

## 2016 U.S. ACH Rules Changes

### September 23, 2016 and October 3, 2016

#### Same-day ACH

On September 23, 2016, NACHA Rules are expected to go into effect that will permit certain ACH eligible credit transactions (those less than \$25,000 and non-International ACH) and non-monetary transactions with a same-day effective date to be processed same-day by the ACH Network. Receiving banks (RDFI) will be [required](#) to post these transactions on a same-day basis, and Originating banks may [voluntarily](#) offer same-day origination to their clients.

NACHA has defined a tri-phased implementation timeline from 2016 – 2018 with each phase improving upon feature functionality:

| <b>Phase &amp; Deadline</b> | <b>Eligible<br/>(\$25,000 limit; Non-IAT)</b> | <b>Mandated Receiving Bank's<br/>Responsibility</b> |
|-----------------------------|---|---|
| Phase 1 September 23, 2016  | Credits                                       | Funds availability by end of RDFI Processing Day    |
| Phase 2 September 15, 2017  | Credits and Debits                            | Funds availability by end of RDFI Processing Day    |
| Phase 3 March 16, 2018      | Credits and Debits                            | Funds availability by 5PM RDFI local time           |

Flushing Bank plans to develop new deadlines, origination options, and product capabilities enabling you to take advantage of same-day ACH functionality. Same-day ACH originations will be offered at an additional fee per transaction.

#### Fee for Unauthorized Returns

Also, on October 3, 2016, NACHA Rules are expected to go into effect that will impose fees for ACH debit items returned as unauthorized (return codes R05, R07, R10, R29, R51) to reduce the incidence of unauthorized debits in the network. The fee for unauthorized returns is yet to be determined.

Additional information on ACH rules may be found on the NACHA website at [www.nacha.org](http://www.nacha.org).



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NOTICE OF AMENDMENT  
TO THE  
2016 NACHA OPERATING RULES

September 2, 2016

**SUPPLEMENT #2-2016**

**1. Third-Party Sender Registration**

*Effective Date: September 29, 2017*

**2. Minor Rules Topics**

*Effective Dates: August 18, 2016*

*September 23, 2016*

*March 16, 2018*

**3. Network Administration Fees**

*Effective Date: January 1, 2017*

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# Supplement #2-2016 to the *NACHA Operating Rules*

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On August 18, 2016, the NACHA Voting Membership approved eleven amendments to the *NACHA Operating Rules (Rules)*. The effective dates for the eleven topics covered by these rule changes range from August 18, 2016 to March 16, 2018. The effective date for each topic is included in the discussion of each rule change.

This supplement also contains the 2017 ACH Network Administration Fees as approved by NACHA's Board of Directors. The new fee schedule is effective January 1, 2017.

This supplement provides ACH Network participants with a summary of the key components of each change, along with details regarding the technical changes to *Rules* language. To ensure compliance with the most current rules, this Supplement should be used in conjunction with the 2016 edition of the *Rules*.

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## Third-Party Sender Registration

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### SUMMARY

The Third-Party Sender Registration Rule (“Rule”) requires every Originating Depository Financial Institution (ODFI) to either register its Third-Party Sender customer(s) with NACHA, or provide to NACHA a statement that it has no such customers. The purpose of the Rule is to: 1) promote appropriate know-your-customer due diligence among all ODFIs to understand whether they have Third-Party Sender customers; 2) level the playing field among all ODFIs with Third-Party Sender customers by standardizing a set of minimum know-your-customer due diligence information that must be available for registration; and 3) create a tool that will assist NACHA in monitoring ACH Network quality and quickly responding to specific risk events.

### KEY COMPONENTS OF THE RULE AMENDMENT

#### *Initial Registration*

For ODFIs with no Third-Party Sender customers, the Rule requires the ODFI to acknowledge this in a statement to NACHA. NACHA will provide a simple means through the registry to make such a statement.

For ODFIs with Third-Party Sender customers, the Rule requires the ODFI to provide a limited set of initial, basic registration information for each Third-Party Sender that the ODFI should already have in its records:

- the ODFI’s name and contact information;
- the name and principal business location of the Third-Party Sender;
- the ODFI’s routing numbers used in ACH transactions originated for the Third-Party Sender; and
- the Company Identification(s) of the Third-Party Sender.

ODFIs will be required to provide the initial, basic registration information for a Third-Party Sender customer within 30 days of originating the first ACH entry for the customer. In instances in which an ODFI becomes aware that an unregistered customer is actually a Third-Party Sender that should be registered, the Rule provides 10 days (i.e., a grace period) for the ODFI to register that customer.

ODFIs will be required to update the registration information on the Third-Party Sender within 45 days following any change to the information previously provided, including whether the Third-Party Sender relationship has ended. A period of 45 days balances the need for the registration information to be reasonably current, while enabling ODFIs to submit updates on a regular, routine schedule following the end of a calendar month or similar periodic reporting cycle.

The registration requirement applies to Third-Party Senders that are the ODFI’s direct customers, as well as those other Third-Party Senders that are direct customers of the first Third-Party Sender, otherwise known as “nested” Third-Party Senders. To aid ODFIs in collecting registration information, the Rule obligates Third-Party Senders to provide their ODFIs, upon request, with any registration information needed. Further, in order to aid ODFIs with due diligence regarding nested Third-Party Sender relationships, the Rule requires Third-Party Senders to disclose to their ODFIs any other Third-Party Senders for which they transmit ACH entries.

**Supplemental Registration**

Beyond the initial, basic registration information defined above, it may become necessary for NACHA to receive additional information about a Third-Party Sender. The Rule provides that, upon receiving a written request from NACHA, an ODFI will be required to provide within 10 banking days any or all of the following information that is requested:

- any doing-business-as names, taxpayer identification number(s), and street and website address(es) of the Third-Party Sender;
- the name and contact information for the Third-Party Sender's contact person;
- names and titles of the Third-Party Sender's principals;
- the approximate number of Originators for which the Third-Party Sender transmits entries; and
- a statement as to whether the Third-Party Sender transmits debit entries, credit entries or both.

NACHA will be authorized to request this information regarding risk events, which the Rule defines as "cases in which it (NACHA) believes that a Third-Party Sender in the ACH Network poses an escalated risk of (i) financial loss to one or more Participating DFIs, Receivers or Originators, (ii) violation of the Rules or applicable Legal Requirements, or (iii) excessive Returns."

**Enforcement**

NACHA will utilize the same approach to enforcement as with all other rules that involve a direct obligation to NACHA (such as Direct Access Registration and ODFI Return Rate Reporting). NACHA could initiate a Rules enforcement proceeding if it believes that an ODFI has failed to register a Third-Party Sender customer.

NACHA recognizes that there might be situations in which a NACHA risk investigation identifies an entity as a Third-Party Sender, but its ODFI is not aware that the entity is a Third-Party Sender that should be registered. In such a case, NACHA's risk investigation staff will advise the ODFI, in writing, that it must register the Third-Party Sender within the 10 banking day grace period described above. Failure of the ODFI to register the Third-Party Sender could then result in the initiation of a Rules enforcement proceeding.

**IMPACT TO PARTICIPANTS**

*ODFIs:* ODFIs with Third-Party Sender customers will incur some direct costs to assemble and report the required information to NACHA, and to update the registration information on a periodic basis. ODFIs already should have thorough records of their existing Third-Party Sender customers, and likely will have obtained the relevant information during the on-boarding of new customers; therefore, NACHA does not expect these costs to be significant. There may be some ODFIs, however, that will have to enhance their customer onboarding and monitoring processes, and obtain the required information; these ODFIs may experience higher initial costs to comply with the Rule. ODFIs with no Third-Party Sender customers will have only de minimus administrative costs to provide NACHA with a statement.

*Third-Party Senders:* Third-Party Senders likely will incur some direct costs to assemble and provide required information to their ODFIs. Because the information is basic in nature, NACHA does not expect these costs to be so significant as to outweigh the benefits of the Rule.

*Originators, ACH Operators, and RDFIs:* These Network participants are not expected to incur any direct costs associated with Third-Party Sender Registration.

