NACHA
The Electronic Payments Association®

NOTICE OF AMENDMENT
TO THE
2019 *NACHA OPERATING GUIDELINES*

February 1, 2019
SUPPLEMENT #1-2019

Changes to the *NACHA Operating Guidelines* on
ACH Rules Compliance Audits
Effective Date: January 1, 2019

SUMMARY

On November 2, 2018, the NACHA Voting Membership approved an amendment to the *NACHA Operating Rules* on the ACH Rules Compliance Audit Requirement. The amendment became effective January 1, 2019. Text changes to the *NACHA Operating Rules* resulting from the ACH Rules Compliance Audit Requirement amendment are included in the 2019 edition of the *NACHA Operating Rules & Guidelines* as part of Supplement #2-2018.

This Supplement #1-2019 contains updates to the *NACHA Operating Guidelines* resulting from the ACH Rules Compliance Audit Requirement modifications. Note that, in addition to adding a new chapter, some chapters are replaced in part, and others in their entirety. Please use this document in conjunction with your 2019 *NACHA Operating Rules & Guidelines* to ensure that your *NACHA Operating Guidelines* is up to date.

The following text replaces Chapter 13, ODFI Audit Requirements and Rules Compliance, in its entirety.

SECTION II

Originating Depository Financial Institutions

CHAPTER 13

ODFI Audit Requirements and Rules Compliance

RULES COMPLIANCE AUDITS

All ODFIs, and any Third-Party Service Providers (including Third-Party Service Providers acting in the role of Third-Party Senders) that process entries and perform a function of ACH processing or a requirement of the *NACHA Operating Rules* that is otherwise applicable to an ODFI, must perform an annual audit to determine their compliance with the provisions of the *Rules*. Refer to Chapter 56 (Rules Compliance Audits) within these *Guidelines* for specific details about the audit requirements, as well as recommendations on issues to consider when conducting an audit of rules compliance. The *Rules* do not prescribe a specific methodology to use for the completion of an annual audit; instead, ODFIs should rely on the guidance of their auditors with respect to the specific auditing practices and procedures that should be followed. While not required by the *Rules*, an ODFI may also wish to audit other aspects of its ACH operations in conjunction with its annual rules compliance audit. These aspects could include OFAC compliance, ACH business continuity plans, and ACH risk management policies.

ACH RULES ENFORCEMENT

The rules enforcement process is designed to maintain the quality of the ACH Network by ensuring that Participating DFIs comply with the *NACHA Operating Rules*. This process provides a mechanism through the National System of Fines for a Participating DFI or an ACH Operator that is a party to an ACH transaction to formally document an alleged rules violation. The rules enforcement process outlines specific requirements for reporting and investigating such potential violations.

The regional payments associations offer assistance with rules compliance audits, compliance issues, and quality concerns, which can prevent DFIs from entering the rules enforcement process. In addition, many regional payments associations have established their own processes for reporting incidents of possible ACH rules violations.

For detailed information on reporting an incident of non-compliance with the requirements of the **NACHA Operating Rules***, please contact your regional payments association or refer to Chapter 51 in these* **Guidelines.**

The following text replaces Chapter 30, RDFI Audit Requirements and Rules Compliance, in its entirety.

SECTION III

Receiving Depository Financial Institutions

CHAPTER 30

RDFI Audit Requirements and Rules Compliance

RULES COMPLIANCE AUDITS

All RDFIs, and any Third-Party Service Providers that process entries and perform a function of ACH processing or a requirement of the *NACHA Operating Rules* that is otherwise applicable to an RDFI, must perform an annual audit to determine their compliance with the provisions of the *Rules*. Refer to Chapter 56 (Rules Compliance Audits) within these *Guidelines* for specific details about the audit requirements, as well as recommendations on issues to consider when conducting an audit of rules compliance. The *Rules* do not prescribe a specific methodology to use for the completion of an annual audit; instead, RDFIs should rely on the guidance of their auditors with respect to the specific auditing practices and procedures that should be followed. While not required by the *Rules*, an RDFI may also wish to audit other aspects of its ACH operations in conjunction with its annual rules compliance audit. These aspects could include OFAC compliance, ACH business continuity plans, ACH risk management policies, and compliance with 31 C.F.R. Part 210 and the Green Book for processing Federal Government ACH transactions.

