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Re: Regulation II; Docket No. R–1404: Comments on Proposed Rule and Initial Regulatory Flexibility Analysis

On August 15, 1971, President Richard Nixon signed Executive Order 11615 instituting a 90 day freeze on wages, prices, rents and salaries.[1] The initial 90 day freeze morphed, during phases II, III and IV, into a wage and price control program that lasted until April 30, 1974.

In retrospect, the wage and price controls were not a good idea.[2] As a paper published by the Federal Reserve Bank of Richmond explained, "[s]ince governments are limited in the amount of information they can acquire and process, and make decisions slowly, if at all, single market distortions are inevitable when controls are effective."[3] The author goes on to state that

> *employing wage-price restraint to battle inflation might well prove to be the Viet Nam of economic policy. That is, the battle is likely to be protracted, with no light at the end of the tunnel, and with burdens on the population mounting as the battle continues.*

On July 21, 2011, three weeks shy of the 40th anniversary of President Nixon's Executive Order, price controls on a major economic activity, use of debit cards, are required to go into effect. In developing the price control rule, the Federal Reserve should endeavor to: 1) minimize collateral damage, particularly on small businesses; and 2) within statutory constraints, provide a glimmer of light at the end of the tunnel.

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[1] EO 11615, found at http://www.presidency.ucsb.edu/ws/index.php?pid=60492.

[2] At the time they were imposed, price controls were supported by some leading economists including Federal Reserve Chairman Burns who was described as among those who had "pushed over a number of months" for the policy. By contrast, OMB Director Schultz was described as "vigorously opposed." Source: "Nixon Orders 90-Day Wage-Price Freeze," *New York Times*, April 16, 1971, page 1.

[3] Roy H. Webb, "Wage-Price Restraint and Macroeconomic Disequilibrium," Economic Review, May/June 1979, p. 19.

In short, the challenge for federal regulators and the theme of these comments is how best to protect businesses, particularly small businesses, as well as consumers, during the partial re-imposition of price controls.

Unforseen consequences are an inevitable outcome of price controls. For example, Webb cited the "particularly dramatic example" of the "televised drowning of baby chickens when the Nixon program of wage-price restraint froze the price of chickens while simultaneously exempting the price of grain included in chicken feed. Consequently it became less costly to kill a baby chicken than to pay high feed prices and sell the grown animal at the low controlled price."[4] Thus, close monitoring of the impacts of the rule is essential and should be an integral component of the Federal Reserve's actions on the rulemaking.

The three most crucial steps for the Federal Reserve to take are:

1. Impact Analysis. No later than one year after publication of the final rule, the Federal Reserve should commence studying the impacts of the rule with a particular emphasis on the impacts of small entities, including small business customers of debit card issuing institutions. The study should be provided in draft for public comment.

2. Accept Revised Transaction Processing Cost Data Through the Data Quality Petition Process. Costs change for numerous reasons including changes in business conditions, changes in business processes, and changes in service and equipment prices charged by vendors. Therefore, the Federal Reserve should announce in the final rule that they will accept substantive new data concerning significant changes to debit transaction processing costs. The Board should further announce that they will make prompt decisions on new/revised data which is provided to the agency through their Data Quality Petition process found at http://www.federalreserve.gov/iq_correction.htm.

3. Replacement of Price Control Rule With a Consensus Standard Within Two Years. Since detection of and response to economic distortions caused by price controls is an inherently slow process, the Federal Reserve should schedule an updating process as an integral part of the rule. Moreover, the Federal Reserve should use the time after promulgation of the rule to reform the price control setting process.

   The National Technology and Advancement Act and OMB Circular A-119 directs agencies to use "voluntary consensus standards in lieu of government-unique standards in their...regulatory activities...." One of the reasons for federal use of private standards is to decrease "the burden of complying with agency regulation." Agencies are also directed to "participate...in the development of voluntary consensus standards...." Thus, to increase flexibility and reduce economic distortions, Federal Reserve officials, along with representatives of debit card networks, debit card issuing institutions, merchant associations and academicians should develop a consensus debit card interchange pricing standard to replace the by-fiat debit interchange price control rule.

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[4] Ibid., p. 15.

