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Retail Payments Office

of the Federal Reserve System

1000 Peachtree Street, N.E. Atlanta, GA 30309-4470

February 6, 2015

Ms. Janet Estep
President and Chief Executive Officer
NACHA – The Electronic Payments Association
2550 Wasser Terrace, Suite 400
Herndon, VA 20171

Dear Jan:

On behalf of the Federal Reserve Banks, the Retail Payments Office (RPO) welcomes the opportunity to respond to a Request For Comment (RFC) from the National Automated Clearing House Association (NACHA) regarding “Same Day ACH – Moving Payments Faster”, issued on December 8, 2014 (the “Proposal”).

As you know, the RPO demonstrated its support for same-day ACH by initiating a consumer debit pull service in 2010, with a full domestic credit push/debit pull service introduced in 2013. Our recently updated Financial Services strategic plan commits to improving the end-to-end speed of payment clearing and settlement reflecting the needs and expectations of the payer and payee of many transactions.

As outlined in the NACHA RFC, the Proposal would enable the option for accelerated same-day ACH payments through new ACH Network capability. Specifically, the Proposal would allow sending banks the ability to submit payment files of same-day ACH payments through two new clearing/settlement windows provided by the ACH Operators:

- A morning submittal deadline at 10:00 am ET, with settlement occurring at 12:00 pm ET.
- An afternoon submittal deadline at 3:00 pm ET, with settlement occurring at 5:00 pm ET.

The Proposal outlines the eligibility for same-day ACH payments, including all domestic credit and debit payments. Only cross-border payments (those designated with the “IAT” standard entry class code) and high-value payments above \$25,000 would not be eligible.

All receiving banks would be mandated to receive and settle for these faster same-day ACH payments, thereby giving sending banks and payment originators the certainty of being able to send same-day ACH payments to all receiving banks. Furthermore, receiving banks would be mandated to make funds available from same-day ACH credits (such as direct deposit of payroll) to their depositors by 5:00 pm local time on the banking day the payment is settled. In an effort to provide cost recovery for receiving banks to build and operate the same-day ACH capability, the Proposal includes an interbank fee paid by sending banks to receiving banks of 8.2 cents per same-day payment.

To allow all banks and originators/receivers to acclimate to a faster processing environment, as well as to ease the implementation effort, these new capabilities would become effective over three phases beginning in September 2016 with completion of the last phase in March 2018.

As outlined in the NACHA RFC, we broadly support the proposal but have several specific comments and suggested improvements for consideration in a final proposal. The following changes and comments to the Proposal are offered:

1. **We recommend modifying the proposed 12:00 pm ET settlement time to 1:00 pm ET.** As is the current practice, we may exercise our prerogative, as an ACH Operator, to change any proposed submittal, distribution or settlement time as specified in the RFC. Changing to a 1:00 pm ET settlement time will conveniently fall half-way between our earliest settlement time of 8:30 am ET and our current late afternoon settlement times of 5:00 pm ET and 5:30 pm ET. Consequently, this will provide uniform coverage across the entire business day. Furthermore, changing to a 1:00 pm ET settlement time will allow sufficient time to exchange payments between ACH Operators for timely delivery of the payments to receiving banks.
2. **We recommend a two-phased approach versus the proposed three-phased implementation approach as it will reduce the costs to implement and achieve full implementation sooner.** We suggest moving the scheduled implementation of the morning window settlement time from phase 3 to phase 1. Furthermore, we advise collapsing phases 1 and 2 into one phase. The result of this change is that sending banks will be able to originate both debits and credits starting with phase 1. We do not believe that it is necessary to defer debits until the proposed date for phase 2 in September 2017. We have no evidence in our own experience that suggests any inherent risk associated with debits that cannot be managed and controlled. By adding debits to phase 1, the new phase 2 would only cover funds availability requirements for the RDFI. If needed, we would not oppose extending the phase 1 implementation date by six months.
3. **We recommend expanding the criteria used to identify same-day forward and returned payments to include items with a stale date in the effective entry date file rather than limiting them to those payments with the current processing date.** Past studies conducted by the Federal Reserve Banks, serving as an ACH Operator, have shown that approximately ten percent of payments are submitted with a stale date within the effective entry date field of the company/batch header record. A situation in which those payments are intended for same-day settlement but are delayed for some reason due to the payment originator or sending bank will have operational and reconciliation consequences. In these cases, the requested settlement date in the payment file must be modified to match the current processing date; otherwise, the payments will be unnecessarily delayed one banking day after the intended settlement date. Furthermore, returns run the risk of being settled one day later than what occurs in the current environment, unless the submittal date of the return matches the requested settlement date of the forward payment to which it relates. With this in mind, the industry, including third-party processors and originators, would require comprehensive and targeted education as well as possible software modifications in this regard.

