

November 7, 2019

Ann Misback
Secretary, Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Docket No. OP – 1670, Federal Reserve Actions to Support Interbank Settlement of Faster Payments

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

The 28 undersigned consumer, civil rights and community advocates write to urge the Federal Reserve Board (FRB) to ensure rigorous consumer protections as it develops its FedNow service. We applaud the FRB's plan to create its own real time payment system to provide competition and to ensure that the broader interests of consumers and the public at large are protected. FedNow will allow financial institutions of all sizes to offer access to faster payments, making it possible for both consumers and businesses to benefit from the widespread availability of faster financial transactions. Building vital consumer protections into the Fed Now system is essential to FedNow's ability to meet the goal of making real time payments available to and safe for all consumers. Without necessary guardrails in place, consumers will not be able to access the intended benefits of the real time payments because they will instead face greater risks. We especially urge the FRB to address the following critical consumer protection issues for FedNow:

No overdraft fees. Overdraft fees originated as a courtesy to cover a check that might bounce due to the delay between writing and clearing checks. Overdraft fees have no place in a real time payment system that eliminates this delay entirely. FedNow must require confirmation of good funds before a real time payment can be sent and prohibit participating banks from approving amounts greater than the available balance in a consumer's bank account. Otherwise, institutions may find a way to preserve those fees even in a system predicated on good funds where there is no place for them. Rules governing real time payments through FedNow must ensure that only available funds can be sent in real time.

Data security and privacy. Real time payments often give providers access to sensitive financial data and private information. The FRB must play a role to ensure that data is held securely; that only data necessary for the transaction is collected, and for the minimum time necessary; that the data is not used or shared in ways that violate consumer privacy; and that consumers can easily terminate access to their data.

User directory. We recognize the importance of a FedNow user directory for interbank settlement and to target fraudulent use. We urge the FRB to ensure the directory is used to help consumers transfer funds safely. At the same time, we are very concerned about who would have access to a directory that may contain sensitive information about consumer depository accounts

as well as Federal Reserve master accounts. We are especially concerned that depository institutions or their agents may be able to take advantage of the directory to identify and locate consumer accounts at other depository institutions for debt collection purposes. In addition to strong data security safeguards, the FRB must establish rules that prohibit this type of misuse and only allow access to the consumer data needed for each real time payment transaction. If the FRB decides to create a user directory for FedNow, the FRB should deny agency privileges to non-depository institutions that have been subject to heightened supervision or enforcement actions due to privacy or security violations.

Fraud prevention. Real time payments cannot mean faster fraud without recourse. Systems that make it faster and easier to pay anyone can be exploited by scammers. Consumers should not bear increased liability for not detecting fraudulent transactions simply because they happen in real-time. It is crucial for the FRB to enact rules to prevent, detect, remedy and punish fraudulent uses of its system. It is insufficient to rely only on the participating banks for fraud detection and prevention. In no instance should fraud that attends the RTP system be governed primarily by private contract between banks and consumers. The FRB can go a long way to mitigate fraud by incorporating a system to monitor transactions overnight, on weekends and during holidays into its FedNow service. In those rare instances when there are red flags of fraud, institutions should have the ability and duty to place a hold on transmitted funds even if the normal expectation is real time availability. It is also critical that not only sending but also receiving institutions have a duty to monitor and take responsibility for fraud, as fraudsters can only exploit faster payments if they have an account where they can receive funds. We also urge the FRB to review the fraud prevention mechanisms of existing banks to better understand how consumers will be impacted by the implementation of FedNow.

Accessibility, availability, and equity. The benefits of real time payments will not be fully realized if real time payments are not ubiquitous, reaching all consumers and even the smallest financial institutions. FedNow has the potential to truly make real time payments available to all. To make this possible, the FRB must take the needs of all consumers into account to make sure that faster payment systems are accessible and work well for all types of users. As the FRB contemplates the infrastructure and design of FedNow, it should take heed to consider different issues for distinct communities, such as those with limited English proficiency, individuals with disabilities, and older consumers so that everyone can benefit from the efficiency and reliability of real time payments while also addressing unique security and fraud risks. The FRB must also understand and accommodate the need of consumers who do not have full access to or facility with the internet, mobile devices, or electronic communications. As it stands, most consumers have little knowledge of the workings of payment systems and other critical financial sector infrastructure. In this context, the implementation of FedNow presents an educational opportunity: the public can learn about the nature of payments systems in general and better appreciate the role that public institutions play in banking and commerce.

We appreciate the FRB's effort to include public input in the development of FedNow and thank you for the opportunity to submit these comments. We support the FRB's efforts to create and operate an independent real time payment system and ask that the FRB prioritize incorporating consumer protections into FedNow's design and operations.

Thank you for the opportunity to submit these comments. If you have questions, please contact Linda Jun at linda@ourfinancialsecurity.org or 202-715-8919.

Sincerely,

Americans for Financial Reform Education Fund
Allied Progress
Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces
Consumer Action
Consumer Federation of America
Consumer Federation of California
Demand Progress Education Fund
Florida Alliance for Retired Americans
GLOBAL GREEN INITIATIVE
Hispanic Baptist Convention of Texas
Housing Action Illinois
Main Street Alliance
Montana Organizing Project
NAACP
National Advocacy Center of the Sisters of the Good Shepherd
National Association of Consumer Advocates
National CAPACD - National Coalition for Asian Pacific American Community Development
National Fair Housing Alliance
New Economics for Women
OnTrack Financial Education & Counseling
PathWays PA
Public Justice Center
THE ONE LESS FOUNDATION
The Value Alliance
U.S.PIRG
Virginia Citizens Consumer Council
VOICE-OKC
West Virginia Center on Budget and Policy