ACH RULES ENFORCEMENT

The rules enforcement process is designed to maintain the quality of the ACH Network by ensuring that Participating DFIs comply with the *NACHA Operating Rules*. This process provides a mechanism through the National System of Fines for a Participating DFI or an ACH Operator that is a party to an ACH transaction to formally document an alleged rules violation. The rules enforcement process outlines specific requirements for reporting and investigating such potential violations.

The regional payments associations offer assistance with rules compliance audits, compliance issues, and quality concerns, which can prevent DFIs from entering the rules enforcement process. In addition, many regional payments associations have established their own processes for reporting incidents of possible ACH rules violations.

For detailed information on reporting an incident of non-compliance with the requirements of the **NACHA Operating Rules***, please contact your regional payments association or refer to Chapter 51 in these* **Guidelines.**

The following text replaces the last topic, Rules Compliance Audit Requirements, of Chapter 50, Third-Party Service Providers.

SECTION VI
Special Topics

CHAPTER 50
Third-Party Service Providers

RULES COMPLIANCE AUDIT REQUIREMENTS

The *NACHA Operating Rules* require any Third-Party Service Provider or Third-Party Sender that performs a function of ACH processing on behalf of an ODFI or RDFI to conduct an annual audit of compliance with the requirements of the *NACHA Operating Rules*. Thus,

- to the extent that any Third-Party Service Provider (including any Third-Party Service Provider acting in the role of a Third-Party Sender) has agreed with an ODFI or another Third-Party Sender to process entries and perform a function of ACH processing or a requirement of the *Rules* that is otherwise applicable to an ODFI, the Third-Party Service Provider must audit its compliance with the *Rules* as if it were the ODFI; and

- to the extent that any Third-Party Service Provider has agreed with an RDFI to process entries and perform a function of ACH processing or a requirement of the *Rules* otherwise applicable to an RDFI, the Third-Party Sender must audit its compliance with the *Rules* as if it were the RDFI.

While not an exhaustive list, examples of ACH processing functions that a Third-Party Service Provider/Third-Party Sender might perform on behalf of an ODFI or another Third-Party Sender include creating ACH files, monitoring Originators' origination and return activity, enforcing restrictions on the types of entries originated, or acting as a sending point for the ODFI's forward entries or a receiving point for the ODFI's returns and NOCs. Similarly, examples of processing functions that a Third-Party Service Provider might perform on behalf of an RDFI include acting as a sending or receiving point for the RDFI, posting entries, and processing returns and NOCs.

Third-Party Service Providers and Third-Party Senders should review their business models and agreements with the financial institutions or other Third-Party Senders for which they provide ACH services, and identify the specific ACH functions they perform on behalf of those ODFIs, Third-Party Senders, or RDFIs. To the extent that a Third-Party assumes a specific function or responsibility of either ODFI or RDFI, the Third-Party is required to audit its compliance with the rules as if it were the ODFI or RDFI.

***For detailed information and guidance on issues that may fall within a rules compliance audit, refer to Chapter 56 (Rules Compliance Audits) in these* Guidelines.**

The following text represents a new chapter in the 2019 Guidelines, Chapter 56, Rules Compliance Audits.

SECTION VI

Special Topics

CHAPTER 56

Rules Compliance Audits

The *NACHA Operating Rules* require each Participating DFI (as well as any Third-Party Service Provider and Third-Party Sender that has agreed with a Participating DFI or another TPS to process entries) to conduct an annual audit of its compliance with the *Rules*. The following discussion is intended to provide parties subject to an ACH audit with recommendations and guidance on key areas to be considered when conducting such an audit.

This chapter provides Participating DFIs, Third-Party Service Providers, and Third-Party Senders with highlights of the most critical components of an audit of compliance with the *NACHA Operating Rules*. The audit is not limited to compliance with any specific rule or group of rules, and parties subject to the audit obligation should examine all *Rules* provisions relevant to the participant's role in the ACH Network. Topics listed within this chapter are provided for convenience and ease of use, but may not be a fully inclusive recap of all rules obligations.

Although the obligation to conduct an audit relates specifically to a participant's compliance with the provisions of the *NACHA Operating Rules*, Participating DFIs, Third-Parties, and their auditors may also consider it appropriate to conduct a broader examination of a financial institution's ACH operations, policies, procedures, and regulatory compliance as part of a general ACH audit. These aspects could include OFAC compliance, ACH business continuity plans, ACH risk management policies, and compliance with 31 C.F.R. Part 210 and the Green Book for processing Federal Government ACH transactions.

The descriptions of rules here are not intended to modify or limit the language of the *Rules* themselves or the obligation of Participating DFIs, Third-Party Service Providers, or Third-Party Senders to comply with, or to audit compliance with, such rules.

