Pain Points in the Rules – Phase Two
Request for Comment and Request for Information

Executive Summary and Rules Description
June 27, 2011

REQUEST FOR COMMENT – RESPONSES DUE BY FRIDAY, AUGUST 19, 2011

NACHA requests comments on proposals to amend the NACHA Operating Rules entitled “Pain Points in the Rules - Phase Two.” These amendments are in response to feedback following the Rules Simplification Initiative and other requests from the industry. NACHA also requests input from the industry on additional issues that may be considered in future amendments to the Rules. Comments are due by August 19, 2011.

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Part I: Proposal Brief

This rules proposal (“Rule”) would amend the NACHA Operating Rules (Rules) to modify or eliminate certain “pain points” in the Rules relating to (1) authorizations for corporate debit entries; (2) stop payments; (3) WEB exposure limits; (4) the dishonor of untimely return entries; and (5) the modification of the ARC application to accommodate the conversion of checks tendered in person for the payment of a bill at a manned location. These proposed changes would clarify the Rules where appropriate, eliminate requirements that no longer add value to ACH Network users, and improve ACH processing efficiency.

For efficiency in rulemaking, this document serves as a combined Request for Comment (RFC) and Request for Information (RFI). For the first five topics identified above, the pain point is addressed by a specific proposed change to the Rules, for which comment is requested. For three other topics, additional information is needed from ACH Network participants before a specific
Rules change can be formulated. NACHA requests information and additional perspectives from the industry on these topics as part of the ACH Participant Survey. These issues relate to (1) the usefulness of the existing prenotification entry, (2) unjust enrichment due to certain reversals and returns, and (3) notifications of change for Single Entry transactions.

Part II: Background and Justification for Proposal

A pain point is an area of the Rules that can cause misunderstandings or problems with ACH processing or Rules compliance. Several pain points were identified through the recent Rules Simplification initiative and many were addressed as part of an earlier RFC/RFI on Pain Points in the Rules. On December 20, 2010, NACHA’s Voting Membership approved amendments covering seven of those pain points. This RFC/RFI on Pain Points in the Rules focuses on a number of issues identified in the previous Request for Information, as well as other issues that have been identified since the issuance of that RFI.

Part III: Rules Proposal Description and Impact on Rules Framework

NACHA requests comment on the following proposed Rules changes.

1. Authorization Requirements for Corporate Debit Entries and Proof of Authorization

This amendment would:

- require authorization for a debit entry to a non-consumer account to be in writing or in some other reproducible form;
- permit an RDFI to request a copy of the corporate Receiver’s authorization;
- require an ODFI to provide, within ten banking days, a copy of the authorization upon receipt of the RDFI’s request.

As is standard for any ACH entry, the NACHA Operating Rules require a business/non-consumer Receiver to explicitly authorize an ACH entry to its account. Traditionally, business-to-business entries arose out of trading partner relationships. This is reflected in the Rules requirement that the Receiver enter into an agreement with the Originator under which the Receiver has agreed to be bound to the NACHA Operating Rules. The terms of the authorization for ACH entries between trading partners are typically included within the agreement between Originator and Receiver, and therefore are not further specified within the Rules. The Rules do not prescribe any specific manner of authorization/agreement (i.e., written v. oral), nor do they establish any minimum criteria for defining a valid authorization from a business Receiver.

As part of the Pain Points review, NACHA received input that the lack of specific details surrounding the authorization requirements for business transactions is a cause of concern to ACH participants. ACH participants have also expressed concern that an RDFI is not permitted to request from the ODFI, and the ODFI is not required to provide, proof of authorization for business entries. Under the current Rules, an RDFI may not request, and an ODFI is not

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1 2011 NACHA Operating Rules, Subsection 2.3.3.1 (Agreement to be Bound by the Rules)
obligated to provide, a copy of the business Receiver’s authorization. Accordingly, RDFIs generally refer their business Receivers to the terms of the Receiver’s contract with its trading partner (the Originator) for resolution of any dispute over a specific entry.

