Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 11, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Chambers Bancshares, Inc., Danville, Arkansas, and its wholly owned subsidiary, Community Investment, Inc., Elkins, Arkansas; to acquire Community Bank, F.S.B., Elkins, Arkansas, and thereby engage in operating a savings and loan association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, December 14, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–33493 Filed 12–17–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engage in Permissible Nonbanking Activities; Correction

This notice corrects a notice (FR Doc. 98-31847) published on page 66187 of the issue for Tuesday, December 1, 1998.

Under the Federal Reserve Bank of Cleveland heading, the entry for Mellon Bank Corporation, Pittsburgh, Pennsylvania, is revised to read as follows:

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Mellon Bank Corporation, Pittsburgh, Pennsylvania; to engage *de novo* through its subsidiary, Mellon Financial Markets, Inc., Pittsburgh, Pennsylvania, in underwriting and dealing in all types of debt and equity securities on a limited basis, pursuant to the conditions set forth in 12 CFR 225.200; in agency transaction services for customer investments, pursuant to § 225.28(b)(7) of Regulation Y; in investment transactions as principal, pursuant to § 225.28(b)(8) of Regulation Y; and in providing financial and investment advice, pursuant to § 225.28(b)(6) of Regulation Y.

Comments on this application must be received by December 29, 1998.

Board of Governors of the Federal Reserve System, December 15, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–33609 Filed 12–17–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

[Docket No. R–1032]

Settlement-day Finality for Automated Clearing House Credit Transactions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board is requesting comment on the benefits and drawbacks of providing settlement finality on the morning of the settlement day for ACH credit transactions processed by the Federal Reserve.

DATES: Comments must be submitted on or before March 18, 1999.

ADDRESSES: Comments should refer to Docket No. R–1032 and may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551. Comments may also be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. on weekdays, and to the security control room at all other times. The mail room and the security control rooms are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments will be available for inspection and copying by members of the public in the Freedom of Information Office, Room MP–500, between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in section 261.8 of the Board's Rules Regarding Availability of Information.

FOR FURTHER INFORMATION CONTACT: Wesley M. Horn, Manager, ACH Payments (202/452–2756); Myriam Y. Payne, Senior Financial Services Analyst, Payment Systems Risk and Net Settlement (202/452–3219); Jeffrey S. H. Yeganeh, Senior Financial Services Analyst (202/728–5801), Division of Reserve Bank Operations and Payment Systems; for the hearing impaired only, contact Diane Jenkins, Telecommunication Device for the Deaf (TDD) (202/452–3544).

SUPPLEMENTARY INFORMATION:

I. Background

The Board is considering the merits of providing settlement finality on the morning of the settlement day for ACH credit transactions processed by the Federal Reserve Banks. The issue of settlement finality for ACH transactions processed by the Reserve Banks has been a subject of industry discussion since the 1980s. Currently, the Reserve Bank's uniform ACH operating circular gives the Reserve Banks the right to reverse settlement for either debit or credit transactions until 8:30 a.m. eastern time on the morning of the business day following the settlement day. A Reserve Bank can reverse settlement if it does not receive actually and finally collected funds from the depository institution funding the payments (the originating depository financial institution (ODFI) in the case of credit transactions or the receiving depository financial institution (RDFI) in the case of debit transactions) by 8:30 a.m. eastern time on the morning of the business day following the settlement day, with notification to the ODFIs and RDFIs as soon as possible thereafter. In comparison, private-sector ACH operators provide settlement finality either on the settlement day or on the business day after the settlement day, depending on the type of net settlement arrangement the operator uses. The Board expects that all private-sector ACH operators will be able to provide settlement-day finality to their customers once the Reserve Banks fully implement their enhanced settlement service (63 FR 60000, November 6, 1998).

The Board requested comment on proposals to improve settlement finality for ACH transactions processed by the Reserve Banks in 1986 and 1989. The 1986 proposal would have provided settlement finality for ACH credit transactions of $5,000 or less at 1:00 p.m. local time on the settlement day and for ACH credit transactions of more than $5,000 and ACH debit transactions when the Reserve Bank received actually and finally collected funds (51 FR 45043, December 16, 1986). The 1989 proposal would have provided settlement finality for ACH credit transactions at 6:30 p.m. local time on the settlement day and for ACH debit transactions at 10:00 a.m. local time on the business day after settlement. Commenters did not support either proposal because neither provided finality at the opening of business on the settlement day (54 FR 8822, March 2, 1989).