GENERAL AUDIT REQUIREMENTS

Who Must Audit, When, and How?

The *NACHA Operating Rules* require the following parties to conduct annual audits of their compliance with the *NACHA Operating Rules* no later than December 31st of each year:

- Each ODFI, and any Third-Party Service Provider (including any Third-Party Service Provider acting in the role of a Third-Party Sender) that has agreed with an ODFI or another Third-Party Sender

to process entries and perform a function of ACH processing or a requirement of the *Rules* that is otherwise applicable to an ODFI; and

- Each RDFI, and any Third-Party Service Provider that has agreed with an RDFI to process entries and perform a function of ACH processing or a requirement of the *Rules* otherwise applicable to an RDFI.

While not an exhaustive list, examples of ACH processing functions that a Third-Party Service Provider/ Third-Party Sender might perform on behalf of an ODFI or another Third-Party Sender include creating ACH files, monitoring Originators' origination and return activity, enforcing restrictions on the types of entries originated, or acting as a sending point for the ODFI's forward entries or a receiving point for the ODFI's returns and NOCs. Similarly, examples of processing functions that a Third-Party Service Provider might perform on behalf of an RDFI include acting as a sending or receiving point for the RDFI, posting entries, and processing returns and NOCs.

Third-Party Service Providers and Third-Party Senders should review their business models and agreements with the financial institutions or other Third-Party Senders for which they provide ACH services, and identify the specific ACH functions they perform on behalf of those ODFIs, Third-Party Senders, or RDFIs. To the extent that a Third-Party assumes a specific function or responsibility of either ODFI or RDFI, the Third-Party is required to audit its compliance with the rules as if it were the ODFI or RDFI. For purposes of this Audit chapter, the Third-Party Service Provider/Third-Party Sender may refer to the respective sections on ODFIs and RDFIs for guidance on issues that may fall within a rules compliance audit.

The *Rules* do not prescribe the manner or methodology for completing the audit. The audit may be either an internal audit or an external audit, provided that it is conducted in accordance with standard auditing procedures under the direction of the audit committee, audit manager, senior level officer, or independent (external) examiner or auditor of the Participating DFI, Third-Party Service Provider, or Third-Party Sender.

Proof of Completion of Audit, Record Retention

Each party subject to the audit requirement must retain proof that it has completed an audit of compliance in accordance with the *Rules*. Participating DFIs, Third-Party Service Providers, and Third-Party Senders are required to keep documentation supporting the completion of their audits for six years from the date of the audit, and they must provide that information to NACHA upon request. Acceptable documentation may include, but is not limited to, a letter from an internal, outside or independent auditor indicating satisfactory performance of all audits.

The failure of a Participating DFI to provide NACHA with proof of completion of its own, or its Third-Party Service Provider's or Third-Party Sender's, audit when requested to do so may be considered a Class 2 rule violation and is subject to potential rules enforcement proceedings.

ODFI AUDIT REQUIREMENTS

Each ODFI, and any Third-Party Service Provider (including any Third-Party Service Provider acting in the role of a Third-Party Sender) that has agreed with an ODFI or another Third-Party Sender to process entries and perform a function of ACH processing or a requirement of the *Rules* that is otherwise applicable to an ODFI, must perform an annual audit to determine compliance with all provisions of the *NACHA Operating Rules*. While not exhaustive or exclusive, NACHA strongly recommends that ODFIs (and Third-Party Service Providers/Third-Party Senders performing functions of ACH processing on behalf of ODFIs) examine the following rule provisions as part of their ACH-related audits.

Verification of Originator/Third-Party Sender Identity

- Does the ODFI utilize a commercially reasonable method to verify the identity of the Originator or Third-Party Sender that enters into an Origination Agreement with the ODFI?

- When an ODFI has a relationship with a Third-Party Sender rather than with an Originator directly, does that Third-Party Sender utilize a commercially reasonable method to verify the identity of each Originator or other Third-Party Sender that enters into an Origination Agreement with the Third-Party Sender?

