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February 6, 2015

Submitted via email

Ms. Maribel Bondoc
Manager, ACH Network Rules
NACHA - The Electronic Payments Association
2550 Wasser Terrace, Suite 400
Herndon, VA 20171

Re: Same-day ACH Request for Comment

Dear Ms. Bondoc:

The Independent Community Bankers of America (ICBA)¹ is pleased to submit comments to NACHA—The Electronic Payments Association, on proposed amendments (the “Proposal”) to the *NACHA Operating Rules* that would provide a new, ubiquitous capability for moving Automated Clearing House (ACH) payments faster and enable the same-day processing of virtually any ACH Transaction.

ICBA Positions

- ICBA remains strongly supportive of same-day ACH and therefore applauds NACHA for developing the proposed rule amendments.
- ICBA applauds NACHA for building upon an already-strong August 2012 Expedited Processing and Settlement rule proposal by including interbank compensation.

¹ The Independent Community Bankers of America® (ICBA), the nation’s voice for more than 6,500 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services.

ICBA members operate 24,000 locations nationwide, employ 300,000 American, hold \$1.3 trillion in assets, \$1 trillion in deposits and \$800 billion in loans to consumers, small businesses and the agricultural community. For more information, visit www.icba.org.

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- ICBA strongly supports the Proposal’s interbank compensation model which enables financial institutions that receive same-day ACH payments to recover the costs related to the transaction.
- ICBA supports the Proposal’s timelines and phased-in periods..
- ICBA recommends identifying same-day entries through a new Service Class Code instead of using the Effective Entry Date.

Background

Currently, most ACH payments are settled on the next business day. There are many uses of ACH payments, however, for which businesses and consumers could benefit from same-day processing. A NACHA rule change would enable ACH Originators that desire same-day processing the option to send same-day ACH transactions to accounts at any receiving depository financial institution (RDFI).

In August 2012, NACHA’s membership did not approve the Expedited Processing and Settlement Rule, which ICBA supported, that would have enable same-day settlement of ACH transactions as a ubiquitous capability of the ACH network. This proposed rule would have added additional file pickup times to provide for same-day, instead of next-day, ACH settlement.

In April 2013, ICBA released a white-paper, “Same-Day ACH: An Opportunity for Leadership²,” expressing its support for same-day ACH capabilities and encouraging community banks and other institutions to adopt same-day ACH services. The white-paper underscored the importance of same-day ACH in helping financial institutions stay at the center of serving their customers’ payments needs, particularly as they compete with non-bank providers.

Overview of the Proposal

This Proposal would enable the option for same-day ACH payments through new ACH Network functionality without affecting existing ACH schedules and capabilities.

- Originating depository financial institutions (ODFIs) would be able to submit files of same-day ACH payments through two new clearing windows provided by the ACH Operators:
 - A morning window at 10:00 a.m. ET, with settlement occurring at 12:00 noon ET.
 - An afternoon window at 3:00 p.m. ET, with settlement occurring at 5:00 p.m. ET.

² Same-day ACH: An Opportunity for Leadership <http://www.icba.org/files/ICBASites/PDFs/samedayACH.pdf>

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- Virtually all types of ACH payments, including both credits and debits, would be eligible for same-day processing. Only international transactions (IATs) and high-value transactions above \$25,000 would not be eligible.
- All RDFIs would be mandated to accept same-day ACH payments, thereby giving ODFIs and Originators the certainty of being able to send same-day ACH payments to accounts at all RDFIs.
- RDFIs would be mandated to make funds available from same-day ACH credits (such as payroll Direct Deposits) to their depositors by 5:00 p.m. local time.
- Implementation efforts would become effective over three phases beginning in September 2016. This would allow financial institutions and businesses sufficient time to acclimate the systems and procedures to accommodate same-day ACH transactions.

This Proposal builds upon the 2012 EPS proposal by including interbank compensation—which allows for cost recovery -- and new functionality for ODFIs and their Originators to support same-day ACH use cases, such as for same-day payrolls and for West Coast users.

