

Submitted via federalreserve.gov

September 9, 2021

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

Re: Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through Fedwire, Docket No. R-1750; RIN 7100-AG16

Dear Ms. Misback,

The undersigned consumer, civil rights, community and other advocacy organizations write to express our support for the Federal Reserve Board (FRB)'s continued development of its FedNow Service. As the FRB notes in the introduction of its proposed rule, real time payments provide both individuals and businesses with more flexibility in managing their money and enable them to make instant payments when they are needed, which will have a positive impact on the entire economy.<sup>1</sup> We applaud the FRB taking steps to move forward with the development of the FedNow Service through this rulemaking. The FRB's own real time payment system will prevent a private monopoly market, and better protect the broader interests of consumers and the public at large. Launching the FedNow Service will be a crucial step towards making faster payments a widespread reality for consumers and small businesses in the United States because it will allow financial institutions of all sizes to offer access to real time payments.

Real time payments can provide several potential benefits for consumers. Faster payments based on good funds, without the delayed clearing time needed for checks and ACH payments today, will give consumers greater certainty about their balance, helping them manage their money and avoid overdraft fees. Families living paycheck to paycheck will be able to receive their wages more quickly and more easily pay bills when due without incurring late 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 other sources of support for an emergency, or be paid electronically for household employment.

By setting up a competing faster payments network, the FRB can also help avoid the risks of giving a monopoly position to The Clearing House, the current operator of the real time payments network. While the Clearing House system is advertised as being open to all depository institutions, 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

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<sup>1</sup> 86 FR 31376.

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 FedNow Service will help make the benefits of faster payments much more widespread by making it more possible to reach all consumers and the smallest financial institutions. A FRB system that is subject to transparent public control will ensure competition, making it more likely that faster payments will serve everyone equally, and deliver a payment system that can continue 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 the FRB has the potential to do the same for faster payments with its new system.

To give consumers the full benefits of real time payments that the FedNow Service can provide, it is absolutely critical that the FRB launch a secure system that functions as intended and has robust consumer protections in place. The FRB, as a public agency, has a public responsibility to ensure that its system is safe, especially for those users for whom fraud or errors can be devastating. The FRB can provide a model for other systems developed by private companies that do not have the same public accountability. However, the proposed rules must be strengthened significantly to provide adequate safeguards for consumers and small business users. We urge the FRB to make sure that the following essential consumer protections are directly incorporated into the FedNow rules before launching its FedNow Service. As long as such improvements are made to the FedNow rules, the FedNow Service will be able to provide widespread access to the public with necessary safeguards to protect against fraud and misuse.

**Fraud prevention.** The ability of anyone to receive money electronically quickly, with immediate funds availability and finality, is ideal for scammers and opens the door to greater fraud and exploitation than traditional payment systems. Faster payments must not mean faster fraud without recourse, but the rules as proposed provide insufficient protection. The FRB should include rules to prevent, detect, remedy, and punish fraudulent uses, even if the consumer was fraudulently induced to send money to a scammer. Service providers should be required to build protections into their systems, and institutions that allow scammers to create and hold accounts to receive fraudulent conduct should be held responsible. Such rules will give the providers of faster payment systems and receiving institutions the incentive to develop and constantly improve measures to better prevent fraud and stop it as soon as possible.

**Error resolution.** The FedNow rules also need greater safety measures to prevent and resolve costly errors. Mismatched information indicating potentially incorrect recipient information should be addressed, and the Federal Reserve Banks should be required to look for and act on inconsistencies between the name on a payment order and a number that identifies the recipient. The FRB should aggregate and share information to maximize error prevention and consider creating a central directory of end users to allow institutions to check the consistency of the information provided and enable payors to verify the recipient. A directory would help to ensure that consumers are sending funds to the correct person and might also be used to ensure that an email, cell phone, or other identifier are not linked to the wrong account or an imposter account. Receiving institutions should be permitted to delay acceptance of a payment order or immediate funds availability in cases of suspected fraud or mistake.

**Privacy and data security.** Faster payment services often give providers access to sensitive financial data and private information. The FRB should incorporate protections 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.

**Greater scrutiny before international use.** Because sending and receiving money from abroad comes with greater risks, international use of faster payments should not be permitted until the heightened fraud and error resolution risks of international transfers are addressed. International transfers should be forbidden or made consistent with the Electronic Funds Transfer Act (EFTA), which gives senders of international remittances 30 minutes to cancel a transfer.

**Right to immediate availability of funds.** In the absence of suspected fraud or error, consumers should have an enforceable right under the FedNow rules to immediate funds availability to allow consumers to actually rely on the FedNow Service. The vast majority of payments can still be processed immediately with immediate funds availability. While the proposed rules require immediate funds availability, they do not provide consumers or small businesses any rights to enforce that availability and relegate them to the much slower funds availability rule of the Expedited Funds Availability Act, which will not give them the relief needed for any harm they suffer as a result of funds not being immediately available, such as late fees.

The FRB should work closely with the Consumer Financial Protection Bureau (CFPB) to ensure that the FedNow ecosystem is safe for participants. The two agencies should work closely together to develop a comprehensive set of proposed regulations that both facilitates faster payments and sufficiently protects consumers and small businesses.

We appreciate the FRB's effort to include public input in the development of its FedNow Service 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 incorporate adequate consumer protections into FedNow's design and operations so that the system is safe, secure and effective for the consumers and small businesses who will be using it.

Sincerely,

Americans for Financial Reform Education Fund  
AL NAACP Economic Dev./Empowerment Programs  
American Postal Workers Union, AFL-CIO  
Ceiba  
Center for Economic and Policy Research  
Public Citizen  
Take on Wall Street