References: Article Two, Subsection 2.2.1–Verification of Originator or Third-Party Sender Identity

Origination Agreements

- Has the ODFI entered into an Origination Agreement with the Originator or Third-Party Sender:

    - that binds the Originator or Third-Party Sender to the *Rules*?
    - that authorizes the ODFI to originate entries on behalf of the Originator or Third-Party Sender?
    - within which the Originator or Third-Party Sender acknowledges that Entries may not be initiated that violate the laws of the United States?
    - that includes any restrictions on types of Entries that may be originated?
    - that includes requirements for the Third-Party to have entered into an agreement with an Originator or other Third-Party Sender, and that such an agreement includes the right of the ODFI to terminate or suspend the agreement for breach of the *Rules*, and the right of the ODFI to audit the Originator's, the Third-Party Sender's, and the Third-Party Sender's Originators' compliance with the Origination Agreement and the *Rules*?
    - that, with respect to IAT Entries, contains all necessary provisions, to include but not limited to (a) the terms and conditions for the allocation of gains, losses, and the assumption of risk for foreign exchange conversion; (b) the rights and responsibilities of the ODFI in the event of an Erroneous Entry; and (c) compliance with foreign laws or payment system rules regarding authorization?

References: Article Two, Subsection 2.2.2.1 – ODFI Must Enter Origination Agreement with Originator, Subsection 2.2.2.2 – ODFI Must Enter Origination Agreement with Third-Party Sender, and Subsection 2.5.8.3 – Origination Agreements for IAT Entries

Sending Point Agreements

- Has the ODFI entered into an agreement with a Sending Point that transmits entries on the ODFI's behalf to an ACH Operator?

Reference: Article Two, Subsection 2.2.2.3 – ODFI Agreement with Sending Points

ODFI Risk Management

- Does the ODFI:

    - perform due diligence with respect to an Originator or Third-Party Sender to believe it has the capacity to perform its obligations in conformance with the *NACHA Operating Rules*?
    - assess the risks of the Originator's or Third-Party Sender's ACH activity; establish, implement, and periodically review an exposure limit for the Originator or Third- Party Sender?
    - establish and implement procedures to monitor the Originator's or Third-Party Sender's origination and return activity across multiple Settlement Dates?

- enforce restrictions on the types of Entries that may be originated?
- enforce the exposure limit?
- obtain approval of Direct Access Debit Participants, if applicable, from the ODFI's board of directors, committee of the board of directors, or its designee?

Reference: Article Two, Subsection 2.2.3 – ODFI Risk Management, Subsection 2.2.4 – ODFI Board Approval of Direct Access Debit Participant

Prenotifications

• Does the ODFI:

- transmit Prenotification Entries in accordance with the requirements of the *Rules*?
- ensure that live entries are not initiated when a prenotification is returned?

Reference: Article Two, Subsection 2.6 – Prenotification Entries

Return Processing

• Does the ODFI:

- accept Return Entries and Extended Return Entries that comply with the *Rules* and that are transmitted by the RDFI within the time limits established by the *Rules*?
- transmit dishonored Return Entries within five Banking Days after the Settlement Date of the Return Entry?
- accept contested dishonored Return Entries, as required by the *Rules*?
- use Return Reason Codes in an appropriate manner?

Reference: Article Two, Subsection 2.12.1 – ODFI Acceptance of Timely Return Entries and Extended Return Entries, Subsection 2.12.5.1 – Dishonor of Return by ODFI, and Subsection 2.12.5.3 – ODFI Must Accept a Contested Dishonored Return Entry; Appendix Four

Return Fee Entries

• Does the ODFI transmit Return Fee Entries in accordance with the requirements of the *Rules*?

Reference: Article Two, Subsection 2.14 – Return Fee Entries

Reinitiation of Returned Entries

• Does the ODFI transmit Reinitiated Entries in accordance with the requirements of the *Rules*?

Reference: Article Two, Subsection 2.12.4 – Reinitiation of Returned Entries

Notifications of Change

• Does the ODFI:

- provide information relating to NOCs and Corrected NOCs to the Originator or Third-Party Sender within two Banking Days of the Settlement Date of the NOC or Corrected NOC in accordance with the *Rules,* Appendix Five (Notification of Change)?
- provide information relating to NOCs and Corrected NOCs for CIE and credit WEB entries to any Third-Party Service Provider initiating such entries on behalf of the consumer Originator?

– transmit refused NOCs within 15 days of receipt of an NOC or corrected NOC?

