

BAC Community Bank ("BAC")

NACHA Rule Updates 2015-16

Upcoming NACHA Rule Changes – 2015 and 2016

The following changes to the National Automated Clearing House Association (NACHA) Operating Rules ("Rules") are effective in 2015 and 2016.

NOTE: Many of the upcoming Rules changes are addressing improvement in ACH network quality by reducing the incidence of debit return Entries. We suggest that your organization begin to monitor your return rates, and if necessary, proactively implement measures to reduce your debit return rates prior to the Rules becoming effective.

Effective January 1, 2015

NACHA Enforcement Authority

This new Rule adds more options for which NACHA may begin an initial investigation or Rules enforcement proceeding when an entity originates an excessive number of unauthorized Entries. This could result in increased investigations of Originator activity, and could ultimately result in fines passed on to those Originators.

NOTE: We suggest that you review existing NACHA Rules regarding authorization requirements pertaining to originating ACH Entries to ensure your organization's compliance with the Rules.

Third Party Senders (TSPs) – Originator and Third Party Service Provider (TSPs) audits required upon request by NACHA

- This Rule makes explicit a Third Party Sender's existing obligation to monitor, assess and enforce limitations on their customer's origination and return activities in the same manner as the Originating Depository Financial Institution (ODFI) does today.
- The Rule also requires that a Third Party Service Provider or Third Party Sender provide proof of completion of its Rules compliance audit to its ODFI upon request, in order to fulfill a request from NACHA. Failure to comply with this requirement may result in a NACHA Class II Rules violation, and fines up to \$100,000 per month until resolved.

Clarification on Prenotification Entries and Addenda Records

- This Rule revises the NACHA Operating Rules to clarify that, with the exception of an IAT
- (International ACH Transaction) Entry, the Prenote Entry does not need to include addenda records that are associated with the subsequent live Entry.

- The Rules require that the format of a Prenote Entry be the same as the live Entry. There are, however, some differences between Prenotes and live Entries to which the Prenote relate:
 - The dollar amount of a Prenote Entry must be zero;
 - A Prenote Entry is identified by a unique transaction code; and
 - Addenda records associated with a live Entry are not required with a Prenote (unless the Prenote relates to an IAT Entry).

NOTE: While the Rules do not prohibit an Originator from transmitting addenda records with a Prenote Entry, an Originator should have no expectation that a Receiving Depository Financial Institution (RDFI) will do any processing or verification of remittance data contained within. Originators wishing to validate proper formatting of remittance data for future entries to a non-consumer account should, instead, transmit a zero dollar Entry using the appropriate zero dollar transaction code.

Effective March 20, 2015

Dishonored Returns and Contested Dishonored Returns Related to an Unintended Credit to a Receiver

This Amendment provides Originators and ODFIs with two new Return Reason Codes to use the automated return process to rectify situations in which use of the reversal process has resulted in, or not resolved, an unintended credit to a Receiver. The two new Return Reason Codes are R62 (Return of Erroneous or Reversing Debit) and R77 (Non-Acceptance of R62 Dishonored Return).

Notification of Change (NOC) – Removal of Change Code C04 (Incorrect Individual Name/Receiving Company Name)

This Amendment eliminates the use of change code C04 (Incorrect Individual Name/Receiving Company Name) on NOC Entries to mitigate compliance and liability challenges for Originators, ODFIs and RDFIs that use this NOC code.

Effective September 18, 2015

Reducing the Unauthorized Return Rate Threshold

This Amendment to the Rules reduces the current return rate threshold for unauthorized debit Entries (Return Reason Codes R05, R07, R10, R29 and R51) from 1.0 percent to 0.5 percent of the total Entries originated.

Establishing an Inquiry Process for Administrative and Overall Debit Return Rates

- This Rule establishes a guideline for an Originator's administrative return rate of 3 percent or below of the total Entries originated. The guideline applies to debit Entries returned due to administrative or account data errors (Return Reason Codes R02, R03 and R04).
- Additionally, this Rule also establishes an acceptable guideline for an Originator's overall debit Entry return rate of 15 percent or below of the total Entries originated (excluding RCK entries).
- Return rates that exceed these guidelines may trigger an inquiry and review process by NACHA and the engagement of an industry review panel to evaluate the facts behind an Originator's ACH activity.
- Return rates above these levels may trigger a NACHA evaluation but may not result in a Rules violation or a Rules enforcement proceeding.

NOTE: We suggest a prudent review of unauthorized, administrative and overall debit return Entries and return rates within your organization. Ongoing monitoring of your returns and return rates will ensure your organization's compliance with the Rules.

Reinitiation of Debit Entries

- Reinitiation is the method permitted in the Rules to resubmit a returned Entry. The NACHA Rules now formally define the types of Entries that may be reinitiated, and those that are prohibited from reinitiation.
- This new Rule requires a reinitiated Entry to contain identical content in the following fields: Company Name, Company ID, and Amount. The Rules permit modification of other fields only to the extent necessary to correct an error or facilitate processing of an Entry. This change allows reinitiation to correct administrative errors, while prohibiting re-initiation of Entries that may be attempts to evade the limitation by varying the content of the Entry. The reinitiated Entries must contain "RETRY PYMT" in the Company Entry Description Field.
- The Rule allows the Return Code R10 (currently used for Extended Returns) to be used for a Return that is a result of a violation of the Re-initiation Rule.

Effective October 3, 2016, pertaining to entries originated on or after August 1, 2016.

Improving ACH Network Quality – UNAUTHORIZED ENTRY FEE

- This rule is intended to improve ACH Network quality by reducing the incidence of ACH debits that are returned as unauthorized. Under this Rule, an ODFI would pay a fee to the RDFI for each ACH debit that is returned as unauthorized (return reason codes R05, R07, R10, R29 and R51). RDFIs will be compensated for a portion of the costs they bear for handling unauthorized transactions.
- ODFIs will directly bear the costs of the Unauthorized Entry Fees. The estimated cost range will be \$3.50 - \$5.50 per unauthorized Entry. This fee will ultimately be determined by NACHA closer to the effective date of the Rule. These costs will be passed on to the affected RDFI, to partially cover the costs of unauthorized entries posting to their Customers' accounts.
- ODFI's will likely pass these charges on to Originators.
- This Rule will become effective beginning with applicable return entries that have a Settlement Date of October 3, 2016 (a Monday, and the first banking day of the quarter).

NOTE: Originators should begin to implement systems, tools, and processes to reduce unauthorized debit returns as soon as possible. Doing so will position your organization to avoid increased fees associated with unauthorized return Entries when this Rule becomes effective.

NACHA Rules

BAC's agreement states that all ACH Originators are required to comply with the ACH NACHA Rules. The ACH Rules for Corporate Originators is published annually and may be ordered at <http://www.wespay.org/wpa/wespaypublic>. Alternatively, an electronic version of the ACH Rules may be viewed online by registering at <http://www.achrulesonline.org/>.