



Reversals and Enforcement

Request for Comment

May 20, 2020

Reversals and Enforcement - Request for Comment Summary

- Nacha is issuing for comment two specific proposals to amend the Nacha Rules:
 1. Explicitly address improper uses of reversals; and
 2. Improve enforcement for egregious violations of the Rules
- Responses on these proposed changes are requested by Friday, June 19, 2020

Reversals and Enforcement – Proposals Rationale

- In 2019, a Third-Party Sender caused significant harm to consumers through the improper and non-compliant use of reversals to claw-back Direct Deposit payroll payments
- This act also caused substantial harm to receiving financial institutions, as well as to the reputation of the ACH Network and the use of Direct Deposit
- The overarching purpose of these two proposals is to deter and prevent, to the extent possible, recurrences of such improper use of reversals and the harm it can cause

Proposal #1 – Reversals

Although the Rules already define only a limited number of permissible reasons for Reversals, this proposal would further:

- Specifically state that the initiation of Reversing Entries or Files for any reason other than those explicitly permissible under the Rules is prohibited
- Explicitly define within the Rules non-exclusive examples of circumstances in which the origination of reversals is improper:
 - The initiation of Reversing Entries or Files because an Originator or Third-Party Sender failed to provide funding for the original Entry or File
 - The initiation of a Reversing Entry or File beyond the time period permitted by the Rules

Proposal #1 – Reversals

This proposal also would:

- Establish formatting requirements for reversals, beyond the current standardized use of the Company Entry Description field (“REVERSAL”)
 - The Company Name, Company ID, SEC Code, and Amount fields of the reversal must be identical to the original entry
 - The contents of other fields should be modified only to the extent necessary to facilitate proper processing of the reversal
 - This is the same approach as the formatting requirements for Reinitiated Entries
- Although proper reversals do not need to be authorized by the Receiver, the proposal would explicitly permit an RDFI to return an improper Reversal
 - The appropriate Return Reason Codes would be R11 for improper reversal to a consumer account, R29 for improper reversal to a non-consumer account
- Separately, Nacha proposes to expand the list of permissible reasons for a reversal to include the reversal of an entry that orders payment on a date different than intended by the Originator

Proposal #2 – Enforcement

This proposal would:

- Provide Nacha with the authority to take enforcement action with respect to an Egregious Violation of the Nacha Operating Rules
- Define an Egregious Violation as a willful or reckless action that
 - impacts at least 100 Participating DFIs, or
 - affects Entries in the aggregate amount of at least \$1 Million
- Allow the ACH Rules Enforcement Panel to classify Egregious Violations as a Class 2 or 3 Rules Violation
 - The maximum sanction for a Class 3 violation is \$500,000 per occurrence and a directive to the ODFI to suspend the Originator or Third-Party Sender
- Expressly authorize Nacha to report Class 3 Rules violations to the ACH Operators and industry regulators

Reversals and Enforcement – Anticipated Benefits and Impacts

Anticipated Benefits

- Originators, Third-Party Senders, and ODFIs should have a clear and consistent understanding of when NOT to initiate reversals
 - In particular, with regard to the failure to fund an ACH credit file
- The ability for RDFIs to return improper reversals will become more efficient
 - Recourse for improper reversals will be able to be handled through the ACH return process
- Nacha will have the authority to better enforce the Rules for egregious violations

Anticipated Impacts

- ODFIs, Originators, and Third-Party Senders may want to review practices, policies, and controls regarding reversals
 - Nacha does not anticipate that systems or technology changes would be required
- RDFIs that want to take advantage of the return process may need to establish policies and practices that facilitate the return of an improper reversal

Reversals and Enforcement – Proposed Effective Dates

- Reversals
 - For many ACH participants, the proposal primarily addresses what should be existing practices
 - Nacha does not anticipate any required systems or technology impacts
 - Therefore, Nacha proposes a relatively short implementation period to accommodate industry communication and education
- Enforcement
 - The proposal changes impact only Nacha's internal Rules enforcement process and practices
 - Therefore, Nacha proposes that the rule should become effective shortly after the anticipated ballot period, allowing some time for industry communication and education
- Proposed effective date for both proposals – January 1, 2021

Reversals and Enforcement – Request for Comment

Nacha requests comment on all aspects of these proposals

- Does your organization agree that these proposals are appropriate to deter and prevent, to the extent possible, future instances of excessive harm to consumers from the improper use of reversals?
- Do you agree with the listing of improper uses of reversals?
- Do you agree with the proposed formatting requirements for reversals?
- Do you agree with the identified return reason codes for RDFIs to return improper reversals?
- Do you agree that reversals should be permitted when a payment is for a date not intended by the Originator?
- Do you agree with the definition of an Egregious Violation of the Rules?
- Do you agree with the proposed sanctions for an Egregious Violation?
- Does your organization agree with the proposed effective dates?
- Do you have any suggestions for best practices or guidance for reversals?