

January 31, 2020

*Via Electronic Submission*

Mr. Ian Macoy  
Bureau of the Fiscal Service  
3201 Pennsy Drive  
Building E  
Landover, MD 20785

Re: Docket No. FISCAL-2019-0001

Dear Mr. Macoy:

Nacha and our co-signing Payment Association members welcome the opportunity to provide comments on the notice of proposed rulemaking (the “Proposed Rule”) regarding the Federal Government Participation in the Automated Clearing House (“ACH”), which was published by the Department of the Treasury, Bureau of the Fiscal Service (the “Fiscal Service”) on January 3, 2020. Title 31 CFR part 210 (“Part 210”) governs the use of the ACH Network by Federal agencies, and incorporates the Nacha Operating Rules (“Nacha Rules”) published by Nacha, with certain exceptions. The Proposed Rule would amend Part 210 to incorporate amendments to the Nacha Rules through 2019, to identify provisions of such amendments and other Nacha Rules that would not apply to Federal agencies and to add a new rule impacting reclamations initiated by Federal agencies that will not otherwise apply to other ACH participants.

**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 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 Rules. Nacha’s rule development process includes input and participation from all types of organizations, including both business and consumer end-user organizations, as well as Treasury, the Federal Reserve Board of Governors and the Federal Reserve Banks. Nacha itself represents approximately 10,000 participating financial institutions of all sizes and types throughout the United States, both directly and through 11 Payments Associations.

The Nacha Rules are amended through a deliberative and inclusive process similar to that used by Federal agencies under the Administrative Procedures Act. This allows participants in the ACH Network and their customers and service providers – commercial banks, community banks, credit unions, large corporations, small businesses, consumer advocates, industry vendors and governmental entities – the opportunity to comment on proposed rule changes. Additionally, the membership of the Rules and Operations Committee, which has the responsibility to evaluate and create proposed rules changes, is comprised of representatives

from diverse organizations. Both the Fiscal Service and its banking agent, the Federal Reserve Banks, participate actively in the Rules and Operations Committee and thereby have early and frequent input on Nacha Rules proposals. Through this comprehensive and inclusive process, Nacha is able to maintain a fair and equitable set of rules that create certainty for all parties using the ACH Network. The Nacha Rules work in concert with applicable laws and regulations to provide a legal and business foundation for the use of ACH payments.

Private-sector rulemaking provides the flexibility to promptly identify and respond to participant requirements and new technologies, and to define in sufficient detail the roles and responsibilities of participants in the ACH Network. From this foundation, the Nacha Rules promote innovation and efficiency, and provide certainty regarding ACH payments.

## **II. Nacha Comments on the Proposed Rule**

Nacha strongly supports the Fiscal Service's proposal to adopt all of the 2017, 2018 and 2019 amendments to the Nacha Rules, especially the amendments to Same Day ACH that become effective in 2020 and 2021. The ACH Network and its participants benefit greatly when all are acting consistently according to a single set of operating rules.

Further, the benefits of Same Day ACH to the U.S. economy are enhanced when the capability is available across the entirety of the ACH Network, including at the U.S. Treasury – one of the ACH Network's largest users. More specifically, the expanded Same Day ACH capabilities will enable the Fiscal Service greater ability to make and receive same-day payments up to \$100,000 per payment and up to two hours later on every banking day. Use cases for these capabilities include emergency assistance payments, tax refunds, off-cycle payroll and benefit payments, vendor payments, tax collections and tax withholding remittances.

Nacha also supports the Fiscal Service's proposal to adopt the rule to Supplement Fraud Detection Standards for WEB Debits (i.e., the account validation rule). We encourage the Fiscal Service to adopt the same effective date as the private sector, which provided a period of more than 28 months to implement the rule. While Nacha understands that there are costs involved with implementing the rule, it serves an important purpose to improve fraud detection and reduce the incidence of rejected payments. In addition, we think that any increase to ongoing costs will not approach levels that would make ACH an unattractive payment option for the Fiscal Service. Specifically, the alternative payment method referenced in the Proposed Rule includes similar ongoing per-payment costs for every transaction initiated, regardless of whether a payment account number has been used previously, and also generally incurs the highest per-payment costs for non-PIN, card-not-present payments. In contrast, the account validation rule applies only to the first use of new or changed account numbers used for debit WEB entries, and not to every ACH payment initiated by the Fiscal Service or even all debit WEB entries.

Finally, though not related to a Nacha rule change, Nacha supports the Proposed Rule to revise the definition of "actual and constructive knowledge of death" in connection with reclamation entries so that the definition applies to agencies' constructive or actual knowledge of death as well as that of the account holding institution. We would expect this change to have a positive impact in preventing reclamations from being initiated many years after an agency ceases to make recurring benefit payments.

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Nacha appreciates the opportunity to provide comments on the Proposed Rule. If you have any questions regarding our comments, please do not hesitate to call me at 703-561-3943.

Sincerely,

/s/

William D. Sullivan  
Senior Director & Group Manager  
Government & Industry Relations

/s/

Laura Steele, AAP  
President & Chief Executive Officer  
ePayResources

/s/

Susan K. Doyle, AAP  
President  
EPCOR

/s/

Robert Dael  
President  
MACHA – The Mid-Atlantic Payments Assoc.

/s/

Sean Carter, AAP, NCP  
President & Chief Executive Officer  
NEACH

/s/

Kevin J. Christensen CISA, CRISC, CTGA  
Chief Executive Officer  
SVP, Market Intelligence & Data Analytics  
SHAZAM, Inc.

/s/

Donald S. Jackson, AAP, CTP  
President & Chief Executive Officer  
Southern Financial Exchange

/s/

Angi Farren, AAP, APRP  
President & Chief Executive Officer  
Upper Midwest ACH Association

/s/

Mary M. Gilmeister, AAP, NCP  
President  
WACHA – The Premier Payments Resource

/s/

William J. Schoch  
President & Chief Executive Officer  
WesPay