



Credit Union National Association

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Submitted via email: comment@fedpaymentsimprovement.org

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Federal Reserve Banks

Re: Input on the "Payment System Improvement"
Public Consultation Paper

Dear Federal Reserve Banks:

This comment letter represents the views of the Credit Union National Association (CUNA) regarding the Federal Reserve Banks' (Fed Banks') "Payment System Improvement - Public Consultation Paper." By way of background, CUNA is the largest credit union advocacy organization in this country, representing state and federal credit unions, which serve about 99 million members. This letter was developed under the auspices of the CUNA Payments Policy Subcommittee. We appreciate our meetings and discussions with Fed Bank staff that our Subcommittee participated in, including with Ms. Shonda Clay and Ms. Connie Theien. CUNA has also encouraged our credit unions to provide input on the paper and will be pleased to facilitate additional dialogue with credit unions.

CUNA commends the approach taken by the Fed Banks and engagement with stakeholders to look into ways to improve the U.S. payment system, by focusing on the "end-to-end" process, which is from origination to receipt for payments. Credit unions are an important part of the payment system and provide many safe and secure, as well as innovative payment services for consumers and businesses. We urge a payments framework that facilitates the ability of credit unions and small financial institutions to access and utilize the latest developments in payments, without undue regulatory restrictions. In considering any changes to the regulation of the payment system, the Fed Banks should fully consider the costs and benefits, and ensure credit unions will not be negatively impacted by such changes. We look forward to additional collaboration and dialogue with the Fed Banks on potential ways to improve the U.S. payment system.

Payments Framework Should Facilitate Credit Unions' Ability to Offer Latest in Payments, Without Undue Regulatory Restrictions

As the payment system continues to evolve, it is critical that credit unions and their providers have access and utilize the latest developments in payments, including mobile payments.



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Credit unions, as not-for-profit financial cooperatives, provide a variety of important and innovative services to meet their members' needs, including in the area of payments. To offer the most current payment services, credit unions often use providers, including the Fed Banks, corporate credit unions, credit union service organizations, payment card networks, and other payment entities.

These payment services for consumers and businesses vary by credit union and include traditional payment types such as payment cards (including credit, debit, and prepaid), checks, wire transfers, and Automated Clearing House (ACH), as well as the latest in mobile payments, person-to-person (P2P) payments, and other services. In CUNA's October 2013 "Mobile Payments Survey" that surveyed consumers, consistent with a number of other reviews in this area, we found that among smartphone users, more than half use their phone to make some type of mobile payment.

While credit unions support appropriate and flexible rules, we continue to be concerned with regulatory and other changes that may result in compliance burdens that will reduce the ability of credit unions to provide current payment products. In addition, payment services have associated costs that continue to increase, due to expanding regulatory and compliance burdens for payments and other services, as well as increasing costs for security, risk management, and other important needs. Credit unions also maintain and invest in new payment services and products for their members. Any reductions in payments-related revenue, including with debit interchange or overdraft, could have a negative impact on the ability of credit unions and other smaller institutions to continue offering important services to many consumers, as well as to expand current and develop new products and services.

The Fed Banks should continue to work with, and coordinate with, the Consumer Financial Protection Bureau (CFPB), Federal Reserve Board, NACHA - The Electronic Payments Association, other regulators, and policymakers to target problem areas without expanding universally applicable restraints that will apply to all institutions, including those that do not abuse consumers, and ensure that credit unions will not be impacted by new regulatory restrictions, such as with overdraft protections.

CUNA and Credit Unions Look Forward to Continuing to Work with the Federal Reserve Banks on the "Payment System Improvement" Initiative

As Sandra Pianalto, President of the Federal Reserve Bank of Cleveland stated, the purpose of the "Payment System Improvement" paper is "to share Federal Reserve perspectives on the key gaps and opportunities in the U.S. payment system and identify the desired outcomes that close

these gaps and capture these opportunities." We support that approach to target a very broad set of issues.

The strategic direction for the Fed Banks in payments includes improving the speed and efficiency of the U.S. payment system from "end-to-end" over the next decade while maintaining a high level of safety and accessibility.

The Fed Banks' paper acknowledges that today's payment system accommodates the changing payment preferences of end users, as we see many new payment offerings, including mobile payments and P2P applications. However, the paper notes that many new payment offerings do not have a broad base of users, which makes it inconvenient or impossible for end users in the network to initiate or receive payments from users outside of the network. Generally, legacy payment systems are more ubiquitous and allow end users to send payments to almost any receiver, because many legacy payments require transaction accounts at depository institutions, including credit unions.

The goal of the Fed Banks is to foster an environment for payments innovation to meet the changing payment needs of end users and also to offer the advantages of near-ubiquity.

Credit unions support payments innovation and believe the Fed Banks have taken an important step in understanding the evolving payment system and desired outcomes for the future. We look forward to further collaboration on this important initiative.