In some cases, however, the Receiver has no contractual or trading partner relationship with the Originator of a debit entry that is unauthorized or perhaps fraudulent. In these cases, the business Receiver has no trading partner agreement to which it would be able to refer for terms of the authorization; to obtain a copy of the Originator’s authorization, it would turn to the RDFI. As noted above, however, the RDFI has no right under the current Rules to request a copy of the authorization for a CCD or CTX entry. Often, an ODFI will agree to accept a late return when it is not able to produce a copy of an authorization, but again, this is not applicable currently to CCD and CTX entries. Without permission to return the entry late, and no mandate for the ODFI to assist in resolving the issue, the RDFI is limited in its ability to help resolve its customer’s claim regarding the debit. This limitation makes resolution of the issue challenging and frustrating for both Receiver and RDFI.

NACHA proposes to address this pain point by requiring the authorization for debit entries to a non-consumer account to be in writing or in some other reproducible form, and also by requiring the ODFI to provide a copy of the authorization to the RDFI upon request. These changes would facilitate the investigation and resolution of disputes over unauthorized entries between entities with no relationship. The attached ACH Participant Survey includes questions to determine general support for a written/reproducible authorization requirement for business customers, as well as the potential impact of such a requirement on business customers that currently make purchases or pay bills via the phone.

**Impact on Rules Framework**

This amendment would revise the title of Article Two, Subsection 2.3.3 – (Agreement and Notice for Entries to Non-Consumer Accounts) to reference the authorization of entries, and would add two new subsections specific to authorization and retention requirements for non-consumer debits (Subsection 2.3.3.3 - Authorization for Non-Consumer Debit Entries, and Subsection 2.3.3.4 - Retention and Provision of the Record of Authorization). These new sections would (1) require Originators to obtain written or otherwise reproducible authorization for non-consumer debit entries and retain a copy of the authorization for two years following the termination or revocation of the authorization, and (2) require ODFIs to provide the RDFI with a copy of the authorization, within ten banking days and without charge, upon receipt of a written request.

Article Three, Subsection 3.1.4 – (RDFI May Request Copy of Receiver’s Authorization of Entry from ODFI) would be amended to permit an RDFI to request a copy of the authorization for a non-consumer debit entry. The specific reference prohibiting the RDFI from requesting such a copy for CCD and CTX entries within Subsection 3.4.1.1 – (Rule Exception Regarding Copy of Receiver’s Authorization) would be deleted from the Rules.
2. **Stop Payments**

This proposed amendment would (1) add a new Return Reason Code to be used for the return of entries relating to a stop payment order from the Receiver to stop “all future entries;” (2) limit the use of current R08 (Payment Stopped) to single stop payment orders; and (3) clarify the effective period for stop payment orders by non-consumers.

A 2010 amendment to the *Rules* modified the effective period for consumer stop payment orders to provide that a stop order can apply to all future debits from a specific Originator if that is the consumer’s intent. This amendment highlighted the fact that Return Reason Code R08 does not provide an Originator with complete information regarding the Receiver’s intent with respect to a stop payment order. When an Originator receives an R08 return for an entry that is one in a stream of many recurring debits, it cannot be certain solely from the return whether the Receiver’s intent is to stop one, some, or all future entries. The Originator can only be certain that a specific entry has been stopped. As a result, Originators may be unsure of how to respond to the receipt of an entry returned as payment stopped to ensure compliance with both the *Rules* and Regulation E.

This amendment would add a new return reason code (R90 – Stop Payment – All Future Entries) to be used by the RDFI when the Receiver instructs the RDFI to stop all future payments from a specific Originator. The addition of this new code would help Originators remain in compliance with the *NACHA Operating Rules*, as well as improve processing efficiency by promoting earlier and more specific communication between the Originator and the Receiver.

Return Reason Code R08 (Payment Stopped) would continue to be used for a stop payment order for single payments. A separate R08 Return Reason Code would be used for each stop order in a series of future entries for which payment is to be stopped. For example, if the Receiver instructs the RDFI to stop the next two payments only, then two separate R08 Return Reason Codes would be used to stop payment on the next two payments. If, however, the Receiver instructs the RDFI to stop all future payments related to the same authorization, then R90 would be used.

This proposal would also modify the rule language around the effective period of stop payment orders by non-consumers. The current rule language states that a stop payment order for a non-consumer will expire at the end of six months if not renewed in writing. Although the language is still accurate, it doesn’t take into consideration the withdrawal of the stop order by the Receiver or the possibility that the entry has been returned before the six month expiration date. The proposed *Rules* change would broaden the terms of the effective period to include the following additions.