Reference: Article Two, Subsection 2.11.1 – ODFI and Originator Action on Notification of Change (NOC) and Subsection 2.11.2 – ODFI Right to Refuse Notification of Change Entries

Proof of Authorization

- Does the ODFI:

    – provide to the RDFI, upon receipt of the RDFI's written request, the original, a copy, or other accurate Record of the Receiver's authorization with respect to a Consumer Account within ten Banking Days of receipt of the request without charge? (Note: For entries other than XCK entries)

    – provide to the RDFI, upon receipt of the RDFI's written request, an accurate record evidencing the Receiver's authorization, or the contact information for the Originator (that at a minimum, includes (a) the Originator's name and (b) the Originator's phone number or email address) within ten Banking Days of receipt of the request without charge)? (Note: for CCD, CTX, or Inbound IAT entries to a Non- Consumer Account)

Reference: Article Two, Subsection 2.3.2.5 – Retention and Provision of the Record of Authorization; Subsection 2.5.18.6 – Rules Exceptions for XCK entries; and Article Two, Subsection 2.3.3.3 – Provision of the Record of Authorization

Copies of Source Documents (ARC and BOC Entries)

- Does the ODFI:

    – provide a copy of the front of the Receiver's Eligible Source Document used to initiate the ARC Entry within ten Banking Days upon receiving written request from the RDFI, provided such request is received within two years of the Settlement Date of the ARC Entry?

    – provide a copy of the front of the Receiver's Eligible Source Document used to initiate the BOC Entry within ten Banking Days upon receiving written request from the RDFI, provided such request is received within two years of the Settlement Date of the BOC Entry?

Reference: Article Two, Subsection 2.5.1.5 – Additional ODFI Warranties for ARC Entries, and Article Two, Subsection 2.5.2.5 – Additional ODFI Warranties for BOC Entries

BOC Entries – Identification of Originators and Third-Party Senders

- Does the ODFI (1) establish and implement commercially reasonable procedures to verify the identity of the Originator or Third-Party Sender of such entries; and (2) establish and implement procedures to document specific information with respect to the Originator, as required by the *Rules*, and, upon request, provide such information to the RDFI within the required time frame?

Reference: Article Two, Subsection 2.5.2.5 – Additional ODFI Warranties for BOC Entries

UCC4A

- Does the ODFI provide the Originator with proper notice to ensure compliance with UCC Article 4A with respect to ACH transactions for non-consumer entries?

Reference: Article Two, Subsection 2.3.3.2 – Notice by ODFI to Originator for Non-Consumer Credit Entries

Reversals

- Does the ODFI transmit Reversing Files and Reversing Entries in accordance with the requirements of the *Rules*?

Reference: Article Two, Section 2.8 – Reversing Files and Section 2.9 – Reversing Entries

Periodic Statements

- Does the ODFI provide or make available to the Originator all required information with respect to the Consumer Account of the Originator of a CIE Entry or a credit WEB Entry?

Reference: Article Two, Subsection 2.5.4.2 – ODFI to Satisfy Periodic Statement Requirement for CIE Entries, Subsection 2.5.17.6 – ODFI to Satisfy Periodic Statement Requirement for Credit WEB Entries

Return Rate Reporting

- Does the ODFI report Return Rate information on an Originator or Third-Party Sender, when requested to do so by NACHA?

Reference: Article Two, Subsection 2.17.2 – ODFI Return Rate Reporting

Direct Access

- Has the ODFI (1) registered its Direct Access status with NACHA; (2) provided required statistical reporting for a Direct Access Debit Participant; and (3) notified NACHA of any change to the information previously provided with respect to a Direct Access Debit Participant?

Reference: Article Two, Subsection 2.17.1 – Direct Access Registration

Third-Party Sender Registration

- Has the ODFI (1) registered its Third-Party Senders with NACHA, and updated, as necessary, any such registrations; or (2) stated to NACHA that it has no Third-Party Senders?

Reference: Article Two, Subsection 2.17.3 – Third-Party Sender Registration

RDFI AUDIT REQUIREMENTS AND RULES COMPLIANCE

Each RDFI, and any Third-Party Service Provider that has agreed with an RDFI to process entries and perform a function of ACH processing or a requirement of the *Rules* otherwise applicable to an RDFI, is required to perform an annual audit to determine compliance with the rules regarding the receipt of ACH entries. NACHA strongly recommends RDFIs (and Third-Party Service Providers performing functions of ACH processing on behalf of RDFIs) examine the following rule provisions as part of their ACH-related audits.

Acceptance and Handling of Entries

- Does the RDFI accept all types of entries that comply with the *Rules* and that are received with respect to an account maintained with the RDFI, subject to the RDFI's right of return?

Reference: Article Three, Subsection 3.1.1 – RDFI Must Accept Entries

Verification of Account Numbers in Prenotifications

- Does the RDFI verify that the account number contained in a Prenotification Entry is for a valid account? If the Prenotification does not contain a valid account number, or is otherwise erroneous or unprocessable, does the RDFI transmit either (a) a Return Entry, or (b) a Notification of Change?