Key Costs to Small Businesses Not Considered in the Initial Regulatory Flexibility Analysis

In a *Wall Street Journal* Op-Ed, President Obama stressed the importance of protecting small businesses in regulatory proceedings. The President stated, "today I am directing federal agencies to do more to account for—and reduce—the burdens regulations may place on small businesses. Small firms drive growth and create most new jobs in this country. We need to make sure nothing stands in their way."

The Initial Regulatory Flexibility Analysis (IRFA) is the first step in protecting small business. To be effective, the IRFA can not simply be a perfunctory checklist-based exercise, it needs to be an *analysis* of how the proposed regulation affects small entities and an in-depth discussion of how these burdens could be minimized.

There are three types of small businesses which will be affected by the debit interchange rule:

- Small debit card issuing institutions;
- Small merchants; and
- Small business debit card holders.

Small Debit Card Issuing Institutions

The possibility of "steering" actions by a merchant to favor or discourage a specific payment method is discussed in the NPRM. The Dodd-Frank statute prohibits debit card issuers or payment networks "from establishing rules that prevent merchants from offering discounts based on the method of payment tendered." Although that specific requirement is non-discretionary, the small business impacts of how it interfaces with other parts of the regulation need to be analyzed.

An official with the Independent Community Bankers of America has already expressed concern that the proposed rule does "not prevent large retailers from steering customers to cheaper, rate-controlled cards issued by large banks."[5] There is also the possibility of retailers steering customers with certain debit cards to other payment forms if they perceive the issuer as providing less advantageous terms.

The statute itself is supposed to protect against discrimination based on card issuer, stating that if a party receiving payment chooses to "provide a discount or in-kind incentive" that "in the case of a discount or in-kind incentive for payment by the use of debit cards, the discount or in-kind incentive does not differentiate on the basis of the issuer or the payment card network."[6] The statute and the NPRM are silent on the possibility of merchants using other steering behaviors, such as asking a customer if they could provide an alternative form of payment, when presented with a debit card from a less favored institution.

[5] Dan Eggen, "Foes of cap on 'swipe fee' haven't given up hope," The Washington Post, Jan. 13, 2011.

[6] Public Law 111-203, Sec. 920 (b)(2)(A)(i).

The IRFA needs to be revised to analyze the steering issue raised by ICBA. It is only by analyzing the possibility of merchants discriminating against smaller debit card issuing institutions that the Federal Reserve will be able to determine whether the proposed rule could modified to better protect small businesses.

Small Merchants

Merchants, irrespective of size, are generally considered to be the beneficiaries of the proposed rule. The IRFA states that "the Board expects any economic impact on small merchants and acquirers to be positive." The IRFA statement is not necessarily correct. Small retailers could find their competitiveness eroded by the rule.

An analysis by the Center for Regulatory Effectiveness (CRE) of payment card processing costs revealed that, although interchange is the largest component of card processing costs for larger merchants, for "small and medium size merchants, the acquirer's fees, including various surcharges, can exceed interchange costs."[7] The NPRM implicitly acknowledges that debit interchange is a variable portion of debit card processing costs when it stated that "interchange fee typically comprises a large fraction of the merchant discount for a card transaction." [Emphasis added.]

Based on data from the Federal Reserve Bank of Philadelphia, CRE's analysis found that there can be a "30-fold difference in the percentage of a transaction charged the largest merchants versus the smallest for acquirer services."[8] It should be noted, as CRE's analysis detailed, that smaller merchants can significantly reduce their non-interchange payment card processing fees through non-regulatory means.

Since interchange fees are a much lower share of payment card processing costs for smaller merchants compared with larger businesses, a federally-mandated reduction in debit card interchange would mean that small businesses receive a substantially lower percentage reduction in their payment card processing costs compared with larger companies. Thus, the rule would provide larger firms with an additional relative cost advantage vis-a-vis their smaller competitors as the following example illustrates.

