2022
NACHA
Rules Update

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2022 NACHA RULES UPDATE FOR ACH

ALSO KNOWN AS COMPLIANCE UPDATE FOR ACH ORIGINATORS

This 2022 NACHA Rules Update for ACH ("NACHA Update") is to provide a summary description of changes to the NACHA Operating Rules & Guidelines ("NACHA Rules"). The following summaries are laid out chronologically in the order of their effective date. The NACHA Voting Membership approved the Minor Topics Rule Changes, consisting of 6 amendments, on September 16, 2021 with an effective date of September 17, 2021. Although the new rule had a nearly immediate effective date, little to no impact on ACH participants is expected and the amendments should not result in any significant processing or financial impact.

Please see the summary description as to each amendment noted below. For further information we recommend you obtain a copy of the 2022 NACHA Operating Rules and Guidelines. The NACHA Rules are published annually and may be referenced or ordered at www.nacha.org. The 2022 edition of the NACHA Operating Rules & Guidelines contains changes related to these amendments. More detailed information regarding these changes may also be found at www.nacha.org. If you have any questions, please feel free to contact your Treasury Services Representative.

Minor Topics Rules Changes - Effective September 17, 2021

The amendments to these rules were made in September, 2021 and are intended to clarify the Meaningful Modernization Rules. They have little to no impact on ACH participants and no significant processing or financial impact. The amendments address the following:

(1) Clarification on Standard Entry Class Code Flexibility and Subsequent Entries Initiated at Electronic Terminals
(2) RDFI's Subsequent Request for Proof of Authorization Must be In Writing
(3) Stop Payment Rules For Subsequent Entries
(4) Expiration of Stop Payment Orders on Entries to Non-Consumer Accounts
(5) Clarification on ACH Operator Edit – Effective Entry Date
(6) Other Clarifications on Subsequent Entries

Details relating to each of these amendments follow below.

Minor Topics Rules Changes – Clarification on Standard Entry Class Code Flexibility and Subsequent Entries Initiated at Electronic Terminals

Details:

This change clarifies the intent of the Meaningful Modernization Rule by stating that Subsequent Entries initiated at an "electronic terminal" (as that term is defined in Regulation E) must be identified using the Point-of-Sale (POS), Machine Transfer Entry (MTE), or Shared Network Entry (SHR) SEC Code, regardless of the manner

in which the Standing Authorization was obtained. This change added an additional exception to the Rules for SEC Code flexibility for Subsequent Entries.

Technical Summary:

This Rule modifies the following areas of the *NACHA Operating Rules:*

- *Article Two, Subsection 2.3.2.5 (Standing Authorization for Debit Entries)*

Minor Topics Rules Changes – RDFI's Subsequent Request for Proof of Authorization Must be in Writing

Details:

This changes states that, where an ODFI has accepted, or has agreed to accept, a Return Entry in lieu of providing the RDFI with proof of authorization, and the RDFI still subsequently requests proof of the Receiver's authorization, the RDFI must make any subsequent request to the ODFI in writing.

Technical Summary:

This Rule modifies the following areas of the *NACHA Operating Rules:*

- *Article Two, Subsection 2.3.2.7 (Retention and Provision of the Record of Authorization)*
- *Article Two, Subsection 2.3.3.3 (Provision of Record of Authorization)*

Minor Topics Rules Changes – Stop Payment Rules for Subsequent Entries

<u>Details</u>:

This change requires an RDFI to honor a stop payment order on a Subsequent Entry that is provided by a Receiver to the RDFI in such time and manner that the RDFI has a reasonable opportunity to act on the stop payment order prior to acting on the Subsequent Entry.

