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Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th St. and Constitution Ave., NW
Washington, DC 20551

Via Electronic Submission: mailto:regs.comment@federalreserve.gov

RE: Docket No. OP-1670
Federal Reserve Actions to Support Interbank Settlement of Faster Payments

Dear Ms. Misback,

The R Street Institute appreciates the opportunity to comment on the Federal Reserve's proposal to begin operating the FedNow interbank real-time gross settlement service. We continue to have deep concerns about this development, and feel the Fed has not demonstrated sufficiently that its intervention in the market for real-time payments satisfies the Monetary Control Act's requirements that it only provide services that "other providers alone cannot be expected to provide with reasonable effectiveness, scope and equity."

As the board is aware, the RTP system deployed by The Clearing House Payment Co. in November 2017 now connects nearly 60% of U.S. depository accounts, with projections that 90% of U.S. bank and credit unions will be able to connect to the system by the end of calendar year 2019. In addition to TCH's RTP system, we would note that personal payments and mobile payments platforms have been brought to market by Mastercard, Visa, PayPal and the Zelle digital payments network. Moreover, the U.S. Department of Justice's review of RTP's structure found that it did not pose antitrust concerns. The case simply has not been made that the Fed would promote either competition or innovation by laying down a duplicative layer of payment rails.

As the Fed appears ready to move forward with the FedNow system, R Street believes the top priority must be to ensure that FedNow be fully interoperable with RTP. Consumers would be poorly served if the United States replicates the scenario evident in Europe, where the RT1 real-time payment network operated by private banks and the European Central Bank's TARGET Instant Payment Settlement are unable to communicate.

We also believe it essential that FedNow commit to provide equal access and flat pricing for real-time payments to all institutions regardless of size, as RTP already has done. The model established by the Fed's history of providing check-clearing services for automated clearing house (ACH) transactions serves to discriminate against the interests of smaller depository institutions and should not be followed by FedNow.

The launch of the FedNow service raises significant concerns that the Fed will serve as a direct competitor with firms over which it is also a regulator. Therefore, we think it crucial that, as it moves toward launch, the board must conduct a fully transparent audit of the Private Sector Adjustment Factor accounting it will employ to ensure services are priced as if the board were a private sector actor. The last time such an audit was made public in the context of ACH transactions was 1984. The Fed must not use its leverage and unique market position to underprice private-sector competitors with taxpayer support.

Finally, the Fed also must demonstrate convincingly that FedNow would be able to secure consumers' personal identifiable information. This extends not only to Fed itself, but to any payment platforms—particularly nonbank institutions—that may be permitted to use the FedNow rails.

R Street continues to believe the role the Fed should play in the market for real-time payments is to foster private-sector innovation and to help private-sector actors to manage liquidity. But at the very least, the board must take appropriate actions to ensure that FedNow does not damage functioning markets or harm consumers.

Sincerely,

R.J. Lehmann
Director of Finance, Insurance and Trade Policy
R Street Institute