

June 24, 2019

Via Electronic Submission

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551
regs.comments@federalreserve.gov

Re: Docket No. OP-1664

Dear Ms. Misback:

Nacha welcomes the opportunity to submit this comment letter to the Board of Governors of the Federal Reserve System (the “Fed”) in response to the notice and Request for Comment regarding the proposed extension of daily operating hours for the National Settlement Service (“NSS”) and corresponding extension of daily operating hours for the Fedwire® Funds Service (the “Request”).

Nacha and our co-signing Payment Association members strongly support the Request as a critical and immediately achievable step in the Fed’s facilitation of faster payments in the U.S., particularly in the ability of the industry to timely implement a later window for same-day settlement of entries within the Automated Clearing House (“ACH”) Network (“Same Day ACH”). In order for the industry to have sufficient certainty to implement the new same-day settlement window by the scheduled implementation date of March 19, 2021, it is essential that the Fed act promptly following the close of the public comment period to adopt the Request in final form.

I. BACKGROUND: NACHA AND THE ACH NETWORK

Nacha manages the development, administration, and governance of the ACH Network, the backbone for the electronic movement of money and remittance information in the United States. The ACH Network serves as a safe, secure, reliable and ubiquitous network for direct consumer, business, and government payments, and annually facilitates billions of payments moving trillions of dollars. The ACH Network is governed by the Nacha Operating Rules (“Nacha Rules”), which are developed and maintained by Nacha. In our role as the standards organization for payments through the ACH Network and author of the Nacha Rules, Nacha represents over 10,000 participating financial institutions of all sizes and types throughout the United States, both directly and through 11 Regional Payments Associations. Nacha’s rules development process includes input from and participation from all types of organizations, including both business and consumer end-user organizations, as well as the Fed and the Federal Reserve Banks.

Nacha also actively promotes the on-going enhancement of U.S. domestic payment systems generally, and the ACH Network specifically, by advocating for changes that improve the speed,

reliability and security of those systems. In particular, Nacha has been an active participant in the ongoing dialogue regarding the roadmap to faster payments infrastructure, including as a member of the Faster Payments Task Force, the Governance Framework Formation Team, the Faster Payments Council and the Secure Payments Task Force. Nacha views the effort to improve the U.S. payments system as a public-private partnership to which Nacha brings valuable insight as the industry organization charged with oversight of the ACH Network and its ongoing evolution.

II. COMMENTS ON THE REQUEST

A. Adoption of Same Day ACH is Robust and Implementation of the Third Settlement Window is Integral to Greater Use by Consumers and Businesses

Same Day ACH is a critical element of banking industry efforts to improve the speed and efficiency of the nation's payment systems. Since the initial implementation of Same Day ACH in 2016, over 339 million Same Day ACH entries have been processed. Moreover, the growth rate of Same Day ACH is strong now that the complete set of Same Day ACH functionality has been implemented, with a 137 percent increase in same day traffic year over year from 2017 to 2018.

Notwithstanding this success, significant opportunities exist for expanding the coverage of Same Day ACH and improving its utility for financial institutions and their customers. In response to industry requests for extended access to Same Day ACH processing windows, particularly among institutions in the Mountain and Pacific time zones, Nacha published for comment in December 2017 a proposal for a new, later Same Day ACH window. Nacha received strong support for the proposal from banks, credit unions, end users and service providers alike. On September 13, 2018, the Nacha membership voted to approve a new window to allow Same Day ACH files to be submitted until 4:45 p.m. ET (1:45 p.m. PT). The new window will be implemented effective March 19, 2021, provided that the Request is published in final form in a timely manner.

Input from across the industry as part of Nacha's Request for Comment process, including from financial institutions and end users, indicates that the Same Day ACH window will be used by financial institutions and their business and consumer customers for virtually all types of ACH payments, including payroll, business to business payments, consumer bill payment, consumer account to account transfer, and consumer person to person transfers. Indeed, half of all respondents to Nacha's December 2017 proposal said they would use the new window for "all eligible ACH transactions," and would not limit their use to specific use cases. In short, support for a later Same Day ACH window is widespread, and the availability of the window will enhance the speed, effectiveness and utility of the ACH system.

B. Extension of NSS and Fedwire Hours is Critical to the Implementation of the Later Same Day ACH Settlement Window

A pre-requisite for implementation of the third Same Day ACH window is availability of the NSS and Fedwire for settlement of those transactions. Even before the adoption of the third Same Day ACH window, Nacha has consistently encouraged the Fed to extend the NSS operating hours as an essential aspect of the drive toward a faster payments system. In 2013, Nacha commissioned a scan of ACH and instant payment schemes globally to better understand how different jurisdictions

settled fast batch and instant payments. This work was completed in the spring of 2013, and Nacha shared the results with the Fed in July 2013. Soon thereafter, in response to the Fed's publication in September 2013 of its "Payment System Improvement-Public Consultation Paper ("Consultation Paper"), Nacha wrote, "(t)o support a 21st century payment system, the Federal Reserve could expand the opening hours of the National Settlement Service to support daily settlement activity with longer opening hours, ideally on a near 24x7 schedule, even on weekends and holidays."