<u>Technical Summary</u>:

This Rule modifies the following areas of the *NACHA Operating Rules:*

- *Article Three, Subsection 3.7.1.1 (RDFI Obligation to Stop Payment of Recurring Entries)*
- *Article Three, Subsection 3.7.1.2 (RDFI Obligation to Stop Payment of Single and Subsequent Entries)*

Minor Topics Rules Changes – Expiration of Stop Payment Orders on Entries to Non-Consumer Accounts

<u>Details</u>:

This modification clarifies that the effective period for a stop payment order on a debit entry to a Non-Consumer account stated in the Rules reflects the minimum time period that such a stop payment order must remain in effect. The language was also changed to make clear that an RDFI may establish a longer effective period for these stop payment orders and to remove the requirement that a renewal of such a stop payment order must be in writing.

<u>Technical Summary</u>:

This Rule modifies the following areas of the *NACHA Operating Rules:*

- *Article Three, Subsection 3.7.2.1 (Effective Period of Stop Payment Orders)*

Minor Topics Rules Changes – Clarification on ACH Operator Edit – Effective Entry Date

Details:

This change revised the field description as it relates to Return Entries for clarity and aligned the Rules language with current ACH Operator file editing practices. This modification clarified that ACH Operators:

- Use the content of the Effective Entry Date field (as copied from the original Entry) to determine the appropriate Settlement Date for a Return Entry, dishonored Return Entry, and contested dishonored Return Entry.
- May choose to verify proper formatting of the Effective Entry Date field and, potentially, replace an invalid Effective Entry Date with the current processing date.
- Do not reject a Return Entry, dishonored Return Entry, or contested dishonored Return Entry because of an invalid date in the Effective Entry Date field.

Technical Summary:

This Rule modifies the following areas of the *NACHA Operating Rules:*

- *Appendix Three, Subpart 3.2.2 (Glossary of Data Elements – Effective Entry Date)*

Minor Topics Rules Changes – Other Clarifications on Subsequent Entries

Details:

These changes incorporated additional clarifications to the Meaningful Modernization rules:

- Two minor changes pull through references to the defined term "Subsequent Entry" in two additional places in the Rues: Form of Receiver Authorization – Debit Entries to Consumer Accounts (*Article Two, Subsection 2.3.2.2(a)*) and General Rule for Prearranged Payment and Deposit (PPD) Entry (*Article Two, Subsection 2.5.12*).

- Two minor updates to new subsections on TEL (*Article Two, Subsections 2.5.15.2 – Use of TEL Standard Entry Class Code for Subsequent Entries*) and WEB (*Article Two, Subsection 2.5.17.2 – Use of WEB Standard Entry Class Code for Subsequent Entries*) clarify the application of existing rules to Subsequent Entries using these SEC Codes.

- A minor change was made to the general rule for PPD Entries (*Article Two, Subsection 2.5.12 – General Rule for PPD Entries (Prearranged Payment and Deposit Entry)*) to align the description of a PPD Entry with the updated definition in Article Eight.

Impact to Participants:
NACHA does not expect ACH Network participants to incur any substantial costs associated with the implementation of the Minor Topics Rules Changes.

Increasing the Same Day ACH Dollar Limit to $1 Million - Effective March 18, 2022

Details:
This rule will increase the per-transaction dollar limit from $100,000 to $1,000,000. When the rule becomes effective, both Same Day credits and Same Day ACH debits will be eligible for same day processing up to $1,000,000 per transaction.

Technical Summary:

- *Article Eight, Section 8.101 (Same Day Entry)* – Updates definition to reflect higher per-transaction dollar limit
- *Appendix Three, Subpart 3.2.2 (Glossary of Data Elements): Settlement Date* – Updates description to reflect higher per-transaction dollar limit.
- *Appendix Nine, Subpart 9.4.6.2 (Responsibilities of Enforcement Panel)* – Updates Rules Enforcement Panel responsibilities to reflect higher per transaction dollar limit.

Impact to Participants:

Originators and Third-Party Senders: Originators and Third-Party Senders should discuss with their financial institutions whether and when originating debit and/or credit entries up to $1,000,000 is appropriate for their businesses. If these participants choose to transmit such entries, they need to be prepared for higher dollar transactions flowing through their accounts multiple times during the business day.

