July 2, 2015

<u>SUBMITTED VIA E-MAIL AND ONLINE</u>

Janet Yellen, Chairwoman
Board of Governors, Federal Reserve System
20th Street and Constitution Avenue NW
Washington, D.C. 20551

Re: Request for Comment on Same-Day ACH Proposal

Dear Chairwoman Yellen:

The National Association of Convenience Stores ("NACS") and the Merchant Advisory Group ("MAG") respectfully submit this letter in response to your request for comment published on May 27, 2015 regarding the Federal Reserve Banks' ("the Fed") adoption of an enhanced same-day Automated Clearing House ("ACH") service with mandatory participation of Receiving Depository Financial Institutions and an interbank fee by incorporating the National Automated Clearing House Association's ("NACHA's") amended operating rules in the Reserve Banks' Operating Circular 4 governing ACH service (hereinafter "the Proposal").

Currently, NACS and MAG members use next-day ACH transactions to process payments. The ability to use same-day ACH transactions would benefit our members and the Federal Reserve's Proposal to formalize faster clearing of ACH transactions is laudable. Nevertheless, the Proposal, which is based on NACHA's amendments to its Operating Rules & Guidelines that were approved on May 19, 2015, raises serious concerns for our members. Specifically, the Proposal appears to undermine the potential for ACH transactions to remain a valuable low-cost alternative to payment card transactions. By setting an interbank fee – even a fee that is 3 cents lower than the one initially proposed by NACHA – this Proposal will impair competition in the ACH marketplace and raises antitrust concerns. In addition, despite presenting the interbank fee as a ceiling, which, incidentally, also acts as a floor, NACS and MAG remain concerned that this fee will increase over time, in part because the structure of the fee-setting creates economic inefficiencies that will be free from market forces. Finally, in light of the Fed's commitment to upgrading the payments system, we question why the Fed is not pushing for real-time processing, which is already being used internationally and nationally in the debit card space and will likely result in another fee increase.

I. BACKGROUND

A. Together, NACS and MAG Members' Sales Exceed $1 Trillion Annually.

NACS is an international trade association representing the convenience store industry with more than 2,200 retail and 1,800 supplier companies as members. NACS member companies do business in nearly 50 countries worldwide, with the majority based in the United States. The convenience store industry as a whole operates approximately 150,000 stores across the United States.

In 2013, the convenience store industry posted almost $700 billion in total sales, representing approximately 2.5% of United States GDP. In light of the number of fuel and other transactions that our industry engages in, we handle approximately one of every 22 dollars spent in the United States. In fact, our retailers serve about 160 million people per day – around half of the U.S. population – and process more than 75 billion payment transactions per year.

The Merchant Advisory Group (MAG) is a payments-focused trade association representing over 95 of the largest US merchants across several industry verticals, including, but not limited to supermarkets, department stores, big box stores, petroleum and convenience stores, drug stores, airlines, hotels, movie theatres, and restaurants. The MAG is focused on driving positive change in payments. The MAG membership represents hundreds of thousands of merchant locations, kiosks, and e-commerce websites across the country. MAG members companies represent over $900 billion in total sales.

