



December 14, 2018

Board of Governors of the Federal Reserve System
c/o Anne Misback, Secretary
20th Street and Constitution Ave. NW
Washington, DC 20551

Re: Potential Federal Reserve Actions To Support Interbank Settlement of Faster Payments (Docket No. OP-1625)

Dear Chairman Powell, Members of the Board, and Board Secretary Misback:

Consumer Reports¹ (CR) appreciates the opportunity to comment regarding the Federal Reserve's efforts to support faster payments in the U.S. The Federal Reserve plays an indispensable role in the payments ecosystem, and should leverage its position to influence the development of a new infrastructure for moving money. The payment options available to most Americans are dated and inefficient, due to complexities and lack of competition at a systemic level. A faster payments system in which money transactions settle quickly and efficiently offers both the potential for consumer benefits as well as risks. Providers and regulators have a responsibility to ensure that consumers benefit from new technology while mitigating potential downsides such as increased fraud.

Given its unique position among payments industry stakeholders, we urge the Federal Reserve to prioritize the needs of consumers as it considers what additional steps to take to further its public interest mission. This includes, among other considerations, the potential of serving as an operator of a new payments system – built from the ground up on principles of safety as well as innovation.

Federal Reserve Action Could Improve Competition and Innovation in Payments

Without fair competition among industry players, consumers have little ability to assert marketplace pressure that can spur progress toward faster and safer payment systems. While

¹ Consumer Reports is an independent, nonprofit membership organization that works side by side with consumers to create a fairer, safer, and healthier world. For 80 years, CR has provided evidence-based product testing and ratings, rigorous research, hard-hitting investigative journalism, public education, and steadfast policy action on behalf of consumers' interests. Unconstrained by advertising or other commercial influences, CR has exposed landmark public health and safety issues and strives to be a catalyst for pro-consumer changes in the marketplace. From championing responsible auto safety standards, to winning food and water protections, to enhancing healthcare quality, to fighting back against predatory lenders in the financial markets, Consumer Reports has always been on the front lines, raising the voices of consumers.

consumers have several choices of *method* in how they pay – cash, debit, credit, check, prepaid – they cannot effectively choose among the small number of payment *systems* available. A consumer has no direct control over whether money clears and settles through traditional interbank channels or distributed ledger technology, for example - not to mention other middlemen that are involved in transaction processing unbeknownst to the consumer.

Because the payments ecosystem is extremely complex and decentralized, industry stakeholders may struggle to determine where and how to invest in new technologies to ensure they can be successfully implemented. As a result, incumbent payment services providers have been slow to innovate or to respond to what’s important to consumers. The case of peer-to-peer (P2P) payments is instructive: non-bank providers like PayPal were early to build a system that met consumers’ need for a way to transact person-to-person over the internet. Only after consumers flocked to these services were traditional providers like major banks motivated to develop similar services. The good news is that increased competition among industry stakeholders led to new services that address real consumer needs. However, without a central entity or process to set clear rules of the road end-to-end for all transactions, there are gaps in consumer protections as these systems develop. Consumer Reports saw these risks play out in our evaluation of P2P payments systems, which we released this summer.²

As faster payments become more commonplace, industry stakeholders need to “compete” in a new way – both by prioritizing investment in technology and coordinating with other players to the extent practicable, in order to facilitate best practices at a systemic level. The move to same-day ACH and the launch of Clearinghouse’s Real Time Payments system are important milestones in the effort to bring the ease and convenience of email to money. However, one or two faster payment options does not make for a truly competitive market - nor does it ensure that all industry stakeholders will take the same leap together to protect consumers across all ways to pay.

For these reasons, we recommend that the Federal Reserve consider building its own faster payments system, to help lead all industry stakeholders forward as well as serve the public interest in a faster and safer way to move money. The Federal Reserve is uniquely positioned to support the development of safe, reliable, accessible faster payments, given its integral role in the existing U.S. banking system. It is also capable of increasing industry competition in a way that consumers cannot, by directly intervening and improving upon existing payment systems.

Thanks to its support of the Faster Payments Task Force, the Federal Reserve already has an excellent blueprint for guiding industry stakeholders toward faster payments systems. The Task

² See CONSUMER REPORTS, MOBILE P2P PAYMENT SERVICES REVIEW (2018), <https://www.consumerreports.org/digital-payments/mobile-p2p-payment-services-review/>; CONSUMER REPORTS ADVOCACY, PEER-TO-PEER PAYMENTS ARE GENERALLY SAFE, BUT CONSUMERS MUST BE AWARE OF RISKS (2018), <https://www.consumerreports.org/digital-payments/mobile-p2p-payment-services-review/>.

Force, made up of a broad swath of financial institutions, technology providers, retailers, academics, consultants, and consumer interest organizations, developed Effectiveness Criteria (EC) to identify effective approaches for implementing faster payment capabilities in the United States. The EC, along with the Consumer Financial Protection Bureau's Faster Payments Principles,³ reflect extensive research and stakeholder dialogue that deserve further action.

