

112TH CONGRESS
1ST SESSION

H. R. 1081

To delay the implementation of proposed or final rules issued under the authority of the Dodd-Frank Wall Street Reform and Consumer Protection Act relating to the reasonable and proportional fees and rules for electronic debit transactions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2011

Mrs. CAPITO (for herself, Ms. WASSERMAN SCHULTZ, Mr. LUETKEMEYER, Mr. RENACCI, Mr. PERLMUTTER, Mr. HENSARLING, Mr. ROYCE, Mr. CANSECO, Mr. NEUGEBAUER, Mrs. BACHMANN, Mr. MEEKS, Mr. McCLINTOCK, Mr. CARNEY, Mr. GIBBS, Mr. PETERS, Mr. HERGER, Mr. MARCHANT, Mr. KELLY, Mr. BARTLETT, Mr. CHAFFETZ, Mr. KISSELL, Mr. GARY G. MILLER of California, Mr. KILDEE, Mrs. MCCARTHY of New York, Mr. POLIS, Mr. CONNOLLY of Virginia, Mr. OWENS, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To delay the implementation of proposed or final rules issued under the authority of the Dodd-Frank Wall Street Reform and Consumer Protection Act relating to the reasonable and proportional fees and rules for electronic debit transactions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Consumers Payment
3 System Protection Act”.

4 **SEC. 2. DELAY IN THE APPLICATION OF RULES ISSUED**
5 **UNDER THE AUTHORITY OF SECTION 1075 OF**
6 **THE DODD-FRANK WALL STREET REFORM**
7 **AND CONSUMER PROTECTION ACT.**

8 Subject to section 3(b)(2), any proposed or final rule
9 issued under the authority of any provision under section
10 1075 of the Dodd-Frank Wall Street Reform and Con-
11 sumer Protection Act (Public Law 111–203), or of amend-
12 ments made by such section, shall take effect 1 year after
13 the date of the enactment of this Act.

14 **SEC. 3. STUDY AND REPORT.**

15 (a) STUDY.—

16 (1) IN GENERAL.—The Board of Governors of
17 the Federal Reserve System, the Chairperson of the
18 Federal Deposit Insurance Corporation, the Chair-
19 person of the National Credit Union Administration,
20 and the Comptroller of the Currency shall jointly
21 conduct a study on the effect of section 1075 of the
22 Dodd-Frank Wall Street Reform and Consumer Pro-
23 tection Act (Public Law 111–203), and amendments
24 made by such section, on consumers, card issuers,
25 merchants, and financial institutions. Such study
26 shall survey card issuers, merchants, and financial

1 institutions representing a cross section of all mar-
2 ket participants regardless of whether such partici-
3 pants are exempt from any rule issued under the au-
4 thority of section 1075 of the Dodd-Frank Wall
5 Street Reform and Consumer Protection Act, or of
6 any amendment made by such section.

7 (2) CONSIDERATIONS.—The study described in
8 paragraph (1) shall consider the following:

9 (A) The identity and categories of all costs
10 and investments associated with debit card
11 transactions (prior to the implementation of
12 section 1075 of the Dodd-Frank Wall Street
13 Reform and Consumer Protection Act) to con-
14 sumers, card issuers, merchants, and financial
15 institutions, including the operation of the pay-
16 ment system to support such transactions.

17 (B) The impact of the proposed rule issued
18 by the Board of Governors of the Federal Re-
19 serve System entitled “Debit Card Interchange
20 Fees and Routing” (75 Fed. Reg. 81772 (Dec.
21 28, 2010)), if finalized, including—

22 (i) the impact of reduced debit card
23 interchange fees on consumers, including—

1 (I) the cost to and consequences
2 for consumers if such proposed rule
3 were to become final;

4 (II) the impact on consumer pro-
5 tection, including anti-fraud and cus-
6 tomer identification efforts, and pri-
7 vacy protection; and

8 (III) the impact on consumers,
9 particularly low- and moderate-income
10 consumers (including banked and
11 unbanked consumers), and small busi-
12 nesses with respect to the provision of
13 payment accounts and services;

