

ACH Rules vs. Reality

What Are We Discussing?

Mainly looking at literal interpretations vs. implementation and impact

- Reversing Entries for Fraud
- Early Funds Availability
- WSUD Returns
- Warranty Claims
- ODFI Request for Return
- Delaying Funds Availability vs. Holding ACH Credits

Reversing Entries for Fraud

Reversing Entries for Fraud

- Authorized credit push fraud and account compromise situations present unique challenges to ODFIs
- Regulation E can apply in some of these situations
 - ODFI's ability to recover may be limited
- How does your organization handle reports of these situations?
- Are financial institutions using Reversals to recover fraudulent transactions?

Reversing Entries for Fraud- What do the Rules Say?

Nacha Operating Rules, Article Two, Subsection 2.10.1 General Rule for Reversing Entries

- The Rules state an Originator may reverse an erroneous entry that:
 - Duplicates a previous entry
 - Orders payment from an unintended Receiver
 - Orders payment in an unintended amount
 - Orders payment of a debit entry earlier than authorized or a credit entry later than was intended
- For no other reason!
- Must be initiated within 5 banking days of the settlement date of the original entry.
- Originator must make a reasonable attempt to notify the Receiver of a reversing entry.

- What are potential consequences of noncompliance?

ODFI Request for Return

ODFI Request for Return

If an ODFI misses the opportunity to complete a Reversal or has a reason other than the permissible reasons for a Reversal, what can they do?

- A Request for Return of Funds is used to request the return of originated funds that are:
 - Fraudulent
 - Erroneous but outside of the timeframe for a reversal
 - Any other reason

As an ODFI, when do you request the return of funds?

As an RDFI, when do you comply with a request for return of funds?

Do you require a request in writing?

ODFI Request for Return – What do the Rules Say?

Nacha Operating Rules, Article Two, Subsection 2.13.2 ODFI Request for Return

An ODFI may, orally or in writing, request an RDFI to return an Erroneous Entry, or a credit Entry originated without the authorization of the Originator, that was initiated by the ODFI. The RDFI may, but is not obligated to, comply with this request. For purposes of this subsection, an Erroneous Entry has the same meaning as in Section 2.10 (Reversing Entries).

New Rule – October 1, 2024

- The new Rule expands the permissible uses of the Request for Return to allow an ODFI to request a return from the RDFI for any reason.
- Compliance by the RDFI would remain optional.
- An RDFI's only obligation to the ODFI would be to respond to the ODFI's request.
 - Regardless of whether the RDFI complies with the ODFI's request to return the Entry, the RDFI must advise the ODFI of its decision or the status of the request within ten (10) banking days of receipt of the ODFI's request.

Early Funds Availability

Early Funds Availability

- “Early posting,” “Early access to funds,” “Posting upon receipt,” “Early funds availability”

Nacha Operating Rules, Appendix Two, Part 2.5 Entry Detail Error Condition Criteria

An ACH Entry may be returned to an ODFI, by an ACH Operator if:

- The Effective Entry Date for a credit Entry is more than two Banking Days after the Banking Day of processing as established by the Originating ACH Operator.
- The Effective Entry Date for a debit Entry is more than one Banking Day after the processing date.

- What does this mean for receipt?
- Should financial institutions deploy a risk-based approach to early funds availability?
- What credits should qualify?
- What are the potential cons?

Early Funds Availability – What do the Rules Say?

Nacha Operating Rules, Article Three, Subsection 3.3.2 Timing of Debit Entries

- An RDFI must not post a debit entry to a Receiver's account prior to the Settlement Date.

Nacha Operating Rules, Article Three, Subsection 3.3.1.1 Availability of Credits That Are Not Same Day Entries

- For a credit Entry that is not a Same Day Entry and that is made available to the RDFI by its ACH Operator by 5:00 p.m. on the Banking Day prior to the Settlement Date, the RDFI must make the credit Entry available to the Receiver for withdrawal no later than 9:00 a.m. on the Settlement Date.

Early Funds Availability – What do the Rules Say?

Nacha Operating Rules, Article Three, Subsection 3.3.1.2 Availability of Credits That Are Same Day Entries

- For a credit Same Day Entry received in the first same-day processing window, an RDFI must make the amount of the credit Entry available to the Receiver for withdrawal no later than 1:30 p.m. (RDFI's local time) on the Settlement Date of the Entry.
- For a credit Same Day Entry received in the second same-day processing window, an RDFI must make the amount of the credit Entry available to the Receiver for withdrawal no later than 5:00 p.m. (RDFI's local time) on the Settlement Date of the Entry.
- For a credit Same Day Entry received in the third same-day processing window, an RDFI must make the amount of the credit Entry available in the Receiver's account no later than the completion of the RDFI's processing for that Settlement Date.

