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September 26, 2011

Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551  
Attention: Docket No. R-1404 and RIN No. 7100-AD63  
Via email: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)

Dear Ms. Johnson:

PSCU Financial Services, Inc. ("PSCU") is a credit union service organization and a cooperative owned by over 680 member credit unions. We provide credit and debit processing services, as well as other services, to our members. We are an active participant in the credit union industry. We believe credit unions that offer debit card programs continue to provide their members with very consumer-friendly policies. Many industry observers have concluded that the card programs of credit unions are very consumer friendly. We are pleased to provide the Board of Governors with comments in response to the Board's publication of the interim final rule for Part 235 (Regulation II) and Request for Comment on the proposed fraud prevention adjustment.

The Board proposes in the fraud-prevention adjustment under § 235.4(a)(1), that an issuer shall develop and implement policies and procedures reasonably designed to

- (1) identify and prevent fraudulent electronic debit transactions;*
- (2) monitor the incidence of, reimbursements received for, and losses incurred from fraudulent electronic debit transactions;*
- (3) respond appropriately to suspicious electronic debit transactions so as to limit the fraud losses that may occur and prevent the occurrence of future fraudulent electronic debit transactions; and*
- (4) secure debit card and cardholder data.*

*An issuer must review its fraud prevention policies and procedures at least annually, and update them as necessary to address changes in prevalence and nature of fraudulent electronic debit transactions and available, established/ proven methods of detecting, preventing, and mitigating fraud. Finally, the issuer must certify, on an annual basis, its compliance with the Board's standards to the payment card networks in which the issuer participates.*

Our interpretation is that "responding appropriately", under section (3), is meant to be qualitative in nature and not quantitative. We are concerned that absent some clarification of the Board's intent, "responding appropriately" may include an issuer's obligation to monitor and limit the amount of fraud allowed per incident, or some other interpretation that limits an issuer and favors the merchant. The

application of the term “appropriately” would vary widely depending on the circumstances of the fraudulent transaction and is subjective, at best. The term “appropriately” should be deleted because all activities of an issuer in responding to suspicious electronic debit transactions should be considered as legitimate. There should not be some potential standard of “appropriateness” of responses in an area such as this that is so subjective, particularly since the Board has indicated that between issuers and merchants, issuers experience greater fraud losses and have the greater risk of fraud losses. Accordingly, PSCU urges the deletion of the term “appropriately” because an issuer’s standards to remain competitive will determine the appropriateness of the response needed to limit fraud losses and limit the merchant’s influence over what degree of frequency of loss is appropriately managed by issuers.

In its proposal, the Board has indicated that issuers that are eligible for the adjustment should certify their compliance annually to each payment card network. The Board has requested comment on whether the rule should establish a consistent certification process and reporting period for an issuer to certify to a payment card network that the issuer meets the Board’s fraud prevention standards and is eligible to receive or charge the fraud-prevention adjustment.

PSCU-FS believes that fraud prevention standards are an imperative for issuers, as a cost of doing business, to mitigate risk and to remain competitive. We do not see how certifying fraud prevention standards as a regulatory requirement would bring greater protection to issuers, merchants or consumers. The issuer’s routine process for fraud prevention standards would include review of processes and technology and routine upgrades. Since the industry has developed documentation and technologies and employs vendors who certify proprietary practices, we would not recommend and do not believe that creating additional rules for certifying an annual review of fraud prevention processes would bring greater value to the process.

The payment card networks impose numerous due diligence requirements on their issuers, but do not require issuers to certify standards. The certification requirement would impose on the networks a new oversight duty. What would a network do if the issuer did not provide the certification? Charge the issuer a higher processing rate? Report the issuers who have not certified to the CFPB? From our perspective, this seems like a quasi-regulatory function and adds unnecessary cost and complexity. We believe that certification would best be performed through some entity other than a payment network. We believe the CFPB would be a better choice for a records custodian of the certification, which can be done by independent third parties and submitted to the CFPB.

PSCU appreciates this opportunity to submit comments on the Board’s proposed Regulation I Fraud Adjustment regulations. If you have any questions or would like additional information on these comments, please contact the undersigned at (727) 561-2227.

Sincerely,



Steven A. Salzer  
Executive Vice President

Cc: Michael J. Kelly, President and CEO