

October 13, 2021

Via Electronic Submission

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

Re: Docket No. FISCAL-2021-0002

Dear Mr. Macoy:

Nacha and our co-signing Payments 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 August 18, 2021. 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 the 2021 Nacha Rules, with certain exceptions.

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 10 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 can 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 and our co-signing members strongly support the Fiscal Service's proposal to adopt the majority of the amendments to the Nacha Rules that became 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.

In particular, we especially support the adoption of the amendment to Same Day ACH that was approved by Nacha in March 2021 and will become effective on March 18, 2022. This amendment will increase the dollar limit for Same Day ACH payments to \$1 million, enabling additional use cases and adoption of Same Day ACH. The benefits of Same Day ACH to the U.S. economy are enhanced when the capability is available uniformly across the entirety of the ACH Network, including at the U.S. Treasury – one of the ACH Network's largest users.

Nacha acknowledges and understands Fiscal Service's decision to not participate in the ACH Contact Registry. Nevertheless, we ask the Fiscal Service to consider ways to make appropriate contact information available to other financial institution participants in the ACH Network that would enable quicker resolution of ACH exceptions and questions from FI without unduly disclosing sensitive information.

III. The Fiscal Service's Review Process

Finally, as a large participant in the ACH Network, the decision by the Fiscal Service about whether to comply with any aspect of the Nacha Rules can have a broad impact across the entire ACH Network. Nacha would welcome Fiscal Services implementing a process to provide for annual adoption of Nacha Rules amendments. We believe that adopting Nacha Rules annually would be beneficial for both the Fiscal Service and the broader industry in following a single set of operating rules.

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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/

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/s/

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