



# National Grocers Association

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September 30, 2016

The Honorable Steve Chabot  
Chairman, Small Business Committee  
2371 Rayburn House Office Building  
Washington, DC 20515

The Honorable Nydia Velázquez  
Ranking Member, Small Business Committee  
2302 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Chabot and Ranking Member Velázquez,

The National Grocers Association (NGA) appreciates the opportunity to provide an update to the Members of the House Small Business Committee on to the payment system transition from magnetic stripe electronic payments to EMV (Europay, MasterCard and Visa) chip cards in the United States. The hearings held by the Committee last October, shortly after a liability shift was imposed on merchants who accept payment cards, were helpful in beginning a discussion on the EMV transition and the effects that it has had on small businesses throughout the country. As we approach the one-year anniversary of the EMV liability shift imposed on October 1, 2015, NGA would appreciate actions the Committee can take to help further the discussion on this important issue.

NGA is the national trade association representing the retail and wholesale supermarkets that comprise the independent channel of the food distribution industry. An independent retailer is a privately owned or controlled food retail company operating a variety of formats. Most independent operators are serviced by wholesale distributors, while others may be partially or fully self-distributing. Some independents are publicly traded, but with controlling shares held by the family and others are employee owned. Independents are the true "entrepreneurs" of the grocery industry and dedicated to their customers, associates, and communities. The independent supermarket channel is accountable for close to one percent of the nation's overall economy and is responsible for generating \$131 billion in sales, 944,000 jobs, \$30 billion in wages, and \$27 billion in taxes.

The transition to EMV in the United States began in 2011 when the payment brands introduced a pathway to adoption. The U.S. was scheduled to complete the transition to EMV on October 1, 2015. This transition included the implementation of chip-and-signature technology, requiring all merchants to update their point-of-sale (POS) card terminals in addition to the software that runs the front end systems. This transition has been estimated by some industry experts to cost between \$25-30 billion in total. For those businesses that were unable to upgrade their POS terminals and complete the onerous certification process in advance of the aggressive October 1, 2015 deadline, liability for fraudulent purchases made using EMV chip cards at non-EMV terminals shifted entirely onto the merchant. The payment brands, as represented by EMVCo, dictated the terms and conditions of the transition from the

outset, and have been largely unresponsive to the needs of merchants who, many through no fault of their own, were not ready for the liability shift on October 1 due to delays in production or certification of card reader terminals.

In March of this year NGA wrote a letter to the CEOs of Visa and MasterCard regarding the challenges of EMV certification and the significant chargebacks our members were incurring. To their credit, Visa has engaged on this issue and has helped to address some of the barriers and challenges our members have faced to date. The significant chargebacks that our members have incurred as a result of the unrealistic certification timeline set continues to be a challenge. We are disappointed that MasterCard has yet to respond to our outreach.

The greatest challenge for merchants in implementing the change to EMV technology has been the timeline that was unilaterally set by EMVCo without input from merchants. The timeline that was announced by Visa and MasterCard in 2011 called for the liability shift to take place just four years after the announcement was made. Unfortunately, delays, such as changes to programming coding necessary for retailers to implement EMV, were still being released as late as a few weeks before the October 2015 deadline.

Another daunting challenge in implementing EMV in the United States has been the sheer volume of terminals that must be upgraded. More than 12 million terminals needed replacement in the U.S.<sup>1</sup>, each of which require installation, testing and certification. Canada, which has a population less than 1/10<sup>th</sup> of the United States, completed its transition to EMV in just over a decade (including delays of the liability shift), with far fewer terminals to change out. The process is further complicated by the fact that each major card brand must separately certify that the installation was done properly and is operating effectively for their brand, causing massive delays in the certification process.

In January of 2016, only eight percent of NGA members were able to accept EMV payments. Nearly 10 months later, only 33% of NGA members surveyed are EMV-capable, despite the fact that nearly 90% of surveyed members indicate that they have invested in EMV hardware and software in their stores, yet they continue to wait for the green light to be able to accept chip cards. The financial investments made by NGA members are significant; the median cost of EMV implementation has been \$30,000 for NGA members, with many companies spending far more than that figure.

Despite many independent grocers having invested in EMV hardware more than a year in advance of the October 1 liability shift, many have now experienced a years' worth of fraudulent chargebacks due to the fact that the payments ecosystem has been unable to meet the aggressive implementation timeline set by EMVCo. One NGA member surveyed indicated that they had never previously had an issue with chargebacks in advance of the liability shift, but have received more than \$10,000 in chargebacks since

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<sup>1</sup> The U.S. Transition to EMV (Europay, MasterCard and Visa): Considerations for the Payment Environment. Federal Reserve Bank of Chicago. Kandice Alter and Anna Neumann.

October 1. For businesses of all types and sizes, \$10,000 worth of unexpected charges in addition to thousands of dollars spent on technology upgrades poses a significant challenge for businesses.

The National Grocers Association fully supports all efforts to increase security throughout the payments chain. However, the EMV transition in the United States has left businesses out in the cold and caused undue and unnecessary harm to businesses. As it stands, many small businesses that made every attempt to become EMV compliant before October 1, 2015 have suffered undue harm due to the liability shift.

Thank you again for your attention to this important issue. As always if you have additional questions or need more information please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Ferrara', with a long, sweeping horizontal stroke extending to the right.

Greg Ferrara  
Senior Vice President, Government Relations and Public Affairs  
National Grocers Association (NGA)

Cc: All Members of the House Small Business Committee