

January 22, 2021

BY ELECTRONIC DELIVERY

Nacha
2550 Wasser Terrace, Suite 400
Herndon, VA 20171

Re: Nacha Request for Comment on Proposed Same-Day ACH Transaction Limit Increases

To whom it may concern:

The Clearing House Payments Company L.L.C. (“The Clearing House”)¹ respectfully submits this comment letter in response to Nacha’s request for comment on a proposal for multiple increases to the same-day ACH transaction limit over a set schedule beginning in 2022 and ending in 2024 (“Proposal”).²

I. Executive Summary

The Proposal would increase and eventually eliminate the transaction limit for same-day ACH entries as set forth below:

- March 18, 2022 – increase the existing same-day ACH limit of \$100,000 to \$1,000,000
- March 17, 2023 – increase the same-day ACH limit of \$1,000,000 to \$10,000,000
- March 15, 2024 – eliminate the same-day ACH limit

As explained in further detail below, The Clearing House:

- Supports increasing the same-day ACH transaction limit to \$1,000,000, but at this time does not support the additional increases set forth in the Proposal;
- Believes that additional increases should be subject to a separate industry vote and only proposed once the impacts of higher value same-day ACH transactions, and high value debits that clear and settle in the new third same-day ACH window in particular, are well understood;

¹ Since its founding in 1853, The Clearing House has delivered safe and reliable payments systems, facilitated bank-led payments innovation, and provided thought leadership on strategic payments issues. Today, The Clearing House is the only private-sector ACH and wire operator in the United States, clearing and settling nearly \$2 trillion in U.S. dollar payments each day, representing half of all commercial ACH and wire volume. It continues to leverage its unique capabilities to support bank-led innovation, including launching RTP®, a real-time payment system that modernizes core payments capabilities for all U.S. financial institutions. As the country’s oldest banking trade association, The Clearing House also provides informed advocacy and thought leadership on critical payments-related issues facing financial institutions today. The Clearing House is owned by 23 financial institutions and supports hundreds of banks and credit unions through its core systems and related services.

² Nacha Request for Comment regarding Increasing the Same Day ACH Dollar Limit (December 7, 2020), <https://www.nacha.org/rules/increasing-same-day-ach-dollar-limit-0>.

- Encourages Nacha to provide industry education about increases to the transaction limit, study and analyze the potential impacts and related risks of increasing the limit beyond \$1,000,000, and present additional information to the industry before moving forward with any proposal to raise the limit beyond \$1,000,000; and
- Recommends an effective date of September of 2022 for increasing the transaction limit to \$1,000,000.

II. Discussion

A. Dollar Limit and Increases

As the private sector ACH Operator, The Clearing House is a proponent of same-day ACH, and has implemented changes to EPN and advocated for modifications to Federal Reserve services to support same-day ACH's expansion. The Clearing House believes that raising the same-day ACH transaction limit to \$1,000,000 will increase use of same-day ACH and expand its adoption, and we support such an increase. We also believe that raising the transaction limit further may be merited in the future. However, raising the limit must not increase risks beyond acceptable levels, and we do not support the proposal to increase the limit to \$10,000,000 (phase 2) or eliminate the limit altogether (phase 3) at this time.

A same-day ACH framework with a transaction limit of \$10,000,000 or without a limit, will impact financial institutions' liquidity and require planning for and management of increased settlement values at new times throughout the day, including the new third same-day ACH window beginning in March of this year. These transaction limit increases may also increase fraud, operational, and credit risks. The Clearing House believes that raising the transaction limit to \$10,000,000 or beyond, particularly for same-day ACH debits, requires further understanding, analysis, and planning before the industry makes a decision on whether such increases are appropriate.

The ACH network is used by financial institutions of all sizes and it is critical that significant changes to same-day ACH rules and practices, and the risks they may present, are well understood so that financial institutions can properly plan and implement necessary controls. We do not believe that the risks, particularly of high value same-day ACH debits that clear and settle in the third window, can be fully appreciated before the third same-day ACH window takes effect. We recommend an incremental approach that allows the industry to assess the impacts of the third same-day ACH window and transactions of up to \$1,000,000 before potentially approving additional limit increases through separate rulemaking votes. We believe that this approach is the best way to expand same-day ACH further, consistent with safety and soundness principles and the Federal Reserve's Payment System Risk Policy.³

³ See Section 1.C. of the Federal Reserve Policy on Payment System Risk, October 1, 2020, available at: https://www.federalreserve.gov/paymentsystems/files/psr_policy.pdf.

B. Financial Institution Impacts

Higher same-day ACH transaction values will require financial institutions to adjust their liquidity management processes to account for larger ACH settlements at 1:00pm, 5:00pm and 6:00pm. When received in the new third window, high value same-day ACH debits may impact a financial institution's end-of-day account balance forecasting and funding. Further, unanticipated high value same-day ACH debits could create liquidity risks for smaller financial institutions if they have insufficient funds or intraday credit in the Federal Reserve account used for their ACH settlement. The compressed end of day timeline associated with the new third window could also pose challenges for some financial institutions to securing timely funding in the event of a shortfall.

Large value same-day ACH transactions may also require financial institutions to modify their controls related to credit, operational, and fraud risk, for both ACH origination and receipt. For example, this may include modifications to customer due diligence, underwriting and monitoring practices, customer intraday credit facilities, as well as origination limits on the ODFI side, and updates to funds availability and overdraft practices on the RDFI side.

We encourage Nacha to provide industry education to improve awareness of the impact of larger same-day ACH settlements, the need for financial institutions to understand the timing and volume of higher value same-day ACH debits, and the importance of planning for peak funding needs and expected variations to avoid funding shortfalls. Moreover, financial institutions may need to consider the impacts of dedicating liquidity to support unknown late day ACH settlements, potentially diverting liquidity from critical late day wire transfer settlements.

Nacha may also wish to provide education regarding considerations for client suitability for the increased transaction limits; and practices for managing credit, operational, and fraud risk in a higher value same-day ACH environment.

While industry education and awareness on these issues will be important for same-day ACH transactions of up to \$1,000,000, it will be even more critical if the transaction limit is raised further. Before proposing additional increases, Nacha should study and analyze the potential impact of raising the limit beyond \$1,000,000 or eliminating it altogether, and present additional information to the industry, so that the risks of the increases are clearly identified and can be thoroughly evaluated, and appropriate controls can be planned for and implemented. Although Nacha is not directly subject to the Payment System Risk Policy, because the policy applies to ACH Operators and financial institution participants, we encourage Nacha to keep the principles of the policy in mind as part of future efforts to raise the same-day ACH transaction limit beyond \$1,000,000.

C. Effective Dates

Due to existing technology projects and resource allocation priorities for 2021, the date of the proposed increase to \$1,000,000 (March 18, 2022) is not workable for The Clearing House as an ACH

Operator. Thus, we recommend that the first proposed increase (phase 1) take effect no earlier than September of 2022.

When making the technical changes to implement the \$1,000,000 limit, The Clearing House will plan for further increases to the same-day ACH transaction limit and configure EPN systems so that if approved by the industry, those increases can be implemented more quickly than would be required by standalone technical projects. We encourage Nacha to signal to the industry the potential for future increases to the limit, subject to separate industry votes and the risk-based review and assessment discussed herein, and to similarly configure systems so that the changes needed to raise the limit beyond \$1,000,000 can be implemented rapidly if they are approved.

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We appreciate the opportunity to comment on the Proposal and would welcome the opportunity to discuss these issues with you. If you have any questions or wish to discuss The Clearing House's comments, please do not hesitate to contact me using the contact information provided below.

Sincerely,

/s/

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