## EFFECTIVE DATE

The Rule will become effective on September 29, 2017. This will be the first date for which the Third-Party Sender registry will become available for ODFIs to begin submitting registration information. NACHA will provide ODFIs with an implementation period to submit initial registration information, or to provide statements that the ODFIs have no Third-Party Sender customers, in order to allow for implementation to be spread out across a reasonable time period. The implementation period will last through March 1, 2018.

## TECHNICAL SUMMARY

Below is a summary of the impact of the Third-Party Sender Registration Rule on the *NACHA Operating Rules*. Sections of the *Rules* that are affected by this amendment are also included and reflect rule language as it will read upon implementation in highlighted, italicized text.

- *Article Two, Subsection 2.15.1 (Third-Party Senders' Provision of Information to ODFIs)* – Creates obligations of Third-Party Senders to provide ODFIs with information necessary for registration, and to disclose to the ODFI the identity(ies) of any nested Third-Party Sender(s)
- *Article Two, Subsection 2.17.3 (Third-Party Sender Registration)* – Creates a new subsection for the Third-Party Sender Registration data requirements
- *Appendix Eight, Part 8.4 (Audit Requirements for ODFIs, Third-Party Service Providers and Third-Party Senders)* - Adds an audit item verifying that the ODFI has registered and updated information on its Third-Party Senders
- *Appendix Ten, Subpart 10.3.1 (Direct Access Registration)* – Modifies the subpart title only
- *Appendix Ten, Subpart 10.3.2 (Third-Party Sender Registration)* – Adds a new subpart to address rules enforcement for Third-Party Sender Registration
- *Appendix Ten, Subpart 10.4.7.4 (Class 2 Rules Violation)* – Adds failure of the ODFI to register its Third-Party Senders to the list of Class 2 Rules Violations

*As approved August 18, 2016, effective September 29, 2017, the Rules will be amended as follows for changes related to Third-Party Sender Registration:*

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### ARTICLE TWO

## Rights and Responsibilities of ODFIs, Their Originators, and Third-Party Senders

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### SECTION 2.15 Obligations of Third-Party Senders, and of ODFIs and Originators That Use Third-Party Senders

#### ***SUBSECTION 2.15.1 Identification of Originators by Third-Party Senders***

A Third-Party Sender must, upon the ODFI's request, provide the ODFI with any information the ODFI reasonably deems necessary to identify each Originator for which the Third-Party Sender Transmits Entries. The information must be provided to the ODFI by the Third-Party Sender within two Banking Days of receipt of the ODFI's request.

**SUBSECTION 2.15.1 Third-Party Senders' Provision of Information to ODFIs**

*A Third-Party Sender must disclose to the ODFI any other Third-Party Sender for which it Transmits Entries to the ODFI, prior to Transmitting Entries for the other Third-Party Sender.*

*A Third-Party Sender must, upon the ODFI's request, provide the ODFI with any information the ODFI reasonably deems necessary to identify each Originator or other Third-Party Sender for which the Third-Party Sender Transmits Entries. A Third-Party Sender must also, upon the ODFI's request, provide the ODFI with the information required by Subsection 2.17.3 (Third-Party Sender Registration) for purposes of the ODFI's registration of the Third-Party Sender with the National Association. The information must be provided to the ODFI by the Third-Party Sender within two Banking Days of receipt of the ODFI's request.*

**SECTION 2.17 ODFI Reporting Requirements to National Association****SUBSECTION 2.17.3 Third-Party Sender Registration (new subsection)****SUBSECTION 2.17.3.1 ODFIs with Third-Party Senders**

*An ODFI must register with the National Association each Third-Party Sender for which it originates Entries, including 1) a Third-Party Sender that originates Entries through another Third-Party Sender customer of the ODFI; and 2) a Third-Party Sender that originates Entries through Direct Access. The ODFI must provide the following information to the National Association for each Third-Party Sender:*

- (a) the ODFI's name;*
- (b) the name, title, telephone number, email address, and street address for a contact person at the ODFI;*
- (c) the name of the Third-Party Sender and its principal city and state location;*
- (d) the Originating DFI Identification number(s) used in Entries Transmitted for the Third-Party Sender; and*
- (e) the Company Identification(s) of the Third-Party Sender.*

*The ODFI must register the Third-Party Sender with the National Association within the later of 30 days of Transmitting the first Entry on behalf of the Third-Party Sender, or within 10 days of becoming aware that an unregistered customer for which the ODFI Transmits Entries is actually a Third-Party Sender. The ODFI must update the registration information on the Third-Party Sender within 45 days following any change to the information previously provided, including termination of the Third-Party Sender.*

*If NACHA believes that a Third-Party Sender poses an escalated risk of (i) financial loss to one or more Participating DFIs, Receivers or Originators, (ii) violation of the Rules or applicable Legal Requirements, or (iii) excessive Returns, NACHA may request in writing supplemental registration information from the ODFI.*

*Upon the receipt of a written request by NACHA, the ODFI must provide within 10 Banking Days any of the following additional registration information about a Third-Party Sender that is requested:*

- (f) the Third-Party Sender's doing-business-as name(s) if any, taxpayer identification number(s), street address and website address;*
- (g) the name, title, telephone number, and email address for a contact person at the Third-Party*

*Sender;*

*(b) the name(s) and title(s) of the principal(s) of the Third-Party Sender;*

*(i) the approximate number of Originators for which the Third-Party Sender Transmits Entries; and*

*(j) a statement as to whether the Third-Party Sender Transmits debit Entries, credit Entries, or both.*

#### **SUBSECTION 2.17.3.2 ODFIs with No Third-Party Senders**

*An ODFI with no Third-Party Senders must provide the National Association with the following information:*

*(a) the ODFI's name;*

*(b) the name, title, telephone number, email address, and street address for a contact person at the ODFI;*

*(c) a statement acknowledging that the ODFI has no Third-Party Senders.*

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## APPENDIX EIGHT

### Rule Compliance Audit Requirements

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#### **PART 8.4 Audit Requirements for ODFIs, Third-Party Service Providers, and Third-Party Senders**

*n. Verify that the ODFI has either (1) stated to the National Association that it has no Third-Party Senders; or (2) registered its Third-Party Senders with the National Association, and updated as necessary any such registrations. (Article Two, Subsection 2.17.3)*

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## APPENDIX TEN

### Rules Enforcement

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#### **PART 10.3 ODFI Registration Requirements**

##### ***SUBPART 10.3.1 Direct Access Registration (new subsection title)***

If, in its sole discretion, the National Association believes that an ODFI has failed to register its Direct Access Debit Participant status, or to provide data reporting regarding a Direct Access Debit Participant, the National Association may initiate a rules enforcement proceeding. Such proceeding will be according to Part 10.4 (National System of Fines) of this Appendix Ten for a Class 2 Rules Violation, as defined within Subpart 10.4.7.4 (Class 2 Rules Violation).

##### ***SUBPART 10.3.2 Third-Party Sender Registration (new subsection)***

*If, in its sole discretion, the National Association believes that an ODFI has failed to register or provide other required information for a Third-Party Sender, the National Association may initiate a rules enforcement proceeding. Such proceeding will be according to Part 10.4 (National System of Fines) of this Appendix*



*Ten for a Class 2 Rules Violation, as defined within Subpart 10.4.7.4 (Class 2 Rules Violation).*

## **PART 10.4 National System of Fines**

### *SUBPART 10.4.7.4 Class 2 Rules Violation*

A Class 2 Rules Violation is one in which:

- (1) the Participating DFI has not responded to either the Notice of Possible ACH Rules Violation or the Notice of Possible Fine;
- (2) the Participating DFI responds to either notice that it does not intend to correct the rules violation;
- (3) the Participating DFI
  - (i) fails to respond completely and accurately, within the proper time frame, to the National Association's request for information in accordance with the requirements of Article Two, Subsection 2.17.2 (ODFI Return Rate Reporting);
  - (ii) fails to reduce the Originator's or Third-Party Sender's Unauthorized Entry Return Rate below the Unauthorized Entry Return Rate Threshold within 30 days of receipt of the National Association's written request;
  - (iii) successfully reduces the Unauthorized Entry Return Rate below the Unauthorized Entry Return Rate Threshold within the 30-day time period, but fails to maintain the Unauthorized Entry Return Rate below the Unauthorized Entry Return Rate Threshold for 180 additional days. The Panel may consider the Originator's or Third-Party Sender's volume of debit Entries as an extenuating circumstance in determining whether a violation under this provision constitutes a Class 2 Rules Violation;
  - (iv) fails to reduce the Administrative Return Rate or Overall Return Rate of an Originator or Third-Party Sender below the applicable Return Rate Level within 30 days after receipt of the written directive; or
  - (v) successfully reduces the Administrative Return Rate or Overall Return Rate of an Originator or Third-Party Sender below the applicable Return Rate Level within 30 days after receipt of a written directive, but fails to maintain the rate below the applicable Return Rate Level for 180 additional days;
- (4) the Participating DFI fails to register its Direct Access Debit Participant status or provide data reporting on a Direct Access Debit Participant, as required by Article Two, Subsection 2.17.1 (Direct Access Registration);
- (5) the Participating DFI fails to register a Third-Party Sender(s) with the National Association, or provide other required information, as required by Article Two, Subsection 2.17.3 (Third-Party Sender Registration);*
- (6) the Participating DFI fails to provide the National Association with proof of completion of its own, its Third-Party Service Provider's, or its Third-Party Sender's rules compliance audit, as required by Appendix Eight (Rule Compliance Audit Requirements);
- (7) the ACH Rules Enforcement Panel determines the time frame and resolution date asserted by a

Participating DFI as necessary to resolve the problem causing the rules violation are excessive;

- (8) the National Association believes that the violation causes excessive harm to one or more Participating DFIs or the ACH Network; or
- (9) it is the fourth or subsequent recurrence of the same rules violation.

In situations involving a Class 2 Rules Violation, the ACH Rules Enforcement Panel may levy a fine against the respondent Participating DFI in an amount up to \$100,000 per month until the problem is resolved. Where the violation relates to a specific Originator or Third-Party Service Provider at the DFI, a separate monthly fine may be assessed to the DFI with respect to each such Originator or Third-Party Service Provider.

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## Minor Rules Topics

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### SUMMARY

These rule amendments change ten areas of the *NACHA Operating Rules (Rules)* to address minor topics. Minor changes to the *Rules* have little-to-no impact on ACH participants and no significant economic impact. The Effective Date of each amendment is provided below. Specifically, the changes are related to:

1. Funds Availability for Same Day Entries in Time Zones East of the Continental United States;
2. Alignment of ENR and Same Day Language;
3. Alignment of TRC/TRX and Same Day Language;
4. Clarification of Reinitiation – Standard Entry Description;
5. Clarification of Reinitiation – Applicability to RCK;
6. Clarification of Reinitiation – Non-Applicability to Corrected Entries Related to R03/R04 Returns;
7. Rules Enforcement – Monitoring of Class 2 Violations;
8. Rules Enforcement – Protection of the National Association from Liability for Enforcement of the Rules;
9. Rules Enforcement – Appeal Process for Suspension from the ACH Network; and
10. Clarification of Originating DFI Identification for IAT Entries.

### KEY COMPONENTS OF RULE AMENDMENTS

#### **1.— Funds Availability for Same Day Entries in Time Zones East of the Continental United States** (effective September 23, 2016 and March 16, 2018)

This amendment revises the funds availability requirements for Same Day credit Entries received in Phase 3 by RDFIs located in time zones ahead of Eastern Time (i.e., time zones that are east of the continental United States and west of the International Date Line).

Under Phase 3 of Same Day ACH, RDFIs will have an obligation to make funds from Same Day credits available to Receivers by 5:00 p.m. in the RDFI's local time. For RDFIs located in U.S. territories that are ahead of the Eastern Time Zone, the ACH Operators' anticipated file delivery time of 4:00 p.m. Eastern Time makes it unlikely, if not impossible, to meet the 5:00 p.m. RDFI local time funds availability requirement. For example, RDFIs in Puerto Rico and the U.S. Virgin Islands are within the Atlantic Time Zone and are one hour ahead of Eastern Time during standard time. For those financial institutions, the ACH Operator's file distribution time of 4:00 p.m. Eastern equates to 5:00 p.m. Atlantic Time, which is also the same time at which funds must be made available to the RDFIs' customers (i.e., 5:00 p.m. RDFI local time). Under this schedule, RDFIs have no time to process the files before they are required to make those funds available to their customers. RDFIs in the Chamorro Time Zone (i.e., Guam, Northern Mariana Islands), which are fifteen hours ahead of the Eastern Time Zone, have a similar problem. In those U.S. territories, it is well beyond 5:00 p.m. RDFI local time on Settlement Date when same-day files would be received from an ACH Operator.

This amendment revises funds availability requirements to make an accommodation for RDFIs in these situations. Specifically, RDFIs in Atlantic Time will be required to make funds from Same Day ACH credits available to Receivers for withdrawal by 5:00 p.m. Eastern Time (that is, by 6:00 p.m. Atlantic/local time). RDFIs in the Chamorro Time Zone will be required to make funds from Same Day ACH credits available to Receivers for withdrawal no later than the opening of business on the Banking Day following the Settlement Date of the Entry.

In addition, this amendment modifies the language within Appendix Eight (Rules Compliance Audit Requirements) that is specific to funds availability (Part 8.3(d)) to adopt more general language referencing an RDFI's obligation to comply with the funds availability requirements as they are defined within Article Three, Subsection 3.3.1 (Availability of Credit Entries to Receivers). The utilization of generic language that refers back to the actual rule streamlines the section by eliminating the reiteration of specific details for at least five distinct funds availability requirements.

Changes specific to the Rules Compliance Audit Requirements within Appendix Eight will become effective on September 23, 2016, the same effective date as Same Day ACH. Changes specific to Article Three, Subsection 3.3.1 (Available of Credit Entries to Receivers) will become effective on March 16, 2018, which is the same date as the effective date of Same Day ACH Phase 3.

#### **2.— Alignment of ENR and Same Day Language** *(effective September 23, 2016)*

Because ENR Entries do not utilize the Effective Entry Date field (the *Rules* require this field to be space filled), there is no means by which a same-day ENR could be distinguished from a next-day ENR. The rule on Same Day ACH expressly states that ENR Entries cannot be Same Day Entries in the description of the Effective Entry Date field; however, corresponding language within the definitions of both Automated Enrollment Entry and Same Day Entry, as well as the general description of the ENR Entry, does not expressly state this. This amendment revises these sections of the *Rules* to make clear that ENR Entries cannot be Same Day Entries.

Similarly, although the definition of a Same Day Entry, as well as the general description of the IAT Entry (at Subsection 2.5.8.1), explicitly identifies IAT Entries as ineligible for Same Day processing and settlement, a corresponding statement is added to the definition of IAT for clarity.

#### **3.— Alignment of TRC/TRX and Same Day Language** *(effective September 23, 2016)*

This Rule fully aligns the same-day settlement requirements for forward TRC and TRX Entries with other SEC Codes. Same Day ACH treats TRC and TRX the same as all other eligible SEC codes. This amendment removes language from the Effective Entry Date field description and the Settlement Date description that will be outdated as of the Same Day ACH effective date. This results in language for TRC and TRX entries being fully aligned with other SEC Codes, where settlement is based on the Effective Entry Date.

Since there is currently no volume of TRC and TRX entries flowing over the ACH Network, this change has no impact on any ACH Network participants. Any new users that might become participants of check truncation programs in the future will need to be aware of these rules as standard for TRC/TRX processing.

#### **4.— Clarification of Reinitiation – Standard Entry Description** *(effective August 18, 2016)*

The recently effective changes to the reinitiation rules require the use of a specific company entry description (“RETRY PYMT”). In any case where an entry is returned and subsequently reinitiated, the rule intended the description “RETRY PYMT” to supersede the original content of the Company Entry Description field. However, the language did not expressly state how this requirement applies to the reinitiation of original entries that bear other, rules-mandated entry descriptions (e.g., “REDEPCHECK”,

“RETURN FEE”, etc.). This amendment clarifies that the RETRY PYMT descriptive statement applies to all cases of reinitiation and supersedes any other company entry description, including other *Rules*-mandated company entry descriptions for original entries.

