
HOW TO IMPLEMENT THE REVISIONS TO THE NACHA OPERATING RULES AND GUIDELINES

The following pages highlight the rule amendments incorporated into this publication of the *NACHA Operating Rules (Rules)* and *NACHA Operating Guidelines (Guidelines)*. A summary of the revisions follows, explaining the rule amendments and offering suggestions on their implementation. After each subject are the pages within the Rules that correspond to that amendment. Vertical markings (|) in the left margin of the Rules indicate where amendments (i.e., additions or wording changes) have taken place. The date of approval is noted in the bottom margin and is immediately followed by the effective date of the rule change. To accommodate rule amendments that will become effective later in the year, this edition contains both the current wording of the rule, followed by the new rule highlighted in brackets and italics.

The following material provides information on one amendment that will become effective on September 18, 2009.

EFFECTIVE SEPTEMBER 18, 2009

International ACH Transactions

Revises the *Rules* to (1) require ODFIs and Gateway Operators to identify all international payment transactions transmitted via the ACH Network as International ACH Transactions using a new Standard Entry Class Code (IAT); and (2) require IAT transactions to include the specific data elements defined within the Bank Secrecy Act's (BSA) "Travel Rule" so that all parties to the transaction have the information necessary to comply with U.S. law, which includes the programs administered by the Office of Foreign Assets Control (OFAC). This amendment will align the *Rules* with OFAC compliance obligations and make it easier for RDFIs to comply with those requirements.

Approved August 14, 2007; Amended April 29, 2008; Effective September 18, 2009

(OR 1-3, 5, 13, 14, 22, 23, 25, 27, 28, 30-32, 34-37, 39, 40, 43-47, 50-53, 55-57, 62, 68-73, 75, 86-107, 109-112, 114, 115, 118, 119, 121-123, 125-132, 134, 135, 137, 138, 140, 141, 143-146, 148-150, 152, 154-157, 159, 160, and 170.)

NOTE: Minor modifications to the original IAT language approved on August 14, 2007 were approved by NACHA's voting membership April 29, 2008. These changes were editorial in nature and have been incorporated into this edition of the *NACHA Operating Rules*.

INTERNATIONAL ACH TRANSACTIONS (IAT)

Summary: Effective September 18, 2009, an amendment to the *NACHA Operating Rules (Rules)* will become effective that will (1) require ODFIs and Gateway Operators to identify all international payment transactions transmitted via the ACH Network as International ACH

Transactions using a new Standard Entry Class Code (IAT); and (2) require IAT transactions to include the specific data elements defined within the Bank Secrecy Act's (BSA) "[Travel Rule](#)" so that all parties to the transaction have the information necessary to comply with U.S. law, which includes the programs administered by the Office of Foreign Assets Control (OFAC). This amendment will align the *Rules* with OFAC compliance obligations and make it easier for RDFIs to comply with those requirements.

Background:

Federal Regulatory Agency Requests & Guidance

OFAC has stated that financial institutions need to safeguard the U.S. financial system from terrorist and other sanctions abuses involving international ACH payments. In the domestic payment environment, ODFIs and RDFIs can rely on each other to ensure compliance with OFAC obligations with regard to their own customers. For international payments, however, DFIs cannot rely on international counterparts for compliance with U.S. law. The examination procedures for financial institutions' risk-based OFAC compliance are included in the Federal Financial Institutions Examination Council's (FFIEC) Bank Secrecy Act/Anti-Money Laundering Examination Manual.

Current Constraints on Financial Institutions

Currently, cross-border applications are used only for ACH transactions that are transmitted internationally through a declared Gateway Operator. Because many payments initiated internationally are also introduced into the U.S. ACH Network through domestic correspondent banking relationships, certain international payments are being transmitted as domestic transactions (e.g., PPDs, CCDs), making it difficult for Depository Financial Institutions (DFIs) to identify these payments as international transactions for purposes of complying with U.S. law.

For those payments recognizable as international transactions, there is currently insufficient information contained within the payment record allow an RDFI to readily identify all parties to an international ACH payment in order to comply with OFAC-administered U.S. sanctions policies and to efficiently conduct an OFAC analysis.

