



# National Grocers Association

June 21, 2010

## Summary of House Offer to Durbin Amendment:

On Monday June 21, House Financial Services Chairman Barney Frank (D-MA) released modifications to the Durbin Amendment in an offer to the Senate. These modifications (summarized below) will be formally presented to the House conferees on Tuesday, debated, voted on, and finally presented to Senate conferees for their action thereafter.

- **Federal Reserve Authority Over Debit Preserved:** The most contentious provision in the Durbin Amendment remains the new Fed authority over debit card interchange fees, which requires the Fed to ensure debit interchange fees are “reasonable and proportional” to the cost. This provision was preserved and is the leading part of the House offer. The exemption for small banks and credit unions with assets of \$10 billion or less is also part of the offer; therefore these small financial institutions will continue to be exempted from the new Fed authority.
- **NEW Issuing Banks Interchange Adjustment for Fraud Costs:** Modifications from the Senate passed Amendment allow card issuing banks to petition the Fed to receive debit interchange fee adjustments to cover reasonable fraud prevention costs. The modification will require banks to demonstrate that they have met fraud prevention standards set by the Fed and have taken effective steps to reduce fraud in order to receive an issuer specific adjustment to cover their necessary costs.
- **NEW Exemptions for Gov. Issued Debit Cards and Reloadable Prepaid Cards:** Government (federal, state, local) issued debit cards and reloadable prepaid cards would be exempt from the new Fed authority. Issuing banks would lose this exemption for government issued cards if consumers using these cards are charged overdraft fees or fees for their first monthly ATM withdrawal by the card issuing banks.
- **NEW Setting Transaction Minimums for Credit Card Transactions:** Merchants are permitted to set minimum transaction amounts up to \$10.00 (this limit is new) for credit card transactions. The provision allowing merchants to set a transaction maximum now only applies to government agencies and higher education institutions.
- **NEW No Discounting Between Card Networks:** A provision that would have allowed merchants to discount between card networks (i.e. discount to a consumer for using a Discover Card over a Visa Card) was removed.
- **Discounts for Cheaper Forms of Payment Permitted:** A provision allowing merchants to discount for using cheaper forms of payment (i.e. cash over credit) has been included in the House offer.
- **NEW The amendment prevents card networks from requiring that their debit cards be transacted exclusively on one debit network.** There are a number of PIN debit networks that merchants can use to conduct PIN debit transactions, and until recently most PIN debit cards were able to be used on multiple PIN networks. This fostered price

competition between the PIN networks. Recently, however, price competition has diminished and PIN debit fees have gone up because large networks like Visa have increasingly required banks to sign exclusive agreements under which they become the sole PIN network whose logo appears on the banks' cards. The amendment would enhance competition by directing the Fed to issue regulations providing that a card network cannot limit a debit card to only be allowed to run on one exclusive network.

- NEW Prohibit Discrimination Against Issuing Banks: The Amendment prohibits merchants from discriminating against credit or debit cards on the basis of the bank that issued the card. The card companies "honor all cards" rule remains and is only clarified here.