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Via Electronic Submission

Natalia V. Li
Deputy Director
Office of Financial Institutions Policy
Department of the Treasury
Washington, D.C. 20551

www.regulations.gov

Dear Ms. Li:

Nacha welcomes the opportunity to submit this comment letter to the Department of the Treasury (the "Treasury") in response to the request for comment on Treasury's mandate under Executive Order 14067, *Ensuring Responsible Development of Digital Assets*.

Nacha is keenly interested in the modernization of the payments infrastructure in the U.S., including through the potential role of digital assets in payments, and also through enhancements to existing infrastructure. While digital assets might have a role in the improvement of the payments infrastructure over the long run, the extension of operating hours of the Federal Reserve's interbank settlement service is a nearer-term improvement that can benefit a number of existing payment systems, including the ACH system.

Nacha views the effort to improve the U.S. payment system as a public-private partnership. As the Treasury explores how digital assets can complement existing financial services in general, Nacha will explore in this letter the potential to improve the U.S. payment system by expanding and supplementing existing inter-bank settlement mechanisms, including through the use of digital assets.

I. Nacha and the ACH Network

Nacha governs the thriving ACH Network, the payment system that moves safe and fast Direct Deposits and Direct Payments to accounts at all U.S. bank and credit unions. More than 29 billion ACH Network payments were made in 2021, moving a total of $72.6 trillion. The Treasury and other Federal agencies use the ACH Network for payroll and benefit payments; tax collections and refunds; assistance and emergency payments; Medicare and other health claim payments; grants; bill collections; contractor payments; and for many other uses.

The ACH Network is governed by the Nacha Operating Rules ("Nacha Rules"). Nacha represents nearly 10,000 financial institutions of all sizes and types throughout the United States, both directly and through 10 Payments Associations. The Treasury is a long-standing and active participant in the development process for the Nacha Rules.

II. Opportunities for Improvement in the Payments System Infrastructure

From our vantage point as the organization that oversees the ACH system and its ongoing evolution, Nacha has been closely involved in the introduction of faster payments, specifically Same Day ACH which launched in 2016. In 2021 the ACH Network processed more than 600 million Same Day ACH payments transferring $944 billion. With this capability, the modern ACH Network settles and makes funds available from interbank payments four times per banking day.

Currently, though, neither Same Day ACH nor standard ACH payments can be settled on weekends, holidays, and even "after hours" on banking days. This is because the interbank payment settlement service provided by the Federal Reserve ("the Fed") is closed. Other payment methods and systems that rely on Fed settlement also cannot settle during these hours when the service is closed. While digital assets might have a role in the improvement of the payments infrastructure over the long run, the extension of operating hours of the Fed's interbank settlement is a nearer-term improvement that can benefit a number of existing payment systems, including ACH.

As an example, the private-sector ACH Operator[1] performs settlement of ACH payments through the Fed's National Settlement Service ("NSS"). This means that the private-sector ACH Operator cannot settle ACH payments when NSS is closed on banking days from 6:30 pm ET to 7:30 am ET the next morning, or on weekends and holidays. Nacha and others have advocated since at least 2013 for the extension of operating hours of NSS. This would facilitate faster ACH payments, and provide immediate public benefits through faster payments for payrolls, bills and invoices, account transfers, and many other uses. These public benefits could be realized independently of the introduction of digital assets for use as payments or as a payment settlement mechanism, and also independently of the introduction of the Fed's planned instant payment system ("FedNow").

In January 2015, the Fed released its Strategies for Improving the U.S. Payment System Report ("SIPS Report") that included five strategies for the improvement of U.S. payment systems. Strategy 5 included a three-phase plan to implement the Fed's intention "to enhance the [NSS] to make it more attractive as a settlement vehicle for private-sector arrangements" with the exploration of 24x7 operating hours.[2] While the Fed has made some incremental progress toward these commitments since the SIPS Report was published, more substantial progress on the modernization of payment system-agnostic interbank settlement and liquidity management has lagged, and it is no longer apparent that this remains a goal of the Fed.