Over the last several years, there have been renewed calls for the Reserve Banks to improve the finality of the ACH mechanism to reduce the interbank settlement risk. The Settlement Risk Management Task Force, sponsored by the National Automated Clearing House Association (NACHA) and the National Organization of Clearing Houses, and NACHA's Vision 2000 report called for finality of settlement at opening of business on the settlement day for ACH credit transactions. In addition, the January 1998 report of the Committee on the Federal Reserve in the Payments Mechanism stated that the Federal Reserve would explore changes, including changes to ACH finality, that could more effectively support the needs of existing and emerging retail payments methods.[1]

The credit risks associated with ACH debit transactions and ACH credit transactions are different and, thus, the Board believes that each must be addressed separately. In the case of ACH debit transactions, the ODFI is exposed to two kinds of credit risk when it makes funds available to the originator. First, the ODFI is exposed to the risk that the RDFI may fail and that the settlement for the entries would be reversed. Second, the ODFI is exposed to credit risk if the RDFI returns the item within its return deadline, or as long as sixty days later in the case of an unauthorized transaction. Because the RDFI's ability to return items would remain unchanged under any proposal to improve settlement finality for debit transactions, speeding the settlement finality would not materially reduce the ODFI's credit risk. As a result, the Board is not seeking comment on any change to the finality for settlement of ACH debit transactions.

The Board, however, is considering whether there is merit in providing settlement finality on the morning of the settlement day for ACH credit transactions processed by the Federal Reserve. Specifically, the Board is considering making the settlement for ACH credit transactions final when posted, which is currently 8:30 a.m. eastern time on the day of settlement. In the case of ACH credit transactions, NACHA rules require that the RDFI make funds available to its customers on the settlement day.[2] As a result, the RDFI is at risk if (1) the ODFI fails, (2) its customers withdraw funds that have been made available before the settlement was final, (3) the Reserve Banks later reverse the settlement, and (4) the RDFI is unable to recover the funds from its customers.

The Board believes that if the Federal Reserve were to provide settlement-day finality for ACH credit transactions, it should adopt risk control measures commensurate with those used in connection with other Federal Reserve services with similar finality characteristics. Current risk control measures for the ACH service include ex post monitoring of daylight overdraft trends, requiring an ODFI at imminent risk of failure to prefund the value of the ACH transactions it originates, and reversing ACH credit transactions if an ODFI is unable to settle for those transactions. Under these risk control measures, the Reserve Banks have never reversed a settled ACH credit file due to the failure of an ODFI, which has contributed to the public's confidence in the ACH system. Because of this success, some commenters on the previous proposals have concluded that the current risk control measures are sufficient to allow the Reserve Banks to provide finality at the opening of business on the settlement day without the adoption of more stringent risk controls. The Board, however, does not believe that these measures provide Reserve Banks with adequate protection from settlement risk if settlement were to become final before the Reserve Banks knew whether depository institutions could fund the payments. Moreover, if the industry were confident that the Federal Reserve's current risk controls were sufficient, it likely would not be advocating the adoption of settlement-day finality to reduce RDFI risk.

The Board believes that the risk control measures needed to provide settlement-day finality for ACH credit payments processed through the Federal Reserve Banks should be commensurate with those provided in the Fedwire funds transfer service and the enhanced settlement service, as these services provide final and irrevocable settlement at the time a transaction is credited to the depository institution's account. The funds transfer and the enhanced settlement services use real-time account balance monitoring for depository institutions that fall within established risk parameters as a prerequisite for making payments final. For institutions monitored in real time, a funds transfer or a settlement entry initiated through the enhanced settlement service will not be processed unless the institution's available account balance is sufficient to cover the debit entry.[3] Most depository institutions, however, are not monitored in real time. The account activity of an institution that is not monitored in real time is monitored for compliance with the daylight overdraft transaction posting rules on an ex post basis. As a result, Reserve Banks are able to control their credit risk exposure by monitoring the account balances of a selected group of depository institutions in real time, thereby restricting those institutions' access to Federal Reserve intraday credit. Providing settlement-day finality for ACH credit transactions without applying risk control measures similar to those used for Fedwire funds transfers and enhanced settlement entries may create incentives for monitored institutions to move payments from Fedwire to the ACH to avoid risk management controls.