The two scenarios below reflect the consequences if the Proposal stands.

Delayed Payroll Scenario:

- Using the same-day service, an employer intends to send to its sending bank, prior to the proposed 10:00 am ET submittal time, a direct deposit payroll file with a requested settlement date of Thursday, February 19. Per the phase 3 rules in the Proposal, funds must be made available to employees by 5:00 pm local time on the day of settlement.
- Unfortunately, due to an operational problem at the employer or its sending bank, the payroll file is not sent until 10:00 am ET the following day on Friday, February 20, with the original requested settlement date of February 19 unchanged.
- Since the requested settlement date of February 19 doesn't match the current processing date of February 20, per the Proposal, the payments will settle the following banking day on Monday, February 23, which is three days later. Consequently, employees will not be paid until four days after the intended salary/wages are due.
- Unlike the scenario above, the Fed's existing same-day payments service would settle the payments on Friday, February 20, with no changes required to the original payroll file because the service allows stale and corrupted dates to be eligible for same-day settlement.

Delayed Return Payment Scenario:

- Expanding on the scenario above, suppose a payroll payment is returned on Monday, February 23 (prior to the proposed 3:00 pm ET submittal time) due to the employee's account being closed at the receiving bank. As stipulated in the existing NACHA Rules, the requested settlement date from the original payment is carried over to any subsequent return. Since the processing date of February 23 in the return does not match the February 19 requested settlement date, the return is not settled, per the Proposal, until the following day on Tuesday, February 24.
- Similar to the first scenario, the Fed's existing same-day return service would settle the return on Monday with no changes required to the requested settlement date in the return.

Likewise, file or individual payment reversals submitted days after the original transaction would not receive same-day settlement either. In this situation, the payments would be settled a day later due to the fact that the original settlement date contained within the reversal file would never equal the current processing date.

As the proposal stands, the same-day process has the potential to generate unacceptable customer service issues since the expectation is that a same-day environment mandated by NACHA will either match or exceed current service levels. These service issues can be eliminated if the identification method for same-day payments is broadened to include stale and corrupted dates.

4. **We recommend eliminating the dollar cap of \$25,000.** The dollar cap of \$25,000 for individual payments imposes unnecessary complication and uncertainty when payments will settle and we suggest it be removed from the Proposal. New operational and processing efforts and potential complications are expected when a sending bank is forced, perhaps for some reconciliation reason, to place those payments

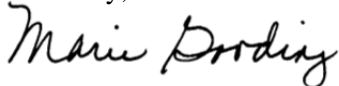
above the threshold and those under the threshold into separate payment batches. Otherwise, the payments may be sent to the ACH Operator in mixed batches, and the ACH Operator will be required to edit the high-dollar payments and extract them into separate batches that would receive next-day availability. This may further complicate balancing and settlement for the receiving and sending banks. In addition, we believe there are several use cases -- payroll funding, cash concentration, and tax payments, among others -- that would benefit from same-day ACH but the dollar cap would preclude its use.

If a sending bank wishes to apply a dollar cap for risk or some other reason, we believe it would be most prudent to implement any dollar cap at the ODFI.

Given the issues above and the fee accompanying the proposal, we are concerned that the Proposal is positioning same-day ACH as a very narrow exception service instead of a broadly adopted service that competitively supports a variety of consumer and corporate use cases. The Federal Reserve Board of Governors has provided further comments regarding the Proposal which we have reviewed and fully support.

Despite these concerns, the Retail Payments Office commends NACHA's efforts to improve the ACH industry through a ubiquitous same-day ACH service, and we appreciate the opportunity to provide comment. Additional details can be found in the on-line survey. We look forward to the ongoing dialogue and conversation regarding this proposal.

Sincerely,



Marie Gooding

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