14 (ii) the impact of reduced debit card
15 interchange fees on debit card issuers, in-
16 cluding—

17 (I) whether such fees would pro-
18 vide recoupment of costs and invest-
19 ments by debit card issuers;

20 (II) whether such fees would re-
21 sult in increased risks to debit card
22 issuers, including the potential impact
23 on the safety and soundness of such
24 issuers; and

1 (III) the impact of the exemption
2 provided for smaller banks and credit
3 unions, including whether potential
4 merchant behavior would lead to dis-
5 crimination against debit cards issued
6 by credit unions and community
7 banks, and whether the exemption
8 would have an adverse impact on the
9 deposit base of credit unions and com-
10 munity banks as well as the payment
11 system;

12 (iii) the impact of the reduced debit
13 card interchange fees on merchants, in-
14 cluding such merchants ability to—

15 (I) pass savings on to the con-
16 sumer;

17 (II) make new capital invest-
18 ments; and

19 (III) cover the costs associated
20 with fraud prevention;

21 (iv) the impact on consumers, debit
22 card issuers, and merchants of the debit
23 exclusivity and transaction routing provi-
24 sions of section 920(b) of the Electronic
25 Fund Transfer Act and any proposed or

1 final rules issued under such provisions, in-
2 cluding—

3 (I) the impact on the continued
4 innovation and development of secure,
5 efficient, and reliable electronic pay-
6 ment technologies; and

7 (II) the impact of mandating a
8 specific number of enabled networks
9 on each debit card; and

10 (v) the impact on other entities that
11 utilize debit card transactions, including
12 the debit card programs of Federal and
13 State entities.

14 (C) Subsections (a) and (e) of section 904
15 of the Electronic Fund Transfer Act (15 U.S.C.
16 1693b(a), (e)).

17 (b) REPORT.—

18 (1) IN GENERAL.—Not later than 8 months
19 after the date of the enactment of this Act, the
20 Board of Governors of the Federal Reserve System,
21 the Chairperson of the Federal Deposit Insurance
22 Corporation, the Chairperson of the National Credit
23 Union Administration, and the Comptroller of the
24 Currency shall jointly submit to Congress a report
25 that includes—

1 (A) an analysis of the results of the study
2 required under subsection (a);

3 (B) a determination of whether revisions
4 need to be made to any proposed or final rule
5 described in section 2; and

6 (C) a determination of whether revisions
7 need to be made to any provision under section
8 1075 of the Dodd-Frank Wall Street Reform
9 and Consumer Protection Act, or any amend-
10 ment made by such section.

11 (2) REVISIONS TO RULES.—The Board of Gov-
12 ernors of the Federal Reserve System shall have 4
13 months after the submission of the report submitted
14 pursuant to paragraph (1) to make revisions to any
15 proposed or final rule described in section 2 if at
16 least two of the Board of Governors of the Federal
17 Reserve System, the Chairperson of the Federal De-
18 posit Insurance Corporation, the Chairperson of the
19 National Credit Union Administration, and the
20 Comptroller of the Currency determine, in such re-
21 port, that any one of the following are true:

22 (A) Either of section 920 of the Electronic
23 Fund Transfer Act or the proposed rule issued
24 by the Board of Governors of the Federal Re-
25 serve System entitled “Debit Card Interchange

1 Fees and Routing” does not encompass all costs
2 and investments associated with debit card
3 transactions.

4 (B) Consumers will be adversely affected
5 by either such section or such proposed rule.

6 (C) The exemption of small financial insti-
7 tutions (defined as financial institutions with
8 less than \$10,000,000,000 in assets), as pro-
9 vided under section 920(a)(6) of the Electronic
10 Fund Transfer Act, or as carried out by the
11 proposed rule, is not effective in practice.

12 (c) DEFINITIONS.—In this section, the terms “con-
13 sumer”, “financial institution”, and “State” have the
14 same meanings given such terms in section 903 of the
15 Electronic Fund Transfer Act (15 U.S.C. 1693a).

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