The Board also believes that if the Federal Reserve were to provide settlement-day finality for the ACH credit transactions it processes, it should use risk control measures similar to those used to provide settlement-day finality for ACH transactions processed by private-sector operators. It is anticipated that most private-sector service providers will use the enhanced settlement service to provide settlement-day finality for ACH transactions. As a result, the Board believes that risk control measures used in the Federal Reserve's ACH service should be commensurate with those used in the enhanced settlement service.

II. Improving Settlement Finality for ACH Credit Transactions Processed by the Federal Reserve

The Board believes that if it were to improve the settlement finality for ACH credit transactions processed by the Federal Reserve by making settlement final when it is posted, which is currently 8:30 a.m. eastern time on the day of settlement, it should adopt appropriate risk control measures. The Board has considered other alternatives to improve settlement finality for ACH

[1] Committee on the Federal Reserve in the Payments Mechanism, *The Federal Reserve in the Payments Mechanism* (Board of Governors of the Federal Reserve System, January 1998), p. 33. The report can be found on the Board's website at http://www.federalreserve.gov/boarddocs/press/General/1998/19980105.

[2] NACHA Rules Section 4.4.1 requires an RDFI to make funds from credit entries available to its customers on the settlement day. Further, for credit entries to a consumer's account that are made available to the RDFI by 5:00 p.m. local time on the day before the settlement day, the RDFI must make the funds available by opening of business on the settlement day.

[3] The available account balance includes the depository institution's Federal Reserve account balance plus any available intraday credit.

credit transactions.[4] Providing settlement-day finality for ACH credit transactions using real-time risk control measures, however, is complicated by the use of value-dating in the ACH mechanism. Because of value-dating, an ACH credit transaction may be processed up to two days prior to the settlement day. The funds to pay for the ACH credit transactions, however, are not deducted from the ODFI's account until the settlement day. As a result, absent any action to debit funds, a balance check of the ODFI's account at the time that a transaction is processed would be ineffective in managing risk. In contrast, in the funds transfer and enhanced settlement services, a balance check at the time that a transaction is processed is an effective risk management tool because the actions taken to process and settle for the transaction are almost simultaneous. As a result, the Board believes that the expanded use of prefunding at the time that transactions are processed would be an appropriate risk control mechanism to achieve improvements in the finality for the settlement of ACH credit transactions. Under prefunding, the Federal Reserve eliminates the settlement risk by substituting itself for the ODFI as obligor to settle for the ACH credit transactions.

The Board believes that any ODFI that is being monitored in real time, or that would be monitored in real time if it participated in a service that uses real-time monitoring, should be required to prefund all of the ACH credit transactions it originates. If the ODFI's available account balance were sufficient, the transactions would be processed and released to the RDFIs and the ODFI's account would be debited for the amount of the transactions. On the settlement day, the ODFI may receive an as-of adjustment to compensate it for the float caused by the prefunding requirement. If the ODFI's available account balance were not sufficient, the transactions would not be processed until the ODFI funded the account.

If an ODFI were not being monitored in real time, it would not be required to prefund its ACH credit originations and incoming files would be processed as they are today. If the ODFI fails, the Reserve Banks would reserve the right to reverse the ACH credit originations that have not yet settled. Reserve Banks, however, would not reverse transactions that had already settled. For example, a depository institution that is not required to prefund originates $1,000 worth of credit transactions on Monday with $300 to settle on Tuesday and $700 to settle on Wednesday. If the institution fails on Tuesday, the Reserve Banks could bear the loss for the $300 that settled Tuesday morning but may reverse the transactions that were intended to settle on Wednesday. The reversal entries would be included in the files that RDFIs would receive Wednesday morning.

The Reserve Banks believe that the system changes required to implement the risk controls needed for settlement-day finality could be available in early 2001. The Banks do not believe that these changes would materially increase the cost of the Federal Reserve's ACH service.