Identification of International ACH Transactions and Re-structuring the Formats to Comply with U.S. Law

This amendment will identify international ACH payments by focusing on where the financial agency that handles the payment transaction is located, regardless of where any other party to the transaction (e.g., the Originator or Receiver) is located. Specifically, where any ACH entry is part of a payment transaction that involves a financial agency's office that is not located within the territorial jurisdiction of the United States, the ACH entry must be identified using a new Standard Entry Class Code, IAT (International ACH Transaction). As a result, certain transactions that are international in nature but currently sent as PPDs or CCDs will be required to be transmitted as IATs. The new IAT format will help RDFIs comply with their obligations under U.S. law by:

- carrying the additional data requirements included in the BSA's "Travel Rule" (i.e., Originator name/physical address/deposit account number, Originator's depository institution name, payment amount, Receiver name/address/account number, and the Receiver's financial institution), as requested by OFAC; and
- containing OFAC Screening Indicators to aid financial institutions in effective interdiction of unlawful transactions.

The identification of these payments as international transactions and the inclusion of “Travel Rule” information, as well as the means to convey OFAC screening results, will reduce the current compliance constraints on RDFIs.

Key Components of Rule Amendment:

1. Identification of International Payments

ACH transactions originating from or transmitted to an office of a financial agency located outside the territorial jurisdiction of the U.S. would be required to be explicitly identified by the ODFI or Gateway Operator entering such payments into the U.S. ACH Network. The following definition of International ACH Transaction would be established for such transactions, to which a new SEC code, IAT, and formatting requirements would apply.

International ACH Transaction or IAT entry means a debit or credit Entry that is part of a payment transaction involving a financial agency’s office that is not located in the territorial jurisdiction of the United States. For purposes of this definition, a financial agency means an entity that is authorized by applicable law to accept deposits or is in the business of issuing money orders or transferring funds. An office of a financial agency is involved in the payment transaction if it (1) holds an account that is credited or debited as part of the payment transaction; (2) receives payment directly from a Person or makes payment directly to a Person as part of the payment transaction; or (3) serves as an intermediary in the settlement of any part of the payment transaction. IAT entries must be originated using the IAT Standard Entry Class Code.

The requirement to identify international payments through the IAT SEC Code will broaden the scope of entries currently defined under the *Rules* as cross-border transactions. Currently, cross-border transactions are identified as such only if they are transmitted through a declared Gateway Operator. Many payments initiated internationally today are introduced into the U.S. ACH Network through correspondent banking relationships as domestic transactions. As a result, payments that are international in nature are being transmitted as domestic transactions (e.g., CCD, PPD), making it difficult for Depository Financial Institutions (DFIs) to identify them for purposes of complying with U.S. law.

The new IAT definition will classify international payments based on the geographical location of the financial agencies (financial institutions or money transmitting businesses) involved in the transaction, instead of on the location of the other parties to the transaction (e.g., Originator or Receiver). For example, payment transactions that start as wires or interbank transfers from abroad and are converted to ACH entries by a U.S. financial agency would be covered under this definition. On the other hand, ACH entries originated from an account at a U.S. DFI based on instructions from the account holder residing abroad would not be covered, unless the instructions were included with funding in a SWIFT or proprietary message sent from a foreign financial institution to the U.S. DFI. Similarly, domestic ACH entries funded over the counter at a U.S. DFI would be excluded, while a similar entry funded at a foreign bank would be included. (See attached “ACH Payment Scenarios: Domestic or International?” for more examples of how the IAT definition would apply to various payment situations.)

This definition would not apply to transactions that may involve data received or processed offshore, where the processing entity is not a party to the transaction and such processing is incidental to and does not alter the terms of the transaction. In these cases, the offshore party does not have a direct financial stake in the transaction through an account relationship or settlement obligation (e.g., consolidated corporate treasury departments or contracted third-party data processors).