Reference: Article Three, Section 3.5 – Specific Provisions for Prenotifications

Posting of Entries and Funds Availability

- Does the RDFI:

  - make the amount of credit entries received from its ACH Operator available to Receivers as required by the *Rules*, subject to the RDFI's right of return?
  - post debit entries no earlier than the Settlement Date, regardless of the Effective Entry Dates of the entries?

Reference: Article Three, Subsection 3.3.1 – Availability of Credit Entries to Receivers and Subsection 3.3.2 – Timing of Debit Entries

RDFI Obligation to Provide Entry Information to Receivers

- Does the RDFI:

  - provide or make available to the consumer Receiver required information concerning credit and debit entries to the Receiver's Consumer Account?
  - provide or make available to the non-consumer Receiver the contents of the Check Serial Number Field for ARC, BOC, and POP entries to the Receiver's Non-Consumer Account?

Reference: Article Three, Subsection 3.1.5.1– RDFI Must Provide Entry Information for Consumer Accounts and Subsection 3.1.5.2 – RDFI Must Provide Entry Information to Receivers of ARC, BOC, or POP Entries to Non-Consumer Accounts

Return Processing

- Does the RDFI:

  - transmit Return entries (except RCK) to its ACH Operator by the ACH Operator's deposit deadline for the Return entries to be made available to the ODFI no later than the opening of business on the second Banking Day following the Settlement Date of the original entry, except as otherwise provided in the *Rules*?
  - transmit RCK entries to the RDFI's ACH Operator by midnight of the RDFI's second Banking Day following the Banking Day of the receipt of the RCK Entry?
  - transmit Extended Return entries to its ACH Operator by its deposit deadline for the Extended Return Entry to be made available to the ODFI no later than the opening of business on the Banking Day following the sixtieth calendar day following the Settlement Date of the original entry?

Reference: Article Three, Section 3.8 – RDFI's Right to Transmit Return Entries and Subsection 3.8.3.3 – Timing Requirements for Return of RCK Entries; Subsection 3.13.1 – RDFI May Transmit Extended Return Entries; Appendix Four

- Does the RDFI return any credit entry that has been declined by a Receiver by transmitting a Return Entry to its ACH Operator by the ACH Operator's deposit deadline for the Return Entry to be made

available to the ODFI no later than the opening of business on the second Banking Day following the RDFI's receipt of notification from the Receiver?

Reference: Article Three, Subsection 3.8.3.2 – Timing Requirements for Credit Entries Refused by Receiver

• Does the RDFI return any credit entry that is not credited or otherwise made available to its Receiver's account by transmitting a Return Entry to its ACH Operator by the ACH Operator's deposit deadline for the Return Entry to be made available to the ODFI no later than the opening of business on the second Banking Day following the Settlement Date of the original entry?

Reference: Article Three, Subsection 3.8.4 – RDFI Must Return Unposted Credit Entries

• Does the RDFI obtain agreement of the ODFI prior to transmitting late Returns of CCD or CTX entries and ensure that such entries utilize the appropriate Return Reason Code?

Reference: Article Three, Subsection 3.8.3.5 – Late Return Entries for CCD or CTX Entries with ODFI Agreement; Appendix Four

• Does the RDFI handle dishonored Return entries received by the RDFI appropriately, and are contested dishonored Return entries and corrected Return entries initiated in a timely manner?

Reference: Article Three, Subsection 3.8.5 – Receipt of Dishonored Returns; Appendix Four

Stop Payments
• Does the RDFI:

  – honor stop payment orders provided by Receivers, either verbally or in writing, to the RDFI at least three Banking Days before the scheduled date of any debit entry to a Consumer Account (for entries other than single entries)?
  – honor stop payment orders provided by Receivers to the RDFI at such time and in such manner as to allow the RDFI a reasonable opportunity to act upon the order prior to acting on any debit entry to a Non-Consumer Account, or an ARC, BOC, POP, or RCK Entry, or a single entry IAT, PPD, TEL, or WEB Entry to a Consumer Account?