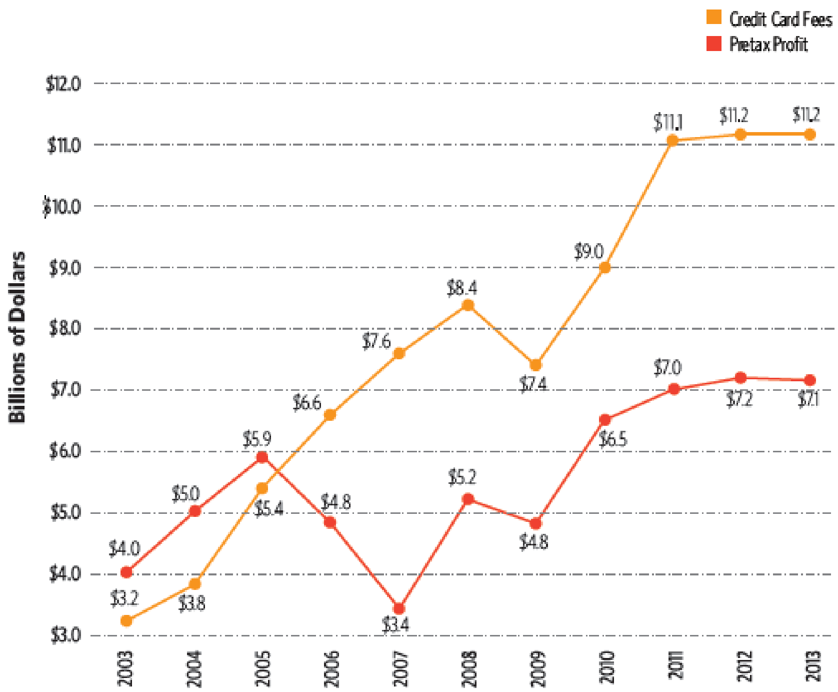
B. Many Merchants are Small Businesses Operating on Thin Margins.

Merchants in the United States are predominantly small businesses. The convenience store industry is just one example. More than 70 percent of NACS' total membership is composed of companies that operate ten stores or less, and more than 60 percent of the membership operates a single store.

The retail convenience store and fuel market is one of the most competitive in the United States. NACS members operate on tiny margins (around 2% or less) and are unable to absorb incremental cost increases without passing them on to consumers. In 2013, for example, the industry paid $11.2 billion in card fees compared to $7.1 billion in pre-tax profits.[1] As the table below shows, there is very little space for our retailers to maneuver and cut costs given the exorbitant expenses associated with credit cards.

[1] NACS, State of the Industry, Annual Report 2013.

CREDIT CARD FEES VS. PRETAX PROFIT



NACS members process at least 68 million transactions per year using the ACH system. ACH transactions serve as an important alternative to credit card transactions, which have exorbitant swipe fees attached to processing and are thus extremely costly for our members. In fact, swipe fees associated with payment card transactions are the second highest operating expense for convenience stores – second only to labor.

II. COMMENTS ON THE PROPOSAL

Updating the ACH system so that it can process same-day transactions would improve ACH and benefit the market. The ACH system is a valuable payment transaction pathway that needs to be updated to remain relevant in today's economy. Mandatory and ubiquitous adoption of same-day ACH is necessary to realize its full benefit.[2] As such, we support the Fed's goal to promote mandatory ubiquitous implementation. Nevertheless, we have concerns with this Proposal which are outlined below.

A. <u>The Fed's Proposal Raises Antitrust Concerns and will Create Economic Inefficiencies that will Perpetuate a High "Interbank Fee"</u>.

[2] Federal Reserve System Request for Comment on Same-Day ACH Service, 80 Fed. Reg. 30246 (May 27, 2015); *see also* Federal Reserve System Board of Governors Comments on NACHA Same-Day ACH Proposal (Feb. 6, 2015), *available at* http://www.federalreserve.gov/paymentsystems/board-staff-comment-letter-to-NACHA-20150206.pdf (noting that "mandatory participation by RDFIs in a same-day services is likely to be critical to the service's success")[hereinafter *Federal Reserve Request for Comment*]

The Proposal, whereby the Fed would incorporate the NACHA amended operating rules into Operating Circular 4 and implement mandatory same-day service, would spawn serious antitrust and economic policy concerns. NACHA's amended rules provide for the assessment of a fixed "interbank fee" ("IF") of 5.2 cents per same-day ACH transaction that would be paid by the Originating Depository Financial Institutions ("ODFIs") to the Receiving Depository Financial Institutions ("RDFIs").

