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Via electronic submission

January 22, 2020

Ian Macoy
Director of Settlement Services
Bureau of the Fiscal Service
3201 Pennsy Drive, Building E
Landover, MD 20785

RE: Docket Number FISCAL-2019-0001

Dear Director Macoy,

The Independent Community Bankers of America (“ICBA”)¹ appreciates the opportunity to provide comments to the Department of the Treasury, Bureau of the Fiscal Service (“Fiscal Service”) regarding proposed changes to amend its regulation governing the use of the Automated Clearing House (“ACH”) Network by Federal agencies (“Proposed Rule”).

This Proposed Rule seeks to adopt recent changes to the *Nacha Operating Rules & Guidelines* (“*Nacha Rules*”) as the rules governing the use of the ACH Network by Federal agencies. Currently, Part 210 incorporates the *Nacha Rules* as set forth in the 2016 *Nacha Rules*. This proposed rule amendment seeks to incorporate most, but not all, of the changes to the *Nacha Rules* in 2017, 2018 and 2019. Additionally, the Fiscal Service is requesting comment on one change to Part 210 related, *Actual or Constructive Knowledge of Death*, that does not stem from a change to the *Nacha Rules*.

¹ *The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. With more than 50,000 locations nationwide, community banks constitute 99 percent of all banks, employ nearly 750,000 Americans and are the only physical banking presence in one in five U.S. counties. Holding more than \$5 trillion in assets, nearly \$4 trillion in deposits, and more than \$3.4 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers’ dreams in communities throughout America. For more information, visit ICBA’s website at www.icba.org.*

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Summary of Proposed Rule Changes

The Fiscal Service proposes to adopt the following 2017, 2018, 2019 changes to the *Nacha Rules* with an effective date on or before June 30, 2021. (Note that there were no changes in the 2018 *Nacha Rules*):

- 2017 *Nacha Rules*
 - Third-Party Sender Rule
- 2019 *Nacha Rules*
 - Faster Funds Availability
 - Same Day ACH Dollar Limit Increase
 - New Same Day ACH Processing Window
- Supplement #2-2018 to the *Nacha Rules*
 - Return for Questionable Transaction
 - Supplementing Data Security Requirements
 - ACH Rules Compliance Audit Requirements
 - Minor Rules Topics
 - ACH Operator Edits
 - Clarification of Telephone-Initiated Entry (TEL) Authorization Requirements
 - Clarification of RDFI Obligation To Return Credit Entry Declined by Receiver
 - Clarification on Reinitiation of Return Entries
 - Clarification on RDFI Liability Upon Receipt of a Written Demand for Payment
 - Differentiating Unauthorized Return Reasons

The Fiscal Service plans to accept one rule, *Supplementing Fraud Detection Standards for WEB Debits*, but delay implementation beyond the March 19, 2021 effective date, due to implementation costs.

Lastly, the Fiscal Service proposes one change to 31 CFR Part 210 Subpart B, *Actual or Constructive Knowledge of Death*, which governs the reclamation of post-death Federal benefit payments from financial institutions. The Fiscal Service proposes to revise the definition of “actual or constructive knowledge of death” at 31 CFR 210.2(b) to apply the definition to agencies as well as RDFIs. The Fiscal Service also proposes to require an agency that stops certifying recurring payments to a recipient because it has reason to believe that the recipient is deceased to investigate and determine whether to initiate a reclamation within 120 days following the first missed payment date.

ICBA Comments

ICBA applauds the Fiscal Service's proposal to adopt all the 2017, 2018 and 2019 amendments to the *Nacha Rules*. Community banks operate more efficiently when the public and private sector adhere to a single set of ACH operating rules.

ICBA wholeheartedly applauds the Fiscal Service for adopting 2019 amendments *Same Day ACH Dollar Limit Increase* and *New Same Day ACH Processing Window*, which will enable the Fiscal Service greater ability to make and receive same-day payments up to \$100,000 per payment and up to 2 hours later on every banking day. This will benefit consumers and entities by enabling opportunities for them to send and receive a variety of faster payments to and from the government, including emergency assistance payments, tax refunds, off-cycle payroll and benefit payments, vendor payments, tax collections, and tax withholding remittances.

ICBA supports the Fiscal Service's proposal to adopt the rule to *Supplement Fraud Detection Standards for WEB Debits* (i.e., the account validation rule); however, we encourage the Fiscal Service to adopt the same effective date as the private sector, which provided a period of more than 28 months to implement the rule. While ICBA is mindful of the associated implementation costs, consistency with the private sector is vital to community banks, especially when related to improving fraud detection and reducing the incidence of rejected payments. Additionally, the alternative payment method mentioned in the Proposed Rule includes similar ongoing per-payment costs for every transaction initiated via debit card.

Lastly, ICBA supports the Proposed Rule to revise the definition of "Actual and Constructive Knowledge of Death" in connection with reclamation entries so that the definition applies to agencies' constructive or actual knowledge of death. We expect this change to have a positive impact in preventing reclamations from being initiated many years after an agency ceases to make recurring benefit payments.

ICBA appreciates the opportunity to provide feedback on these proposed changes to 31 CFR Part 210 Subpart B. If you have any questions or would like additional information, please contact Cary Whaley (Cary.Whaley@icba.org) at (202) 659-8111.

Sincerely,

/s/

Cary Whaley
First Vice President, Payments and Technology Policy