A written stop payment order will remain in effect until the earlier of:

- the withdrawal of the stop payment order by the Receiver;
- the return of the debit entry, or
- six months (unless renewed in writing).
The proposal clarifying the conditions under which a non-consumer stop payment order would lapse is believed to reflect current industry practice and is not expected to have any significant impact on ACH Network participants. As a result, this change could be adopted by the industry in the near term. However, the proposal establishing Return Reason Code R90 (Stop Payment – All Future Entries) would require changes to industry software and reporting capabilities, in addition to education and training requirements. This change would require a later implementation date to ensure adequate lead time for these requirements.

Impact on Rules Framework

This amendment would modify Article Three, Subsection 3.7.2 – (RDFI Obligation to Stop Payment of Entries to Non-Consumer Accounts) by deleting the reference to the effective time period for a stop payment order to a non-Consumer Account and establish a new subsection, Subsection 3.7.2.1 – (Effective Period of Stop Payment Orders) that would clarify the time period for non-Consumer Accounts. This amendment would also revise Appendix Four, Part 4.2 – (Table of Return Reason Codes) to clarify the use of R08 for a single stop payment order and define a new Return Reason Code, R90 – Stop Payment All Future Entries.

3. WEB Exposure Limits

This amendment would remove the requirement that ODFIs establish separate WEB exposure limits for Originators and Third-Party Senders initiating WEB entries. The implementation of the Risk Management and Assessment Rule in June 2010 effectively superseded the requirements for WEB-specific exposure limits by requiring ODFIs to establish exposure limits for all Originators and Third-Party Senders that take into account the Originator’s or Third-Party Sender’s ACH activity and the risk it presents. Accordingly, the risk management rules related only to WEB entries are duplicative of the newer and broader risk management rules.

In addition, there are two areas where the newer risk management rule language is not aligned with the WEB-specific language: 1) that the exposure limit and related procedures be “implemented” in addition to “established,” and 2) that the exposure limit be periodically reviewed. This amendment would also make these corresponding changes so that the concepts of implementation and periodic review are explicitly covered by the newer language.

Impact on Rules Framework

The rules language in Article Two, Subsection 2.5.17.4(c) – (Additional ODFI Warranties for WEB Entries) and Appendix Eight, Part 8.4(d) – (Audit Requirements for ODFIs) would be deleted by this amendment. The rules language in Subsection 2.2.2 (ODFI Risk Management) would be modified to incorporate corresponding changes for purpose of alignment.

4. Dishonor of Untimely Return Entries

This amendment would remove language that requires that an ODFI or its Originator has suffered a loss in order to dishonor a return that is untimely.

3 2011 NACHA Operating Rules, Subsection 2.2.2 (ODFI Risk Management)
The *NACHA Operating Rules* currently require a two-part test on the part of an ODFI when determining whether it can dishonor a return entry as untimely: (1) the RDFI must have returned the entry outside the time limits prescribed by the *Rules*, and (2) the delay must have caused either the ODFI or the Originator to suffer a loss. This two-part test means that there cannot be an automatic dishonor of an untimely return – the ODFI would have to individually make such a determination each time it receives a late return.

In addition, payment finality plays a critical role in an ODFI’s ability to manage its ACH risk and evaluate the credit-worthiness of its Originators for their ACH and other banking activity. To that end, it is essential for both ODFI and Originator, through contract, to establish a definitive point in time at which both parties agree that funds can be considered “good funds.” As a general industry practice, this occurs once the time frames have expired for automated returns through the ACH Network. At that point, ODFIs can assume that debits will not be returned, and can release the funds to their Originators (although the debits may be subject to warranty claims). Beyond that point, funds from late returns might not be recoverable from the Originator, based on the terms of the Originator/ODFI agreement, and a loss would be suffered by the ODFI. For this reason, and for efficiency in processing, many financial institutions’ systems automatically dishonor ACH entries returned in an untimely manner to facilitate the handling of these entries.

The removal of the requirement to prove a loss when dishonoring an untimely return recognizes the impact that payment finality has on an ODFI’s ability to control risk and service its customer and ultimately aligns the *Rules* with common industry practice for automated processing.