By implementing NACHA's centrally set fee, the Proposal will distort the market by generating economic inefficiency which, as history has shown in the payment card market, will start small but will eventually swell.[3] When prices are established in a robust marketplace, those prices reflect the actual supply and demand of resources, including factors such as labor and other production costs. Here, because the IF has been set by NACHA – rather than the banks processing ACH transactions that are competing with one another to offer the best services – it is free from marketplace pressures. This formalized inefficiency will make inefficiencies proliferate in other areas of this market: for example, labor costs and other administrative costs will increase. Once other inefficiencies develop, they will inflate the fee, not push it down. Essentially, a fee not set by the market will incentivize wasteful spending on services; banks will not be pressured to monitor and compete on costs. In the end, therefore, it will become more expensive – not less – for banks to provide this service, and the costs will fall onto retailers and thus consumers. To avoid this end result, the Fed should look to the United Kingdom for guidance where near real-time processing is available for businesses and consumers 365 days per year and there is no set fixed fee for banks to charge to process payments. Instead, each bank must compete on costs and set its own fee according to the costs involved in participation.[4]

The debit card market demonstrates this effect. Prior to Federal Reserve regulations, debit card swipe fees increased rapidly – and costs increased along with them because they were not disciplined by competitive market forces. After regulation, however, a study by the Merchant Advisory Group found that between 2009 and 2013, issuers' self-reported average cost of handling debit transactions had decreased by 42%, from 7.6 cents to 4.4 cents.[5] While we have maintained that debit fees should have been reduced even further, the impact of banks reducing costs when faced with a somewhat more competitive fee structure is striking and provides some hint of just how bloated costs had become. The Proposal would bring the dynamic of uncompetitive fees driving bloated costs to the ACH system. That will be a problem dynamic.

Moreover, the placement of the fee between the transacting banks extracts funds where a typical fee arrangement does not exist. This will exacerbate the problem described above. There is no contractual relationship between the bank receiving the payment and the account-holder's bank. By implementing NACHA's centrally set IF to run between two banking entities, the Fed

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[3] *See* Nicholas Economides, Competition Policy Issues in the Consumer Payments Industry, NYU Center for Law, Economics and Organization. Working Paper 08-56 (2008) (describing how the lack of competition and free market pressures in the payment card market has led to price distortions).

[4] *See e.g.*, Faster Payments System ("FPS") in the United Kingdom, http://www.fasterpayments.org.uk/.

[5] Merchant Advisory Group, Volume and Cost Trends in the Debit Card Industry (2015), *available at* https://files.ctctcdn.com/26db5c23201/8b43b2a5-993d-4c1a-ac9b-07c8acc488ea.pdf.

would essentially be permitting and encouraging a fee extraction that would not have to respond to market pressures and would develop deep procedural inefficiencies over the long-term because there would be no ability for the payor of the fee to shop for a cheaper service.

Looking at parallel situations may be instructive. When states mandated healthcare providers to begin using electronic medical records, they did not centrally set a fee that one provider would have to pay another for accessing e-records. Rather, states set the final goal – system-wide electronic records usage – and individual providers had to incorporate the costs of that service into their business model. Because providers had to compete on price, those providers had an incentive to push costs down and change over to electronic records in the most efficient way possible.

Similarly, when automakers were required to make cars more fuel efficient, they were not told how much to charge to cover the expense of the necessary technology upgrades. Instead, each auto manufacturer had to improve their technology and control their costs while competing for business. That gave auto-makers incentives to adopt fuel efficient technology in the most economically efficient way possible. The auto and health industries are not alone in having to upgrade technologies and services without a centrally fixed (and automatic) cost-recovery mechanism. State and federal governments frequently mandate requirements for businesses, which then have to adapt and compete or perish. The same principles should apply to financial institutions.

1. Incorporating NACHA's centrally set interbank fee would run afoul of antitrust laws.

Should the Fed amend its rules as proposed, it would allow NACHA, a private actor, to set the banks' price for the banks' service. Although the Federal Reserve permits and defers to NACHA in the ACH rule-setting space,[6] NACHA has no authority to set prices.[7] Today, the two national ACH operators who compete on their own prices are the Federal Reserve and Electronic Payments Network ("EPN"). Those competitive prices are paid by both the ODFI and the RDFI for processing ACH transactions. Fees do not currently flow between the ODFI and the RDFI. This structure makes sense. Because those entities are not dealing directly with one another, they should not be paying fees to one another. Significantly, this is the payment structure that is currently underpinning the FedACH SameDay Service. Under FedACH SameDay, the Reserve Banks charge a per-item surcharge to participating ODFIs and provide RDFIs a discount on the normal ACH processing fee. No fee for this service is paid by the ODFI to the RDFI.