Similarly, the Fed's January 26, 2015 paper, Strategies for Improving the U.S. Payment System (the "2015 SIPS Report"), included an action item to "Expand the operating hours and other capabilities of the National Settlement Service." In particular, the Fed committed to "enhance the National Settlement Service to make it more attractive as a settlement vehicle for private sector arrangements. An improved service has the potential to empower private-sector innovation around solutions for making payments faster, safer and more efficient"¹ based on industry feedback received in response to the earlier Consultation Paper. Nacha strongly supported this statement.

While the Fed did extend NSS operating hours later into the day by 30 minutes, from 5:00 p.m. to 5:30 p.m. ET, that extension will not be sufficient to support the third Same Day ACH settlement window. Similarly, the policy of expanding service hours by reopening NSS after 9:00 p.m. ET on tomorrow's banking day does not address the needs of the industry to settle transactions later in the same banking day.

Accordingly, in response to the Board's October 2018 request for comment on Potential Federal Reserve Actions to Support Interbank Settlement of Faster Payments, Nacha and many other respondents supported the further extension of NSS and Fedwire operating hours. For example, the Payments Risk Committee, which advises the Federal Reserve Bank of New York, wrote "(t)he PRC encourages the FRB to consider enhancing the availability of existing critical FRB infrastructure with these possibilities: 1) Extend the Fedwire Funds service operating hours to include weekends, U.S. holidays and, potentially, additional evening hours on business days. ... Ultimately, the PRC does not want to limit the availability of Fedwire Funds during these extended hours to bank-to-bank transfers for the purpose of funding faster payments positions. The PRC sees significant benefit in extended Fedwire Fund operating hours for all transfers, including customer transfers. ... In closing, the PRC wishes to emphasize that its preferred liquidity management solution to support settlement of faster retail payments is the ultimate extension of the Fedwire Funds service operating 24/7/365 for all transfer types, including customer transfers. This is a strategic priority for the PRC."

While the proposed extension of NSS and Fedwire windows may be only one aspect of the Fed's overall approach to developing faster payments infrastructure in the U.S., it is an essential and achievable first step to provide results that will directly impact products and services that end users demand and that financial institutions seek to provide. As consistent input from Nacha and other industry representatives has demonstrated over the past few years, the need for the NSS and Fedwire extensions is real and immediate.

¹ 2015 SIPS Report at 21.

C. The Risk-Reward Balance Favors the Request.

The Request inquires regarding the risk implications of the proposed extended windows for NSS and Fedwire. In this regard, the Request focuses primarily on areas in which later settlement windows could increase risk and the ways in which risk can be mitigated. It is important to recognize, however, that the third Same Day ACH window will actually reduce credit risk, settlement risk, operational risk, and return risk within the ACH Network by supporting later clearing of positions within the network.

Furthermore, the timing of the new Same Day ACH processing window was specifically structured, with extensive input from industry participants, to balance the expansion of Same Day ACH through extended hours with the need to minimize impacts on financial institutions' end-of-day operations and the re-opening of the next banking day. While there is some additional risk for some institutions' evening operations due to "end-of-day compression," overall these changes will better position financial institutions for ongoing improvements in the payment system, including mitigation of other types of risk. Accordingly, we support the Fed's proposal to revise its Fedwire extension process as a potential risk mitigant in this regard. The dollar threshold for granting Fedwire extensions, and the minimum time period required for re-opening Fedwire after such extensions, have not been revisited since 2002. If the payment system is going to continue to evolve toward faster solutions, reassessment of these criteria is inevitable. The Request for support of the third Same Day ACH window offers a modest, controlled setting through which Fed and financial institutions can begin address these issues.

The proposed extension of NSS and Fedwire operating hours provides significant net benefits to financial institutions, end users and the payment system as a whole. Given that there are aspects of the Request that both decrease and increase risk, the balance of risk/reward weighs heavily in favor of implementing the Request, including changes to mitigate those risks that might otherwise increase.

D. Timing

We strongly urge the Fed to act expeditiously in issuing a final rule. As indicated above, the Request has not been made in a vacuum. It is the culmination of years of effort, including multiple opportunities for comment on the concepts for extended NSS and Fedwire operating hours, if not the specific deadlines set forth in the Request, as well as delays in promulgating the Request while the Fed assessed relevant background materials. The proposed windows were integral to the approval of the third Same Day ACH window with substantial support from the Nacha Membership and the industry as a whole, including for the March 19, 2021 effective date of the Nacha Rule changes. While the industry is well apprised of that impending deadline, financial institutions are loathe to commit resources in advance of assurance that the Request will be adopted. Thus, it is essential that the Fed act promptly on the Request in order to provide affected institutions as much time as possible to implement changes to their end-of-day processes.

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Nacha appreciates the opportunity to provide comments in response to the Request. If you have any questions regarding our comments, please do not hesitate to call me at 703-561-3927, or our counsel at Sidley Austin LLP in this matter, David E. Teitelbaum, at 202-736-8683.

Sincerely,



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Chief Operating Officer

/s/
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cc: David E. Teitelbaum, Esq.