**Impact on Rules Framework**

This amendment would revise Article Two, Subsection 2.12.5.1 – (Dishonor of Return by ODFI) by removing language in item (a) requiring the ODFI or Originator to have suffered a loss in order to dishonor the untimely return entry.

**5. Modification of Accounts Receivable (ARC) Entries to Accommodate Checks Tendered In Person for the Payment of a Bill at a Manned Location**

This proposal would modify the scope of the ARC application to permit the conversion of checks tendered in person for the payment of a bill at a manned location or through a non-postal courier.

Under the current *NACHA Operating Rules*, Originators of ARC entries may only convert checks received via U.S. Mail or at a drop box location. This limitation can create front- and back-end processing challenges for billers with mail-in/dropbox payments whose customers may also present a check payment during a service center contact. Instead of being able to personally accept the hand-delivered check, billers currently using the ARC application have to direct their customers to deposit their checks in a drop box, which interrupts the flow of the service interaction. If billers desire to accept checks at their service windows, these checks would currently need to be handled separately and processed as Back Office Conversion Entries, which have additional authorization and processing requirements. In addition to increased processing
and compliance costs, operating these two different processing streams can result in customer confusion.

Permitting the use of ARC for bill payment checks received through any delivery channel – mail, lockbox, and in-person, manned locations – would result in improved efficiency for some Originators, who would no longer have to maintain separate work flows based on how checks are received. Billers would also benefit by being able to provide a more seamless service experience for their customers.

To accommodate this change, the ARC Entry definition and general rule would be modified to permit the conversion of a check received for an in-person payment of a bill at a manned location. To conform to Regulation E, the rule would also require Originators accepting bill payments in this in-person environment to provide a copy of the authorization notice, or language that is substantially similar, to the Receiver at the time of the transaction.

This proposed Rules amendment would have no impact on back-office check conversion (BOC). BOC would remain available for Originators, and those who have already implemented BOC for in-person bill payment could continue to use it. BOC would also remain available for in-person purchases, which would not be eligible to use ARC.

As a further point of clarification for the ARC application, this proposal would also expand the ARC definition to recognize checks received via courier service as equivalent to those received via U.S. Mail. The current Rules language is silent with respect to payments delivered by FedEx or UPS, for example. This update would acknowledge the use of ARC for source documents received via these types of widely used delivery services.

Impact on Rules Framework

This amendment would revise the following sections of the Rules to add language permitting a check presented in person for the payment of a bill at a manned location to be eligible for conversion to an ARC entry: Article Two, Subsection 2.5.1.1 (General Rule for ARC Entries); Article Two, Subsection 2.5.1.2 (Authorization of ARC Entries by Notification); Article Two, Subsection 2.5.1.3 (Eligible Source Document Required); Article Eight, Section 8.1 (“Accounts Receivable Entry” or “ARC Entry” or “ARC”); and Appendix Three, Subpart 3.2.2 (Glossary of Data Elements – Standard Entry Class).

Part IV: Impact of the Proposed Rule

Benefits of the Proposal

NACHA expects that 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 rules described in this RFC is expected to benefit the ACH Network by either (i) clarifying meaning or intent, (ii) improving processing efficiency for certain ACH participants, or (iii) eliminating requirements that no longer add value to the ACH Network. Benefits specific to each proposal are outlined below.
Authorization Requirements/Proof of Authorization for Corporate Debits

**RDFIs**: This rule would enable RDFIs to request proof of authorization for debits challenged as unauthorized by their non-consumer customers. The ability to request and obtain this information would enable RDFIs to provide improved customer service to their business customers when dealing with claims of unauthorized transactions to their accounts. This requirement would also encourage greater communication between ODFIs and RDFIs when addressing disputes over these transactions, particularly for those entries for which no authorization can be provided by the ODFI.

**Originators and Receivers**: Originators and Receivers would both benefit from having a written authorization for ACH debit activity. Such documentation would provide additional, tangible proof of the terms of the authorization, especially in the event of a dispute. However, this rule would most benefit the Receiver of an unauthorized debit from an Originator where no relationship exists. The ability to request and receive proof of authorization will facilitate resolution of any dispute over the validity of the transaction(s) in question.