III. Comment is Requested on the Effect of Settlement-Day Finality on the Attractiveness of the Federal Reserve's ACH Service and on the ACH System More Generally

The Board is interested in commenters' views on the benefits and drawbacks associated with adopting morning of settlement-day finality for ACH credit transactions processed by the Federal Reserve. The Board is also interested in whether commenters believe that providing settlement-day finality would, on net, increase or reduce the attractiveness of the Federal Reserve's ACH service and of the ACH system more generally.

The Board requests comment on the extent to which morning-of-settlement-day finality would promote ACH volume growth, whether certain types of transactions would be more likely to be made by ACH credit transactions if the Federal Reserve moved to settlement-day finality, and which payment methods are currently used to make these payments. The impetus for the industry's recommendation that the Federal Reserve adopt morning-of-settlement-day finality is the desire to eliminate RDFIs' current risk exposure associated with having to make funds from ACH credit transactions available to their customers prior to the time that settlement of those funds becomes final. This risk, however, has not translated into a loss to any RDFI to date as the Federal Reserve has never reversed a settled ACH file due to the failure of an ODFI to fund its settlement. Further, it does not appear that this risk exposure has discouraged depository institutions' participation in the ACH system. The Board also requests comment on whether settlement-day finality would facilitate product innovation in the ACH service and if so, how.

The Board is interested in commenters' views on the extent to which the differences in finality provided by ACH operators influence depository institutions' choice of operator. Currently, one private-sector ACH operator (Visa) provides settlement-day finality for its ACH transactions, but the Federal Reserve and the other private-sector ACH operators (the New York Automated Clearing House and the American Clearing House) provide next-day settlement finality.

The Board requests comment on the extent to which the public's confidence in the ACH system might be adversely affected if credit transactions are not settled on the intended settlement day and whether, as a result, the attractiveness of the ACH system might be reduced. As discussed above, if the Board were to approve morning-of-settlement-day finality for ACH credit transactions, the Reserve Banks would implement risk control measures commensurate with those used in the Fedwire funds transfer service and in the enhanced settlement service by requiring all institutions monitored in real time to prefund the amount of their ACH credit originations. While these risk control measures would reduce the settlement risk to RDFIs, the measures would increase the likelihood that the transactions of institutions monitored in real time might no longer settle on their intended settlement day even though they would likely settle in today's environment. Currently, the Federal Reserve settles for ACH credit transactions for these ODFIs on the settlement day and has until the next morning, which is when the settlement would become final, to ensure that the ODFI has funded the transactions. Under the risk control measures discussed above, if the ODFI is being monitored in real time and its available account balance is not sufficient to fund the payments prior to processing, the transactions may not settle on the intended settlement day. Settlement may also be delayed if the ODFI were able to arrange for funding later. As a

[4] The Board has considered eliminating value-dating in its ACH service, which would allow the Reserve Banks to monitor balances and settle transactions on the same day. The Board, however, does not believe that this alternative is practical because it would fundamentally change the nature of the ACH service and disrupt established and effective business practices of ODFIs and their customers. The Board has also considered processing ACH transactions as they are received, monitoring balances on the settlement day, and reversing transactions originated by institutions monitored in real time early on the settlement day if sufficient funds were unavailable to settle the transactions. The Board believes that if this alternative were adopted, the risk to an RDFI would not be reduced measurably because it might be unable to reverse credits to its customers' accounts in a timely fashion after receipt of a reversal file. Further, under this alternative, an ODFI would be unable to re-initiate transactions for the intended settlement date, which may undermine the perceived reliability of the ACH.

result, payroll and other direct deposit files could be rejected or delayed, which might increase concerns regarding the reliability of the ACH mechanism and retard the growth of electronically initiated payments.

In addition, the Board requests comment on the extent to which the ACH system would become less attractive to institutions required to prefund their credit transactions if those institutions were required to modify their internal procedures. The expanded prefunding requirement would require ODFIs that are monitored in real time to fund ACH transactions earlier than is currently the case and might require processing changes at the ODFI or its designated sending point(s). The earlier funding would increase the cost of processing ACH transactions to those institutions. Further, the ODFI may be required to submit separate batches for credit transactions and debit transactions to avoid the possibility that debit transactions included in mixed batches might be held.

