

September 26, 2019

Dear Rep. Lynch,

Thank you for holding this important hearing on the future of real-time payments. The undersigned consumer, civil rights and community advocates write to express our support for the Federal Reserve Board (FRB)'s plan to develop a new real-time payment system to support faster payments in the United States. We emphasize the need to incorporate strong consumer protections into the new FedNow Service system.

Electronic payments seem instantaneous, but they are not. The primary electronic payment system today, the ACH system, was adopted decades ago, and payments can take one to three days to clear. The Clearing House, an organization owned by the largest banks, is building a new, real-time faster payment system. In light of this development, we applaud the Federal Reserve Board's plan to create its own faster payment system to provide competition and to ensure that the broader interests of consumers and the public at large are protected. The FRB's new system 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.

Benefits of faster payments. More modern and faster, close to real-time payments hold a number of potential benefits for consumers. Families living paycheck to paycheck will be able to receive their wages more quickly and more easily pay bills when due without late fees. Faster payments based on good funds, without the delayed clearing time experience today for checks and ACH payments, will give consumers greater certainty about their balance, helping them manage their money and avoid overdraft fees. More ubiquitous, free or low-cost person-to-person payment options will make it easier to pay landlords, split rent, receive money from family members or a community organization for an emergency, or be paid electronically for household employment.

Mitigation of risks posed by faster payments and of a system controlled by the big banks. The FRB's FedNow Service has the potential to provide widespread access to the public with necessary safeguards to protect against fraud and misuse. A single dominant faster payment system controlled by the biggest banks may lack strong consumer protections, lead to monopoly pricing, or disadvantage smaller institutions. Moving money instantly brings real risks of fraud, errors, and weakened consumer protections. Institutions that are dependent on overdraft fee revenue may find a way to preserve those fees even in a system predicated on good funds. The benefits of faster payments will not be fully realized if faster payments are not ubiquitous, reaching all consumers and even the smallest financial institutions, and the new FRB system can make this possible.

Importance of FRB role in critical financial sector infrastructure. Normally, the private market can provide competition for financial services. But the development of a real-time, ubiquitous payment system is a complex, expensive undertaking that provides critical infrastructure on which all participants in the financial system will depend. Having this critical infrastructure solely in private hands could permit large-scale private monopolies to abuse customers and tilt the competitive playing field, which is of particular concern as tech companies like Facebook

also look to enter the payment systems space. In addition, because the payments system is crucial to the day-to-day functioning of the financial system, any private entities controlling the payment system will automatically become "too big to fail". A FRB FedNow Service that is subject to transparent public control will ensure competition, making it more likely that faster payments will serve everyone equally, and will ensure that the payment system continues to operate in periods of financial stress when private entities may fail. The FRB's role as an operator of the current ACH electronic payment system has helped to keep that system very low cost and has the potential to do the same for faster payments with its new system. A competing faster payments network can also help avoid the risks of giving The Clearing House, the operator of the real time payments network, a monopoly position.

Importance of FRB role in ensuring consumer protections. Another important benefit of the FRB's development of its own faster payments system is that a neutral agency charged with protecting the public at large – and not solely an industry group – will shape the development of and rules governing that payment system. The FRB has a duty to seek notice and comment from all stakeholders in the development of rules and to objectively consider the costs and benefits to all, unbiased by the profit motive of an industry-led group. The voices and concerns of consumers are less likely to be disregarded.

Here are some of the critical consumer protection issues that the FRB must ensure are addressed in the development of their FedNow Service:

- No overdraft fees. Overdraft fees originated as a courtesy to cover a check that might bounce due to the delay between writing and clearing. Overdraft fees have no place in a faster payment system, yet some institutions are considering ways to preserve overdraft fee revenue. The rules governing faster payment systems must require good funds and prohibit overdraft fees and disguised high-cost loans.
- Faster payment must not mean faster fraud without recourse. Systems that make it faster and easier to pay anyone can be exploited by scammers. We have already seen rising fraud in Venmo, Zelle and other faster payment services. Yet the providers of these faster payment systems, who are allowing fraudsters to receive funds, are taking no responsibility for the fraud and telling consumers they are on their own, with no recourse. Systems should not prize speed over safety. All faster payments systems should have rules to prevent, detect, remedy and punish fraudulent uses, even if the consumer was fraudulently induced to send money to a scammer.
- Privacy and data security. Faster payment services 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, 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.
- Ubiquity, inclusion and equal access for all. While the percentage of consumers who are unbanked has been dropping, many remain outside of the financial system. Faster payment systems may pose different issues for distinct communities, such as those with limited English proficiency, individuals with disabilities, and older consumers. 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.

We support the FRB's efforts to create and operate an independent faster payment system of its own and look forward to working with both the FRB and Congress to ensure that consumer protection concerns are fully incorporated into the rules and development of all faster payment systems.

Sincerely,

Americans for Financial Reform
Action Center on Race and the Economy
Allied Progress
Center for Responsible Lending
Consumer Action
Consumer Federation of America
Heartland Alliance
Main Street Alliance
NAACP
National Association of Consumer Advocates
National Center for Law and Economic Justice
National Consumer Law Center (on behalf of its low income clients)
National Housing Resource Center
New Jersey Citizen Action
Public Justice Center
U.S. PIRG
Virginia Citizens Consumer Council
Woodstock Institute