactions. As groups committed to free-market principles and property rights – and strongly opposed to price controls – we believe these regulations will profoundly alter the market for debit cards by imposing enormous costs on consumers and forcing smaller banks and card issuers to eliminate services or exit the market altogether.

The Federal Reserve, authorized under Section 1075 (the Durbin Amendment) of the ill-conceived Dodd-Frank financial reform act, is poised to cap the interchange fee paid by merchants for debit card transactions at 12 cents – an over 70 percent drop from current average levels. Such draconian price controls will inevitably push the cost of utilizing debit cards onto consumers and card issuers.

Consumers and seniors on fixed incomes will likely bear the brunt of these regulations directly, as card issuers struggle to cover the cost of artificially low price controls on interchange fees. For card holders, this means higher fees, fewer card rewards, the elimination of banking services such as “free checking,” or otherwise. Simultaneously, banks – and particularly smaller card issuers – will be forced to determine whether offering some consumer services is more costly than it is worthwhile. As is the outcome with all price controls, the Fed’s implementation of Section 1075 rules would reduce debit card offerings, severely dampening a burgeoning and highly convenient service for consumers.

The Fed has interpreted the Durbin Amendment to mean that card issuers can’t even price services to cover their fixed and even variable costs. For this reason, New York University law professor Richard Epstein contends that these price controls likely violate both the Due Process and Takings Clauses of the 5<sup>th</sup> Amendment, as they require banks and credit unions to abide by explicitly below-cost price controls and deprive them of their property rights to a return on capital invested.

After Section 1075 was hastily inserted into the Dodd-Frank Act with little time for review, S. 575/H.R. 1081 takes the responsible step of further studying the impact of such regulations before they are implemented. Already, the Government Accountability Office found that when similar transaction fee caps were enacted in Australia, the cost was passed onto consumers in the form of reduced rewards and higher annual fees for payment card holders. Contrary to



the rhetoric of price control proponents, none of the savings merchants received in Australia were passed onto consumers.

We urge you to support S. 575 and H.R. 1081, sponsored by Senators Jon Tester (D-MT), Bob Corker (R-TN), and Pat Toomey (R-PA) and Reps. Shelley Moore Capito (R-WV) and Debbie Wasserman Shultz (D-FL), to put a much needed time-out on interchange fee price controls. These regulations are likely to devastate consumers and card issuers. We believe at the very least they warrant a significant delay and an in-depth review.

Sincerely,

Grover Norquist  
President  
Americans for Tax Reform

John Berlau  
Director, Center for Investors &  
Entrepreneurs  
Competitive Enterprise Institute

James Martin  
Chairman  
60 Plus Association

Carrie Lukas  
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Let Freedom Ring

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\* Title for identification purposes only.