



Credit Union National Association

cuna.org

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Submitted via email: regs.comments@federalreserve.gov

February 10, 2014

Robert deV. Frierson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Federal Reserve Policy on Payment System Risk;
Procedures for Measuring Daylight Overdrafts; [Docket No.
OP-1472]

Dear Mr. deV. Frierson:

This comment letter represents the views of the Credit Union National Association (CUNA) regarding the Federal Reserve Board's (Fed's) proposed changes to its Payment System Risk Policy statement. By way of background, CUNA is the largest credit union advocacy organization in this country, representing state and federal credit unions, which serve about 99 million members. We have also filed a separate comment letter today on the Fed's related proposed rule on Regulation J.

CUNA appreciates that the Fed is taking incremental steps to improve the payment system and has proposed several changes to its Payment System Risk (PSR) Policy and procedures for measuring intraday balances at financial institutions' accounts at the Federal Reserve Banks (Fed Banks). We are concerned some financial institutions may be impacted by the proposed earlier posting times for automated clearing house (ACH) debits and commercial checks. If these changes are necessary, the Fed should minimize the costs and impact on credit unions, corporate credit unions, and other payment providers that may be affected, by providing additional information and resources, as well as adequate time for implementation. Regarding the proposed same-day ACH principles, we believe it would be helpful to provide additional opportunities for stakeholders to provide input in the future.

Earlier Posting Times for ACH Debits and Commercial Checks

Under the proposed PSR changes, posting times for ACH debits and commercial checks would be earlier. The posting of ACH debits processed by the Fed Banks' FedACH service overnight would be moved



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to 8:30 a.m. Eastern Time (ET) from 11:00 a.m. ET. Also, posting of most commercial check credits and debits would be at 8:30 a.m. ET, and there will be two other posting times at 1:00 p.m. ET and 5:30 p.m. ET. Settlement of large-value credit corrections and adjustments would also be earlier. Currently, posting for checks do not begin until 11:00 a.m. ET.

We have concerns that a number of financial institutions, including credit unions, may be impacted by the proposed earlier posting times and would likely have lower balances at their Fed Bank accounts; financial institutions may also incur additional daylight overdrafts and potentially incur increased fees. To minimize the impact from the proposed changes, financial institutions would have to pledge additional collateral (if eligible for intraday credit), arrange for earlier funding, or hold higher balances in their Fed Bank accounts.

Also, we are concerned that smaller financial institutions with less than \$10 billion in assets are more likely to be impacted by these earlier posting times because they are generally net receivers for ACH debits as receiving depository financial institutions. In addition, smaller institutions are also likely to have lower account balances due to earlier postings for commercial checks. With the proposed changes, the Fed's data from the second quarter of 2013 show that about 28 financial institutions would have incurred higher fees due to daylight overdrafts, including 23 credit unions and other institutions with less than \$10 billion in assets. Another 5 institutions that are not eligible for intraday credit would also have incurred daylight overdrafts and must provide additional funding. Most financial institutions that are eligible for intraday credit, however, would incur daylight overdrafts without additional fees.

We ask the Fed to minimize impact on credit unions and others that may be affected, if the proposed changes are necessary. For example, it could be helpful to provide additional information and resources for all potentially-affected financial institutions, especially for those that would likely incur increased daylight overdrafts or increased fees based on their historical Fed Bank account balances and activity.

Further, we recommend an effective date of at least six months or more to provide an adequate timeframe for financial institutions to make processing, account management, funding and collateral, and other necessary changes to implement the proposed rule changes. The effective dates for the PSR and Reg J changes should be aligned to facilitate these related changes.

Same-Day ACH Principles

The Fed has also proposed a new set of principles that would apply to new same-day ACH posting rules from the Fed Banks or NACHA - The

Electronic Payments Association. These principles are: 1) For each same-day ACH transmission deadline, the Fed Banks will establish distribution times: The Fed Banks will post settlement for same-day ACH debits no earlier than 15 minutes after the Fed Banks' expected distribution times for the same-day ACH file, and the Fed Banks will post settlement for ACH credits and debits on a particular same-day ACH file distribution time at the same time; 2) The Fed Banks will not post settlement for same-day ACH between 6:30 p.m. ET and 8:30 a.m. ET the next processing day; and 3) The Fed Banks will post settlement for same-day ACH exchanged with another operator to support same-day ACH during operating hours.

As noted in our recent comment letter in December 2013 on the Fed Banks' "Payment System Improvement" initiative, we believe network-wide same day ACH deserves continued consideration, while not all financial institutions are able to currently receive and settle same-day ACH transactions network-wide. Given the uncertainty with same-day ACH, we believe it would be helpful to provide additional opportunities for stakeholders to provide input in the future.

Thank you for the opportunity to comment on this proposal. If you have any questions concerning our letter, please feel free to contact CUNA SVP and Deputy General Counsel Mary Dunn or me at (202) 508-6733.

Sincerely,

A handwritten signature in blue ink that reads "Dennis Tsang". The signature is fluid and cursive, with the first name "Dennis" and last name "Tsang" clearly legible.

Dennis Tsang
CUNA Assistant General Counsel for Regulatory Research