In the case of an ODFI that settles through the account of a correspondent settlement agent, the Board is interested in commenters' views on whether the Federal Reserve should base the prefunding requirements on the condition of the correspondent or the ODFI. Currently, Reserve Banks require prefunding based on the financial condition of the ODFI and not that of the correspondent. In either case, if transactions could not be processed because the correspondent's account had an insufficient account balance to prefund ACH credit transactions originated by the ODFI, both the ODFI and the correspondent would be notified. Further, if the Reserve Banks based their prefunding requirement on the risk profile of the correspondent settlement agent, the correspondent would not be permitted to terminate a settlement designation for transactions that have been accepted by the Federal Reserve for processing.

Finally, the Board is interested in commenters' suggestions regarding alternative risk control approaches, different from that described in this notice, that would establish risk controls equivalent to those used in the Fedwire funds transfer service and in the enhanced settlement service and that may be better suited to the ACH environment.

IV. Competitive Impact Analysis

In assessing the competitive impact of improving the finality for the settlement of ACH credit transactions, the Board considers whether there will be a direct and material adverse effect on the ability of other service providers to compete with the Federal Reserve due to differing legal powers or due to the Federal Reserve's dominant market position deriving from such legal differences.[5]

Although the Federal Reserve's ACH does not derive its dominant market position from legal differences, the fact that the Federal Reserve maintains accounts directly or indirectly for all depository institutions to settle may make it easier from some institutions' perspective to use the Federal Reserve's services. The enhanced settlement service was designed, in part, to offset that potential advantage by making it easier for a private-sector entity to function settlement entries to depository institutions nationwide. As was mentioned earlier, the enhanced settlement service will check the available account balance of all depository institutions that are being monitored in real time. If the Reserve Banks were to improve the settlement finality for the ACH transactions they process without implementing similar risk controls, competitive questions might be raised. The Board, however, believes that the expanded use of prefunding provides risk controls commensurate with those of the enhanced settlement service.

While private-sector operators that use the Fedwire-based or enhanced settlement service will be able to offer settlement-day finality for the ACH credit transactions they process, differences would remain between the characteristics of their settlement finality and those of the Federal Reserve's ACH service, assuming the Board adopts settlement-day finality as described in this notice. In particular, the need to reverse ACH credit transactions that cannot be funded would largely be eliminated in the Federal Reserve's ACH service because of the prefunding of those transactions by ODFIs with higher risk profiles. In contrast, private operators, to the extent that they accept participants with higher risk profiles, would need to reverse ACH credit transactions that had been previously processed and delivered to RDFIs if the OFDI could not fund its net debit position on the settlement day. (Private ACH operators, however, generally do not provide services to institutions that do not meet their criteria for admission and participation. These criteria are based, in part, on the financial condition of the institutions.) From the perspective of the RDFIs, avoiding the risk of reversing transactions that had already been posted to receivers' accounts may make the risk management associated with the Federal Reserve's ACH service more attractive than that of the private operators. From the perspective of some ODFIs, however, the Federal Reserve's risk management would likely be considered more burdensome and therefore less attractive than that of the private operators. The Federal Reserve's ACH service would require some ODFIs to fund their gross ACH credit originations before transactions are processed while private-sector operators require ODFIs to fund their net positions at the time of settlement. The provision of as-of adjustments for prefunding, however, could mitigate this burden somewhat. In general, the Board does not believe that settlement-day finality for ACH credit transactions processed by the Federal Reserve and conditioned on the expanded use of prefunding would adversely affect competition in the provision of interbank ACH services.

[5] The Federal Reserve in the Payments System, FRRS 7–145.2

By order of the Board of Governors of the Federal Reserve System, December 14, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–33575 Filed 12–17–98; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Bioethics Advisory Commission; Proposed Information Collection; Comment Request; American Investigators' Attitudes Regarding U.S. Human Subjects Regulations

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Bioethics Advisory Commission will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

BACKGROUND: The National Bioethics Advisory Commission (NBAC), appointed by President Clinton, is examining international research ethics as one of its focus areas. NBAC has commissioned this study to analyze how American investigators view current regulatory requirements. The results of this study will contribute to NBAC's examination of whether U.S. policies regarding human subjects research in developing countries should