**5.— Clarification of Reinitiation – Applicability to RCK** *(effective August 18, 2016)*

The definition of a Reinitiated Entry does not exempt RCK from its scope, and the recent modifications to reinitiation requirements related to formatting, etc., were not intended to exclude RCK entries. Because the circumstances under which a returned RCK entry can be reinitiated have always been more limited than other SEC Codes, the differences for RCK were listed separately under the rule provisions specific to RCK. This amendment clarifies the reinitiation rules as applicable to RCK Entries by eliminating the separate section on reinitiated RCK entries and re-locating RCK-specific details to within the general rule on reinitiated entries.

**6.— Clarification of Reinitiation – Non-Applicability to Corrected Entries Related to R03/R04 Returns** *(effective August 18, 2016)*

NACHA continues to receive on-going inquiries as to whether entries that have been returned due to invalid or incorrect routing and account information (i.e., R03/R04) are considered to be reinitiated entries when corrected and subsequently transmitted into the ACH Network. By definition, a Reinitiated Entry is an entry to the same Receiver’s account. In these cases, a new entry with corrected routing and/or account number would be the first presentment to the correct Receiver’s account and should not be identified as a reinitiated entry. To identify these corrected entries as reinitiations would cause confusion to the Receiver since there was no previous attempt at presentment of the entry to the account. This amendment clarifies that corrected entries resulting from R03/R04 returns are not considered to be reinitiated entries.

**7.— Rules Enforcement – Monitoring of Class 2 Violations** *(effective August 18, 2016)*

This amendment revises the description of a Class 2 Rules Violation within Appendix Ten (Rules Enforcement) to allow evaluation of the timing of a recurring violation in relation to the resolution date for the immediately preceding violation when determining its status as a Class 2 Rules Violation.

Under this change, the *Rules* re-define a Class 2 rules violation as the fourth or subsequent recurrence of a rule violation, where that fourth or subsequent recurrence takes place within one year of the resolution date of the immediately preceding infraction.

**8.— Rules Enforcement – Protection of the National Association from Liability for Enforcement of the Rules** *(effective August 18, 2016)*

This amendment expands the rules enforcement provisions within the *NACHA Operating Rules* to include express protections for NACHA and its committees when engaged in their roles related to rules enforcement. The Rule modifies Appendix Ten (Rules Enforcement) to expressly provide that the ACH Rules Enforcement Panel, the Appeals Panel, the National Association (including staff), and members of its committees have no liability in connection with their role in enforcement matters.

**9.— Rules Enforcement – Appeal Process for Suspension from the ACH Network** *(effective August 18, 2016)*

This amendment expands Appendix Ten (Rules Enforcement) to define a process by which an ODFI may appeal the suspension of its Originator or Third-Party Sender customer when suspension has been mandated by the ACH Rules Enforcement Panel as the penalty for a Class 3 rules violation.

In light of the seriousness of a suspension order on the subject Originator or Third-Party Sender, the Rule provides for an appeals process with the imposition of a suspension order. Specifically, the

amendment modifies Appendix Ten to provide that a Participating DFI may appeal a suspension order to a panel (“Appeals Panel”) comprised of at least three individuals who are on the list of arbitrators maintained by NACHA in accordance with Appendix Nine (Arbitration). As members of the Appeals Panel, these individuals will not be acting as arbitrators, but rather will act together as an appellate body for enforcement cases to review the suspension decision of the ACH Rules Enforcement Panel. Because suspension orders relate to circumstances that pose serious risk to the ACH Network, the process of such an appeal will be expedited, and the decision of the Appeals Panel will be final.

**10. — Clarification of Originating DFI Identification for IAT Entries** *(effective August 18, 2016)*

This amendment revises the description of the Originating DFI Identification field for IAT entries to reflect a current business practice.

For Outbound IAT Entries, the *Rules* required the Originating DFI Identification field within the 4th IAT Addenda record to contain the routing number of the U.S. ODFI as the source of funding for the outbound Entry.

However, in certain business models, the funding for an Outbound IAT Entry comes from a financial institution in another country. In these cases, the previous requirement to include the U.S. ODFI in this field resulted in the identification of the wrong financial institution as the ultimate source of funds for the payment transaction. This change enables the correct identification by using either the routing number of the U.S. ODFI or the national clearing system number of a foreign financial institution, whichever party is responsible for providing funds for the Outbound IAT Entry.

## IMPACT TO PARTICIPANTS

All ACH Network participants generally benefit from *Rules* language that is consistent and clear, and that takes established industry practices into consideration. Each of the changes in this Rule serves to improve overall ACH processing efficiency by enhancing or clarifying certain areas within the *Rules*. NACHA does not expect ACH Network participants to incur any substantial costs associated with the implementation of the approved changes.

## TECHNICAL SUMMARY

Sections of the *Rules* that are affected by this amendment are included below and reflect rule language as it will read upon implementation in highlighted, italicized text.

**1.— Funds Availability for Same Day Entries in Time Zones East of the Continental United States**  
*(effective September 23, 2016 and March 16, 2018)*

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## APPENDIX EIGHT

### Rule Compliance Audit Requirements

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**PART 8.3 Audit Requirements for RDFIs and Third-Party Service Providers** *(effective September 23, 2016)*

- d. Verify that, subject to the RDFI’s right of return, the amount of each credit Entry received from its ACH Operator is made available to the Receiver for withdrawal no later than the Settlement Date of the Entry. In the case of a credit PPD Entry that is made available to the RDFI by its ACH Operator by 5:00 p.m. (RDFI’s local time) on the Banking Day prior to the Settlement Date, verify that the amount is made available to the Receiver for withdrawal at the opening of business on

the Settlement Date. Verify that debit entries are not posted prior to the Settlement Date, even if the Effective Date of the Entry is different from the Settlement Date of the Entry. (Article Three, Subsections 3.3.1.1, 3.3.1.2, and 3.3.2)

- d. Verify that, subject to the RDFI's right of return, the amount of each credit Entry received from its ACH Operator is made available to the Receiver as required by Article Three, Subsection 3.3.1 (Availability of Credit Entries to Receivers). Verify that debit entries are not posted prior to the Settlement Date, even if the Effective Date of the Entry is different from the Settlement Date of the Entry. (Article Three, Subsection 3.3.1)*

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## ARTICLE THREE

### Rights and Responsibilities of RDFIs and Their Receivers

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#### *SUBSECTION 3.3.1.1 General Rule for Availability of Credits (effective March 16, 2018)*

For a credit Entry that is not a Same Day Entry, an RDFI must make the amount of the credit Entry received from its ACH Operator available to the Receiver for withdrawal no later than the end of the Settlement Date of the Entry, subject to its right to return the Entry under these Rules.

For a credit Same Day Entry, an RDFI must make the amount of the credit Entry available in the Receiver's account no later than the completion of the RDFI's processing for that Settlement Date, subject to its right to return the Entry under these Rules. An RDFI is not required to make such funds available for withdrawal on the Settlement Date.

An RDFI that reasonably suspects that a credit Entry is unauthorized is exempt from these requirements, subject to applicable Legal Requirements. An RDFI invoking such an exemption must promptly notify the ODFI.