Stop Payments

**Originators**: A return reason code that specifically identifies when the Receiver has placed a stop payment order on all future entries will provide Originators with a clear message regarding the Receiver’s intent regarding a stop payment return. This will enable Originators to take more proactive measures to determine whether future entries should be originated and initiate contact with their customers for additional information and resolution.

**RDFIs**: The expanded return reason code options for stop payments will enable RDFIs to provide more precise information to ODFIs and Originators regarding their customers’ instructions for stopping payment on ACH debit entries. These code clarifications should help to ensure that, when appropriate, future entries are not originated to the Receiver’s account, ultimately facilitating compliance with Regulation E and NACHA rules governing stop payments. The clarification regarding the duration of a stop payment order affecting a non-consumer account will also ensure that an RDFI’s practices for such stop payments are in alignment with the Rules.

WEB Exposure Limits

**ODFIs**: This rule should streamline an ODFI’s risk management practices by eliminating the need to establish and monitor a separate exposure limit for WEB Entries initiated by an Originator. ODFIs must already assess the nature of their Originators’ and/or Third-Party Senders’ ACH activity and the risk it presents to the Network, and must establish and monitor exposure limits based on those results. This should improve the ODFI’s efficiency in evaluating and monitoring its exposure risk.

Dishonor of Untimely Returns

**ODFIs**: This rule recognizes the importance of payment finality in managing ACH risk and determining credit-worthiness for ACH origination and other banking activity. It would
streamline the dishonored return process and align the *Rules* with common industry practice by recognizing that late returns generally equate to a loss by the ODFI.

**Modification of ARC Entries – Checks Tendered In Person for Payment of a Bill at a Manned Location**

*Originators*: Billers would benefit from improvements in processing efficiency for their accounts payables. They would no longer need to support separate processing streams and coding requirements for bill payments accepted via different delivery channels.

*Receivers*: This rule could eliminate potential customer confusion that may result from different processing and handling requirements based on the manner in which a check is presented to the biller.

**Costs to Comply with the Proposal**

Costs to comply with these proposals are anticipated to be minimal to moderate. ACH participants may incur costs in the following areas:

- Originators may need to modify procedures related to obtaining and retaining authorizations for debit to non-consumers; ODFIs would need to ensure that they can obtain and produce copies of these authorizations on request from RDFIs.
- All ACH participants would need to program for the new Return Reason Code for stop payment for all future entries.
- Originators for in-person bill payments may incur costs for establishing the ability to use ARC at in-person locations, and providing copies of notices.

**Part V: Additional Issues – Request for Information**

NACHA requests information and additional perspectives on the issues listed below. These issues have been identified as pain points, but require additional feedback from the industry in order to determine what modifications to the *Rules* would be appropriate, if any. Questions on these topics are included in the attached ACH Participant Survey.

1. **Prenotification Entries – Effectiveness and Function**

This portion of this RFC/RFI seeks input from the industry as to whether prenotification entries, as allowed by the *Rules* and as used today, are effectively mitigate errors in ACH processing, and whether their function can be improved.

**Background**

Currently an Originator may initiate a prenotification entry prior to initiating a live dollar entry, but is not required to do so by the *Rules*. Some ODFIs may require their Originators to initiate prenotes as part of their ACH agreement.
An RDFI that receives a prenotification entry must verify that the account number in the prenote is a valid account number; however, it is under no obligation to validate ownership of the account based on the Receiver’s name contained in the entry. In any case where a prenote contains an invalid account number, the RDFI must either return the entry or send a Notification of Change entry within two banking days of the settlement date of the corresponding entry. Otherwise, the Rules have adopted a “no news is good news approach,” where there is no requirement for (or mechanism to support) a positive response from the RDFI that an account number is valid. An Originator cannot initiate live entries until six banking days following the settlement date of the prenote to allow adequate time for the Originator to receive a return or NOC in response to the prenote prior to initiating “live” entries.

Discussion Topics

Because prenotes are non-monetary entries that have no financial impact on settlement, would there be positive or negative impact if RDFIs acted upon them sooner, ultimately allowing the Originator to initiate a live dollar entry sooner than the current six banking day time frame?