Reference: Article Three, Subsection 3.7.1.1 – RDFI Obligation to Stop Payment of Recurring Entries, Subsection 3.7.1.2 – RDFI Obligation to Stop Payment of Single Entries and Subsection 3.7.2 – RDFI Obligation to Stop Payment of Entries to Non-Consumer Accounts

• Does the RDFI:

  – use Return Reason Codes R38 (Stop Payment on Source Document) and R52 (Stop Payment on Item Related to RCK Entry) properly?
  – for each ARC, BOC, or RCK Entry for which a stop payment order was in force with respect to (a) the Check that was used as an Eligible Source Document for the ARC or BOC Entry, or (b) the item to which the RCK Entry relates, transmit the Extended Return Entry to the RDFI's ACH Operator by its deposit deadline for the Extended Return Entry to be made available to the ODFI no later than the opening of business on the Banking Day following the sixtieth calendar day following the Settlement Date of the original entry? (NOTE: No Written Statement of Unauthorized Debit is required for entries returned for these reasons.)

Reference: Article Three, Subsection 3.11.2.2 – RDFI Obligation to Recredit for ARC, BOC, and RCK Entries Regarding Stop Payment Orders and Subsection 3.13.1 – RDFI May Transmit Extended Return Entries; Appendix Four

Written Statements of Unauthorized Debits

- Does the RDFI:

  - obtain Written Statements of Unauthorized Debit from consumers for Returns bearing Return Reason Codes R05, R07, R10, R37, R51, and R53?
  - provide copies of Written Statements of Unauthorized Debits to ODFIs within the required time frame, when such copies are requested in writing by ODFIs?

Reference: Article Three, Subsection 3.11.1 – RDFI General Obligation to Recredit Consumer Accounts, Subsection 3.12.5 – RDFI Must Accept Written Statement of Unauthorized Debit, Subsection 3.12.7 – Copy of Written Statement of Unauthorized Debit

Notifications of Change

- Does the RDFI initiate a Notification of Change within two banking days of the Settlement Date of the entry to which the Notification of Change relates, with the exception of a Notification of Change due to merger, acquisition, or other similar event?

Reference: Article Three, Subsection 3.9.1 – General Rule for Notification of Change (COR Entry)

UCC4A

- Does the RDFI provide Receivers with proper notice to ensure compliance with UCC Article 4A with respect to ACH credit transactions?

Reference: Article Three, Subsection 3.1.6 – RDFI Must Provide Certain Notices to the Receiver for Credit Entries Subject to Article 4A

Payment Related Information

- Does the RDFI:

  - provide information contained within the Payment-Related Information field of Addenda Records transmitted with CCD, CTX, CIE, and IAT Entries, when requested to do so by a Non-Consumer Receiver?
  - provide this information by the opening of business on the RDFI's second Banking Day following the Settlement Date of the entry?

Reference: Article Three, Subsection 3.1.5.3 – RDFI Must Provide Payment-Related Information to Receivers of CCD, CTX, CIE, and IAT Entries to Non-Consumer Accounts

THIRD-PARTY SERVICE PROVIDER AND THIRD-PARTY SENDER AUDIT REQUIREMENTS

Third-Parties and Origination

To the extent that a Third-Party Service Provider (including a Third-Party Service Provider that acts in the role of a Third-Party Sender) agrees with an ODFI, or with another Third-Party Sender, to process entries and perform a function of ACH processing or a requirement of the *Rules* that is otherwise applicable to an ODFI, that Third-Party Service Provider/Third-Party Sender is required to audit its compliance with the *Rules* as if it were the ODFI.

Each Third-Party Service Provider or Third-Party Sender should review its business model and agreement with the financial institution or other Third-Party Sender for which it provides ACH services, and identify the specific ODFI functions it performs or ODFI responsibilities it has assumed and audit accordingly. For purposes of this Audit chapter, the Third-Party Service Provider/Third-Party Sender may refer to the respective sections on ODFIs for guidance on issues that may fall within the scope of its rules compliance audit.

Third-Parties and Receipt

Similarly, to the extent that a Third-Party Service Provider has agreed with an RDFI to process entries and perform a function of ACH processing or a requirement of the *Rules* otherwise applicable to an RDFI, the Third-Party is required to audit its compliance with the rules governing RDFIs as if it were the RDFI. These Third-Parties should refer to the discussion on RDFI audits with this chapter for guidance on issues that may require examination in a Third-Party Service Provider audit.

Each Third-Party Service Provider should review its business model and agreement with the RDFI for which it provides ACH services, and identify the specific RDFI functions it performs or RDFI responsibilities it has assumed and audit accordingly. For purposes of this Audit chapter, the Third-Party Service Provider may refer to the respective sections on RDFIs for guidance on issues that may fall within the scope of its rules compliance audit.

