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National Association of Federally-Insured Credit Unions

August 2, 2021

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

RE: Potential Modifications to the Federal Reserve Policy on Payment System Risk To Expand Access to Collateralized Intraday Credit, Clarify Access to Uncollateralized Credit, and Support the Deployment of the FedNow Service (Docket No. OP-1749)

Dear Ms. Misback:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in response to the Request for Comment (RFC) issued by the Board of Governors of the Federal Reserve System (Board) regarding proposed changes to part II of the Federal Reserve Policy on Payment System Risk (PSR Policy). NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve 125 million consumers with personal and small business financial service products. NAFCU generally supports changes to the PSR Policy that will facilitate adoption of the FedNow Service but asks that the Board ensure that credit unions who are not users of FedNow do not face additional burdens when seeking access to intraday credit or managing intraday credit risk.

General Comments

NAFCU has long been supportive of the Board's involvement in developing FedNow to facilitate adoption of real time payments. Accordingly, NAFCU supports amendments to the PSR policy that are designed to conform intraday credit and overnight overdraft policies with the 24x7x365 operating environment of FedNow. NAFCU recognizes the need to update the definition of a business day, which the proposal specifies as the 24-hour duration beginning immediately after the previous day's regularly scheduled close of the Fedwire Funds Service and the FedNow Service. However, we ask that the Board ensure that the definition reasonably accommodates interoperability with private settlement systems.

NAFCU is concerned that proposed changes to daylight overdraft and penalty fee calculations will negatively impact institutions that are not FedNow users. The proposal notes that due to the proposed 24-hour business day, the effective annual overdraft rate would continue to be 50 basis points, but the effective daily daylight overdraft rate would increase under the 24-hour business day. While the increase is presented as relatively small (less than 0.4 percent), imposing a higher fee for daylight overdrafts would be unfair to those credit unions that do not utilize FedNow's 24-hour business day.

The proposal also recognizes that institutions that do not have access to the liquidity management tool (LMT) available to FedNow users will need to manage account balances to avoid overnight overdrafts. For credit unions that are not FedNow users, not having access to LMT will be disadvantageous from the perspective of managing account balances, regardless of whether the credit union intends to send or receive real time payments.

Although overnight overdrafts are generally uncommon, NAFCU is concerned that conditioning access to the LMT on FedNow participation will deny non-participant credit unions access to an important tool that is useful for managing the risk of overdraft penalties over weekends and holidays. The Board recognizes the LMT's usefulness in this context, but only for FedNow participants, stating "FedNow Service participants that incur an overnight overdraft before a weekend or holiday will have the opportunity to achieve a positive balance before the close of business day on a Saturday, Sunday, or holiday." Yet, the proposed revisions penalize non-users, stating "institutions that are not FedNow Service participants and incur an overnight overdraft before a weekend or holiday will not have the opportunity to achieve a positive balance before the end of the weekend or holiday."

NAFCU recommends that the Board decouple the LMT from FedNow participation so that all credit unions with accounts at Reserve Banks may benefit from its functionality. NAFCU believes that independent access to the LMT will facilitate development of a robust faster payments market and improve the credit union industry's ability to manage intraday credit risk.

NAFCU also supports elimination of the fee-escalation feature in the Overnight Overdrafts policy. As the Board notes, the escalation feature is rarely triggered and the Reserve Banks have other risk-mitigation tools at their disposal.

Clarifying Access to Uncollateralized Capacity

In general, institutions that secure their use of intraday credit with collateral are not charged for daylight overdrafts, while institutions that incur uncollateralized daylight overdrafts are charged a fee. As the Board notes, the PSR policy does not detail when an institution can request and maintain uncollateralized capacity; indicating only that at an institution must be financially healthy and have regular access to the discount window in order to adopt a net debit cap greater than zero. While greater specify concerning this aspect of the PSR policy may be beneficial for nontraditional institutions, NAFCU believes the revised framework for evaluating requests for uncollateralized capacity should not correspond with greater supervisory burdens for credit unions. Additionally, the Board should clarify how it will evaluate the unique risks posed by nontraditional banking entities, such as those not subject to the Bank Holding Company Act (BHCA) or not federally insured, that request a positive net debit cap.

Under the proposed PSR policy, an institution's eligibility to adopt and maintain a positive net debit cap would be based on an assessment of its creditworthiness, which results from the institution's (1) PCA designation or foreign banking organization PSR capital category, and (2) most recent supervisory ratings. The proposal also incorporates changes that would clarify the impact of an institution's holding company's or affiliate's supervisory rating on the institution's eligibility for a positive net debit cap. For nontraditional entities that have special purpose charters or those that would not be regarded as BHCA banks, but could potentially gain access to the payments system, the Board should clarify how it will evaluate the risks of approving a positive net debit cap. NAFCU believes such an approach would align with the Board's separate proposal regarding guidelines for evaluating account and service requests, which recognizes the need for heightened due diligence when considering the risks posed by nontraditional banking entities.[1]

Conclusion

NAFCU appreciates the opportunity to comment on the proposed modifications to the PSR policy and supports the Board's efforts to update the policy to reflect the continuous operational environment of FedNow. NAFCU recommends that the LMT be made available to credit unions that are not FedNow participants and that overdraft related changes do not disfavor credit unions that are not FedNow users. If you have any questions, please do not hesitate to contact me at 703-842-2266 or amorris@nafcu.org.

Sincerely,

Andrew Morris

Andrew Morris
Senior Counsel for Research and Policy

[1] See Board of Governors of the Federal Reserve System, "Proposed Guidelines for Evaluating Account and Services Requests," 86 Fed. Reg. 25865, 25866 (May 11, 2021).