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September 27, 2006

Ms. Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

Re: Comments on Interim Final Rule amending Regulation E – Docket Number R-1265

Dear Ms. Johnson:

This comment letter is submitted on behalf of Wal-Mart Stores, Inc. in response to the Federal Reserve Board's interim final rule amending Regulation E, which implements the Electronic Funds Transfer Act, and the official staff commentary to Regulation E. We appreciate the opportunity to comment on the Interim Rule.

Wal-Mart Stores, Inc. operates Wal-Mart discount stores, Supercenters, Neighborhood Markets and SAM's Club locations in the United States – over 3600 locations. We also operate stores in many international locations.

Over 1300 of our US store locations currently use POP electronic check acceptance, having partnered with TeleCheck to utilize this efficient process. In addition, we plan to expand this program to more stores beginning February 1, 2007. Presently, we provide return fee notification in the form of signage at the point of sale that can be read by a check writer prior to presenting a paper check for payment. From the point of sale, Wal-Mart submits the consumer's check information to the TeleCheck host system using our point-of-sale terminal. If the transaction is approved, the clerk gives the check writer a printed authorization for signature. The check writer's signature authorizes TeleCheck to electronically present the transaction to the check writer's bank for settlement; the funds from that transaction are automatically deposited into Wal-Mart's bank account. The authorization also provides for the collection of a service fee by EFT in the event the item is returned unpaid. For all approved transactions, check writers are provided a copy of the authorization language for their records. The electronic check acceptance process makes it safer, faster and easier to accept checks and makes checks a more viable tender type for both merchants and check writers.

**Wal-Mart urges the Board to reconsider the requirement to provide the amount and calculation of the insufficient funds fee on signage at the point of sale.**

Wal-Mart commends the Board for clarifying the amendments to Regulation E published in January of this year by issuing the Interim Final Rule. Wal-Mart supports the Board's adjustment to the disclosure requirements at the point of sale regarding an insufficient funds fee; however, Wal-Mart urges the Board to consider a further adjustment to the rule to accommodate the technical difficulties merchants and service providers will face in complying with the rule and to ensure that the costs to comply with the rule are not a barrier to the adoption of evolving ACH payment methods.

Under the Interim Final Rule, persons that seek to collect an insufficient funds fee via EFT from consumers who pay by check at the point of sale must post a prominent and conspicuous notice stating that such a fee may be collected and stating the amount of the fee (unless the fee cannot be calculated at the point of sale, in which case a description of the fee calculation process must be provided). In addition, a substantially similar copy of the fee notice must be provided to the consumer.

For Wal-Mart, providing a copy of the fee notice on the receipt is the only practical means to ensure that consumers receive a copy of the fee notice. Including the fee amount on the receipt will require reprogramming, which is complicated by the fact that fees vary from state to state; some states authorize a flat fee regardless of the amount of the transaction, in other states the fee is based in part on the amount of time that the check remains unpaid, and in other states the fee is calculated as a percentage of the value of the transaction. However, the bigger challenge for Wal-Mart will result from the requirement to post point-of-sale signage which matches the copy of the fee notice handed to the consumer.

Wal-Mart has not received complaints from customers regarding the sufficiency of the current disclosure provided on the receipt. In addition, less than 20% of our customers currently utilize checks as a tender type. Approximately 99% of checks are paid and not returned. Therefore, this information is irrelevant to the vast majority of our customers and potentially will cause customer confusion.

Wal-Mart urges the Board to allow merchants to choose one of the following methods: (1) to satisfy the requirements by simply providing a receipt notifying the customer that an insufficient funds fee may be collected; OR, (2) by providing signage at the point of sale. Management and execution of signage at all points of sale in 1300 Wal-Mart stores would be difficult, at best, considering the multiple lanes and outlying registers. Our preference would be to manage the verbiage on the receipts from the host level. However, for smaller merchants with only a few registers, signage would seem to be the easier solution.

**Wal-Mart urges the Board to reconsider the requirement to notify the consumer that funds may be withdrawn from the consumer's bank account the same day.**

Wal-Mart does not agree with the requirement to disclose to the customer that funds may be withdrawn from the customer's account the same day. This type of disclosure has not been required for any other new payment type, such as pin debit or signature debit, where the funds are withdrawn/held the same day. We have experienced no customer confusion related to debit cards. Secondly, our general practice is to debit customers' accounts 2 days following the electronic check transaction. Given this practice, customer confusion may result from the required disclosure. TeleCheck is the world's leading check acceptance company. It is our understanding that all of TeleCheck's merchants practice "two-day-float" for POP transactions. If we are required to post this notice, we will more than likely find it necessary to withdraw funds sooner, in order to minimize customer confusion. One final point on this topic: "On us" checks have less float time when presented as paper than when they are converted to an electronic transaction, yet there is no disclosure requirement to notify the customer regarding when a paper check might clear the customer's account.

As a significant participant in the electronic payment industry, Wal-Mart supports the objectives of the EFTA and Regulation E. We also endorse educating customers regarding electronic payments, as well as clear and conspicuous disclosure regarding customers' rights, liabilities and responsibilities related to EFTs. However, the benefits that such disclosures provide to customers must be weighed against potential customer confusion introduced by the new proposed requirements and compliance costs borne by merchants such as Wal-Mart.

Thank you again for the opportunity to provide comments on the interim Final Rule to the Board. If you have any questions regarding the foregoing, please contact me at 479-273-4471.

Sincerely,

Michael A. Cook  
VP & Assistant Treasurer  
Wal-Mart Stores, Inc.