*For a credit Entry that is not a Same Day Entry, an RDFI must make the amount of the credit Entry received from its ACH Operator available to the Receiver for withdrawal no later than the end of the Settlement Date of the Entry, subject to its right to return the Entry under these Rules.*

*For a credit Same Day Entry, an RDFI must make the amount of the credit Entry available to the Receiver for withdrawal no later than 5:00 p.m. in the RDFI's local time on the Settlement Date of the Entry, subject to its right to return the Entry under these Rules, and except as noted below.*

*An RDFI in the Atlantic Time Zone must make the amount of a credit Same Day Entry available to the Receiver for withdrawal no later than 5:00 p.m. Eastern Time on the Settlement Date of the Entry, subject to its right to return the Entry under these Rules.*

*An RDFI located east of the Atlantic Time Zone and west of the International Date Line must make the amount of a credit Same Day Entry available to the Receiver for withdrawal no later than the opening of business on the Banking Day following the Settlement Date of the Entry, subject to its right to return the Entry under these Rules.*

*An RDFI that reasonably suspects that a credit Entry is unauthorized is exempt from these requirements, subject to applicable Legal Requirements. An RDFI invoking such an exemption must promptly notify the ODFI.*

**2.— Alignment of ENR and Same Day Language** (effective September 23, 2016)

## ARTICLE TWO

## Rights and Responsibilities of ODFIs, Their Originators, and Third-Party Senders

**SUBSECTION 2.5.7 General Rule for ENR Entries (Automated Enrollment Entry)**

An ENR Entry is a Non-Monetary Entry that enrolls a Person with an agency of the United States Government that will enable Entries to such Person's account at a Participating DFI. An ENR Entry may be originated by a Participating DFI at the request of an account holder at the Participating DFI to an agency of the United States Government that has agreed to receive the ENR Entry.

**SUBSECTION 2.5.7 General Rule for ENR Entries (Automated Enrollment Entry)**

*An ENR Entry is a Non-Monetary Entry that enrolls a Person with an agency of the United States Government that will enable Entries to such Person's account at a Participating DFI. An ENR Entry may be originated by a Participating DFI at the request of an account holder at the Participating DFI to an agency of the United States Government that has agreed to receive the ENR Entry. An ENR Entry cannot be a Same Day Entry.*

## ARTICLE EIGHT

## Definitions of Terms Used in These Rules

**SECTION 8.12 “Automated Enrollment Entry” or “ENR Entry” or “ENR”**

a Non-Monetary Entry initiated by a Participating DFI to an agency of the Federal Government of the United States on behalf, and at the request, of an account holder at the Participating DFI to enroll in a service that will enable Entries to such Person's account at the Participating DFI.

**SECTION 8.12 “Automated Enrollment Entry” or “ENR Entry” or “ENR”**

*a Non-Monetary Entry initiated by a Participating DFI to an agency of the Federal Government of the United States on behalf, and at the request, of an account holder at the Participating DFI to enroll in a service that will enable Entries to such Person's account at the Participating DFI. An Automated Enrollment Entry cannot be a Same Day Entry.*

**SECTION 8.54 “International ACH Transaction” or “IAT Entry” or “IAT”**

an Entry that is part of a payment transaction<sup>1</sup> involving a Financial Agency's office that is not located in the territorial jurisdiction of the United States. An office of a Financial Agency is involved in the payment transaction if it (a) holds an account that is credited or debited as part of the payment transaction, (b) receives payment directly from a Person or makes payment directly to a Person as part of the payment transaction, or (c) serves as an intermediary in the settlement of any part of the payment transaction.

**SECTION 8.54 “International ACH Transaction” or “IAT Entry” or “IAT”**

*an Entry that is part of a payment transaction involving a Financial Agency's office that is not located in the territorial jurisdiction of the United States. An office of a Financial Agency is involved in the payment*

<sup>1</sup> See the NACHA Operating Guidelines chapter on International ACH Transactions for further guidance on payment transactions.



*transaction if it (a) holds an account that is credited or debited as part of the payment transaction, (b) receives payment directly from a Person or makes payment directly to a Person as part of the payment transaction, or (c) serves as an intermediary in the settlement of any part of the payment transaction. An International ACH Transaction cannot be a Same Day Entry.*

### **SECTION 8.99 Same Day Entry**

An Entry, other than a debit Entry, in which the Effective Entry Date is the same Banking Day as the date on which the Entry is Transmitted by the ODFI to its ACH Operator, and that is Transmitted by the ACH Operator's deadline for same-day processing and settlement. A Same Day Entry must be for an amount of \$25,000 or less. An IAT Entry cannot be a Same Day Entry. For purposes of fulfilling its obligations under these Rules, an RDFI may rely on the Settlement Date of an Entry, regardless of the Effective Entry Date. An Entry with a stale or invalid Effective Entry Date will also be a Same Day Entry if it is Transmitted by the ODFI to its ACH Operator by the ACH Operator's deadline for same-day processing and settlement, and is otherwise eligible for same-day processing and settlement.

### **SECTION 8.99 Same Day Entry**

*An Entry, other than a debit Entry, in which the Effective Entry Date is the same Banking Day as the date on which the Entry is Transmitted by the ODFI to its ACH Operator, and that is Transmitted by the ACH Operator's deadline for same-day processing and settlement. A Same Day Entry must be for an amount of \$25,000 or less. An IAT or ENR Entry cannot be a Same Day Entry. For purposes of fulfilling its obligations under these Rules, an RDFI may rely on the Settlement Date of an Entry, regardless of the Effective Entry Date. An Entry with a stale or invalid Effective Entry Date will also be a Same Day Entry if it is Transmitted by the ODFI to its ACH Operator by the ACH Operator's deadline for same-day processing and settlement, and is otherwise eligible for same-day processing and settlement.*

### **3.— Alignment of TRC/TRX and Same Day Language (effective September 23, 2016)**

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## APPENDIX THREE

### ACH Record Format Specifications

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#### **SUBPART 3.2.2 Glossary of Data Elements**

**Effective Entry Date:** 6 Positions – Company/Batch Header Record – Required (all batches)

The Effective Entry Date is the Banking Day specified by the Originator on which it intends a batch of Entries to be settled.

For credit Entries, the Effective Entry Date must be either the same Banking Day as the Banking Day of processing by the Originating ACH Operator (the processing date) for Same Day Entries, or one or two Banking Days following the Originating ACH Operator's processing date for other Entries.

For debit Entries, the Effective Entry Date must be one Banking Day following the processing date.

A batch of Entries containing an Effective Entry Date beyond the designated number of days allowed is Rejected by the ACH Operator and returned to the ODFI.

A batch of Entries containing an Effective Entry Date that is stale (i.e., is a Banking Day that is in the past, or is the current Banking Day but is not submitted timely to an ACH Operator for same-day processing and settlement) is settled at the next available settlement opportunity.

A batch of Entries containing invalid Effective Entry Date information (for example, if the field is blank or zero, partially blank or partially non-numeric, contains an incomplete date, contains day numbers higher than 31, or contains month numbers higher than 12) is settled at the next available settlement opportunity. The Originating ACH Operator inserts the Banking Day of processing or the next Banking Day as the Effective Entry Date, whichever corresponds to the next available settlement opportunity.

ENR: For Automated Enrollment Entries, this field must be space filled. Automated Enrollment Entries cannot be Same Day Entries.

*Return Entries, COR, TRC, TRX:* The ACH Operator does not edit this field.

*Return Entries and Notifications of Change: The ACH Operator does not edit this field.*

The scheduled Settlement Date is inserted by the Receiving ACH Operator. *See the definition of "Settlement Date" in this Appendix Three.*

**Settlement Date:** 3 Positions – Company/Batch Header Record – Inserted by Receiving ACH Operator (all batches)

The Settlement Date (a 3-digit Julian date) for a batch of Entries is inserted by the Receiving ACH Operator. This is the date on which the Participating DFI or its correspondent is scheduled to be debited or credited by the Federal Reserve.

The Settlement Date inserted by the Receiving ACH Operator is the same as the Effective Entry Date, except as noted below.

In the following situations, the Receiving ACH Operator will insert the Banking Day following the Banking Day of processing as the Settlement Date (i.e., the next Banking Day):

- (1) The Effective Entry Date and the Originating ACH Operator's processing date are the same, but the Entry is received by the Receiving ACH Operator after its deadline for same-day settlement.
- (2) The Effective Entry Date and the Originating ACH Operator's processing date are the same, but the Entry is for an amount greater than \$25,000.
- (3) The Effective Entry Date and the Originating ACH Operator's processing date are the same, but the Entry bears the IAT Standard Entry Class Code.
- (4) The Entry bears the ENR Standard Entry Class Code.
- (5) A debit Entry contains an Effective Entry Date that is the Banking Day of processing.