Beyond existing mechanisms that could be enhanced to provide immediate improvement to the speed and availability of payments, a digital asset such as a Central Bank Digital Currency (CBDC) could also provide a settlement mechanism that could accelerate payments. If the Fed were to introduce a CBDC, the new asset could disrupt consumer and business payments as well as deposit-based lending in fundamental and profound ways. To mitigate adverse impacts of such a disruption but recognizing the broad desire to modernize existing

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[1] The Clearing House
[2] Strategies for Improving the U.S. Payment System, https://fedpaymentsimprovement.org/wp-content/uploads/strategies-improving-us-payment-system.pdf

payment systems by expanding interbank settlement capabilities, Nacha has suggested to the Fed an incremental approach to the introduction of a CBDC. Specifically, Nacha has encouraged the Federal Reserve to introduce any CBDC initially as a form of central bank money solely for the purpose of settling interbank payments. The settlement function of a CBDC could initially operate in parallel to the NSS, the Fedwire Funds Service, and the Liquidity Management Transfer transaction, which is currently positioned to be limited solely to participation in FedNow. The role of the CBDC could evolve to become a primary settlement mechanism and liquidity management tool as confidence in its use builds.

Initial deployment of a CBDC for the limited purpose of settling interbank transfers offers several potential benefits. First, it would demonstrate the viability of the CBDC design and functionality among a community of regulated users. Second, it would enhance the functionality and capabilities of existing settlement services in ways that fulfill long-stated Fed goals. Third, it would enable the United States to supplement its monetary system with the benefits conferred by the technological advancement of digital currency, while allowing further time to assess the potential implications for disintermediation, access to credit, and consumer privacy that could result from models that allow a CBDC to circulate more broadly in the economy. Finally, it would allow the private sector to innovate in the creation and use of stablecoins without direct competition from the central bank. Learnings from stablecoins could be applied to any eventual expansion of a CBDC to use by businesses and individuals.

Even if the Fed develops a CBDC and enables its use for the settlement of interbank payments, the Fed still should take much more immediate action to expand the operating hours of its existing interbank settlement service.

III. The U.S. Payments Infrastructure and Payroll Payments

In her public remarks on April 7 on digital assets, Treasury Secretary Yellen stated that “tens of millions of Americans every week” experience delays with their paychecks, citing this as justification for the exploration of digital assets in the U.S. payments system.[3] But the facts don’t support this concern. According to the American Payroll Association’s report Getting Paid in America (2021), 95.9% of survey respondents get paid by Direct Deposit, and 95.3% of survey respondents say their pay is always on time.[4] In fact, in virtually all cases, workers that get paid with Direct Deposit have their money in their accounts at the opening of business on payday.

Workers that still get paid with paper paychecks might experience delays with funds availability. But no new payments infrastructure is necessary to provide these workers with access to funds on payday. A Direct Deposit to a bank account accomplishes this. Furthermore, instant payment systems cannot clear paper paychecks. Instant payment systems are credit payments only, while checks are debits and will continue to clear and settle through check system infrastructure. To move a worker from a paper paycheck to an instant payment would require the use of a bank account, the same thing that is necessary to receive a Direct Deposit.

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[3] https://home.treasury.gov/news/press-releases/jy0706

[4] American Payroll Association, Getting Paid in America, 2021 https://www.nationalpayrollweek.com/wp-content/uploads/2021/09/2021_Getting_Paid_In_America_survey_results.pdf

A new payments infrastructure would not necessarily mean that employees get paid sooner, since most payroll payments are scheduled to be delivered on payday. If payday is Friday, then employees will receive payments on Friday, whether it is a Direct Deposit that is initiated on Thursday or an instant payment that is initiated on Friday.

As we have noted above, it is true that ACH payments currently do not settle on weekends and holidays when the Fed is closed, and this is an opportunity for near-term improvement in the U.S. payments infrastructure. But the common and standard industry practice is that bill payments that would otherwise be due on weekends or holidays are considered due on the next banking day; while paydays that would otherwise fall on weekends or holidays are paid on the previous banking day. In both cases, these industry practices are pro-consumer. It is simply not true that bill payments are collected on weekends, while Direct Deposits are "delayed" until Mondays. The fact is that with Direct Deposit, people get paid on payday, every time. Changes to the payments infrastructure would not automatically result in changes to an employer's pay schedule.

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Nacha appreciates the opportunity to provide comments in response to this request. If you have any questions regarding our comments, please do not hesitate to call me at 703-561-3943.

Sincerely,

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