In contrast to the FedACH SameDay Service's current fee structure, the Proposal would implement NACHA's standard price across the entire Federal Reserve system and would mandate a fee between institutions that do not presently have a fee relationship. This would

[6] Federal Government participation in the Automated Clearing House is regulated under 31 C.F.R. §§210.2 (a), (d); *see also* 12 C.F.R. § 229.2 (b).

[7] The Federal Reserve has no such power either but even if it did, it would be considered an illegal delegation of the Fed to give up that power.

prevent banks from competing on price; creating a restraint on trade and competition, a violation of Section 1 of the Sherman Antitrust Act.[8] In addition to being illegal, this will also foster an environment prone to legal dispute—and the Fed should not be striving to replicate the years of litigation and controversy that have surrounded payment card swipe fees.

2. By amending its ACH rules to allow for an IF, the Fed would create an environment – much like the one surrounding payment card swipe fees – prone to legal dispute.

Swipe fees have been the subject of several significant legal actions over the past 30 years. In the late 1990s, the Department of Justice ("DOJ") initiated a case against Visa and MasterCard challenging the card networks' exclusionary rules that blocked banks, which issued Visa and MasterCard credit cards, from issuing credit cards on other rival networks (e.g. American Express and Discover Card).[9] The DOJ won that case in 2003 and Visa and MasterCard were prohibited from banning their member banks from issuing rival network cards. Less than a decade later, DOJ brought another case against Visa and MasterCard challenging the networks' so-called "network rules," which prohibited merchants from offering discounts and other incentives to customers for using lower-cost credit cards. In July 2011, the parties filed a consent decree that would bar the card networks from continuing this anticompetitive practice. Similarly, in February 2015 in a case against American Express, the District Court for the Eastern District of New York found in favor of the DOJ and 17 state attorneys general and concluded that American Express' rules preventing discounts violated U.S. antitrust laws and issued an injunction requiring the card company to change its rules blocking merchants from steering customers to lower cost credit cards.[10]

Merchants have also challenged the card networks' swipe fees and card restrictions. In 1997, merchants successfully contested the card networks' "Honor All Cards" rule, which required merchants to accept payment for any card that had the two networks' logos.[11] The settlement in that case, reached in 2003, included Visa and MasterCard paying retailers approximately $3 billion over ten years and was the largest antitrust settlement in U.S. history at that time. In December 2013, after over seven years of litigation, a federal judge approved a $7.25 billion swipe fee settlement in a class action where merchants claimed that Visa, MasterCard and a group of card-issuing banks colluded to set card swipe fees.[12] That settlement, which is now the largest antitrust settlement in class action history, is currently on appeal at the Second Circuit.

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[8] 15 U.S.C. § 1.

[9] *United States v. Visa U.S.A., Inc*., 163 F.Supp.2d 322 (S.D.N.Y., 2001) (original decision), with final decision in *United States v. Visa U.S.A., Inc*., 344 F.3d 229 (2d Cir. 2003).

[10] *United States of America et al. v. American Express Co. and American Express Travel Related Service Company*, Inc., Case No. 1:10-cv-04496-NGG-RER (E.D.N.Y., 2015).

[11] *In re Visa Check/Mastermoney Antitrust Litigation*, 287 F.Supp.2d 503 (E.D.N.Y. 2003) (original decision), with final decision in *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc*., 396 F.3d 96 (2d Cir. 2005).

[12] *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, Case No. 1:05-md-01720 (E.D.N.Y.2013).

American Express, meanwhile, agreed to a settlement in two class action antitrust lawsuits in December 2013 although the court has not yet granted final approval of the settlement.

