National Bankers Association

Statement for the Record
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Senate Judiciary Committee Hearing
"Excessive Swipe Fees and Barriers to Competition in the Credit and Debit Card Systems"

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Chairman Durbin and Ranking Member Grassley thank you for the opportunity to share the views of the National Bankers Association (NBA), the leading trade association for the country's 143 Minority Depository Institutions (MDIs), on the important topics being explored at today's hearing. Many of our member institutions are also Community Development Financial Institutions (CDFIs) and have become banks of last resort for consumers and businesses who are underserved by traditional banks and financial service providers. Members of our association are on the front lines, trying to reduce the economic hardship in minority communities, which are historically the most vulnerable during any crisis. The COVID-19 pandemic has exasperated the economic conditions in the communities we serve, and we all need to do our part to ensure individuals in the middle of the health crisis, principally minority communities that have accounted for ~50% of the deaths, have equal access to financial services needed to recover and stabilize.

As you know, regulation of interchange was a contested part of financial regulatory reform, as adopted by the Senate during debate of S. 3217, the Restoring American Financial Stability Act of 2010. While the bill and subsequent regulations have primarily been identified as targeting larger banks and the card networks, there has been significant harm done to MDIs, the very financial institutions that the Congress and banking regulators have a statutory duty to preserve and promote. It is for these reasons that the National Bankers Association respectfully opposes inclusion of any additional limiting interchange regulations. We believe that the real consequences for MDIs and CDFIs have not been fully considered by the Administration or Congress, and that the survival of some of our most disadvantage communities and institutions is at stake.

MDIs and CDFIs have traditionally served as economic development engines due to their relative concentration in minority and low-income communities, as well as their well established and deep relationships in these communities. As community lenders, they are significant providers of financial services, mortgages, and small business loans often saying yes when mainstream financial institutions say no to underserved populations. This is especially true in African American communities. Unfortunately, MDIs' smaller size and declining number, especially among African American MDIs, has not allowed them to respond as quickly or with as much scale as the current economic situation in LMI communities demands. From 2009 to 2021, the number of MDIs significantly dropped from 215 to 143. In addition, MDIs are far smaller than the average non-MDI bank, with total average assets of $2.2 billion. Of note, African American MDIs (which have the smallest average assets size of all MDIs), have average assets of $363 million, compared to an average of $4.9 billion for all U.S. banks in 2021.

Given the important role these institutions play in the communities they serve, we need to do more to preserve and promote them. This obligation is not just morally justified but required by federal statute. Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) requires the FDIC and other Federal Banking Agencies to preserve and promote MDIs by: (i) preserving the number of MDIs, (ii) preserving the minority character of MDIs in case of merger or acquisition, (iii) providing technical assistance to prevent insolvency, (iv) promoting and encouraging creation of new MDIs, and (v) providing for training technical assistance and educational programs. The FDIC notes the importance of MDIs in its own Policy Statement Regarding Minority Depository Institutions, stating MDIs promote the "economic viability of minority and under-served communities."

Unfortunately, policies proposed by Congress and the implementation by regulators have failed to preserve and promote MDIs. In many instances, policymakers are often not sufficiently sensitive to the special risk factors associated with the balance sheet and income statement characteristics that result from operating a bank in a LMI, minority or underserved community. MDIs often find themselves subjected to broad policy prescripts such as reporting requirements, fees adjustments and others that are not only costly to the institutions but limit the range of services that can be provided to the communities we bank. In this regard, we believe placing limitations on the amount or use of interchange fees would represent yet another change that would be a net harm to our institutions and customers.

As noted previously, MDIs serve economically disadvantaged populations, and themselves face numerous economic challenges due to high customer turnover and low account balances associated with the populations served, which result in higher than usual operational costs. Interchange revenue, in addition to providing no and low-cost banking products and services such as free checking and neighborhood development programs like financial literacy, also helps to offset higher than normal operational expenses. For some minority depository institutions, particularly those that issue only debit cards, interchange revenue does not cover the cost of issuance, meaning the bank or thrift takes an actual loss. Many institutions have seen an erosion of income linked to transaction fees during the years since the Federal Reserve's action on debit card interchange fees.

These losses have led directly to further losses at MDIs, leading to drastic cuts in services, and the closure of some institutions.

Minority owned and operated banks are committed to the people and communities they serve. However, if interchange regulation that reduces fee revenue through additional price caps or routing requirements is adopted, many banks will have no choice but to raise costs for customers, cut back on services, and reduce vital capital allocations for neighborhood and business development. In a survey conducted by the NBA in 2010 during the consideration on debit interchange legislation, we learned just how important interchange revenue is to minority banks and their communities. According to one minority owned bank located in the northeast region of the country, "interchange revenue helps to offset some of the cost associated with offering affordable products, convenient distribution points, financial literacy programs, and partnering with city and state agencies around programs to help low to moderate income residents of inner-city communities." A Hispanic owned bank reported that, "modification to the interchange fee system would create financial harm for both the consumer and the banks which provide these services-particularly community banks for which these fees allow them to compete against larger national institutions and provide valuable support to local communities."

The National Bankers Association again applauds the Committee for holding this important hearing and for the ongoing efforts to ensure equity for communities in the country. While we commend Congress on its leadership to date in responding to the COVID-19 pandemic and the corresponding economic ripple effects, we respectfully urge this Committee and the Congress as a whole to carefully consider the full impact of interchange fee proposals under discussion. While it is very easy, especially in times of economic distress, to oversimplify this issue as one of consumer protection, we believe it to be a business-to-business concern that can have dire consequences for banks serving the very customers policymakers seek to protect. Congress and the Administration must act deliberatively when the negative impact on minority depository institutions and the communities they serve looms large in the balance. The NBA and its members banks look forward to working closely with the Committee on the solutions being considered at this hearing to ensure LMI communities do not just survive but ultimately thrive. Thank you again for the opportunity to comment.