Entries with invalid or stale Effective Entry Dates will be settled at the next available settlement opportunity.

Return Entries, dishonored Return Entries, and contested dishonored Return Entries are settled by the ACH Operator no earlier than the Effective Entry Date contained within the original Entry, as it appears in the Return Entry Company/Batch Header Record. The return of an Entry that contains an invalid or stale Effective Entry Date will be settled by the ACH Operator at the next available settlement opportunity (i.e., the Banking Day of processing or the next Banking Day).

Notifications of Change and TRC/TRX Entries will be settled at the next available settlement opportunity, (i.e., the Banking Day of processing or the next Banking Day).

*Notifications of Change will be settled at the next available settlement opportunity, (i.e., the Banking Day of processing or the next Banking Day).*

#### **4.— Clarification of Reinitiation – Standard Entry Description** (effective August 18, 2016)

## ARTICLE TWO

### Rights and Responsibilities of ODFIs, Their Originators, and Third-Party Senders

#### *SUBSECTION 2.12.4.2 Formatting Requirements for Reinitiated Entries*

An Originator or ODFI must submit Reinitiated Entries as a separate batch that contains the word “RETRY PYMT” in the Company Entry Description field of the Company/Batch Header Record.

The contents of the Company Name, Company Identification, and Amount fields of the Reinitiated Entry must be identical to the contents of the original Entry. The contents of other fields should be modified only as necessary to correct an error or facilitate proper processing of the Reinitiated Entry.

*An Originator or ODFI must submit Reinitiated Entries as a separate batch that contains the word “RETRY PYMT” in the Company Entry Description field of the Company/Batch Header Record. For any Reinitiated Entry, the description “RETRY PYMT” must replace the original content of the Company Entry Description field transmitted in the original Entry, including content otherwise required by these Rules.*

*The contents of the Company Name, Company Identification, and Amount fields of the Reinitiated Entry must be identical to the contents of the original Entry. The contents of other fields should be modified only as necessary to correct an error or facilitate proper processing of the Reinitiated Entry.*

## APPENDIX THREE

### ACH Record Format Specifications

#### **SUBPART 3.2.2 Glossary of Data Elements**

**Company Entry Description:** 10 Positions – Company/Batch Header Record – Mandatory (all batches)

The Originator establishes the value of this field to provide the Receiver with a description of the purpose of the Entry. For example, “Gas bill,” “Reg. Salary,” “ins. prem.,” “Soc. Sec.,” “DTC,” “Trade Pay,” “PURCHASE,” etc.

This field must contain the word “NONSETTLED” when the batch contains Entries that could not settle.

This field must contain the word “RECLAIM” when the batch contains Reclamation Entries.

This field must contain the words “RETRY PYMT” when the batch contains Reinitiated Entries.

*This field must contain the words “RETRY PYMT” when the batch contains Reinitiated Entries. For any Reinitiated Entry, the description “RETRY PYMT” must replace the original content of the Company Entry Description field transmitted in the original Entry, including content otherwise required by these Rules.*

This field must contain the words “RETURN FEE” when the batch contains Return Fee Entries.

This field must contain the word “REVERSAL” when the batch contains Reversing Entries.

*ADV*: The Originator, i.e., the Originating ACH Operator, uses this field to describe to the institution receiving the ADV File the type of activity to which the accounting information relates.

*CCD*: This field must contain the word “HCCLAIMPMT” when the batch contains Health Care EFT Transactions.

*ENR*: This field must contain the word “AUTOENROLL” when the batch contains Automated Enrollment Entries.

*RCK*: This field must contain the word “REDEPCHECK”.

*TRX*: This field contains the routing number of the keeper.

*WEB*: For a Person-to-Person Entry, this field must contain a description that the Receiver would readily recognize as descriptive of a Person-to-Person Entry.

*XCK*: This field must contain the words “NO CHECK”.

**5.— Clarification of Reinitiation – Applicability to RCK** (effective August 18, 2016)

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ARTICLE TWO

Rights and Responsibilities of ODFIs, Their Originators, and Third-Party Senders

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*SUBSECTION 2.5.13.7 Reinitiation of Returned RCK Entries (effective August 18, 2016, this subsection is removed from the Rules)*

An Originator or ODFI may reinitiate any RCK Entry that was previously returned if:

- (a) the RCK Entry has been returned for insufficient or uncollected funds; and
- (b) the item to which the RCK Entry relates has been presented no more than one time through the check collection system (as a Check, substitute check, or image) and no more than one time as an RCK Entry.

*SUBSECTION 2.12.4.1 General Rule for Reinitiated Entries*

An Originator or ODFI may Reinitiate an Entry, other than an RCK Entry, that was previously returned, only if:

- (a) the Entry was returned for insufficient or uncollected funds;
- (b) the Entry was Returned for stopped payment and Reinitiation has been separately authorized by the Receiver after the Originator or ODFI receives the Return Entry; or
- (c) the Originator or ODFI has taken corrective action to remedy the reason for the return.

The Originator or ODFI must Reinitiate the Entry within 180 days after the Settlement Date of the original Entry. An Originator or ODFI must not Reinitiate an Entry that has been returned for insufficient or uncollected funds more than two times following the Return of the original Entry.

*An Originator or ODFI may Reinitiate an RCK Entry that was previously returned if:*

- (d) the RCK Entry has been returned for insufficient or uncollected funds; and*
- (e) the item to which the RCK Entry relates has been presented no more than one time through the check collection system (as a Check, substitute check, or image) and no more than one time as an RCK Entry.*

A debit Entry will not be treated as a Reinitiated Entry if:

- (f) the debit Entry is one in a series of preauthorized, recurring debit Entries and is not contingent upon whether an earlier debit Entry in the recurring series has been Returned; or,
- (g) the Originator obtains a new authorization for the debit Entry after it receives the original Return Entry.

**6.— Clarification of Reinitiation – Non-Applicability to Corrected Entries Related to R03/R04 Returns**  
(effective August 18, 2016)

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ARTICLE TWO

Rights and Responsibilities of ODFIs, Their Originators, and Third-Party Senders

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*SUBSECTION 2.12.4.1 General Rule for Reinitiated Entries*

An Originator or ODFI may Reinitiate an Entry, other than an RCK Entry, that was previously returned, only if:

- (a) the Entry was returned for insufficient or uncollected funds;
- (b) the Entry was Returned for stopped payment and Reinitiation has been separately authorized by the Receiver after the Originator or ODFI receives the Return Entry; or
- (c) the Originator or ODFI has taken corrective action to remedy the reason for the return.

The Originator or ODFI must Reinitiate the Entry within 180 days after the Settlement Date of the original Entry. An Originator or ODFI must not Reinitiate an Entry that has been returned for insufficient or uncollected funds more than two times following the Return of the original Entry.

A debit Entry will not be treated as a Reinitiated Entry if:

- (d) the debit Entry is one in a series of preauthorized, recurring debit Entries and is not contingent upon whether an earlier debit Entry in the recurring series has been Returned; or,
- (e) the Originator obtains a new authorization for the debit Entry after it receives the original Return Entry; or

- (f) *the debit Entry is initiated to the Receiver's correct account following the return of a previous Entry using Return Reason Code R03 (No Account/Unable to Locate Account) or R04 (Invalid Account Number Structure).*

## **7.— Rules Enforcement – Monitoring of Class 2 Violations** (effective August 18, 2016)

### APPENDIX TEN

## Rules Enforcement

### *SUBPART 10.4.7.4 Class 2 Rules Violation*

A Class 2 Rules Violation is one in which:

- (1) the Participating DFI has not responded to either the Notice of Possible ACH Rules Violation or the Notice of Possible Fine;
- (2) the Participating DFI responds to either notice that it does not intend to correct the rules violation;
- (3) the Participating DFI
  - (i) fails to respond completely and accurately, within the proper time frame, to the National Association's request for information in accordance with the requirements of Article Two, Subsection 2.17.2 (ODFI Return Rate Reporting);
  - (ii) fails to reduce the Originator's or Third-Party Sender's Unauthorized Entry Return Rate below the Unauthorized Entry Return Rate Threshold within 30 days of receipt of the National Association's written request;
  - (iii) successfully reduces the Unauthorized Entry Return Rate below the Unauthorized Entry Return Rate Threshold within the 30-day time period, but fails to maintain the Unauthorized Entry Return Rate below the Unauthorized Entry Return Rate Threshold for 180 additional days. The Panel may consider the Originator's or Third-Party Sender's volume of debit Entries as an extenuating circumstance in determining whether a violation under this provision constitutes a Class 2 Rules Violation;
  - (iv) fails to reduce the Administrative Return Rate or Overall Return Rate of an Originator or Third-Party Sender below the applicable Return Rate Level within 30 days after receipt of the written directive; or
  - (v) successfully reduces the Administrative Return Rate or Overall Return Rate of an Originator or Third-Party Sender below the applicable Return Rate Level within 30 days after receipt of a written directive, but fails to maintain the rate below the applicable Return Rate Level for 180 additional days;
- (4) the Participating DFI fails to register its Direct Access Debit Participant status or provide data reporting on a Direct Access Debit Participant, as required by Article Two, Subsection 2.17.1 (Direct Access Registration);
- (5) the Participating DFI fails to provide the National Association with proof of completion of its own, its Third-Party Service Provider's, or its Third-Party Sender's rules compliance audit, as required by Appendix Eight (Rule Compliance Audit Requirements);

- (6) the ACH Rules Enforcement Panel determines the time frame and resolution date asserted by a Participating DFI as necessary to resolve the problem causing the rules violation are excessive;
- (7) the National Association believes that the violation causes excessive harm to one or more Participating DFIs or the ACH Network; or
- (8) it is the fourth or subsequent recurrence of the same rules violation.

*(8) it is the fourth or subsequent recurrence of the same rules violation in which the most recent recurrence occurs within one year of the resolution date of the immediately preceding recurrence.*

In situations involving a Class 2 Rules Violation, the ACH Rules Enforcement Panel may levy a fine against the respondent Participating DFI in an amount up to \$100,000 per month until the problem is resolved. Where the violation relates to a specific Originator or Third-Party Service Provider at the DFI, a separate monthly fine may be assessed to the DFI with respect to each such Originator or Third-Party Service Provider.

**8.— Rules Enforcement – Protection of the National Association from Liability for Enforcement of the Rules** *(effective August 18, 2016)*

APPENDIX TEN

Rules Enforcement

*SUBPART 10.4.7.7 – Protection of the National Association from Liability for Enforcement of the Rules (new subpart)*

*The National Association, its officers, directors, employees, agents, and members of its committees, ACH Rules Enforcement Panel, and Appeals Panel do not have, nor shall they incur, any liability or obligation rising directly or indirectly from their acts or omissions in connection with the interpretation or enforcement of, delay in interpretation or enforcement of, or failure to interpret or enforce these Rules. Each Participating DFI shall indemnify, hold harmless, and defend the National Association, its officers, directors, employees, agents and members of its committees, ACH Rules Enforcement Panel, and Appeals Panel from and against any actual or threatened claim, demand, obligation, loss, cost, liability and/or expense (including, without limitation, actual attorneys’ fees, costs of investigation, and disbursements) resulting from and/or arising in connection with any of the foregoing with respect to that Participating DFI, any of its Originators, Third-Party Service Providers or Third-Party Senders or any of its or their respective officers, directors, employees, or agents.*

**9.— Rules Enforcement – Appeal Process for Suspension from the ACH Network** *(effective August 18, 2016)*

APPENDIX TEN

Rules Enforcement

*SUBPART 10.4.7.6 Suspension*

In circumstances where the ACH Rules Enforcement Panel has determined that there is a Class 3 Rules Violation that relates to a specific Originator or Third-Party Sender according to Subpart 10.4.7.5 (Class 3 Rules Violation) of this Appendix Ten, the ACH Rules Enforcement Panel may direct the ODFI to suspend

the Originator or Third-Party Sender from originating. Any such suspension shall only be lifted by the ACH Rules Enforcement Panel.

In cases where the ACH Rules Enforcement Panel has directed an ODFI to suspend an Originator or Third-Party Sender from originating, the National Association will provide notice of such suspension, and any subsequent reinstatement, to Participating DFIs, ACH Operators, and Regional Payments Associations.

*SUBPART 10.4.7.6 Suspension and Appeal (revised subsection)*

*In circumstances where the ACH Rules Enforcement Panel has determined that there is a Class 3 Rules Violation that relates to a specific Originator or Third-Party Sender according to Subpart 10.4.7.5 (Class 3 Rules Violation) of this Appendix Ten, the ACH Rules Enforcement Panel may direct the ODFI to suspend the Originator or Third-Party Sender from originating additional Entries. Any such suspension may be lifted only by the ACH Rules Enforcement Panel or by an Appeals Panel in accordance with an appeal of a suspension order. An Appeals Panel comprised of at least three individuals will be selected by the National Association from the list of arbitrators maintained by the National Association in accordance with Appendix Nine (Arbitration Procedures). The function of the Appeals Panel is to act as an appellate body, not as an arbitration panel, for rules enforcement cases involving suspension as provided in Appendix Ten (Rules Enforcement).*

*In cases where the ACH Rules Enforcement Panel has directed an ODFI to suspend an Originator or Third-Party Sender from originating, the National Association will provide notice of the suspension, and any subsequent reinstatement, to Participating DFIs, ACH Operators, and Regional Payments Associations.*

*A Participating DFI may appeal a suspension order by providing written notice to the National Association within five Banking Days of the date of the suspension order. The written notice of appeal must include a statement identifying whether the Participating DFI believes that (i) the ACH Rules Enforcement Panel erred in concluding that there was a violation of the Rules, (ii) the ACH Rules Enforcement Panel erred in assessing the severity or impact of the violation, or (iii) the ACH Rules Enforcement Panel failed to consider other factors that make suspension an inappropriate remedy under the circumstances. The written notice also must identify whether the Participating DFI seeks an emergency stay of the suspension order while the appeal is being considered by the Appeals Panel.*

*Upon receipt of a notice of appeal, the National Association will promptly provide to each member of the Appeals Panel a copy of the notice of appeal, including any ancillary documentation provided by the Participating DFI, a copy of the order and findings of the ACH Rules Enforcement Panel, and an explanation whether and why the National Association supports or opposes the appeal. Upon the request of any member of the Appeals Panel, the National Association will also provide to the Appeals Panel any other materials from the record of the ACH Rules Enforcement Panel's deliberations.*

*If the Participating DFI requests an emergency stay of the suspension order, the National Association will promptly provide that request to the Appeals Panel together with the National Association's recommendation whether to grant such request. The Appeals Panel will endeavor to consider the request for the emergency stay within five Banking Days of the date it is notified of such a request by the National Association. The Appeals Panel may grant or deny an emergency stay in its sole discretion and may modify or revoke any decision to grant or deny an emergency stay at any time in its sole discretion.*

*Within ten Banking Days of the date of the suspension order, the Participating DFI will provide to the National Association any additional information that the Participating DFI wishes the Appeals Panel to consider in connection with the appeal. The Appeals Panel may request, and the Participating DFI and/or the National Association will promptly provide, any additional information that the Appeals Panel deems relevant to its determination.*



*The deliberations of the Appeals Panel in connection with an appeal may be in any form and using any procedures determined by the Appeals Panel in its sole discretion, including in-person meetings or telephonic or electronic communications, except as specified in this Subsection. The decision of an ACH Rules Enforcement Panel will stand unless overturned or stayed by the Appeals Panel.*

*The Appeals Panel will rule on the appeal within thirty days of the date of the Participating DFI's written notice of appeal. Any ruling will be final and unappealable.*

**10. — Clarification of Originating DFI Identification for IAT Entries** (effective August 18, 2016)

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APPENDIX THREE

ACH Record Format Specifications

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**Originating DFI Identification:** 8 Positions – Company/Batch Header Record – Mandatory (all batches except IAT); 8 Positions – Company/Batch Control Record – Mandatory (all batches); 34 Positions – Addenda Record – Mandatory (IAT)

This field contains the routing number of the DFI originating the Entries within the batch.