Federal Reserve Banks Should Fully Assess Potential Costs and Benefits of Payment System Changes, Including the "Ubiquitous Near-Real-Time Payments" Concept

It is very important that credit unions and smaller financial institutions be able to fully access and utilize payments systems that could potentially enable "ubiquitous near-real-time payments."

In that connection, credit unions appreciate that the Fed Banks plan to look into the costs and benefits of implementation, as well as ongoing costs, of offering "ubiquitous near-real-time payments." As the Fed Banks have noted, the concept of "ubiquitous near-real-time payments" could offer benefits to end users, different stakeholders, and the payment system. This concept could be achieved by enhancing legacy payment systems, such as enhancing checks to be fully electronic payment orders (EPOs), updating the ACH Network, or using other methods and systems. Alternatively, there could be a completely new payment system.

There are several same-day payment alternatives that currently exist and that could be enhanced. Some financial institutions offer same-day ACH on certain entries, such as through the Federal Reserve's same-day ACH service, which is an opt-in service for financial institutions. In addition, other types of payment services offer expedited payments that include mobile payments and P2P applications.

In 2011, NACHA proposed that all Receiving Depository Financial Institutions (RDFIs), including credit unions, must be able to receive and settle same-day ACH transactions. While not all institutions are able to currently receive and settle Expedited Processing and Settlement transactions to enable a new network-wide premium same-day service on the ACH Network, we believe this concept deserves continued consideration.

Another important, related issue is the distinction between real-time messaging compared with real-time settlement. Some payment services already use timelier or near real-time messaging to notify a user that their payment is authorized and will be posted, even though actual settlement will occur after the message. While financial institutions consider these approaches, the Fed Banks should explore whether real-time settlement, which requires greater infrastructure and system changes, would also be needed for faster payments, in addition to timelier messaging.

Federal Reserve Banks Should Remain Important Payments Providers for Credit Unions and Other Financial Institutions

Credit unions believe the Fed Banks should remain important providers and partners that help meet the payments needs of their members. We also generally agree the Fed Banks should continue to act as major service providers to the interbank market for financial institution payment services, given the role of the Fed Banks in the payment system and economy.

Currently, the Fed Banks provide many payment services to depository institutions, including credit unions. About 6,500 credit unions currently work with the Fed Banks, and utilize payments products including FedLine Access, Fedwire Funds and Securities, FedACH (including FedGlobal ACH), and Check 21 services.

The Fed Banks are also in a unique position to promote dialogue and coordination on payments, including research efforts to consider potential standards, potential solutions to challenges, and the latest innovations. Such areas could also include many of the topic areas from this "Payment System Improvement" initiative, including mobile payments; payments security and fraud prevention; potential improvements to existing payment systems; and the role of nonbanks in offering payments. Also, the Fed Banks may be able to provide additional coordination on areas such as

Near Field Communication (NFC); and Europay, MasterCard, and Visa (EMV) updates and implementation.

We appreciate the payments resources and our participation in some of the recent Fed Bank events, including to: explore the concept of electronic payment orders (EPOs), to discuss challenges with the Consumer Financial Protection Bureau's (CFPB's) international remittance transfers regulations, and to assess payments fraud issues. In addition, credit unions and others appreciate the ongoing research and materials on mobile payments and technology from a number of different Fed Banks.

CUNA and credit unions are interested in additional collaboration and coordination with the Fed Banks and other stakeholders on payments developments, including mobile payments.

Federal Reserve Banks Should Also Focus on Payments Data Security and Fraud Prevention

Enhanced payments safety and security are very important to credit unions and financial institutions, consumers, and businesses. Financial institutions, including credit unions, remain most trusted by consumers and others to provide payments, including mobile payments, and will continue to focus on payments security. In CUNA's October 2013 "Mobile Payments Survey" that surveyed consumers, we found that payments security remains the foremost concern by consumers.

We appreciate and understand the Fed Banks are doing additional, separate analyses on the safety and security of payments, and also plan to work with industry and stakeholders on such issues. The Fed Banks should continue to collaborate with industry to look at different ways to enhance payments security and to reduce fraud.

As a member of the Financial Services Sector Coordinating Council for Critical Infrastructure (FSSCC), CUNA also encourages additional coordination between the Fed Banks, and the FSSCC and government regulators on "critical infrastructure" cybersecurity and cyber-attack issues, including critical payments functions that impact the U.S. economy.

Also, we continue to advocate for higher data security standards that apply to merchants because the chain of data security is only as strong as its weakest link. While credit unions and other financial institutions are subject to very high data security standards under the Gramm-Leach Bliley Act and other rules, merchants are not currently required to follow these standards. We support holding merchants to the same standards as financial institutions when they handle financial and payments transactions, and permitting financial institutions to disclose the source of the data breach and seek reimbursement from the merchant for the cost of the breach.