Faster Payments Have Potential Consumer Benefits

Faster payments have the potential to benefit consumers by enabling them to manage money in real time. Use cases for faster payments include consumer-to-business, such as bill pay, business-to-consumer, such as payroll or insurance reimbursement, and consumer-to-consumer, such as sending money peer-to-peer to settle a debt. Real-time bill payments may prove to be both convenient and money saving: consumers may save a run to the post office for a money order and a race to the utility's office to pay a bill due that day, which in turn could result in paying fewer late fees. Faster payroll may give workers immediate access to wages: without having to wait days or weeks for their deposits to clear, they may find less need for short-term, high-cost products such as overdraft or payday loans. These benefits have the potential to bring consumers back into formal relationships with financial institutions by reducing or eliminating the unpredictable fees that may drive them away from traditional checking accounts – and toward riskier alternative financial services.

Faster Payments Systems Must Have Controls to Mitigate Risk

Despite the benefits, faster payments can also carry risks. These risks include consumer confusion, predatory practices, and increased fraud. The Faster Payments Council,⁴ the recently announced governance group for faster payments, has pledged to address the first of these concerns. We urge providers to address all of these issues as part of any governance framework to enable faster payments.

To reduce the risks of predatory practices, faster payment settlement should not result in overdrafts. Any new payments system must have controls to ensure that even in a real-time settlement environment, consumers are free from being subjected to obligations they cannot afford to repay. A decision to spend more than is available should be treated by account providers as a separate extension of credit that consumers must make a conscious, affirmative choice to take on, under the requirements of applicable laws as well as best practices for responsible lending.

³ CONSUMER FIN. PROTECTION BUREAU, CONSUMER PROTECTION PRINCIPLES: CFPB'S VISION OF CONSUMER PROTECTION IN NEW FASTER PAYMENT SYSTEMS (2015), *available at* https://files.consumerfinance.gov/f/201507_cfpb_consumer-protection-principles.pdf.

⁴ Press Release, Fed. Reserve, U.S. Faster Payments Council Proposed: Industry Encouraged to Review, Comment (Apr. 24, 2018), <https://fedpaymentsimprovement.org/u-s-faster-payments-council-proposed-industry-encouraged-to-review-comment/>.

To reduce fraud, new payments systems should not prize speed over safety. All faster payments systems should prevent, detect, remedy and punish fraudulent uses. Incentives should align to ensure that fraud is quickly rooted out, and that liability is allocated appropriately. Participants that repeatedly receive or approve unauthorized payments should be penalized or, if necessary, banned from participating in systems. Providers must offer robust customer care to ensure consumer remedies, including full refunds to users induced to authorize payments to fraudsters.

There are also data privacy and security issues that faster payments providers should work to remedy. Earlier this year, Consumer Reports conducted an in-depth investigation of five of the most widely used P2P services. While we found that these services are generally safe to use, we noticed worrying gaps. Most of the apps we looked at had terms and conditions that reserve broad rights to use user data for unrelated purposes, including targeted advertising. Many reserved the right to sell user information to third parties. We also found that providers often vaguely describe their data security practices, which makes it difficult to hold them accountable for keeping sensitive data away from prying eyes.⁵ Service providers must do more to make P2P safer for consumers, including collecting and sharing only the data necessary for system use; being more transparent about their data privacy and data security practices; and building additional safeguards into their services to prevent fraud and mistakes. All electronic payments providers, particularly those offering faster payments, should take these steps.

CR Applauds the Federal Reserve for Taking an Inclusive Approach to Improving the Payments System and Urges Continued Diligence in Seeking Consumer Input

Since the inception of its efforts to improve the payments system, the Federal Reserve has sought feedback from a wide range of stakeholders.⁶ CR appreciates these efforts, and has invested significant resources to support “a U.S. payment system that is safe, efficient and broadly accessible.”⁷ CR staff represented consumer interests on the Steering Committee for the Faster Payments Task Force and Governance Framework Formation Team, as well as the Steering Committee of the Secure Payments Task Force. We hope that as it considers its options to support interbank settlement of faster payments, as well as other efforts to improve the payments system, the Federal Reserve will continue to seek out and incorporate feedback from consumer interest groups like ours. Such input will help the Federal Reserve put the needs of consumers at the heart of its efforts.

Conclusion

Thank you for the opportunity to comment on actions the Federal Reserve might take in support of faster payments. We believe that faster payments have potential consumer benefits, but recognize that there are also potential downsides. While we will look to providers to be first in

⁵ See MOBILE P2P PAYMENT SERVICES REVIEW, *supra* note 2.

⁶ BD. OF GOVS., FED. RESERVE SYS., STRATEGIES FOR IMPROVING THE U.S. PAYMENT SYSTEM 24 (2015), available at <https://fedpaymentsimprovement.org/wp-content/uploads/strategies-improving-us-payment-system.pdf>.

⁷ *Id.* at 1.

line to mitigate the risks, there is a role for the Federal Reserve in ensuring that the system is competitive, safe, and prioritizes consumer needs. As the Federal Reserve continues its efforts to improve the payments system, we urge it to continue its inclusive approach as leader and convener of this crucial effort.

Sincerely,



Christina Tetreault
Senior Policy Counsel
Consumer Reports