No one wants the ACH system to become fodder for a new cycle of litigation. Yet, should the Fed implement NACHA's interbank fee, it would create serious antitrust concerns and inefficiencies in the ACH market that would be ripe for litigation. Price setting by a central private body – even if the Federal Reserve were to adopt those rules – amounts to price-fixing. This type of arrangement cannot survive scrutiny under U.S. antitrust laws because it destroys the incentive for banks to compete on price.

B. <u>The Proposed Changes to the Fed's Rules May Transform the ACH System Into One that Perilously Mirrors the Payment Card System</u>.

This Proposal with its supposed IF cap is very disturbing, particularly in light of the history between retailers, card networks, and card issuers in the payment card arena. For decades, retailers have been told that swipe fees were (and are) needed to pay for investments in electronic payments technology. Notwithstanding the age of this near-obsolete technology, which has been paid for many times over and now requires minimal amounts to maintain, fees continue to increase. During the past decade alone, swipe fees on credit cards have increased exponentially to an average of 2 to 3 percent of the purchase price. When retailers question why the fees continue to go up, the card networks setting these fees say that swipe fees are supposedly still needed to cover investment costs for infrastructure that was paid for long ago. NACS is very concerned that this same pattern will replay itself in the ACH space should the Fed adopt NACHA's amended rules.

According to NACHA's amended operating rules, the IF would serve as a cost recovery mechanism and run over the lifetime of the investment (approximately 11.5 years). The fee would be assessed at defined intervals and while the IF could be reduced to account for inaccuracies in projected transaction volume to prevent excessive cost recovery, "in no case…could the fee be increased."[13] Although we are pleased that the NACHA amended rules specify a ceiling for the IF, NACHA could change that at any time. We remain concerned that the IF will continue to increase beyond the proposed cap. Moreover, we also believe that any fee structured as the proposed IF is unjustified and illegal.

We find it strange that the Fed is even considering adopting mandatory same-day ACH with an IF when it previously had serious reservations with NACHA's proposal. Specifically, in its February 6, 2015 comment letter to NACHA on the association's original proposal, the Fed noted that the "proposed IF will likely inhibit the usage of same-day ACH service, and therefore payments system efficiency."[14] The Fed also expressed concern that "the proposed periodic check-points may not be sufficient to preclude any subsequent increase to the fee level."[15] The

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[13] NACHA Operating Rules (effective Sept. 23, 2016), Appendix 11, Part 11.2 (Revision of Same Day Entry Fee)[hereinafter *NACHA Operating Rules*].

[14] Federal Reserve System Board of Governors Comments on NACHA Same-Day ACH Proposal (Feb. 6, 2015)[hereinafter *Feb. 6 Letter*].

[15] *Id.*

Fed did not seem convinced that NACHA's proposed IF cap would be a market efficient rate or one that would not increase over time. It is surprising and unclear, therefore, why the Fed is now considering amending its own operating rules to bring them in line with NACHA's amended rules. This is particularly troublesome because the Fed had also stated that it was concerned with the definition and determination of allowable costs for NACHA's proposed IF—and criticized the inclusion of "opportunity costs" and the "risk adjusted fair rate of return" in calculating the interbank fee.[16]

NACHA's newly amended rules, which set the IF at 5.2 cents as opposed to the 8.2 cents initially proposed, now state that the IF is calculated to provide for the "projected average RDFI investment costs and operational costs, *plus a commercially reasonable rate of return*."[17] It seems to us; however, that all NACHA has done is reword its calculation methodology and simultaneously lower the proposed IF by 3 cents to deflect critics. One wonders to what degree the phrase "commercially reasonable rate of return" actually differs in practice from "opportunity costs" and "risk adjusted fair rate of return." In reality, NACHA has only altered its calculation methodology and set the fee at 5.2 cents (3 cents less than initially proposed) yet by doing so, NACHA seems to have changed its initial proposal enough so that the Fed is convinced it should be adopting NACHA's rules as its own.

Given the Fed's acknowledgement in its Request for Comment of the "minimal technological and operational investment required by the Reserve Banks to implement the service,"[18] a fee of 5.2 cents raises concerns. That fee is significantly higher than what the Fed currently charges for its FedACH SameDay Service. Today, for that service, the Reserve Banks charge participating ODFIs a per-item surcharge on the normal ACH processing fee that ranges from approximately .3 cents to .35 cents.[19] ACH has saved financial institutions very significant funds for years. NACS questions how the Fed could agree to set a 5.2 cent IF for processing same-day ACH transactions when it has already set a market competitive rate far below that.

