

Dated: May 18, 2015.

Melvin L. Watt,

Director, Federal Housing Finance Agency.

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FEDERAL RESERVE SYSTEM

[Docket No. OP-1515]

Enhancements to Federal Reserve Bank Same-Day ACH Service, Request for Comments

The Board of Governors (Board) is requesting comment on enhancements that the Federal Reserve Banks (Reserve Banks) are considering to their current same-day automated clearing house (ACH) service. The enhancements would require receiving depository financial institutions (RDFIs) to participate in the service and originating depository financial institutions (ODFIs) to pay a fee to RDFIs for each same-day ACH forward transaction. The Board believes that these changes may have a significant longer-run effect on the nation's payment system. Interested persons may express their views in writing to the Board, by any of the methods indicated below. *Comments must be received no later than July 2, 2015.*

ADDRESSES: You may submit comments, identified by Docket No. OP-1515 by any of the following methods:

- *Agency Web site:* <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- *Email:* regs.comments@federalreserve.gov. Include the docket number in the subject line of the message.

- *FAX:* (202) 452-3819 or (202) 452-3102.

- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available on the Board's Web site at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, except as necessary for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 3515, 1801 K Street NW. (between 18th and 19th Street NW.), Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Ian C.B. Spear, Senior Financial Services

Analyst (202/452-3959); Anjana Ravi, Financial Services Analyst (202/530-6286); or Samantha Pelosi, Manager (202/530-6292), Division of Reserve Bank Operations and Payment Systems; for users of Telecommunication Devices for the Deaf (TDD) only, contact 202/263-4869.

SUPPLEMENTARY INFORMATION:

I. Background

The ACH network serves as a ubiquitous, nationwide mechanism for processing batch-based credit and debit transfers electronically. The private sector and the Federal Reserve jointly developed the ACH network as an electronic alternative to checks, the growth of which in the late 1960s and early 1970s was creating operational and cost burdens. Initially used for government payments and recurring payments such as payroll disbursements, the ACH network evolved with user needs and now facilitates many types of transactions. The time it takes to settle transactions, however, has not changed materially since next-day settlement was introduced nearly four decades ago.¹

NACHA, whose membership consists of insured financial institutions and regional payment associations, establishes network-wide ACH rules through its Operating Rules & Guidelines. As an ACH operator, the Reserve Banks, through Operating Circular 4, incorporate NACHA's Operating Rules & Guidelines as rules that govern clearing and settlement of commercial ACH items by the Reserve Banks, except for those provisions specifically excluded in the Operating Circular.²

A. Current Federal Reserve Same-Day ACH Services

To address growing market demand for faster, intraday ACH processing and settlement, the Reserve Banks began offering an optional FedACH® SameDay Service (FedACH SameDay Service) to Reserve Bank ACH customers in 2010. The service allows ODFI participants to originate same-day payments to all RDFI participants that agree to accept such payments.³ As part of the FedACH

¹ ACH transactions using the Federal Reserve Banks' current same-day service and some transactions conducted outside of the traditional ACH network, such as "on us" transactions in which the originator and receiver both have accounts at the same bank, or proprietary "on we" networks between financial institutions, settle in less than one day.

² Operating Circular 4, Section 1.4, https://www.frb-services.org/files/regulations/pdf/operating_circular_4_11042013.pdf.

³ The service accommodates all non-government ACH credits and debits except International ACH

SameDay Service, the Reserve Banks charge participating ODFIs a per-item surcharge on the normal ACH processing fee and provide RDFIs a discount on the normal ACH processing fee for receipt of forward items.⁴ There is no fee paid by ODFIs to RDFIs.⁵

In the five years since its introduction, the FedACH SameDay Service has experienced limited adoption; fewer than 100 depository institutions are currently using the service. A number of factors may account for this. RDFIs typically need to upgrade internal processing capabilities to post same-day transactions. ODFIs may be able to realize value from the service through enhanced ACH product offerings, such as emergency bill pay, although these services may be unappealing to originators because of low RDFI participation and corresponding limited receiver reach.