If the RDFI were required to verify that the Receiver identified in the prenotification entry held ownership of the account number contained in the entry, would this add value to the use of a prenotification entry?

What would the cost or burden be to the RDFIs if they are required to verify that the Receiver identified in the prenote held ownership in the account number contained in the prenote?

Should the RDFI be required to send a confirmation to the ODFI that the prenote information had been verified and represents valid ownership of the account, or that the information had been reviewed and the name and account number are not a valid match?

If account ownership validation is a value-added service, would the ODFI be willing to pay the RDFI for this service?

Please consider and provide comments on the value and cost of any of the following:

- Shortening the six banking day waiting period
- Requiring RDFIs to acknowledge good account information
- Allowing and/or requiring RDFIs to verify and acknowledge that the name in the entry matches the name on the account
- Other improvements that should be considered

2. *New Dishonor and Contested Dishonor Codes to Correct Unjust Enrichment Through the Reversal Process*

Industry participants are requested to provide input, via the attached ACH Participant Survey, on the concept of adopting a new set of dishonored return and contested dishonored return reason codes for use by the Originator/ODFI when the reversal process has resulted in an unintended payment to and enrichment of the Receiver.
**Background**

Consider the following example under the existing *Rules*:

- The Originator transmits a debit to a Receiver in error.
- Two days later, the Originator realizes its error and transmits a reversing credit to make the Receiver whole.
- In the interim, the original debit entry is returned by the RDFI.

Instead of the Receiver having been made whole and returned to a neutral position by the posting of both debit and credit, the Receiver, in effect, has been made whole twice, or unjustly enriched by the Originator’s/ODFI’s error.

Under the existing *Rules*, in such cases resolution for the Originator/ODFI can become complicated. An Originator that tries to reverse a reversal can compound the problem and create confusion among ACH participants, and such a reversing debit can, itself, be returned. The ODFI could request the return of the reversing credit, but success is not guaranteed. Originators are often forced to try to collect the amount due, and any unintended payment, outside the ACH Network via the collections process.

The reason for this dishonor could be clearly conveyed to the RDFI through a new dishonored return code. RDFIs would be able to research the issue, if necessary, and should be able to identify the reversal to the Receiver’s account. A new contested dishonored return reason code would provide recourse to the RDFI in the event that the reversing credit was also previously returned by the RDFI, or if some other challenge were made to the dishonor.

While the addition of this set of return codes could help to resolve some challenges and frustrations related to the current reversal process, fundamental questions are also raised with respect to the dishonor of certain types of return entries by the ODFI. For instance, ODFIs are currently required to accept (and cannot dishonor) an entry returned as unauthorized unless the return is untimely or contains incorrect information.

**Discussion Topics**

Should an ODFI be permitted to dishonor the return of the original, erroneous debit if it can substantiate that it had also originated a reversing credit entry to correct the erroneous transaction?

Should the ODFI be subject to specific additional warranties or burdens of proof when dishonoring returns using this type of a code, such as a warranty that the dishonor is related to an entry that has already been reversed?

What would be the impact of allowing an ODFI to dishonor an entry returned as unauthorized, where the Receiver has signed a written statement of unauthorized debit? Should such a dishonor be limited to NSF and/or other types of returns not involving authorization?
Could this solution be limited to debits that are returned within the initial 2-day time frame, or to only NSF returns?

Are there any unintended consequences that could arise from this type of situation?

3. **Notifications of Change for Single-Entries**

Industry participants are requested to provide additional input, via the attached ACH Participant Survey, on the desire to change the NOC process as it relates to Single Entry transactions. While responses to the previous RFI on this issue indicated general agreement among ACH Network participants that this topic represents a pain point to the industry, it did not identify the degree to which ACH participants are negatively impacted by the existing *Rules*, nor did it identify and request comment on possible solutions to the problem. Responses provided to this portion of the RFI will be used to further evaluate the degree to which NOCs for Single Entries cause problems for ACH Network participants and to identify a preferred solution for resolving this perceived pain point.

**Background**

The *NACHA Operating Rules* currently require all Originators to act on NOC information received within six banking days of receipt of such data, or prior to originating a subsequent transaction to the Receiver’s account, whichever occurs later. This obligation applies to an NOC received in response to any ACH entry, regardless of SEC Code or whether the entry is defined as a recurring or one-time payment. The *Rules* make no exception to this requirement based on any specific type of entry or SEC Code.

