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June 14, 2016

Mr. Keith Ernst
Associate Director, Consumer Research & Examination Analytics
Division of Depositor and Consumer Protection
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429-9990

Via Electronic Submission

Re: Request for Comments on Mobile Financial Services Strategies and Participation in Economic Inclusion Demonstrations, FIL-32-2016

Dear Mr. Ernst:

The [Pew Charitable Trusts consumer banking project](#) studies the transaction accounts that Americans rely on to manage their finances and develops research-based policy recommendations that promote safe and transparent products. We have published a series of reports examining issues that impact underserved consumers and will be publishing results of a nationally representative survey of unbanked consumers in relation to their interest in, attitudes about, and use of mobile payments on June 22. These comments will focus on both the mobile financial services (MFS) strategies identified by the FDIC as well as the goals for MFS demonstrations.

Comments on the Implementation of MFS Strategies

Pew's research is consistent with the findings of the FDIC's focus groups on MFS, particularly in regard to potential value of mobile payments in managing funds, reducing fees, and building a banking relationship, yet some banks' practices contradict what consumers want.¹ For example, the FDIC's focus group participants prefer banks to post transactions in as close to real time as possible. Yet most of the largest banks in the U.S. continue to manipulate transaction posting (usually checks and ACH) from high to low by dollar amount.² Of the 45 large banks Pew studied, only 16 percent disclosed that they did not reorder any transactions from high to low by dollar amount.³ This is in direct contradiction to consumers' wishes. Our survey research confirms these views: 83 percent of those who had overdrafted in the last year were either somewhat or very concerned about the practice of bank transaction reordering.⁴

With regard to mobile remote deposit capture (mRDC), in November 2014 Pew published research on availability and terms of this technology for 50 banks and 51 prepaid card companies.⁵ At that time, 37 of the 50 banks offered mRDC services to their customers.⁶ Almost half of the banks examined did not disclose funds-availability policies, but of those that did, most made funds available between one and two days after posting the deposit.⁷ In addition, most banks did not disclose whether mRDC deposits follow funds-availability rules that usually apply to checking accounts; of those that did, all stated that

these rules do not apply.⁸ Most banks inadequately disclosed whether they provide alerts on the status of mRDC deposits, including those that are rejected.⁹

Finally, with regard to the safety of MPS, Pew's survey research shows that nearly half of respondents say they don't know whether mobile payments are faster, easier, or more private than other transaction types, and even more do not know if mobile payments are more common, cheaper, or safer.¹⁰ Reducing this uncertainty, especially about the safety of the technology, could increase use.

Feedback to Shape Potential MFS Demonstrations

Our comments will cover the third specific request from the letter that the Federal Deposit Insurance Corp. (FDIC) sent. That is, "Demonstrate the best ways to raise awareness among underserved customers about the potential to use mobile banking to increase control and convenience of banking services. Examples could include pop-up messages, conversations at account opening, printed statement enclosures, and outreach to current and potential customers through banks' partners."

Pew's research thus far on mobile payments includes results that are useful in contemplating how best to look at this issue. The proliferation of high quality mobile payments that will serve the unbanked will depend upon policymaker understanding that the rules of the road regarding disclosure, contracts, authorization, dispute resolution, security, privacy, and many other issues were largely created without mobile payments in mind. How and when various laws and regulations apply to mobile payments is often difficult to determine. Thus, it is not surprising that consumers have concerns and in some cases are unwilling to use their phones to conduct personal finance.

Mobile payments have the potential to be of great benefit to consumers, particularly the underserved. But our research has shown wariness by consumers in regard to the security and privacy of using mobile payments.¹¹ Seventy percent of survey respondents cited this concern as an obstacle to mobile payments use.¹² In conjunction with Professor Mark Budnitz, Pew has found that consumers' concerns are likely well-founded, since no comprehensive federal or state law protects consumers from security breaches or privacy invasions and existing law offers only limited protections.¹³

For the unbanked, one of the most important issues with mobile payments are the many situations where laws that apply to checking accounts or credit cards simply do not apply to other providers like general purpose reloadable prepaid cards or nonbank mobile apps. In late 2015, Pew worked with Professor Mark Budnitz to create an extensive overview of the legal and regulatory gaps, ambiguities, and overlap that affect the mobile payments industry and consumers that use these products and services.¹⁴ Professor Budnitz's legal research concludes that when making payments, a lack of comprehensive consumer protections—especially for prepaid cards, nonbanks, and mobile transactions—leaves some customers vulnerable to problems such as financial liability or fraud.¹⁵ Pew has urged the Consumer Financial Protection Bureau (CFPB) to close many of these gaps in regard to nonbank providers and is hopeful the bureau will act to ensure that consumers have a consistent set of consumer protections and that providers have regulatory certainty.¹⁶

To better understand consumers' views on the potential benefits and risks of mobile payments, particularly for the unbanked, Pew commissioned a nationally representative telephone survey on consumers' access to, usage of, and barriers to adoption of the technology, and compares responses of those with and without checking accounts. The key findings are:

