

KeyVote

June 8, 2011



Dear Senator,

On behalf of the nation's nearly 1 million restaurants, who employ nearly 13 million Americans, and the millions of guests we serve each day, the National Restaurant Association urges you to vote against the Tester-Corker amendment today, and to reject any effort to delay the debit-card swipe-fee reforms that are due to be released shortly by the Federal Reserve. The National Restaurant Association will consider any Senate vote to delay reforms as a key vote for the nation's restaurant industry.

Debit-card swipe-fee rates are one of the fastest-rising costs for our members. Restaurants operate on extremely thin margins. The typical restaurant averages pre-tax profits of about 4 cents on the dollar. Debit and swipe fee rates are increasing at levels that often exceed the rate increases restaurant operators face for all other costs, including food, energy and health care.

For that reason, swipe-fee reform has been and will remain one of our members' top-priority issues. Last year, Congress took an important first step in addressing the broken debit swipe-fee system and instructed the Federal Reserve to establish a reasonable and proportional rate for debit swipe fees.

Proponents of the revised Tester-Corker amendment have modified their language several times in an effort to gather votes. After raising a variety of concerns with the law enacted last year, they now argue it simply delays the implementation of the rules to study the impact on the small banks and credit unions that are exempt from the law already. If any lesson can be learned from the financial crisis that enveloped the country over the past couple of years, it would be to make sure that you have read the fine print of any paper that the banks put in front of you. When one reads the new language, it is not merely a study delay, it is a reversal of last year's enacted laws which allows banks and debit card companies to have all sorts of additional new costs absorbed into their card fees, and changes the very nature of the regulatory system that governs their operations.

Here are some key problems with the new Tester-Corker language. First, it is not merely a "stop and study" amendment. It is a rewrite of the regulations with many new costs that are not part of the debit swipe transaction, such as advertising and the cost of ATM machines which banks already recoup through dozens of other fees and charges, forced into the Federal Reserve's calculations. The amendment forces the consideration of "direct and indirect" costs of not only debit swipe transactions, but also all "program operations to card issuers and payment card networks" into the equation, as if these costs are not already completely covered by other aspects of bank operations and recovered by other fees. Second, there is no effective date for the ultimate implementation of the new regulations, so, rather than a one year "delay" to the regulations that are nearly complete, it could be years before consumers and merchants see any relief from the ever increasing fees that the banks and credit card companies will continue to

reap under the current cost structure. Lastly, in what may be a completely new and unique regulatory construct, one will be try be replicated if successful here, bank and credit union regulatory agencies are now being given veto power over each others' regulations, regardless of their primary regulatory responsibilities.

As debit-card volume goes up and new technologies make processing more efficient, networks set interchange prices higher and higher. Economists at the Kansas City Federal Reserve Bank found that rates have quadrupled over the past 15 years. There is no rationale for the continued rise in debit-card swipe-fee rates. The Federal Reserve said that the amount that the card companies charge merchants in debit-card interchange fees far outweighs the actual cost of processing debit-card transactions. Indeed, merchants even bear much of the cost of fraud losses in this system -- a fact that has allowed U.S. financial institutions to lag behind the rest of the world in advancing new technologies to protect debit-card security. Debit cards are essentially electronic checks. We need balances in this system to prevent abuse, just as for decades we have understood the need for federal regulations to govern the fees related to checking accounts.

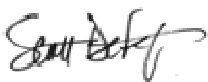
The Federal Reserve has spent nearly a year working on regulations to ensure that debit-card fees are in line with what it costs to process these transactions. The final rule is imminent and will represent intensive study and analysis. The Federal Reserve has sifted through voluminous input from all parties affected: banks, card companies, merchants and consumers. It makes no sense to delay the rule even before it is finalized.

As restaurants struggle to emerge from a fragile economic recovery, we are even more acutely aware of the need to fix the broken market for debit-card swipe fees. The nation's restaurateurs cannot do anything about the cost of accepting debit cards. Merchants cannot negotiate fees or limit increases. There is literally no market force at work today to constrain the increases the debit card networks impose.

Every penny matters to our operators and our guests, whom we see face to face every day. Rising swipe-fee rates are an increasing and uncontrollable cost for our members. Restaurants work daily to reduce costs to keep menu prices affordable, keep our guests coming into our restaurants, and keep building on the restaurant-industry job base that now employs nearly one in 10 working Americans. Restaurants are a highly competitive business. Our guests relentlessly demand value. We work to streamline costs so we can pass every bit of savings along to our guests. Every Senator acknowledges the problems with the current system. Congress needs to allow these reforms to move forward.

The National Restaurant Association will consider the votes on or related to the Tester-Corker amendment in our annual "how they voted" scorecard.

Sincerely,



Scott DeFife

Executive Vice President, Policy and Government Affairs