B. 2011 NACHA Same-Day ACH Proposal

In 2011, NACHA identified faster and more flexible ACH clearing and settlement capabilities as important to the long-term viability of the ACH network, and proposed creation of a network-wide, same-day framework called Expedited Processing and Settlement (EPS). Through amendments to NACHA's Operating Rules & Guidelines, EPS would have required RDFIs to credit a receiver's account by the end of the RDFI's processing day when an originator properly specified same-day processing.⁶ EPS failed to receive the number of votes required for adoption under NACHA voting rules. According to NACHA, the proposal failed because it provided insufficient value to originators, caused uncertainty around funds availability, and created significant implementation costs for

Transactions (IAT), Check Truncated Entry (TRC), and Check Truncated Entries Exchange (TRX). Forward items may be sent between 2:15 a.m. and 2:00 p.m. with settlement at 5:00 p.m. Returns of eligible forward items may be sent between 2:00 p.m. and 4:30 p.m. with settlement at 5:30 p.m. All times in this notice are Eastern Time unless otherwise noted.

⁴ The per-item forward surcharge ranges from \$.003 to \$.0035, and the per-item discount is \$.0025.

⁵ Additional information on the FedACH SameDay Service is available at https://www.frb-services.org/serviceofferings/fedach/sameday_service.html.

⁶ Originators would have been required to specify same-day processing in compliance with EPS, ODFI deadlines, and ACH operator requirements. NACHA proposed a single submission deadline of 2:00 p.m. for all same-day payments, excluded IATs, and limited transaction amounts to \$25,000 or less. The requirement that RDFIs credit a receiver's account by the end of the RDFI's processing day would have been satisfied as long as the receiver's account was credited "as of" the settlement date.

RDFIs without adequate options to offset those costs.⁷

C. 2015 NACHA Same-Day ACH Amendments

In December 2014, NACHA requested comment on a new same-day ACH proposal. Like EPS, the 2014 proposal would amend NACHA's Operating Rules & Guidelines to enable the network-wide processing of same-day ACH payments.⁸ On May 19, 2015, NACHA announced that its voting members approved amendments to NACHA's Operating Rules & Guidelines (amended operating rules) to allow ODFIs to send same-day ACH transactions to accounts held at any RDFI.⁹ Unlike the Reserve Banks' current FedACH SameDay Service, the amended operating rules require all RDFIs to participate in the same-day service, and ODFIs to pay a fee to RDFIs for each same-day ACH forward transaction (interbank fee).¹⁰ A summary of these amendments is available on NACHA's Web site.¹¹

II. Request for Comment

The Reserve Banks' incorporation of the amended operating rules into Operating Circular 4 and implementation of a mandatory same-day service would reflect a significant change to the Reserve Banks' current ACH services. In considering new services and major service enhancements to existing Reserve Bank services, the Board requires the following criteria be met: The service must enable full long-run recovery of

costs by the Reserve Banks; the service must yield a clear public benefit; and the service must be one that other providers alone cannot be expected to provide with reasonable effectiveness, scope, and equity.¹²

The Board believes that the introduction of a FedACH same-day service with mandatory participation by RDFIs and an interbank fee would not adversely affect the Reserve Banks' ability to recover the cost of providing the ACH service over the long run. Specifically, there would be minimal technological and operational investment required by the Reserve Banks to implement the service, and any operating costs can be recovered through fees charged for using the Reserve Banks' ACH services.