*IAT:*

- For Inbound IAT Entries, the Originating DFI Identification Field within the Fourth IAT Addenda Record must contain the National Clearing System Number of the foreign financial institution providing funding for the payment transaction.
- For Outbound IAT Entries, the Originating DFI Identification Field within the Fourth IAT Addenda Record must contain the routing number of the U.S. ODFI.
- *For Outbound IAT Entries, the Originating DFI Identification Field within the Fourth IAT Addenda Record must contain the routing number of the U.S. ODFI or the foreign financial institution that has provided the funding for the transaction.*
- For IAT Entries, the Originating DFI Identification Field within the Company/Batch Control Record must contain the information found within positions 80-87 (GO/Originating DFI Identification) of the IAT Company/Batch Header Record.

# Network Administration Fees

The *NACHA Operating Rules* require each Participating Depository Financial Institution that transmits or receives ACH entries (commercial and Federal Government) to pay an annual fee and a per-entry fee to cover costs associated with the administration of the ACH Network. These Network Administration Fees apply to all entries subject to the requirements of the *NACHA Operating Rules*, whether such entries are transmitted via an ACH Operator, sent directly from one Participating DFI to another, or sent through another entity. The Network Administration Fees have been established by the NACHA Board of Directors and are reviewed and modified, as appropriate, on an annual basis.

## NETWORK ADMINISTRATION FEES AND DATA REPORTING REQUIREMENTS

The accompanying chart provides information on the amount of the annual and per-entry fees for the 2017 calendar year. The ACH Operators collect the annual fees and per-entry fees on behalf of NACHA for entries sent from one Participating DFI to another Participating DFI through the ACH Operators.

Financial institutions are required to report and NACHA collects directly the per-entry fees for ACH entries not sent through the ACH Operators, but that are sent as part of direct send or “on-we” arrangements. A direct send or “on-we” arrangement is one in which a Participating DFI sends a payment file that uses the NACHA formats and/or is covered by the *NACHA Operating Rules*, where that file is not processed by an ACH Operator, but instead is exchanged with another non-affiliated Participating DFI, either directly or through another entity. This definition applies regardless of how interbank settlement is accomplished.

Participating DFIs with direct send or “on-we” volume exceeding 5 million entries annually are obligated to file the requisite reporting with NACHA quarterly. Participating DFIs with direct send volume below this threshold are obligated to file with NACHA annually. These financial institutions are required to submit transaction volume data and any associated fees directly to NACHA using Form N-7 (2017). Any Participating DFI whose direct send or “on we” volume of entries originated or received exceeds 5 million for any quarter ending March 31, June 30, September 30, or December 31, 2017 must submit the above data and fees on a quarterly basis thereafter. The submission deadlines for quarterly filers are April 30, July 31, and October 31, 2017, and January 31, 2018. Participating DFIs that exceed the threshold during the calendar year must aggregate all prior quarters’ fees in their current quarter’s Form N-7 (2017) payment. Participating DFIs whose direct send volume is below this threshold must submit the above data and fees for calendar year 2017 by January 31, 2018.

### National Automated Clearing House Association

#### 2017 Schedule of Fees

#### ACH Network Administration Fees

This Schedule of Fees has been established by the NACHA Board of Directors for calendar year 2017 in accordance with the requirements of the *NACHA Operating Rules*, Article One (General Rules), Section 1.13 (Network Administration Fees).

- Per-Entry Fee (January 1–December 31) . . . . . \$ .000162
- Annual Fee . . . . . \$ 216.00

## NETWORK ADMINISTRATION FEES — FILING REQUIREMENTS FOR PARTICIPATING DEPOSITORY FINANCIAL INSTITUTIONS

Form N-7 (2017) is provided for the purposes of reporting and submitting payment of Network Administration Fees, as required by the *NACHA Operating Rules*, on ACH entries that are transmitted or received under a direct send or “on-we” arrangement. These reporting requirements are not applicable to Participating DFIs whose entries are processed exclusively through an ACH Operator, where all applicable transaction volume will be reported to and fees collected by the ACH Operators on behalf of NACHA.

### **Who Must File**

Any Participating DFI that transmits or receives entries that use the NACHA formats and/or are covered by the *NACHA Operating Rules*, where those entries are not processed by an ACH Operator, but instead are exchanged with another non-affiliated Participating DFI, either directly or through another entity, during the 2017 calendar year.

### **Who Does Not Have to File**

Any Participating DFI that transmits and receives 100% of its ACH entries during 2017 through an ACH Operator or with affiliated Participating DFIs does not need to file Form N-7 (2017). All applicable Network Administration Fees are billed and collected on NACHA's behalf by the ACH Operator, and appear on your customer statement as “NACHA Admin Network Fee/Entry” and “NACHA Admin Network Fee/Month.”

### **When and Where to File**

Any Participating DFI whose direct send or “on-we” volume of entries originated and received exceeds 5 million for any quarter ending March 31, June 30, September 30, or December 31, 2017 must file on a quarterly basis thereafter. The submission deadlines for quarterly filers are April 30, July 31, and October 31, 2017, and January 31, 2018. Participating DFIs that exceed this threshold during the calendar year must aggregate all prior quarters' fees in the current quarter's payment. Participating DFIs whose direct send or “on-we” volume is below the threshold must submit their calendar year 2017 data and fees by January 31, 2018.

Completed forms and payment must be received by NACHA no later than the above deadlines and should be mailed to: NACHA – The Electronic Payments Association, Attn: Finance Department, 2550 Wasser Terrace, Suite 400, Herndon, VA 20171. Payment may be made by ACH credit or check (made payable to NACHA).

To pay by ACH credit, credit must be initiated by the organization filing Form N-7. UPIC Routing & Transit # 021052053, Acct # 59058945. Use CCD format for single filing. Complete in Batch Header (1) Company Name (2) Company Entry Description (specify Form N-7 (2017)).

### **Form Instructions**

Line 1. Enter legal name of Participating DFI.

Line 2. Enter mailing address of Participating DFI.

Line 3a. List the number of ACH entries transmitted and received by the Participating DFI that were not processed by an ACH Operator but were exchanged with another non-affiliated Participating DFI, either directly or through another entity, for the applicable period. Entries should be sorted by routing number of the non-affiliated DFI and include debits, credits and entries of non-value. If there are more routing numbers than spaces available, attach another sheet. Total columns and add together to calculate the grand total.

Line 3b. Enter the grand total from line 3a.

Line 4. Represents the 2017 per entry fee of \$.000162

Line 5. Multiply line 3b by line 4 [example: (line 3b) 100,000 x (line 4) \$.000162 = (line 5) \$16.20]

Line 6. Payment due is equal to the amount on line 5. Indicate payment method. If by check, make check payable to NACHA. If payment by ACH Credit, indicate date of credit to be initiated by the business. See account information above for ACH Credit. If amount on line 5 is less than one dollar, submit the completed form only; no payment is due.

***Still Need Additional Information?***

Downloadable Forms and Instructions are available at <https://www.nacha.org/ach-network/administration-fees> or contact Member Services, 800-487-9180 or 703-561-1100 or email: [info@nacha.org](mailto:info@nacha.org).



**FORM N-7 (2017)**  
*(continued)*

- b. 2017 total direct send ACH entries *(see instructions)* \_\_\_\_\_
4. 2017 per entry fee x \$.000162
5. Uncollected 2017 Network Administrative Fees (line 3b x line 4) \$ \_\_\_\_\_
6. Payment Due: (Amount on line 5) Check enclosed \_\_\_\_\_ or Date of ACH credit \_\_\_\_\_  
*(If less than \$1.00, no payment due, submit form only)*

I declare that I have examined this form and to the best of my knowledge and belief, it is true, correct and complete.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

Financial Institution Name \_\_\_\_\_

Email Address \_\_\_\_\_ Phone Number \_\_\_\_\_

*Mail completed form and payment to:*

NACHA – The Electronic Payments Association  
Attn: Finance Department  
2550 Wasser Terrace, Suite 400  
Herndon, VA 20171