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. Meeeks, 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.
This Act may be cited as the "Consumers Payment System Protection Act".

SEC. 2. DELAY IN THE APPLICATION OF RULES ISSUED UNDER THE AUTHORITY OF SECTION 1075 OF THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT.
Subject to section 3(b)(2), any proposed or final rule issued under the authority of any provision under section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203), or of amendments made by such section, shall take effect 1 year after the date of the enactment of this Act.

SEC. 3. STUDY AND REPORT.
(a) Study.—
(1) In general.—The Board of Governors of the Federal Reserve System, the Chairperson of the Federal Deposit Insurance Corporation, the Chairperson of the National Credit Union Administration, and the Comptroller of the Currency shall jointly conduct a study on the effect of section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203), and amendments made by such section, on consumers, card issuers, merchants, and financial institutions. Such study shall survey card issuers, merchants, and financial
institutions representing a cross section of all market participants regardless of whether such participants are exempt from any rule issued under the authority of section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, or of any amendment made by such section.

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

(A) The identity and categories of all costs and investments associated with debit card transactions (prior to the implementation of section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act) to consumers, card issuers, merchants, and financial institutions, including the operation of the payment system to support such transactions.

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

(i) the impact of reduced debit card interexchange fees on consumers, including—
(I) the cost to and consequences for consumers if such proposed rule were to become final;

(II) the impact on consumer protection, including anti-fraud and customer identification efforts, and privacy protection; and

(III) the impact on consumers, particularly low- and moderate-income consumers (including banked and unbanked consumers), and small businesses with respect to the provision of payment accounts and services;

(ii) the impact of reduced debit card interchange fees on debit card issuers, including—

(I) whether such fees would provide recoupment of costs and investments by debit card issuers;

(II) whether such fees would result in increased risks to debit card issuers, including the potential impact on the safety and soundness of such issuers; and
(III) the impact of the exemption provided for smaller banks and credit unions, including whether potential merchant behavior would lead to discrimination against debit cards issued by credit unions and community banks, and whether the exemption would have an adverse impact on the deposit base of credit unions and community banks as well as the payment system;

(iii) the impact of the reduced debit card interchange fees on merchants, including such merchants ability to—

(I) pass savings on to the consumer;

(II) make new capital investments; and

(III) cover the costs associated with fraud prevention;

(iv) the impact on consumers, debit card issuers, and merchants of the debit exclusivity and transaction routing provisions of section 920(b) of the Electronic Fund Transfer Act and any proposed or
final rules issued under such provisions, including—

(I) the impact on the continued innovation and development of secure, efficient, and reliable electronic payment technologies; and

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

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

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

(b) REPORT.—

(1) IN GENERAL.—Not later than 8 months after the date of the enactment of this Act, the Board of Governors of the Federal Reserve System, the Chairperson of the Federal Deposit Insurance Corporation, the Chairperson of the National Credit Union Administration, and the Comptroller of the Currency shall jointly submit to Congress a report that includes—
(A) an analysis of the results of the study required under subsection (a);

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

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

(2) Revisions to Rules.—The Board of Governors of the Federal Reserve System shall have 4 months after the submission of the report submitted pursuant to paragraph (1) to make revisions to any proposed or final rule described in section 2 if at least two of the Board of Governors of the Federal Reserve System, the Chairperson of the Federal Deposit Insurance Corporation, the Chairperson of the National Credit Union Administration, and the Comptroller of the Currency determine, in such report, that any one of the following are true:

(A) Either of section 920 of the Electronic Fund Transfer Act or the proposed rule issued by the Board of Governors of the Federal Reserve System entitled “Debit Card Interchange
Fees and Routing” does not encompass all costs and investments associated with debit card transactions.

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

(C) The exemption of small financial institutions (defined as financial institutions with less than $10,000,000,000 in assets), as provided under section 920(a)(6) of the Electronic Fund Transfer Act, or as carried out by the proposed rule, is not effective in practice.

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