In spite of the broad coverage of the NOC rules, Originator response to NOCs for Single Entries has been inconsistent. Originators of Single Entries face the dilemma of retaining correcting information for an indefinite period of time without the certainty of any future payments being authorized by the Receiver. In some cases, these Originators make the business decision not to act on NOCs for Single Entry payments because of the resources required to maintain NOC data indefinitely. Other Originators do not act on an NOC received in response to a Single Entry due to the misconception that they have no obligation to do so, since no subsequent entries should be originated as part of the same authorization. Other Originators do, in fact, retain NOC information on Single Entry payments as well as recurring transactions to ensure that any subsequent entries are originated with corrected information. While challenging for Originators, these mixed responses to NOCs for Single Entry payments are also burdensome for an RDFI trying to ensure that accurate payment information is used, particularly in cases when frequent payments are made between the same Receiver and Originator.

**Discussion Topics**

NACHA is seeking industry feedback on two specific questions:

1. Should the *NACHA Operating Rules* related to NOCs be changed to explicitly address Single Entry payments, or should the *Rules* remain as presently written?
(2) If a change to the NOC rules as they relate to Single Entries is desired by the industry, what is the preferred solution to the problem? Specific feedback is requested on the degree to which the following options would resolve the Single Entry NOC issue.

- **Option #1** - Modify the NOC rules to exempt Single Entry transactions from the Originator’s requirement to act on a change. Under this option, an Originator could choose, but would not be obligated, to act on any NOC received in response to a Single Entry.

- **Option #2** - Require Originators to retain and act on NOC information related to a Single Entry transaction for a specific, finite period of time. With this option, NOC information could be purged at the end of the required hold period.

For purposes of this RFI, a retention period of 180 days is proposed. Under Option #2, an Originator would be required to retain NOC information related to any specific Single Entry transaction for 180 days following receipt of the NOC and apply such changes to any subsequent entry originated within that 180-day time period. After the expiration of the 180-day period, the Originator could choose to retain or purge the data from its system. If they have not already done so, this option would require all Originators to establish and maintain a database for NOC information.

- **Option #3** - Require Originators to (1) retain NOC information related to any specific Single Entry transaction for an initial, specific period of time and apply the change to subsequent entries originated within that time period, and (2) continue to apply the NOC information each time that an additional entry is originated within X days from the most recent entry affected by the NOC data. This proposal would, in effect, establish a rolling expiration date for NOC information. If they have not already done so, this option would require all Originators to establish and maintain a database for NOC information.

For purposes of this RFI, an initial retention period of 180 days is proposed. Under Option #3, an Originator would be required to retain NOC information related to any specific Single Entry transaction for an initial 180-day period following receipt of the NOC and apply such changes to any subsequent entry originated within that 180-day time period.

The Originator must also continue to make such changes to any subsequent entry originated within 180 days of the most recent entry affected by the NOC. That is, where the period of time between the origination of entries to the same Receiver’s account is 180 days or less, the Originator must continue to apply the changes from the NOC.

At any point where more than 180 days from the most recent entry affected by the NOC has passed and no additional entries have been originated, the Originator could then choose to purge the data from its system.
In addition to indicating a preference for any of the above alternatives, respondents are also requested to identify any challenges or barriers that would affect participants’ ability to implement these solutions and to identify other potential solutions to the Single Entry NOC debate.

**Part VI: Effective Dates**

The following changes contain no ACH Network or software changes, and are proposed to become effective thirty days after approval:

- WEB Exposure Limits
- Dishonor of Return Entries
- Expansion of ARC to accommodate checks tendered in person for payment of a bill at a manned location.

