Proposal:	1748 (AG15) Regulation II - Debit Card Interchange Fees and Routing
Description:	

Comment ID:	141729
From:	Max Decker
Proposal:	1748 (AG15) Regulation II - Debit Card Interchange Fees and Routing
Subject:	R-1748; Regulation II - Debit Card Interchange Fees and Routing

Comments:

NONCONFIDENTIAL // EXTERNAL

February 25, 2022 Hon. Jerome Powell Chair Board of Governors of the Federal Reserve System Washington, DC 20510 Re: Docket ID No. R-1748, RIN 7100-AG15; Debit Card Interchange Fees and Routing Dear Chair Powell: As a community banker, I write to express my deep concern about the Fed recent proposal to expand Regulation II (Proposal) and a subsequent comment letter submitted by Walmart to the Board of Governors of the Federal Reserve System (Board) on October 22, 2021, long after the official comment period ended on August 11, 2021. I am concerned about that letter because in it Walmart purported to speak for community banks like mine, but its statements about the Board's recent debit card processing proposal are misleading. To refute community banks arguments against expanding Regulation II, Walmart took the extraordinary step of singling out and banks that had commented on the Proposal. Walmart then analyzed debit card transactions made by those bank customers who had shopped at Walmart.com. The banks who were targeted for analysis did not consent to Walmart mining of information obtained during consumer transactions, nor to any public disclosure of the results. I do not believe that lobbying support justifies the use of card transaction data for these analyses, and I urge the Board to review if this was a permissible use of financial data. I am also not aware of financial institutions undertaking reviews of a specific retailer's transaction data like fraud or chargeback patterns to advance its lobbying efforts with a regulator. Walmart should undertake an independent audit of the security conditions of this unusual advocacy research project. Walmart presented misleading data to create the false impression that the Proposal is so straightforward that most small and medium banks are already complying with the proposed requirements. However, the letter does not address community banks arguments about the costs and compliance burdens of the Proposal, nor does it tell an accurate or full story about how debit card processing works. The Walmart letter only covers one prong of the Proposal, and states that the banks cited are enabling two networks for routable online transactions. While some issuers may offer this capability in some cases, that is fundamentally different than universal enablement which is what the Proposal would require. The Proposal forces the issuer to take on responsibility for enabling virtually any transaction type the merchant desires, across all geographies, regardless of the security or capabilities of the processors, networks, or merchants along the way. It makes my bank responsible for a standard of service at a merchant thousands of miles away, with whom it has no relationship nor control. Walmart claims that 75% of routable transactions at its website are from exempt issuers. But they provide no information on what constitutes a routable transaction or how much of a share of their debit transactions this represents. Their statistics also do not differentiate between the kind of debit transactions covered by the Durbin Amendment and new PINless transactions that many would argue are not. Walmart numbers do not tell anything about the cost of processing these transactions or the possibility that this routing may result from core provider agreements that push volume to the core processor subsidiary networks, not free choice by the card issuer. Finally, Walmart does not provide any statistics on fraud costs it may transfer to issuers through routing choices and how the Proposal would increase any such subsidy. Walmart only provided a list of quickly declining routing statistics for four commenters. While Walmart teases that the list goes on, that is hardly an adequate basis for important and far-reaching public policy decisions. This statement suggests Walmart research project into commenters who disagreed with it was extensive. It is disappointing that such a large corporation would put so much effort into targeting bankers which Walmart itself characterizes as small and medium sized. Walmart

tactics create a chilling effect that could deter community banks from providing the Board with key information in future requests for comment. In addition to correcting the record about the impact that the Proposal will have on community banks and their customers, I am also concerned about the Fed assertion that this is a clarification of an existing rule, rather than a major change to the current rule. In doing so, the Fed failed to perform the analysis required under federal law to assess the burdens and benefits to regulated entities and consumers. I appreciate your attention to this matter and hope that you will consider the diverse comments received during the official comment period. For the reasons stated above, I reiterate the broadly held views of small and medium financial institutions that the Proposal should be withdrawn unless it is significantly revised. Sincerely, Max Decker