- About 15 percent of U.S. consumers—approximately 37 million adults—do not have a bank account; these consumers say overdraft fees are the most common reason they are unbanked.¹⁷
- The majority of unbanked consumers have household incomes under \$25,000 annually.
- About 6 in 10 unbanked consumers have a smartphone, but they are nearly twice as likely as banked consumers to suspend or cancel their cellphone plans because of the cost of maintaining coverage.
- Mobile payments use is significantly lower among the unbanked: About 39 percent of unbanked smartphone owners have ever made a purchase, paid bills, or sent or received funds using mobile payments technology compared with 64 percent of banked smartphone owners.
- Regardless of banking status, mobile payments users are more likely than nonusers to be millennials or Generation Xers.
- Unbanked consumers are less likely than those with bank accounts to say that they will make a mobile payment in the next year and are less interested in using a smartphone to receive rewards and discounts.
- The most significant barrier to mobile payments use for unbanked consumers is poor compatibility with paper checks, their most frequent form of income, and cash, which they use regularly for payments and purchases, even more than safety, which is the top concern of banked consumers.

Finally, Pew would like to remind the FDIC of an overriding issue that should not be overlooked when discussing how best to serve the underserved. When examining how financial institutions innovate to reach the unbanked, the FDIC should keep in mind that overdraft often causes consumers to close their accounts or have them closed involuntarily.¹⁸ Pew commends the FDIC for issuing guidance to the banks it supervises with the goal of reducing the use of overdraft programs as a crude form of credit.¹⁹ We have urged the CFPB to propose rules to ensure that overdraft programs are safe and designed only for accidental or occasional use, which will be vital to fostering more sustainable banking relationships with underserved consumers.

We thank the FDIC for this opportunity to comment on its efforts to foster reaching the underserved through emerging mobile technology. We look forward to the sharing our full survey on unbanked consumers' use of mobile payments with the FDIC when it is released next week. As always, we are available to discuss these comments or any other aspect of our work at any time.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thaddeus King', written in a cursive style.

Thaddeus King
Officer
Consumer Banking Project

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- ¹ The Pew Charitable Trusts, “Is This the Future of Banking?” (Jan. 2016), http://www.pewtrusts.org/~media/assets/2016/01/cb_futurebankingissuebrief.pdf; The Pew Charitable Trusts, “Who Uses Mobile Payments,” (May 2016), http://www.pewtrusts.org/~media/assets/2016/05/who_uses_mobile_payments.pdf.
- ² The Pew Charitable Trusts, “Checks and Balances: 2015 Update,” 12, (May 2015) http://www.pewtrusts.org/~media/assets/2015/05/checks_and_balances_report_final.pdf?la=en.
- ³ Ibid.
- ⁴ The Pew Charitable Trusts, “Overdrawn: Persistent Confusion and Concern About Bank Overdraft Practices,” (June 2014) http://www.pewtrusts.org/~media/assets/2014/06/26/safe_checking_overdraft_survey_report.pdf.
- ⁵ The Pew Charitable Trusts, “Terms and Conditions of Mobile Remote Deposit Capture,” (Nov. 2014) http://www.pewtrusts.org/~media/assets/2014/11/mobile-remote-deposit-capture-report--art-ready_6.pdf.
- ⁶ Ibid, 4.
- ⁷ Ibid, 11.
- ⁸ Ibid, 12.
- ⁹ Ibid, 13-15.
- ¹⁰ “Who Uses Mobile Payments,” 8.
- ¹¹ “Is This the Future of Banking?”
- ¹² “Who Uses Mobile Payments,” 6.
- ¹³ Budnitz, Mark, “The Legal Framework of Mobile Payments,” (Feb. 2016), http://www.pewtrusts.org/~media/assets/2016/02/legal_framework_of_mobile_payments_white_paper.pdf.
- ¹⁴ The Pew Charitable Trusts, “Mobile Payments: Regulatory Gaps, Ambiguities, and Overlap,” (Feb. 2016), http://www.pewtrusts.org/~media/assets/2016/02/cb_mobilitypaymentsissuebrief.pdf.
- ¹⁵ Ibid.
- ¹⁶ See Proposed Rule, “Prepaid Accounts under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z),” 79 Fed. Reg. 77102 (Dec. 23, 2014).
- ¹⁷ The survey found that 14.98 percent of U.S. adults do not have a bank account. The 2014 estimate of the U.S. population age 18 or older is 245,158,000, so approximately 36,724,668.40 (rounded to 37 million) adults are unbanked. Sandra L. Colby and Jennifer M. Ortman, “Projections of the Size and Composition of the U.S. Population: 2014 to 2060: Population Estimates and Projections,” U.S. Census Bureau (March 2015), 6, <http://www.census.gov/content/dam/Census/library/publications/2015/demo/p25-1143.pdf>.
- ¹⁸ “Overdrawn: Persistent Confusion and Concern About Bank Overdraft Practices,” 14.
- ¹⁹ Federal Deposit Insurance Corp., “Overdraft Payment Programs and Consumer Protection: Final Overdraft Payment Supervisory Guidance,” (Nov. 2010), <https://www.fdic.gov/news/news/financial/2010/fil10081.pdf>.