2. New Obligations for Gateway Operators and ODFIs

A Gateway Operator under this proposal will be defined as follows:

Gateway Operator means either an ACH Operator or a Participating Depository Financial Institution that acts as an entry point to or exit point from the United States for payment transactions.

This amendment will incorporate, within the sections of the *Rules* addressing ODFI and Gateway Operator obligations, specific rules and requirements for each of these parties when exchanging IAT entries. Specifically, Article Two (Origination of Entries) will include provisions governing ODFIs when originating IATs, and Article Eleven (Obligations of Gateway Operators) will address Gateway Operator responsibilities. These modifications will make the cross-border rules currently contained within Article Eleven (Cross-Border Payments) obsolete, requiring removal of the current Article Eleven and replacement with a new Article Eleven (Obligations of Gateway Operators).

Gateway Operator Obligations

Article Eleven (Obligations of Gateway Operators) will be revised to remove the current cross-border rules and, instead, incorporate specific obligations for Gateway Operators. Such obligations include: (1) authorization from the ODFI to originate IAT entries; (2) agreement between the ODFI and the Gateway Operator; and (3) an obligation for the Gateway Operator to comply with U.S. laws and regulations.

An ACH Operator acting as a Gateway Operator also will be required to ensure that Inbound IAT entries are restricted to ACH credits only, with the exception of reversals. Outbound IAT entries processed through an ACH Operator acting as a Gateway Operator may be either credits or debits.

A Participating DFI acting as a Gateway Operator also will be deemed to have assumed the responsibilities and warranties of an ODFI (for Inbound IAT Entries) or an RDFI (for Outbound IAT Entries), pursuant to Article Two (Origination of Entries) or Article Four (Receipt of Entries), respectively. Participating DFIs acting as Gateway Operators may originate both credit and debit entries inbound and outbound.

ODFI Obligations

In addition to all other ODFI warranties and obligations defined within Article Two (Origination of Entries), additional obligations for IAT transactions will be added that relate to: (1) Originator authorization and agreement; (2) ODFI warranties for Outbound IAT entries with respect to compliance with U.S. law and compliance with foreign payment system rules; and (3) exceptions for Outbound IAT entries (see Article Two, section 2.11.3 for a complete listing of exceptions).

3. Identification of Participants in an IAT Entry

The following new definitions will be included within Article Fourteen to assist ACH participants in understanding the parties and terminology involved with an International ACH Transaction:

Foreign Correspondent Bank means a Participating DFI in a foreign country that holds deposits owned by other financial institutions.

Foreign Gateway Operator means a Gateway Operator that acts as an entry point to or exit point from a foreign country.

4. IAT SEC Code

This amendment will consolidate consumer and non-consumer international payments under the same SEC code (IAT). The previously distinct SEC codes for consumer (PBR) and non-consumer (CBR) cross-border payments will be removed from the *Rules*. Unlike the U.S., payment formats

used in other countries typically do not distinguish between consumer and business transactions. This formatting disparity currently hinders the Gateway Operator's ability to map inbound foreign payment information to the proper domestic payment format. Similarly, outbound transactions to foreign countries must currently be mapped from two SEC codes into one payment type.

The use of one SEC code for all international payments will require ACH participants to treat international payments to consumer and business accounts in the same manner. As a result, the longer timeframe associated with the return of unauthorized consumer transactions under the *Rules* will also be applied to unauthorized entries to business accounts. Specifically, for Inbound IAT entries, the return of any unauthorized IAT entry will be required to be transmitted by the RDFI in such time and manner that the return entry would be made available to the ODFI/Gateway Operator no later than the opening of the business on the banking day following the sixtieth calendar day following the settlement date of the original entry. (Note: For Outbound IAT entries, the time frames for return of an entry are determined by the payment system rules of the foreign country and may exceed the 60-day return window defined by the U.S. ACH system.)

5. Formatting Modifications

Travel Rule Data Requirements

The current level of information contained within cross-border ACH transactions is not sufficient to allow the RDFI to readily identify all parties to the transaction in order to determine whether a particular transaction would violate OFAC-administered U.S. sanctions policies.