Consider the debit card processing costs associated with a similar $100 purchase made at two merchants, one a small business with less than $100,000 dollars in annual payment card sales and the other purchase at a large retailer with over $500 million in payment card sales. The Federal Reserve has estimated that current debit card interchange, on average, is 44 cents per transaction. The source data cited in CRE's analysis estimated that acquirer fees on a bankcard purchase (the data does not distinguish between fees on debit cards and credit cards) for the large retailer would be six basis points while for the small merchant the fees would be 182 basis points. The data also stated that the dues and assessments fee, which goes to

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[7] Center for Regulatory Effectiveness, "A Practical Guide to Reducing Merchant Payment Card Processing Costs," 2010, p. 6, found at http://thecre.com/pdf/CRE%20Transaction%20Processing%20Cost%20Reduction%20Paper.pdf

[8] Ibid.

the payment card network, is 0.1%. Based on this data, the large retailer would currently be paying card processing costs of 60 cents or 0.6% of the transaction. The small merchant would be paying $2.36 (2.36%) on a similar $100 transaction. If both businesses pay the proposed 12 cent debit interchange limit after the rule goes into effect, the large retailer would pay card processing costs of 0.28% while the small merchant would pay 2.04%.

Thus, under the proposed rule, the large retailer would enjoy a 53% reduction in their debit card processing costs while the small merchant would receive less than a 14% reduction. **The Federal Reserve rule, therefore, would provide the large retailer with almost four times the reduction in debit card processing costs as the small merchant receives**.

The Federal Reserve needs to analyze the disparate impact of the rule on competition between smaller and larger businesses since it directly relates to at least one of the regulatory options the agency discusses in the NPRM. Specifically, the Federal Reserve states that one potential method for implementing the pricing restriction is that the "issuer could comply with the rule as long as it meets the interchange fee standard, on average, for all of its electronic debit transactions over a particular network during a specified period. In other words, some interchange fees above the amount of the standard would be permitted as long as those were offset by other fees below the standard."

The NPRM explains that one of the purposes of allowing the averaging would be to "reflect differences in risk, among other things." To the extent that transactions from larger merchants are lower risk, or for other reasons, the debit interchange reduction in absolute terms could be greater for larger merchants than for their smaller competitors. Since larger firms already usually enjoy economy of scale cost advantages, the debit interchange rule could further increase their competitive cost advantage, threatening smaller companies.

Before being able to decide whether or not to allow averaging and, if so, in what form, the Federal Reserve first needs to determine the percentage reduction in total debit card processing costs, by merchant size, resulting from the rule. The agency also needs to determine the competitive impact of disparate proportional reductions in debit card processing fees. Until they conduct these analyses, the agency will not be able to plausibly estimate the impact on small retailers of various options for implementing the proposed rule.

Small Business Debit Card Holders

Small businesses that use debit cards would likely be harmed by the debit card interchange rule because some financial institutions will need to raise fees and/or reduce benefits to at least partially make up the lost revenue. Since, as will be discussed below, the Federal Reserve estimates that 20% of debit card issuing institutions would not be able to recover their variable costs under their proposed allowable interchange fee, their need for cost recovery mechanism would be particularly acute and their small business customers would almost certainly pay some portion of the economic resources that are to be transferred to retailers.

An article in the *Wall Street Journal* discussed some of the mechanisms by which financial institutions are expected to recover lost debit card revenues, stating "banks are thinking about imposing annual fees of $25 or $30 on debit cards, according to people familiar with bank strategies. Some also [sic] considering limiting the number of debit-card transactions that a customer can make each month, these people said. Another idea circulating in the industry: Limiting the size of a purchase that a customer could make with a debit card. At the same time, reward programs for debit cards are likely to get the ax, these people say."[9]

To the extent that small businesses and other small entities will be paying higher costs (and/or receiving fewer benefits) to make up for a below-cost interchange rate, the small business burdens would be the direct result of the Federal Reserve's regulatory decision to require some card issuing institutions to lose money on each debit transaction and, thus, need to be included in the IRFA.

Revising the IRFA to analyze the costs on small entity debit card customers from federally-mandated below-cost interchange fees is an essential part of the rulemaking as it can and should lead to regulatory changes by the Federal Reserve to reduce the rule's small business impact.

Under the Regulatory Flexibility Act, an analysis of the impact of below-cost interchange fees should result in either the agency taking steps to minimize the impact on small entities, such as increasing permissible debit card interchange costs so that fewer financial institutions are required to lose money on debit card transactions – and inevitably pass the costs to their customers. In the alternative, the agency could provide a discussion of why burden minimization measures are not being taken.

The Need for a Cost-Benefit Analysis

Cost-benefit analysis is the crux of President Obama's regulatory strategy. As OMB Director Lew explained on the White House website, "[w]ith this EO, there should be no confusion about what guides this Administration when crafting regulations. The basic tenets are: to consider costs and how best to reduce burdens for American businesses and consumers...."