WSUD Returns

WSUD Returns

- How do you accept Written Statements of Unauthorized Debit?
 - Written
 - Electronic
 - Oral
- Do you return entries before receiving a completed WSUD?
 - R05 Unauthorized Corporate Debit to a Consumer Account
 - R07 Authorization Revoked
 - R10 Customer Advises Originator is not Known to Receiver or is not Authorized to Debit Receiver's Account
 - R11 Customer Advises Entry not in Accordance with the Terms of the Authorization
 - R37 Source Document Presented for Payment
 - R51 Item Related to RCK Entry is Ineligible or RCK Entry is Improper
 - R53 Item and RCK Entry Presented for Payment
- How do the Nacha Operating Rules and Regulation E differ?

WSUD Returns – What do the Rules Say?

Nacha Operating Rules, Article Three, Subsection 3.12.4 Form of Written Statement of Unauthorized Debit

- The Written Statement of Unauthorized Debit must be signed or similarly authenticated by the Receiver, submitted within the time frames provided by these Rules, and otherwise conform to the requirements of this Section 3.12.
- The Written Statement of Unauthorized Debit must be dated on or after the Settlement Date of the Entry(ies) for which recredit is requested.

Nacha Operating Rules, Article Three, Subsection 3.12.6 Copy of Written Statement of Unauthorized Debit

- An RDFI Transmitting an Extended Return Entry must provide to an ODFI a copy of the Written Statement of Unauthorized Debit obtained from the Receiver within ten Banking Days after receiving a written request from the ODFI, provided that such request is received by the RDFI within one year of the Settlement Date of the Extended Return Entry.

WSUD Returns – What do the Rules Say?

New Rules – October 1, 2024

Timing of Written Statement of Unauthorized Debit (WSUD)

The new Rule will allow a WSUD to be signed and dated by the Receiver on or after the date on which the Entry is presented to the Receiver (either by posting to the account or by notice of a pending transaction), even if the debit has not yet been posted to the account.

RDFI Must Promptly Return Unauthorized Debit

This amendment will require that when returning a consumer debit as unauthorized in the extended return timeframe, the RDFI must do so by the opening of the sixth Banking Day following the completion of its review of the consumer's signed WSUD.

Warranty Claims

Warranty Claims

RDFI

What do you do if a consumer reports an unauthorized entry beyond the permissible return timeframe?

What do you do if a non-consumer reports an unauthorized entry beyond the permissible return timeframe?

ODFI

What do you do if you receive a request to provide proof of authorization or permission to complete a late return due to breach of authorization warranty?

Warranty Claims – What do the Rules Say?

Nacha Operating Rules, Article Two, Section 2.1 General Rule – ODFI Is Responsible for Entries and Rules Compliance

- An ODFI is responsible for all Entries originated through the ODFI, whether by an Originator or through a Third-Party Sender, including Entries Transmitted through Direct Access.

Nacha Operating Rules, Article One, Section 1.15 Limitation of Claims Based on Unauthorized Entries

- An RDFI shall not initiate a lawsuit, claim, action, or proceeding against an ODFI for a violation, breach of warranty, or indemnity under the Rules with respect to an allegation that an Entry was unauthorized if it has been
 - (a) more than two years after the Settlement Date of an Entry to a Consumer Account
 - (b) more than one year after the Settlement Date of an Entry to a Non-Consumer Account.
- This Section 1.15 does not prohibit an RDFI from initiating a lawsuit, claim, action, or proceeding against an ODFI for an alleged breach of warranty, as defined in Subsection 2.4.1.1 (The Entry is Authorized by the Originator and Receiver), or indemnity therefore pursuant to Subsection 2.4.5.1 (Indemnity for Breach of Warranty), with respect to allegedly unauthorized debit Entries to a Consumer Account that settle within 95 calendar days of the Settlement Date of the first such unauthorized Entry to the Consumer's Account.

Delaying Funds Availability vs. Holding ACH Credits

Delaying Funds Availability vs. Holding ACH Credits

You are an ODIF. Your account holder initiates an external debit entry to pull funds into their account at your FI. When do you make the funds available to that accountholder?

1. Can you place a hold on the funds?
2. Can you delay the availability of the funds?

Delaying Funds Availability vs. Holding ACH Credits

What do the Rules say?

What Rules apply?

1. Nacha Operating Rules?
2. Regulation CC?
3. Regulation E?
4. UDAAP?
5. Anything else?

From the Audience

What situation would you like us to help with?