Our experience in the payment card space has taught us that guaranteeing an anti-competitive revenue stream incentivizes spending that is generally not economically efficient. By setting prices, the current fee structure defined by NACHA's new rules incentivizes bloat, which will result in financial institutions building-in additional costs so that they can justify the need to raise fees in the future. Banks will become accustomed to their fixed IF revenue just as they did with swipe fee revenue. When this happens, despite the fact that NACHA's amended rules supposedly would prevent any increases to the IF, fees will increase.

We believe that the Fed's Proposal to adopt NACHA's amended rules, including the 5.2 cents IF runs counter to the Fed's commitment to efficient monetary policy and will create an

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[16] *Id.*

[17] *NACHA Operating Rules*, *supra* note 13, Part 11.1(Determination of Same Day Entry Fee)(emphasis added).

[18] *Federal Reserve Request for Comment*, *supra* note 2.

[19] *Federal Reserve Request for Comment*, *supra* note 2, footnote 4.

anti-competitive marketplace that will evolve to look similar to the inefficient payment card marketplace. And as in that arena, without viable low-cost payment options, costs will rise for retailers and, ultimately, consumers.

C. **The Fed Must Ensure that a Transition to Same-Day ACH Does Not Result in an Elimination of Low-Fee Next-Day ACH.**

For quite some time, our payments system has been in dire need of an upgrade to ensure the ability and widespread availability of same-day ACH processing and we appreciate that the Fed is taking a leadership role in speeding along the transition to "ubiquitous, safe, and faster electronic solutions."[20] Nevertheless, we are very concerned that shifting to same-day ACH with an interbank fee will incentivize the elimination of next-day ACH, an important payment processing method.

Currently, and as described above, the ACH system provides a critical low-cost alternative payment method for retailers. Today, processing a check via the ACH system costs some merchants less than half the cost of debit transactions.[21] Compared to the cost of debit transactions that are not subject to Federal Reserve rules, ACH processing is less than one quarter of that cost.[22] And this is only in comparison to debit transactions; credit card transactions are even more expensive for merchants.

Under the Proposal, the Fed would adopt NACHA's new operating rules which would include an IF of 5.2 cents per same-day ACH transaction. The imposition of the IF would dramatically increase the cost of an ACH transaction for some of our members, which may make some of our members question the value of accepting ACH transactions.

More precisely, ODFIs would pay the IF to RDFIs, thus providing RDFIs with guaranteed revenue. NACHA calculated that IF revenue would cover up-front investment costs and operating costs (plus a commercially reasonable rate of return) associated with setting up same-day ACH processing. While this fee would technically be levied onto the ODFI, the experience of the payments system shows that the ODFI will charge this fee to the merchant that accepts the ACH transaction—a point the Fed acknowledged in its February 6 comment letter on NACHA's original proposal.[23]

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[20] *See, generally* Federal Reserve System, Strategies for Improving the U.S. Payment System (Jan. 2015), *available at* https://fedpaymentsimprovement.org/wp-content/uploads/strategies-improving-us-payment-system.pdf.

[21] *See* Understanding the Federal Reserve's Proposed Rule on Interchange Fees: Implications and Consequences of the Durbin Amendment: Hearing Before the Subcomm. on Financial Institutions and Consumer Credit of the H. Comm. on Financial Services, 112th Cong. at 54 (Feb. 17, 2011) (Response to Rep. David Scott (D-GA) by Mr. Brian Seltzer, 7-Eleven), *available at* http://financialservices.house.gov/uploadedfiles/112-8.pdf. In addition, ZipLine, a guaranteed ACH service, charges 13 cents for a fully guaranteed ACH transaction, settled on next-day basis, with the base ACH cost being .2 cents. Should a merchant wish to use same-day processing as proposed by NACHA, the price would rise to at least 18.2 cents, which is close to the cost of regulated debit transactions.