Director Lew further stated that "Agencies must consider costs and benefits and choose the least burdensome alternative." The Executive Order states that "to the extent permitted by law, each agency must, among other things: (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs...."

Although the Federal Reserve is exempt from Executive Orders, the rationale for the President's regulatory strategy is as applicable to the Board as it is to any other agency.

[9] Robin Sidel, "At Banks, New Fees Replacing Old Levies," January 5, 2011, found at http://online.wsj.com/article/SB10001424052748703808704576062251813426390.html?mod=WSJ_hpp_sections_personalfinance.

Quantifying the costs associated with the debit interchange price control rule is one of two primary reasons for the Federal Reserve to conduct a cost-benefit analysis. The other reason would be to determine whether there would be any net benefits from the rule. Unless there are net benefits, the rule would simply be an example of successful rent seeking, a widely studied practice which has been almost universally condemned since "as they do not create any value, rent-seeking activities can impose large costs on an economy."[10]

One critical component of the cost-benefit analysis should be for the Federal Reserve to determine whether consumers would receive any benefits from the debit interchange rule, and if so, to what extent. For example, the Federal Reserve's analysis should show whether or not the agency is confident that consumers will receive sufficient benefits from merchants as to offset the higher debit card fees and/or reduced benefits many will likely experience as a result of the rule.

If the Federal Reserve is unable to determine that consumers would benefit, or at least break even, from the rule, they would still be required to publish a regulation. Based on a more detailed understanding of the costs and benefits, however, the agency may decide to change the allowable interchange amount or other aspect of the rule. Even if the analysis did not result in any regulatory changes, it would lead to a more informed debate on the issue.

Determining the Relevant Definition of Incremental Costs

The NPRM recognizes the difficulties and complexities associated with developing an appropriate definition of "incremental costs." One key issue is the extent to which some "fixed" costs should be included in the working definition of variable costs. In requesting information on the issue, the Notice stated that the "Board requests comment on whether it should include fixed costs in the cost measurement, or alternatively, whether costs should be limited to the marginal cost of a transaction. If the latter, the Board requests comment on how the marginal cost for that transaction should be measured."

CRE has prepared an analysis of the marginal cost issue, "Understanding Marginal Costs in a Two-Sided Market: Implications for Debit Card Interchange Regulation," and provided it to the Board in preparation for this rulemaking. The analysis is available on the Federal Reserve's website at http://www.federalreserve.gov/newsevents/files/CRE_comment_letter_20101025.pdf and is incorporated by reference as an integral part of these comments.

CRE's analysis cited research by the Federal Reserve Bank of Richmond which discussed the need to distinguish between marginal costs and incremental costs, the cost measure required by statute. The Bank's paper explained that

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[10] The Economist, found at http://www.economist.com/research/economics/alphabetic.cfm?letter=R#rent-seeking.

> *It is important to distinguish between incremental and marginal costs. Marginal cost is the added cost of the last unit of a good produced. Incremental cost is all of the additional costs that arise from extending a particular set of services to a particular set of users. This may include costs that are fixed with regard to the quantity of services provided, such as the costs of connecting a group of users to an existing network.*[11] [Emphasis added]

Thus, the answer to Board's question as to "whether it should include fixed costs in the cost measurement" is yes.

CRE's analysis also found that: 1) the marginal costs of serving both sides of the two-sided debit card market need to be included in a cost definition; and 2) the incremental costs for debit card processing include a proportional share of "lumpy" costs that may be incurred when processing a particular transaction.

With respect to the need to include the processing costs associated with serving both sides of the market, CRE noted the work of the USG preparing for an OECD Roundtable on Two-Sided Markets. The position paper's discussion of pricing in a two-sided market explained,

> *Let the marginal cost of a transaction be $c = c_I + c_A$ where c_I is the marginal cost of providing network services to the issuing bank and c_A is the marginal cost of providing network services to the acquiring bank. A basic feature of payment networks is that it may be efficient for price to be below marginal cost on one side of the market (e.g., $p_I < c_I$) and above marginal cost on the other side of the market ($p_A > c_A$).*[12]

CRE noted that a "key concept in this statement is that the marginal cost of processing a transaction includes the marginal costs associated with both sides of the market." CRE furthered the work by explaining that "[I]n a more complete form, c_I and c_A would be written out to specify their various subcomponents – including a proportionate share of the 'lumpy' marginal costs, such as repairing a network connection used to authorize transactions or resolving a specific customer dispute which prevents an additional transaction from being processed. These are examples of lumpy costs that must be incurred in order to process an additional debit transaction since any given transaction, *i.e.*, a 'particular' transaction will probabilistically be responsible for a certain share of these marginal costs."