This amendment will require the IAT format to include the information required by the BSA's "Travel Rule," which is currently required of wire transfers. The data elements listed below will be included and will correspond to the SWIFT message format field lengths to allow for greater interoperability.

- Name and physical address of the Originator
- Name and physical address of the Receiver ("Beneficiary")
- Account number of Receiver
- Identity of the Receiver's bank
- Foreign Correspondent Bank(s) name, Foreign Correspondent Bank ID number, and Foreign Correspondent Bank Branch Country Code
- Reason for the payment

Mandatory Addenda Records

Seven mandatory Addenda Records will accompany each IAT entry in order to convey the information listed above. All information related to a particular ACH participant will be grouped together within one or more addenda records (e.g., information related to the Originator would be provided together within one or more addenda records).

Optional Addenda Records for Remittance Information

IAT entries will accommodate the transmission of optional remittance information. A maximum of two optional addenda records will be able to accompany an IAT entry, within which a maximum of 160 characters (80 characters per addenda record) of remittance information can be included. This will enable standard 4x35 remittance information in a SWIFT message or Fedwire-

formatted record to be included within an IAT entry. With certain exceptions, there are no formatting specifications for the optional remittance information.

Addenda Records for Foreign Correspondent Bank Identification

A separate addenda record must be added to the payment for each Foreign Correspondent Bank that is involved with the transmission or exchange of an IAT entry. Any Foreign Correspondent Bank that is involved in an IAT transaction will be required to identify itself within an addenda record, providing parties to the transaction with additional information needed to identify and react to unlawful transactions. A maximum of five Foreign Correspondent Bank addenda records may accompany an IAT entry.

OFAC Screening Indicators

The IAT format will include two optional, single-character fields within the Entry Detail Record to convey the results of voluntary OFAC screening on the transaction. For Inbound IAT entries, the first field will be available to convey the results of an OFAC screen by a Gateway Operator, and a secondary screening indicator will be available to be used by a Third-Party Service Provider to convey such screening results. A value of “0” will indicate that the party conducting the screening has not found a potential blocked party, as identified by OFAC on its list of Specially Designated Nationals (“SDN list”). A value of “1” will indicate the potential presence of a blocked party. The field will be space-filled if no screening has been conducted. These OFAC screening indicators will assist RDFIs (Correspondent Banks) processing international payments with their compliance obligations by identifying entries that are highly suspect.

The Federal Reserve Bank’s Retail Payments Office, on behalf of the Federal Reserve in its capacity of a Gateway Operator, has announced its intention to screen Inbound IAT entries for OFAC compliance, as requested by OFAC. It will advise the RDFI, through the use of an OFAC Screening Indicator, of potential issues and, subject to OFAC’s approval, utilize FedLine Web to advise the RDFI of Inbound IAT transactions that contain data appearing on the OFAC “SDN List.” The Electronic Payments Network (EPN), the private-sector ACH Operator, also has announced that it will make available an OFAC screening function to its customer financial institutions as a value-added service.

6>Returns and Notifications of Change for International ACH Transactions

IAT Returns

The seven mandatory addenda records that accompany a forward IAT entry will be required to be transmitted with any IAT return entry. An IAT return will also be required to include one additional addenda record within which specific information related to the return (such as return reason code, original entry trace number, etc.) must be included. Addenda records related to Foreign Correspondent Banks and those containing remittance information will not be copied for return to the Originator.

These IAT return formatting requirements will differ from domestic ACH return processing. For the return of domestic transactions, addenda records transmitted with forward entries are not returned by the RDFI, as they contain only remittance information and are not necessary to identify the original transaction or process the associated return. IAT addenda records, however, will contain key data related to the payment itself, and the return of such information will be needed to adequately identify the original transaction and process the return.

Dishonored and Contested Dishonored Returns Not Permitted for IAT Entries

Dishonored and Contested Dishonored Return entries will not be permitted for use with IAT entries. These domestic exception processes do not have counterparts within foreign payments systems, requiring issues beyond return of the original transaction to be resolved through channels other than the automated dishonor/contested dishonor process. Information obtained from Gateway Operators under the current cross-border process confirms that the volume of exception situations requiring additional handling of returned entries is extremely low and that manual handling of such issues has been adequate in resolving problems related to these payments. Based on this information, and on additional complexities involving foreign exchange conversion, this amendment will prohibit IAT return entries from being dishonored or contested.