The Board also believes that a same-day ACH service offers clear public benefits. A ubiquitous same-day ACH service would enhance the efficiency and integrity of the ACH network and the broader U.S. payment system, consistent with the strategic goals identified in the Federal Reserve's *Strategies for Improving the U.S. Payment System* paper (Strategies Paper).¹³ NACHA identified a number of use cases that would benefit from a ubiquitous same-day ACH service, including faster person-to-person payments, expedited bill payments, enhanced e-commerce transactions with faster collection of funds and release of goods, accelerated check collection to decrease non-sufficient funds returns, and same-day payroll payments. To realize the benefits of same-day transactions, however, the service must achieve ubiquity among depository institutions in order to reach any banked receiver and provide a useful service to originators. Without adoption by the Reserve Banks, a significant number of depository institutions receiving ACH services from the Reserve

Banks may not participate. Further, absent the ability to reach any RDFI in the ACH network, it may not be possible to implement an effective same-day ACH service and any corresponding public benefits would be limited. The Board therefore believes that the private sector cannot be expected to provide the service alone with reasonable effectiveness, scope, or equity.¹⁴

The Board believes that the service may have a significant longer-run effect on the nation's payment system through increased efficiency and integrity of the ACH network. Therefore, the Board requests comment on the Reserve Banks' adoption of an enhanced same-day ACH service with mandatory participation of RDFIs and an interbank fee by incorporating NACHA's amended operating rules into the Reserve Banks' Operating Circular 4 governing their ACH service.

A. Mandatory Participation of RDFIs

Unlike the Reserve Banks' current FedACH SameDay Service, under NACHA's amended operating rules RDFIs cannot refuse same-day ACH transactions and must make funds available from same-day ACH credits to their depositors by 5:00 p.m.¹⁵ The limited adoption of the Reserve Banks' current FedACH SameDay Service demonstrates that achieving ubiquity without such a mandate is unlikely, and the Board believes that mandatory participation by RDFIs is critical to the success of a same-day ACH service. The Board recognizes that this may require operational changes to the normal processing procedures and schedules used by RDFIs. The Board requests comment on making receipt of same-day ACH transactions mandatory for all RDFIs. If commenters believe that participation by RDFIs should not be mandatory, the Board requests comment on why the Reserve Banks' same-day ACH service should remain optional and whether there are non-mandatory alternatives to achieving ubiquity.

¹⁴ When it considers changes to an existing service, the Board also conducts a competitive impact analysis to determine whether there will be a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or the Federal Reserve's dominant market position deriving from such legal differences. The Board believes that there are no adverse effects to other service providers resulting from adoption of the amended operating rules. Changes to the Reserve Banks' existing service as a result of adoption would be to conform to industry-wide ACH operating rules, and not the result of differing legal differences or the Federal Reserve's dominant market position.

¹⁵ RDFIs' local time.

⁷ Membership feedback also indicated that the timing of proposed same-day ACH schedules was not useful for west coast users, that risk concerns surrounded the inclusion of debits in same-day processing, and that the Federal Reserve's National Settlement Service (NSS) closing times limited flexibility of the service.

⁸ Unlike EPS, once fully implemented the amendments (1) require RDFIs to make funds available from same-day ACH credits by 5:00 p.m. local time, (2) offer two submission deadlines at 10:30 a.m. and 3:00 p.m., and (3) assess a fee paid by ODFIs to RDFIs for each same-day forward transaction.

⁹ The amendments become effective over three phases beginning in 2016. Next-day settlement will also remain available.

¹⁰ The amended operating rules refer to the interbank fee as the "Same Day Entry Fee."

¹¹ <https://www.nacha.org/content/same-day-ach>. The amended operating rules contain other elements that would require modifications to the Reserve Banks' current FedACH SameDay Service. The Board believes these changes are operational in nature and will not have significant longer-run effects on the nation's payment system. These include updated submission and settlement windows (a morning submission deadline at 10:30 a.m. ET, with settlement occurring at 1:00 p.m. and an afternoon submission deadline at 3:00 p.m. ET, with settlement occurring at 5:00 p.m.) IATs and transactions above \$25,000 cannot be completed via same-day service.