Therefore, the Federal Reserve needs to revise its debit interchange processing cost estimate to reflect the full incremental cost, including some fixed costs, of serving both sides of the market.

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[11] J. M. Lacker, J. A. Weinberg (1998) "Can the Fed be a Payment System Innovator?," Federal Reserve Bank of Richmond *Economic Quarterly*, Spring 1998, Footnote 4.

[12] Delegation of the United States to the Competition Committee, Directorate for Financial and Enterprise Affairs, Organisation for Economic Co-operation and Development, "Roundtable on Two-Sided Markets," 04-Jun-2009, p.4.

Forcing Businesses to Price Below Cost: An Act of Regulatory Madness

The Notice of Proposed Rulemaking states that the "Board proposes a cap of 12 cents per transaction because, while it significantly reduces interchange fees from current levels (approximately 44 cents per transaction, on average, based on the survey of payment card networks), it allows for the recovery of per-transaction variable costs for a large majority of covered issuers (approximately 80 percent)."

The Federal Reserve has not analyzed the impact of forcing approximately 20% of debit card issuers to not recover their per-transaction variable costs under price controls nor has it publicly estimated the share of debit cards and debit card transactions accounted for by these issuers. The Board has not even characterized the institutions that would be forced to subsidize debit card purchases if the don't exit the industry. Are the card issuers with "underwater" debit card costs regional banks? Credit unions? Community banks? What will the price control rule mean for the affected institutions, their customers, their competitors, the industry and the economy?

There are only two certainties associated with the proposed rule:

1. Price controls result in economic distortions; and

2. Requiring that businesses price below cost will cause substantial and substantially unforeseeable collateral damage.

It is because of the extensive and difficult to predict consequences of the proposed rule that it is essential that the Federal Reserve analyze the impacts of the rule as fully as possible, allow public comment on their analysis, and include a revision schedule in the final rule along with reform mechanisms for improving the quality of information on which rule is based and the process by which the price controls are set.

Revising the Debit Interchange Price Control Rule – An Essential Component of the Rulemaking

Costs change. From even the simplest perspective, without considering the economic distortions from price controls, there is the need for the Federal Reserve to plan revisions to the rule to account for changes in the processing costs of debit card issuers. In that "single market distortions are inevitable when [price] controls are effective," the need for the Federal Reserve to schedule updates to the debit interchange rule is overwhelming. There is no question that economic distortions will result from the rule, particularly since by the Board's own estimation, the allowable debit interchange fee is below the variable transaction processing costs of about 20% of debit card issuers.

President Obama's Executive Order 13563, Improving Regulation and Regulatory Review, includes a section on Retrospective Analyses of Existing Rules. The Order states that "facilitate the periodic review of existing significant regulations, agencies shall consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned. Such retrospective analyses, including supporting data, should be released online whenever possible."

Although Federal Reserve is not bound by the Order, the benefits of engaging in Retrospective Analysis is applicable to all agencies. Since the Federal Reserve is not subject to the Order, it should use its flexibility to schedule analysis and revisions to a rule not yet promulgated.

There need to be two components to the revision of the debit interchange rule: 1) analyzing the impact of the rule; and 2) reforming the process for setting price restrictions.

Impact Analysis

The Federal Reserve undertook survey research in developing the proposed rule. As the NPRM explains, "the Board distributed three surveys to industry participants (an issuer survey, a network survey, and a merchant acquirer survey) designed to gather information to assist the Board in developing this proposal." Moreover, the Notice explained that industry representatives participated in the development of the final survey instruments. Thus, the Board has already used the basic framework needed to analyze the impact of the debit interchange rule. According to the NRPM, the Board is already planning on using a variant of the surveys for the rule's § 235.8 Reporting Requirements.

