Protecting the Payments System

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Issue Update

The Federal Reserve Banks operate payment services, which serve as a backbone of payment system stability, instill confidence in economic transactions, and facilitate the nation's commerce. Congress has enacted laws that seek to ensure the integrity of the payment system by providing for the supervision of banks as payment intermediaries and of banks' affiliates as users of bank payment services that present unique risks.

New payment service providers and organizations offering new types of payment services are attempting to obtain direct access to the Federal Reserve Banks payment services. With direct access, these organizations would introduce risk to the payments system because they are not subject to the full federal supervision and regulation that generally applies to insured depository institutions. The payments system has performed amazingly well through times of economic stress, but its strength is derived from consistent application of high regulatory and supervisory standards across every endpoint.

The Board of Governors recognized the risks associated with these novel charters and a uniform policy for Federal Reserve Banks to evaluate entities seeking direct access to the payment system. ABA joined several other trade associations in a 2021 response to the Board.

Why it Matters

An efficient payment system permits consumers, businesses, and banks to send and receive payment transactions with confidence that the payment transactions are being conducted with intermediaries that are financially responsible and comply with applicable legal requirements, including anti-money laundering and sanctions requirements.

Charters already granted to certain parties in Wyoming, and at the OCC may be called banks, but they will not be subject to consolidated supervision, will not have FDIC oversight, do not fit the definition of "bank" under the Bank Holding Company Act, and may create new opportunities for fraud or money laundering.

Further, as non-depositories, these special-purpose charters and non-traditional OCC chartered banks will not be subject to the Community Reinvestment Act, and it is not clear how they might be held to equivalent requirements to meet the needs of low- and moderate-income Americans. Requiring these organizations to access Federal Reserve Bank payment services through qualifying depository institutions subject to full federal supervision and regulation would mitigate the risks such organizations pose to the U.S. payment system.

Recommended Action Items

The Board and Federal Reserve Banks should protect consumers, financial institutions, and the payment system itself by:

- Establishing a coordinated, cross Reserve System evaluation committee, with Board input, to review all payment access applications to eliminate the potential for bias across Reserve Banks;

- Requiring that, at a minimum, applicants meet the prudential standards required of federally insured or supervised financial institutions; and
- Mandating ongoing Federal Reserve reviews of entities not subject to federal supervision to ensure they are meeting regulatory expectations.