ODFIs: ODFIs will need to determine whether and how they will implement higher limit same day transactions with their Originator and Third-Party Sender customers. Higher Same Day ACH limits may impact a financial institution's assessment of its customers' credit risks. ODFIs that offer Same Day ACH will need to update internal processing applications and procedures to accommodate higher dollar limit same-day entries.

RDFIs: RDFIs may need to update their internal processing applications and procedures to accommodate higher limit same-day entries. RDFIs should be prepared for a larger amount of dollars settling at several times throughout the day.

Receivers: Receivers, particularly non-Consumer Receivers, should be prepared to receive ACH debits and credits up to the new $1,000,000 limit. Receivers need to be prepared for the possibility of higher dollar transactions posting to their accounts throughout the business day. Receivers should review their internal procedures to determine whether any changes are required.

Nested Third-Party Senders – Effective September 30, 2022

Details:

The Nested Third-Party Sender Rule will establish the definition of a "Nested Third-Party Sender" and will provide for a "chain of agreements" in Nested Third-Party relationships. Specifically, the rule will:

- Define a Nested Third-Party Sender as a Third-Party Sender that has an agreement with another Third-Party Sender to act on behalf of an Originator and does not have a direct agreement with the ODFI.
- Require that Nested TPSs be addressed in ACH Origination agreements. An ODFI's Origination Agreement with a TPS must address whether the TPS can have Nested TPSs, and if so, "push down" the requirement for an Origination Agreement to exist between a TPS and a Nested TPS. A TPS must have an Origination Agreement with its Nested TPS(s).
- Update other TPS obligations and warranties to identify and cover Nested TPSs.

Modifications to agreements will be required only for agreements entered into or renewed on or after the effective date of the rule.

In addition, the rule will require that an ODFI identify all its Third-Party Senders with Nested Third-Party relationships in NACHA's Risk Management Portal. An ODFI must also be able to provide NACHA with a list of its TPSs with Nested Third-Party relationships upon request. The timeframe for identifying TPSs with Nested TPSs in the Risk Management Portal will follow the same time frames as registering a TPS in the Portal. A TPS with Nested TPSs must be registered as such within the later of 30 days of transmitting the first entry, or within 10 days of the ODFI becoming aware of the Nested TPS. The ODFI must update registration information within 45 days of any change to the information previously provided.

The Nested Third-Party Senders Rule will become effective on September 30, 2022. A six-month grace period to March 31, 2023 will be provided to allow ODFIs to update TPS registrations to denote whether or not a TPS has Nested TPSs.

Technical Summary:

This Rule modifies the following areas of the *NACHA Operating Rules:*

- *Article One, Subsection 1.2.2.1 (General Audit Requirements)* – Updates audit requirements to address Nested Third-Party Senders.
- *Article Two, Subsection 2.2.2.1 (ODFI Must Enter Origination Agreement with Originator)* – Updates to exclude ODFIs from having an Origination Agreement with an Originator when the Originator uses a TPS to originate entries.
- *Article Two, Subsection* 2.2.2.2 *(ODFI Must Enter Origination Agreement with Third-Party Sender)* – Updates to address Nested TPSs.
- *Article Two, Subsection* 2.2.3 *(ODFI Risk Management)* – Updates ODFI risk management requirements regarding TPSs.
- *Article Two, Subsection 2.15.1 (Third-Party Sender Agreements)* – New subsection to address TPSs agreements with their customers.
- *Article Two, Subsection 2.15.1.1 (Third-Party Sender Origination Agreement with an Originator or a Nested Third-Party Sender)* – New subsection to require Origination Agreements between an Originator and a TPS; a TPS and a Nested TPS; and between Nested TPSs.
- *Article Two, Subsection 2.15.1.2 (Chain of Nested Third-Party Senders)* – New subsection to address responsibilities of ODFIs and Third-Party Senders in the case of Nested TPSs.
- *Article Two, Subsection* 2.15.2 *(Third-Party Senders' Provision of Information to ODFIs)* – Updates to include Nested TPSs.
- *Article Two, Subsection 2.15.3 (Warranty of and Indemnification by Third-Party Senders)* Updates to include Nested TPs.