IAT Notifications of Change

RDFIs will be able to transmit changes related to routing numbers and account numbers for IAT entries via the Notification of Change (NOC) process. Based on current data obtained from the Gateway Operator, changes related to other information carried within an international payment are not applicable to international payments and are generally not supported under this IAT amendment. NOCs related to IAT entries will have unique formatting requirements based on data requirements associated with international payments, requiring development of a distinct set of formats (company/batch header record, entry detail record, and addenda record) for these NOC entries. NOCs related to IAT entries will be distinguished from domestic NOCs through the use of an “IAT Indicator” code within the Company/Batch Header Record.

Unlike the IAT return process, the seven mandatory addenda records, the remittance addenda records, and the Foreign Correspondent Bank addenda records transmitted with the forward IAT entry will not be needed to process the NOC and will not be included. The transmission of Refused NOCs will not be supported by the IAT rules.

7. Other Modifications to Defined Terms

The following additional modifications will be made to specific definitions in the *Rules* related to IAT entries:

- The definitions of CBR and PBR entries will be removed, as these SEC Codes and formats will be replaced by the IAT entry.
- The definitions of “Inbound Entry” and “Outbound Entry” will be revised to remove references to CBR and PBR entries and add references to IAT entries.
- A definition of “ISO” or “International Standards Organization” will be added to clarify references to certain data elements defined by ISO.
- The definitions of “Originating Gateway Operator (OGO)” and “Receiving Gateway Operator (RGO)” will be removed and replaced with a new definition for “Gateway Operator.”

8. Exemption From Rules Obligations

A specific provision will be added to Article One (General) that excuses a Participating DFI from its obligations under the *Rules* to credit or debit an account or to transfer funds when such action would be in conflict with U.S. law. This provision would, for example, excuse an RDFI from its obligation to recredit a Receiver for an unauthorized debit entry under the *Rules* when such action is prohibited by OFAC.

IMPACT TO PARTICIPANTS:

Originators

Originators will be responsible for ensuring that international ACH transactions are properly identified using the IAT Standard Entry Class Code. Originators will need to conduct a thorough examination of all Receiver relationships to identify those transactions resulting in the transfer of funds to or from a financial agency outside the U.S. territorial jurisdiction.

Participating DFIs

ODFIs and RDFIs will be subject to specific OFAC compliance obligations with respect to all international ACH transactions (IAT entries) exchanged via the ACH Network. DFIs should consult the FFIEC Guidelines for specific OFAC compliance requirements and should establish formal policies and procedures to ensure compliance with such obligations.

ODFIs and RDFIs will need to ensure that their ACH software is updated to incorporate new formatting requirements specific to the IAT application. DFIs should be aware that foreign payment system rules permit entries to be returned for a longer period of time than allowed for domestic transactions. DFIs will need to continue to support the CBR and PBR applications through December 31, 2009 to accommodate the processing of any returns related to outbound CBR/PBR entries transmitted prior to the implementation date of the change.

SOFTWARE CHANGES FOR ACH OPERATORS: ACH Operators will need to modify their software to accommodate the new IAT application. ACH Operators will also be required to continue to support the CBR and PBR applications through December 31, 2009 to accommodate the processing of any returns related to outbound CBR/PBR entries transmitted prior to the implementation date of the change.

SOFTWARE CHANGES FOR PARTICIPATING DEPOSITORY FINANCIAL INSTITUTIONS: Participating DFIs will be required to modify their ACH software to accommodate the transmission and receipt of IAT entries. Participating DFIs will also need to continue to support the CBR and PBR applications through December 31, 2009 to accommodate the processing of any returns related to CBR and PBR entries transmitted prior to the implementation date of the IAT rule change.

IMPLEMENTATION DATE: September 18, 2009