

DFI Checklists for Implementing Rules related to ACH Risk and Enforcement, and Improving ACH Quality

ACH RISK AND ENFORCEMENT TOPICS

Unauthorized Return Threshold

Effective September 18, 2015, the current return rate threshold for unauthorized debit Entries (Return Reason Codes R05, R07, R10, R29, and R51) will be reduced from 1.0 percent to 0.5 percent. The existing risk investigation and enforcement processes related to the unauthorized return rate threshold do not change. An ODFI that has an Originator or Third-Party Sender that breaches the new, lower threshold would be subject to the same obligations and potential enforcement as currently set forth in the *Rules* for the existing return rate threshold for unauthorized debits.

To prepare for the Rule change, ODFIs should:

- Review/develop reporting to monitor and track unauthorized debit return rates for Originators and Third-Party Senders.
- Implement monitoring/notification process for Third-Party Senders/Originators over the new level (0.5%).
- Review return rates at Company ID and Third-Party Sender/Originator level.
- Implement procedures to respond to potential NACHA inquiries (response is required within 10 days).
- Notify Third-Party Senders/Originators NOW (i.e., prior to September 18th) if unauthorized level is over 0.5%.
- Advise Third-Party Senders/Originators on actions they can take to prevent excessive unauthorized returns (e.g., never reinitiate an unauthorized transaction).
- Document actions taken to address unauthorized return rates above the threshold.

Preliminary Inquiry Process for Administrative and Overall Return Rate Levels

Effective September 18, 2015, an inquiry process will be established to provide NACHA with a preliminary evaluation point to research the facts behind an Originator's ACH activity. Preliminary research, as part of the inquiry process, may begin when any Company ID exceeds the established administrative return rate or overall return rate level. If contacted, the ODFI may take this opportunity to submit any information it determines is relevant to making an informed decision. The administrative return rate level of 3.0 percent will apply to debit entries returned due to administrative or account data errors (Return Reason Codes R02, R03 and R04). The overall return rate level of 15.0 percent will apply to all debit entries (excluding RCK entries) that are returned for any reason. The review process involves eight steps, and includes an opportunity for NACHA and an industry review panel to review an Originator's or Third-Party Sender's ACH activity prior to any decision to require a reduction in a return rate. The inquiry process does not automatically trigger a Rules enforcement activity.

To prepare for the Rule change, ODFIs should:

- Develop return reporting to monitor and track administrative debit return rates and overall debit return rates for Third-Party Senders/Originators. For operational efficiency,

this can be part of the same process that monitors and tracks unauthorized debit return rates.

- Implement monitoring/notification process for those Third-Party Senders/Originators above the new return rate levels (3.0% for administrative debit returns; 15.0% for overall debit returns).
- Implement monitoring of return rates at Company ID and Third-Party Sender/Originator level.
- Notify Third-Party Senders/Originators of the upcoming Rule change and potential impacts.
 - Provide their current unauthorized, administrative and overall return rates
 - Discuss excessive or potentially excessive return rates
 - Stress the transparency of ACH payments and the practices that can be put into place to manage return rates
 - Develop a plan to reduce return rates if needed
 - Likewise, demonstrate the business case that drives return rates
- Understand Third-Party Sender's/Originator's business models and specific reason for returns (Administrative/Overall).
- Establish procedures to document and respond to NACHA inquiry with **Review Criteria**.
 - Length of time in business, time as a customer of the ODFI
 - Originator's/Third-Party Sender's total ACH volume
 - Numbers/rates/reasons for returns
 - Rules violations? RDFI complaints?
 - Evidence of compliance with reinitiation rules
 - Knowledge of regulatory or legal investigation or actions?
 - Knowledge of complaints alleging fraud, deception, or abusive practices?
 - If a Third-Party Sender, has ACH audit been completed?

Reinitiation

Effective September 18, 2015, this Rule incorporates several clarifying changes to the Reinitiation Rule consistent with the principles set forth in ACH Operations Bulletin #3-2013.

- Implicitly prohibits the reinitiation of Entries outside of the express limited circumstances under which they are permitted under the *Rules*.
- Requires a reinitiated Entry to contain identical content in the following fields: Company Name, Company ID, and Amount. The rule permits modification to other fields only to the extent necessary to correct an error or facilitate processing of an Entry.
- Addresses two technical issues associated with the Reinitiation Rule:
 - Originators and ODFIs will be required to include the description “RETRY PYMT” in the Company Entry Description field to identify Entries that are permissible resubmissions of Returned Entries under the Reinitiation Rule.
 - Return Code R10 (currently used for Extended Returns) may be used for a Return for a violation of the Reinitiation Rule, since most violations of the Reinitiation Rule are likely to be identified via a customer complaint after the expiration of the “two-day” return timeframe (i.e., an extended return timeframe would be necessary). In order to use R10 and the extended return timeframe, the RDFI will need to obtain a Written Statement of Unauthorized Debit.

To prepare for the Rule change, ODFIs and RDFIs should:

- Notify Third-Party Senders/Originators of new rules, clarifications and requirements.
 - Identical content in Company Name, Company ID, Amount fields
 - “RETRY PYMT” in Company Entry Description
- Modify systemic re-deposit programs to ensure Company Entry Description is properly formatted.
- Ensure systemic controls are in place if your FI reinitiates transactions on behalf of your Third-Party Senders/Originators.
- Never reinitiate an unauthorized transaction.
- Test/validate new formats to ensure there is no impact to customer reporting.
- Modify return processing to allow R10 for improper reinitiations.

IMPROVING ACH NETWORK QUALITY – UNAUTHORIZED ENTRY FEE

Under this Rule, an ODFI will pay a fee to the RDFI for each ACH debit that is returned as unauthorized (return reason codes R05, R07, R10, R29 and R51). The collection and disbursement of the Unauthorized Entry Fee will be handled by the ACH Operators as part of the FI’s monthly billing statement. This Rule will become effective beginning with applicable return entries that have a Settlement Date of October 3, 2016).

ODFIs should work with their Originators on implementing systems, tools and processes to reduce returns of unauthorized debit entries, thereby minimizing fees they incur. ODFIs in particular should note that fees applied to return entries as of October 3, 2016 could relate to forward entries initiated as early as August 1, 2016. To prepare for the Rule change, ODFIs and RDFIs should:

- Modify/develop reporting to identify unauthorized returns at the Company ID and Third-Party Sender/Originator level.
- Notify all Third-Party Senders/Originators of the new rule, timing and potential impact (based on historical number of unauthorized returns and charge per item).
- Update fee agreements/disclosures, if required.
- Modify billing systems to assess Unauthorized Entry Fee to customer, if desired.
- Develop transaction level reporting to provide associated details for Unauthorized Entry Fees charged.
- Work with Third-Party Senders/Originators to identify methods of reducing unauthorized entries.