The following changes contain no ACH Network or software changes, and are proposed to become effective on March 16, 2012:

- Corporate Authorizations ([Note: These requirements would be applicable on a “going forward” basis for debit Entries initiated on or after this effective date.])
- Expiration of stop payment orders on non-consumer accounts

The following change will have ACH Network and software impacts and is proposed to become effective on March 15, 2013.\(^4\)

- Return Reasons for Stop Payments

**Part VII: Technical Summary**

Included in this proposal are changes to the technical language within the Rules. The following sections are presented in sequential order under each effective date as they would appear in the Rules:

**Changes proposed to become effective within thirty days of approval:**

*Exposure Limits for WEB Entries*

- Article Two, Subsection 2.5.17.4 (c) (Additional ODFI Warranties for WEB Entries) – Removes language for exposure limits specific to WEB; corresponding changes to Subsection 2.2.2 (ODFI Risk Management).
- Appendix Eight, Part 8.4 (d) (Audit Requirements for ODFIs) – Removes audit requirement for separate WEB exposure limits.

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\(^4\) NACHA also intends to propose a number of new return reason codes or changes to existing return reason codes as part of other rulemaking initiatives. For efficiency in programming and to minimize the impact on the ACH Operators and other network participants, NACHA intends that these code changes become effective simultaneously. As a result, the date proposed above may be modified based on the progress of other initiatives in the rule making process.
**ODFI Requirements for Dishonor**

- Article Two, Subsection 2.12.5.1 (a) (Dishonor of Return by ODFI) – Revises (a) to remove requirement to substantiate a loss for a late return.

**Expansion of ARC to include checks tendered in person for payment of a bill at a manned location**

- Article Two, Subsection 2.5.1.1 (General Rule for ARC Entries) – expands the ARC general rule to permit a check presented in person for payment of a bill at a manned location to be eligible for conversion; also expands the ARC general rule to recognize checks delivered by courier service as equivalent to U.S. Mail.
- Article Two, Subsection 2.5.1.2 (Authorization of ARC Entries by Notification) – expands the ARC notice requirements to mandate that the originator provide a copy of the notice, or language that is substantially similar, to the Receiver at the time of the transaction when the Eligible Source Document for the Entry is provided by the Receiver in-person for payment of a bill at a manned location.
- Article Two, Subsection 2.5.1.3 (Eligible Source Document Required) – simplifies the discussion of eligible source document by removing redundant information on the manner in which the check is presented.
- Article Eight, section 8.1 (“Accounts Receivable Entry” or “ARC Entry” or “ARC”) – expands the definition of an ARC entry to (1) include a check presented in person for payment of a bill at a manned location as eligible for conversion; and (2) recognize checks delivered by courier service as equivalent to U.S. Mail.
- Appendix Three, subpart 3.2.2 (Glossary of Data Elements – Standard Entry Class) – expands the description of the ARC Standard Entry Class Code to include a check presented in person for payment of a bill at a manned location and recognize checks delivered via courier service as eligible for conversion.

**Changes proposed to become effective on March 16, 2012:**

**Authorization Requirements for Corporate Entries**

- Article Two, Subsection 2.3.3 (Agreement and Notice for Entries to Non-Consumer Accounts) – Adds “Authorization” to the section’s title
- Article Two, Subsection 2.3.3.3 (Authorization for Non-Consumer Debit Entries) – Establishes a new subsection for “debit authorization in writing” requirement.
- Article Two, Subsection 2.3.3.4 (Retention and Provision of the Record of Authorization) – Establishes a new subsection for retention and copy requirements for non-consumer debit authorization.
- Article Three, Subsection 3.1.4 (RDFI May Request Copy of Receiver’s Authorization of Entry from ODFI) – Revises this subsection to add a cross reference to Subsection 2.3.3.4.
- Article Three, Subsection 3.4.1.1 (Rule Exception Regarding Copy of Receiver’s Authorization) – Removes this subsection, which excludes CCD and CTX from the copy requirement in Subsection 3.1.4
Corporate Stop Payment Orders – Expiration Criteria
  • Article Two, Subsection 3.7.2 (RDFI Obligation to Stop Payment of Entries to Non-Consumer Accounts) – Removes effective time period from this section.
  • Article Two, Subsection 3.7.2.1 (Effective Period of Stop Payment Orders) – Establishes new subsection outlining effective time period for stop payment orders on non-Consumer Accounts.

Changes proposed to become effective on March 15, 2013:

Return Reason Codes for Stop Payment
  • Appendix Four, Part 4.2 (Table of Return Reason Codes) – Modifies “notes” for R08 as to proper usage and adds new Return Reason Code R90 to be used when the stop order covers all future entries.