[22] *Id.*

[23] *Feb. 6 Letter, supra* note 14 (noting that "support for the IF by large banks, which are net ACH originators, is indicative that the fee would not be internalized by ODFIs but rather passed along to the originators").

This is particularly significant because the retail industry is a very competitive industry, with profit margins that generally range from 2 to 4%.[24] The banking industry, in contrast, operates on much larger profit margins, ranging from 7 to 10% for smaller institutions and 12 to 25% for larger institutions.[25] Given the tiny margins that retailers make, they are unable to absorb incremental cost increases without passing them on to consumers. It is, therefore, imperative that retailers have low-cost payment options available to them. Should the Federal Reserve ultimately adopt same-day ACH with an IF, it should require that financial institutions continue to offer no-fee next-day ACH, so that next-day ACH is preserved as a cheaper payment alternative. Financial institutions should not be allowed to opt out of providing next-day ACH service—and should they do so, the Fed should impose penalties, such as prohibiting those institutions from using direct deposit Treasury payments. Otherwise, by imposing an IF for same-day ACH, the Fed will dramatically raise the cost of ACH transactions and banks will likely eliminate their less-profitable next-day ACH processing.

D. Moving to Mandatory Same-Day Processing Would Not Update ACH in the Most Technologically Advanced Way.

Amending the Fed's rules to require same-day ACH with an IF will focus investment on technology that has already been surpassed in the marketplace. In order to advance the strategic goals identified in the Fed's *Strategies for Improving the U.S. Payment System* paper, the Fed should push for investment in real-time processing. Real-time processing is already being used outside of the U.S. and is currently being used in the U.S. in multiple ways including for PIN debit and person-to-person mobile payments services. Given the speed of technological advancement, same-day ACH will clearly be obsolete by the time the up-front investments in same-day ACH will supposedly be paid off (approximately ten years from now). The Fed should also keep in mind that financial institutions are not bearing this investment cost alone. Merchants will also have to invest heavily to update their file transferring and accounting systems so that they are compatible with and able to use same-day processing. No merchant wants to invest in a system that will be considered obsolete when he finishes paying for it, especially when that merchant is paying to upgrade his system and the financial institution's as well.

In addition, under NACHA's amended rules, same-day processing may only benefit merchants operating in the East Coast and Central time zones of the United States. According to NACHA's amended rules, any activity occurring after the 3pm EST settlement window – i.e. any time between 3pm EST and 2am EST – will be processed with next-day processing, not same-day. Thus, West Coast merchants will not have the opportunity to use same-day processing during some of their busiest hours, 12pm PST to 11pm PST, which fall after the same-day settlement clearing windows close.

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[24] *See generally*, New York University, Stern School of Business, Data Set on Margins by Industry Sector (U.S.), *available at* http://pages.stern.nyu.edu/~adamodar/New_Home_Page/datafile/margin.html.

[25] *Id.*; *see also* Forbes, Best of The Biggest: How Profitable Are The World's Largest Companies? (May 13, 2014), *available at* http://www.forbes.com/sites/liyanchen/2014/05/13/best-of-the-biggest-how-profitable-are-the-worlds-largest-companies/.

The Fed should be looking to modernize the ACH system so that it becomes a true competitor in the payments market—offering real-time processing and allowing for price competition, thus upgrading the U.S. payments system so it does not fall further behind the systems already in place around the world.[26]

III. Conclusion

NACS and the MAG appreciate the opportunity to comment on the Fed's Proposal to amend its Same-Day ACH rules. Please do not hesitate to contact us if we may provide any assistance to the Fed during its rulemaking process.

Sincerely,

Lyle Beckwith
Senior Vice President, Government Relations
National Association of Convenience Stores

Mark Horwedel
CEO
Merchant Advisory Group

[26] *See* FPS, *supra* note 4. The Faster Payments System also permits transactions of up to £100,000 while NACHA's amended rules would limit each transaction to $25,000. *See generally* http://www.fasterpayments.org.uk/.