OTHER CONSIDERATIONS FOR ALL PARTICIPATING DFIs

Although the scope of the annual audit is specific only to an examination of compliance with the *NACHA Operating Rules*, sound business practice dictates a review of a financial institution's or Third-Party's compliance with all rules, regulations, and requirements that impact ACH processing. Participating DFIs (and Third-Parties acting on behalf of those DFIs) may also wish to consider a review of their compliance with the rules and regulations listed below.

- 31 Code of Federal Regulations 210
- The Green Book
- Federal Reserve Board's Regulations DD, D, and CC
- Consumer Finance Protection Bureau's Regulation E
- ACH Operations Policies and Procedures
- Regulatory agency bulletins, such as OCC 2006-39, and the FFIEC IT Handbook for Retail Payments
- BSA/AML requirements
- Data security policies & processing contingency plans
- State EFT regulations
- Federal Reserve ACH Operating Circular 4
- Uniform Commercial Code 4A
- Office of Foreign Assets Control (OFAC)

As ACH participants, consider the following as sound business practices to help ensure *Rules* compliance:

- Obtain all available resources, such as rules, regulations, guidelines, etc. Keep them up to date.

- Develop a list of contacts to use as needed. Make their addresses and telephone numbers available to those that need them.

- Ensure ACH software is up to date.

- Periodically review authentication techniques to ensure that security measures are adequate.

- Consult appropriate resources for establishing proper security and control procedures.

- Respond to all Reports of Possible ACH Rules Violation received by correcting or refuting the alleged rules violation within the prescribed time period.

For ODFIs:

- Does the ODFI keep Originators and Third-Party Senders informed of their responsibilities under the *Rules*?

- Has the ODFI established priorities and processing schedules for the Originator or Third-Party Sender?

- Has the ODFI checked holiday schedules? Does the Originator or Third-Party Sender check these schedules?

- Does the ODFI periodically review ACH Origination Agreements and service specifications for Originators and Third-Party Senders?

- Has the ODFI established an ACH operational control group?

- Has the ODFI assigned responsibility and accountability for:

  – verifying authenticity of files?
  – reviewing controls and checks?
  – balancing controls?
  – ensuring prompt, accurate processing?
  – researching inquiries, errors?

- Has the ODFI developed backup/contingency plans?

- Has the ODFI verified that the formats and structure of ACH files meet formatting criteria and edits?

- Does the ODFI accept permissible return entries when it has agreed to do so?

For RDFIs:

- Has the RDFI established priorities/schedules for handling ACH transactions?

- Has the RDFI established an ACH operational control group?

- Has the RDFI developed backup/contingency plans?

For Third-Party Service Providers:

- When the Third-Party Service Provider acts as the ODFI's sending point, has the Third-Party Service Provider entered into an agreement with the ODFI to transmit entries to the ACH Operator on the ODFI's behalf?

- Does an agreement with the ODFI address all functions the Third-Party Service Provider will perform on behalf of the ODFI?

- When the Third-Party Service Provider acts as the RDFI's receiving point, has the Third-Party Service Provider entered into an agreement with the RDFI to receive entries from the ACH Operator on the RDFI's behalf?

- Does an agreement with the RDFI address all functions the Third-Party Service Provider will perform on behalf of the RDFI?

- Has the Third-Party Service Provider reviewed the ODFI and RDFI audit requirements for any functions it performs on behalf of the ODFI or RDFI?

- Has the Third-Party Service Provider developed backup/contingency plans?

For Third-Party Senders:

- Has the Third-Party Sender entered into an Origination Agreement with the ODFI?

- Does an agreement with the ODFI address all functions the Third-Party Sender will perform on behalf of its Originators or other Third-Party Senders?

- Has the Third-Party Sender agreed to assume the responsibilities of an Originator under the *NACHA Operating Rules*?

- Has the Third-Party Sender identified to the ODFI any other Third-Party Sender prior to transmitting entries for that Third-Party Sender?

- Has the Third-Party Sender provided the ODFI, upon its request, information that the ODFI reasonably deems necessary to identify each Originator or other Third-Party Sender for which it transmits entries?

- Has the Third-Party Sender provided, upon the ODFI's request, information for the purpose of the ODFI's registration of the Third-Party Sender with NACHA? Was this information provided within two banking days of the receipt of the ODFI's request?

- Has the Third-Party Sender reviewed the ODFI audit requirements for any function it performs on behalf of the ODFI?

- Has the Third-Party Sender developed backup/contingency plans?