- *Article Two, Subsection 2.15.4 (Performance and Warranty of ODFI Obligations by Third-Party Senders)* – Updates to include Nested TPSs.
- *Article Two, Subsection 2.15.5 (Payments to ODFI by Third-Party Senders or Originators)* – Minor change to clarify discussion of returned debit entries.
- *Article Two, Subsection 2.15.6 (Performance of Originator Responsibilities by Third-Party Senders)* – Updates to include Nested TPSs.
- *Article Two, Subsection 2.15.7 (Performance of Third-Party Sender Responsibilities by Nested Third-Party Senders)* – New subsection to state that a TPS is jointly and severally liable with each of its Nested TPSs for the performance of TPS obligations.
- *Article Two, Subsection 2.17.3.1 (ODFIs with Third-Party Senders)* – Updates to include Nested TPSs.
- *Article Eight, Section 8.60 (Nested Third-Party Sender)* – New section to define Nested Third-Party Sender.
- *Article Eight, Section 8.110 (Third-Party Sender)* – Revises definition to specifically include TPSs that act as intermediaries for other TPSs.

Impact to Participants:

ODFIs: ODFIs should perform a risk analysis and determine whether to permit Nested TPS relationships. For those ODFIs who determine to permit such relationships, those that do not already address Nested TPSs in their agreements will need to modify their Origination Agreements to do so on a going forward basis after the effective date of the rule. ODFIs may need to expand their due diligence on TPS customers regarding Nested TPS relationships. ODFIs with TPS relationships will need to update their registrations in the Risk Management Portal to denote with TPSs have Nested TPS relationships and be prepared to provide NACHA with such information upon request. ODFIs remain responsible for providing required information to RDFIs (e.g., proof of authorization), regardless of the number of TPS involved in a transaction.

Third-Party Senders: Third-Party Senders with Nested TPS customers may need to modify their Origination Agreements to address the TPS and Nested TPS relationships on a going forward basis after the effective date of the Rule. Such TPSs agree to be responsible for their Nested TPSs' compliance with the NACHA Rules.

Third-Party Senders and Risk Assessment – Effective September 30, 2022

Details: The Third-Party Senders and Risk Assessment rule will require that a TPS, whether or not it is Nested, conduct a Risk Assessment (as defined in the NACHA Rules). A TPS must implement, or have implemented, a risk management program based on its Risk Assessment. The obligation to perform the Risk Assessment cannot be passed on to another party. Each TPS must conduct or have conducted its own Risk Assessment. A ODFIs will not be required to review TPS Risk Assessments.

Technical Summary:
This Rule modifies the following areas of the *NACHA Operating Rules:*

- *Article One, Subsection 1.2.4 (Risk Assessment)* – Updates to include TPSs in the Risk Assessment requirements.
- *Article Two, Subsection 2.15.3 (Performance and Warranty of ODFI Obligations by Third-Party Senders)* – Expands to include requirement for TPSs to conduct a Risk Assessment and a Rules Compliance Audit and explicitly state that the TPS cannot rely upon the Risk Assessment or Rules Compliance Audit of another TPS.

Impact to Participants:

ODFIs: Although ODFIs will not be required to review a TPS' Risk Assessment, they may choose to institute policies to encourage TPS compliance.

Third-Party Senders: Any Third-Party Sender that has not conducted an ACH Risk Assessment will be required to do so. Third-Party Senders that have relied on the Risk Assessments or Rules Compliance Audits of other Third-Party Senders will need to conduct their own Risk Assessment or Rules Compliance Audit.