Implementation

Implementation of this Proposal would occur in three phases as noted below in the chart below:

Functionality	Phase 1 September 2016	Phase 2 September 2017	Phase 3 March 2018
Transaction Eligibility	Credits only	Credits and debits	Credits and debits
New ODFI ACH File Transmission Deadlines	10:00 am ET and 3:00 pm ET	10:00 am ET and 3:00 pm ET	10:00 am ET and 3:00 pm ET
New Same-day Settlement Time(s)	5:00 pm ET	5:00 pm ET	12:00 noon ET and 5:00 pm ET
ACH Credit Funds Availability	End of RDFI's processing day	End of RDFI's processing day	5:00 pm RDFI local time

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ICBA strongly supports the phased implementation approach as it allows the nearly 13,500 financial institutions of all sizes and types sufficient time to modify their systems and develop supporting services for their customers.

Cost Recovery

Same-day ACH creates new RDFI costs related to posting, risk mitigation, and customer service. The Propopsal's cost of implementation would fall primarily on RDFIs. NACHA's economic research, which included an analysis of both ODFI and RDFI benefits and costs, confirmed this imbalance.

In its December 2011 comment letter on the NACHA's proposed Expedited Processing and Settlement Rule, ICBA expressed concern that:

"...the Rules do not enable these banks to recover their costs through charges to the originating banks that benefit from the proposed rule amendment. Cost recovery on the consumer bank side would, therefore, need to be accomplished either by subsidies from other business lines or by other consumer account service fees. Such a result is antithetical to a sound business case. Hence, ICBA believes that the final rule amendment must enable RDFIs to recover the costs of their implementation from ODFIs."³

The Proposal includes a per-entry interbank fee paid by an ODFI to the respective RDFI to offset some of the RDFI's costs. ICBA strongly supports an interbank fee as the most practical means of providing cost recovery. While same-day ACH is strategic for both the network and for individual financial institutions, RDFIs still need to be able to recover the costs of building and operating new services.

ICBA supports the cost plus commercially-reasonable rate of return approach that NACHA used to determine the fee. This methodology is a conservative approach to cost-recovery and ensures that the interbank fee will not be set too high.

Same-day Identifier

Under the Proposal, originators and ODFIs would identify transactions for same-day treatment by inserting the current Banking Day's date in the Effective Entry Date field in the Batch Header Record. Currently, the Effective Entry Date is often predated and often has the date the transaction was processed, rather than the day that it is intended to post. Additionally, the information in the Effective Entry Date

³ ICBA Comment letter to NACHA on Expedited Processing and Settlement:
<http://www.icba.org/files/ICBASites/PDFs/CommentLetterExpeditedProcessingSettlement.pdf>

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field does not flow to reporting and posting systems and financial institutions would need to develop their own methods to identify same-day transactions.

Alternatively, ICBA urges NACHA to adopt a new Service Class Code that would provide ACH participants with greater certainty regarding the same-day processing intent of the Originator and help to ensure corresponding processing. A single “universal” indicator that provides such functionality would be helpful to financial institutions and ensure a uniform industry approach.

In closing, ICBA applauds NACHA for developing this Proposal and enthusiastically supports same-day ACH as a means of leveraging the ubiquity of the ACH to enable financial institutions, regardless of size or charter, to meet their customer expectations and remain at the center of serving their customers’ payments needs. NACHA’s addition of a cost recovery component and a phased approach makes this a stronger rule modification than the August 2012 rule ballot. The addition of a new same-day ACH Service Class Code, would further strengthen this Proposal.

ICBA appreciates the opportunity to comment on this important Proposal. Please do not hesitate to contact me at cary.whaley@icba.org or 202.659.8111 with any questions regarding our comments.

Sincerely,

/s/

Cary Whaley

Vice President, Payments and Technology Policy

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