¹² Clear public benefits include promoting the integrity of the payments system, improving the effectiveness of financial markets, reducing the risk associated with payments and securities-transfer services, or improving the efficiency of the payments system. Federal Reserve System (1990) "Federal Reserve in the Payment System," http://www.federalreserve.gov/paymentsystems/pfs_frpaysh.htm.

¹³ The Strategies Paper communicates desired outcomes for the payment system and outlines the strategies the Federal Reserve will pursue, in collaboration with stakeholders, to help the country achieve these outcomes. One of the specific strategies for improving the U.S. payment system in the Strategies Paper is enhanced Reserve Bank payment, settlement, and risk-management services through promoting greater use of same-day ACH capabilities. Federal Reserve System (2015), "Strategies for Improving the U.S. Payment System," (Federal Reserve System, January), fedpaymentsimprovement.org/wp-content/uploads/strategies-improving-us-payment-system.pdf.

B. Interbank Fee

The Board recognizes that both ODFIs and RDFIs will need to make investments in systems and operations to facilitate same-day ACH transactions. ODFIs have the choice of offering a same-day ACH service to originating customers and may be able to offset their investment through additional service offerings and higher fees for same-day processing. RDFIs, in contrast, would not be able to refuse receipt of same-day ACH transactions under a mandatory participation requirement and may incur same-day settlement costs that they are unable to fully offset through incremental revenue. As a result, RDFIs may lack an effective method of offsetting the investment and ongoing costs of same-day ACH settlement.

In light of this potential effect on RDFIs, NACHA designed the interbank fee to allow RDFIs to offset costs associated with the up-front investments and ongoing operating costs necessary for accepting, posting, and making funds available from same-day transactions. The initial interbank fee under NACHA's amended operating rules is 5.2 cents per forward transaction.¹⁶ The amended operating rules provide that the interbank fee would be reduced if actual same-day transaction volume exceeds original projections by more than 25 percent during regularly required review periods.¹⁷ Ten years after the final phase of implementation is effective, and every ten years thereafter, NACHA will reevaluate the interbank fee.¹⁸ In no instance may the interbank fee be increased from its initial level of 5.2 cents per forward transaction.

The Board requests comment on whether the interbank fee included in NACHA's amended operating rules equitably reapportions the initial

¹⁶In the amended operating rules, the interbank fee per transaction is equal to RDFIs' estimated costs of same-day ACH (plus a rate of return equal to 12.2%), divided by projected same-day ACH volume. To create the methodology for and the calculation of the interbank fee, NACHA engaged a consultant who surveyed and interviewed both RDFIs and ODFIs to determine implementation and ongoing costs. The final interbank fee does not include the allowance for lost opportunity costs that was included in NACHA's December 2014 proposal. The original fee calculation proposed by NACHA considered opportunity costs that included the profits lost by RDFIs if some transactions migrated to same-day ACH from other higher-margin payment methods.

¹⁷Same-day ACH volume will be reviewed five years and eight years after the final phase of implementation is effective.

¹⁸NACHA's reevaluation will not include recovered implementation costs, and will be based on the average costs incurred by RDFIs, same-day ACH volumes, projected future developments, and the extent to which the fee satisfied RDFI costs.

implementation costs and ongoing operating costs between ODFIs and RDFIs.

By order of the Board of Governors of the Federal Reserve System, May 21, 2015.

Robert deV. Frierson,

Secretary of the Board.

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FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), to approve of and assign OMB numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB number.

DATES: Comments must be submitted on or before July 27, 2015.

ADDRESSES: You may submit comments, identified by *Reg W*, by any of the following methods:

- *Agency Web site:* <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx>.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Email:* regs.comments@federalreserve.gov. Include OMB number in the subject line of the message.

- *FAX:* (202) 452-3819 or (202) 452-3102.

- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons.

Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW.) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: <http://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Acting Clearance Officer—Mark Tokarski—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;