Further, the Fed Banks should also look into additional education opportunities to inform consumers, businesses, and others about payments security, and on fraud prevention.

Credit unions are interested in working with the Fed Banks and others on payments data security, fraud prevention, authentication, threat mitigation, potential standards, and other related issues that could affect payments.

Regulators Should Focus on Regulating Non-Depository Institution Payment Providers

We generally agree with CFPB Director Richard Cordray's recent remarks at an annual conference that one of the "central advances" from the Dodd-Frank Act is the ability of the CFPB to regulate nonbank financial institutions that have traditionally not been regulated. As he noted, the CFPB is working with regulators and industry to focus on payments and consumer protections, including with unregulated nonbank providers. "Working together, we would be better able to identify and enforce the law against illegitimate firms that are otherwise able to reduce their own costs by hitching a free ride on the payments system" and to "consider changes in law or practice that may be needed," Cordray noted.

CUNA encourages the Fed Banks to coordinate closely with the CFPB, regulators, and others to take additional regulatory and enforcement actions to reduce abusive practices from non-depository institution providers.

Credit Unions Are Interested in More Information on Potential Payments "Centralized Directory" Concept

Credit unions are also interested in more information regarding the Fed Banks' potential concept of a new, "centralized directory" to be used for payments.

Under the "centralized directory" concept, a sender may make payments to a receiver, without knowing the account or routing information of the receiver. The "centralized directory" would hold the account and routing information for businesses and consumers, and provide a link between all financial institutions and providers. The goal for this concept is to enable more electronic payments and payments innovation.

Credit unions and smaller financial institutions should be able to fully access the "centralized" or similar directory to offer payments for their members and consumers if the concept proceeds.

We believe the “centralized directory” concept could be useful for credit unions to offer payments to their members. Credit unions are interested to learn more about how this potential concept would work, how security and fraud issues would be addressed, associated costs to use the directory, and how the directory would be updated and maintained, as well as other consumer protection, operational, and risk management considerations.

International Payments Can Be Improved

Credit unions also believe there can be improvements to facilitate international payments. The Fed Banks should collaborate and work with regulators, financial institutions, and others on potential improvements to international payments. In addition, the Fed Banks could also help coordinate with U.S. institutions on broader global issues such as the Global Legal Entity Identifier (LEI), which is a reference code to uniquely identify a legally distinct entity that engages in a financial transaction, such as a payment.

Reducing compliance burdens would help facilitate international payments. For example, the CFPB’s new international remittance rule, which became effective on October 28, 2013, has added new regulatory burdens and compliance challenges for credit unions and other remittance providers.

CUNA continues work with the CFPB and others to advocate for broader flexibility with the international remittance rule, and a higher exemption threshold than the current 100 transfers per year threshold. Under the final rule, all remittance transfer providers would be subject to the same exemption threshold. Yet based on information credit unions have provided to us, a number of credit unions either only recoup their costs with no additional income from international remittance services or they actually lose money in providing the service. They continue providing these services, however, as an accommodation for their members because their members look to their credit union to provide these transfers. While we appreciate the latest improvements to the rule from the CFPB, we are aware many credit unions have or will reduce their international transfers due to the high compliance costs with the new rule. We support broader use of the CFPB’s exemption authority to provide greater regulatory relief for credit unions under the international remittance rule.

We appreciate the Fed Banks’ engagement on the CFPB remittance rule issue, including by holding a meeting with regulators, consumers, and industry stakeholders, and also by providing compliance resources for Fed Global ACH, which is used by a number of credit unions and other institutions for international transfers.

Federal Reserve Banks Should Continue to Coordinate with Credit Unions and Other Financial Institutions, Stakeholders, and Regulators

The Fed Banks should continue to engage in outreach and seek input from credit unions, CUNA, state credit union leagues, and financial trade groups; payment providers and networks; and other relevant stakeholders. In addition, there should be additional coordination with payments regulators, including the Federal Reserve Board, CFPB, and NACHA, as well as the National Credit Union Administration (NCUA), the Federal Financial Institutions Examination Council (FFIEC), and other regulators involved with payments, such as the Department of the Treasury's Federal Management Service (FMS), the Financial Crimes Enforcement Network (FinCEN), and the Federal Trade Commission (FTC).

We appreciate and look forward to additional collaboration and dialogue with the Federal Reserve Banks on payments innovation and potential ways to improve the U.S. payment system from "end-to-end." We look forward to the Fed Banks' white paper planned to be released in the second half of 2014, which will include input received and potential next steps. Prior to release of the paper, we welcome the opportunity to meet with the Fed Banks to discuss issues addressed in this letter or otherwise. As further information becomes available, CUNA will continue to work with credit unions to provide more input and feedback.

Sincerely,

/s/

Jane Watkins
President / CEO
Virginia Credit Union
Chair of the CUNA Payments Policy Subcommittee