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June 26, 2015

Submitted via: regs.comments@federalreserve.gov

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

Re: Docket No. OP-1515
Enhancements to Federal Reserve Bank Same-Day Automated Clearing
House Service

Dear Mr. Frierson:

The Independent Community Bankers of America (ICBA)¹ is pleased to submit comments to the Federal Reserve Board (Board) regarding enhancements that the Federal Reserve Banks (Reserve Banks) are considering to their current same-day automated clearing house (ACH) service. The enhancements would require all 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.

¹ The Independent Community Bankers of America®, the nation's voice for more than 6,000 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services.

With 52,000 locations nationwide, community banks employ 700,000 Americans, hold \$3.6 trillion in assets, \$2.9 trillion in deposits, and \$2.4 trillion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

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Background

The Board is requesting comment on whether to incorporate recent changes to the *NACHA Operating Rules* into *Federal Reserve Banks Operating Circular 4* (Operating Circular 4) and change the current optional FedACH SameDay Service to a mandatory same-day ACH service. The Board also requests comment on whether the interbank fee included in NACHA's amended operating rules equitably reapportions the initial implementation costs and ongoing operating costs between originating and receiving financial institutions.

The Board considers these service changes significant and requires that specific criteria be met to adopt and implement the changes. The 1990 Federal Reserve in the Payments System (Policy Statement) establishes three criteria that must be met before the Federal Reserve introduces a new service or a major service enhancement:

- full recovery of costs over the long run;
- the service will yield a clear public benefit; and
- the service should be one that other providers cannot be expected to solely provide with reasonable effectiveness.

According to the Policy Statement, the Federal Reserve's payments role includes promoting payments integrity and ensuring the provision of payment services to all financial institutions on an equitable basis and to do so in an atmosphere of competitive fairness.

ICBA Position

Summary

- ICBA remains strongly supportive of a ubiquitous same-day ACH service and urges the Board to incorporate recent changes to the *NACHA Operating Rules* into Operating Circular 4 and change the current optional FedACH SameDay Service into a mandatory same-day ACH service for all RDFIs.
- ICBA believes that mandated same-day ACH meets the criteria established by the Federal Reserve's Policy Statement regarding new or major service enhancements.
- ICBA strongly supports mandated same-day ACH and believes that ubiquity will not be achieved without a mandate.

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- ICBA strongly supports the inclusion of an interbank fee to provide partial recovery of initial implementation and ongoing operating costs to RDFIs and believes that the fee equitably reapportions the initial implementation and ongoing operating costs.

Criteria for New Services

ICBA strongly asserts that the same-day ACH service meets all three criteria established by the Policy Statement. Ubiquity is a clear public benefit that only the Federal Reserve can provide, and that is why the Federal Reserve serves that role for checks, other ACH transactions and wire transfers. No other entity has the breadth to reach every financial institution, regardless of size and charter.

In the Request for Comment, the Board stated that “the introduction of a FedACH SameDay 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.” ICBA agrees with this statement and believes that mandating same-day ACH will drastically increase the volume over the present optional service which will lead to long-term cost recovery.

Mandated Same-day ACH

ICBA is a long-time proponent of same-day ACH. In August 2012, NACHA's membership did not approve the Expedited Processing and Settlement Rule, which ICBA supported, that would enable same-day settlement of ACH transactions as a ubiquitous capability of the ACH network. This proposed rule would have added additional file pickup times to provide for same-day, instead of next-day, ACH settlement.

In April 2013, ICBA released a whitepaper, “Same-Day ACH: An Opportunity for Leadership²,” expressing its support for same-day ACH capabilities and encouraging community banks and other institutions to adopt the optional FedACH SameDay service. The whitepaper underscored the importance of same-day ACH in helping financial institutions stay at the center of serving their customers’ payments needs, particularly as they compete with non-bank providers.

² Same-day ACH: An Opportunity for Leadership <http://www.icba.org/files/ICBASites/PDFs/samedayACH.pdf>

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Currently, adoption of the FedACH SameDay Service is minimal. ICBA agrees with the Board that ubiquity will not be achieved without a mandate, which we strongly support. Additionally, without a mandate, the current Fed ACH SameDay Service will not provide a public benefit nor achieve long-term cost recovery.

In February 2015, ICBA commented in strong support of the NACHA proposed same-day ACH rule, noting that it built on an already-strong August 2012 Expedited Processing and Settlement rule proposal by including interbank compensation.

Mandated same-day ACH will provide the ubiquity necessary to provide much-needed same-day functionality to the ACH.

Interbank Fee

Same-day ACH creates new costs for RDFIs related to posting, risk mitigation and customer service. The cost of implementation of same-day ACH would fall primarily on RDFIs. NACHA's economic research, which included an analysis of both ODFI and RDFI benefits and costs, confirmed this imbalance.

While ICBA supported, in principle, NACHA's August 2012 proposed Expedited Processing and Settlement Rule, in a December 2011 comment letter to NACHA we expressed concern that:

"...the Rules do not enable these banks to recover their costs through charges to the originating banks that benefit from the proposed rule amendment. Cost recovery on the consumer bank side would, therefore, need to be accomplished either by subsidies from other business lines or by other consumer account service fees. Such a result is antithetical to a sound business case. Hence, ICBA believes that the final rule amendment must enable RDFIs to recover the costs of their implementation from ODFIs."³

ICBA believes the interbank fee equitably reapportions the initial implementation and ongoing operating costs between originating and receiving financial institutions and strongly supports the fee.

³ ICBA Comment letter to NACHA on Expedited Processing and Settlement:
<http://www.icba.org/files/ICBASites/PDFs/CommentLetterExpeditedProcessingSettlement.pdf>

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The fee does not provide complete cost recovery for smaller financial institutions due to much smaller processing volumes. However, ICBA contends that even *de minimis* cost recovery is better than no cost recovery. Community banks thrive on *de minimis* revenues, which are a key component of their business model.

ICBA appreciates the opportunity to comment on this enhancement to the FedACH SameDay Service. Please do not hesitate to contact me at cary.whaley@icba.org or 202.659.8111 with any questions regarding our comments.

Sincerely,

/s/

Cary Whaley
Vice President, Payments and Technology Policy

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