There are two additions to the survey methodology that need to made in order to use it in an impact analysis. First, the Federal Reserve should survey business debit card holders, including small businesses, to determine the extent to which they are footing the tab for the interchange restrictions.

Second, the process should be opened up to allow for participation and comments from all stakeholders. It is important that the Federal Reserve solicit comments from all interested parties so that the Board's analysis can incorporate unexpected consequences from the interchange price control rule, *e.g.*, baby chicken drownings.

Reforming the Debit Interchange Price Setting Process: Use of a Performance Standard

Command-and-control regulation is a last resort. Laws including the Regulatory Flexibility Act and OMB Circular A–119 favor the use of performance standards over prescriptive regulation. The OMB Circular explains that a performance standard is defined as "a standard...that states requirements in terms of required results with criteria for verifying compliance but without stating the methods for achieving required results."

With respect to debit card interchange, a performance standard would set a requirement that debit interchange "is reasonable and proportional to the cost incurred by the issuer with respect to the transaction" and provide a process for verifying compliance, *i.e*, conformity assessment.

A performance standard would be completely in keeping with statutory requirements since, as the NPRM noted, the Federal Reserve is already required by law "to establish standards for assessing whether an interchange transaction fee is reasonable and proportional to the cost incurred by the issuer with respect to the transaction."

The difference between a consensus performance standard and the prescriptive standard proposed by the Federal Reserve is that performance standard would be developed through a voluntary consensus standards development process, as discussed in the National Technology Transfer and Advancement Act and OMB Circular A-119. The standard would be developed through the participation of stakeholders including Federal Reserve officials and would ultimately have to be approved by the Federal Reserve, thus ensuring thorough federal oversight of the standard setting process.

The potential advantages of a debit interchange consensus standard are that it offers the possibility of reducing burdens on companies and limiting the collateral consequences of price controls. The use of a consensus standard would be completely in keeping with all laws and policies including the President's Memoranda on Regulatory Flexibility, Small Business, and Job Creation which encourages the use of "performance standards rather than design standards."

The NPRM explains that the Federal Reserve is authorized "to collect from issuers and payment card networks information that is necessary to carry out the provisions of this section" and is required to "publish, if appropriate, summary information about costs and interchange transaction fees every two years."

The Board should aim to use the first two year report date as its time frame for enacting a consensus interchange standard. By initiating work now on developing a consensus standard, the Federal Reserve can take a major step to limiting the unintended harm from the rule. Moreover, by including a two year reform plan in its final regulation, the Federal Reserve would be providing debit card users and issuers with what President Nixon's price controls did not, a light at the end of the tunnel.

Reforming the Debit Interchange Price Setting Process: Use of the Data Quality Act Petition Process

The Federal Reserve has made clear that they take their duty to disseminate only high quality data very seriously. As the agency's Information Quality Guidelines explain, the "Board takes pride in the quality, objectivity, utility, and integrity of the information that it disseminates to the public." Pursuant to the Data Quality Act,[13] the Board established a correction process for data disseminated by the agency which does not meet its standards.[14]

Since the debit interchange transaction processing cost estimate included in the final rule will be an agency information dissemination, it will be subject to the Board's Data Quality petition process. Thus, if the transaction processing cost estimates by the Federal Reserve are not complete, accurate and objective, or if the underlying data changes, the Data Quality petition process would be the appropriate mechanism for the regulated community to use to "seek and obtain" correction of the information. Therefore, the agency should announce in the final rule that significant changes in debit card transaction processing costs incurred by regulated entities should be brought to the Board's attention through the petition process.

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[13] 44 USC 3516, note.

[14] http://www.federalreserve.gov/iq_correction.htm.

Conclusions

- The proposed debit interchange rule is a form of price controls, a type of regulation that inevitably results in economic distortions and unforseen consequences.

- Business costs constantly change. Therefore, even if the Federal Reserve's transaction processing cost estimates currently meet Data Quality standards, they will not do so for long.

Recommendation

- Since costs change, the final rule should include a provision stating that the Board is receptive to receiving data concerning changes in debit interchange transaction processing costs. The rule should further explain that the appropriate mechanism for the regulated community to use in bringing revised data to the Board's attention, and for receiving a timely and substantive response, is the agency's Data Quality Petition process.

Sincerely,

Jim Tozzi
Member, Board of Advisors