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Agenda

- Prenotes and NOCs
- Returns & Extended Returns
- Regulation E
- Reclamations & DNEs
- Recalls & Reversals
- Rejects
- Addenda Records and Appendices 7 – 9

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Definition of Exception

- ACH Entry that:
  - Cannot be posted to valid Receiver's account
  - Is not to valid account at RDFI
  - Originator wants back
  - Is duplicate of previous Entry
  - Is credit Receiver declines
  - RDFI does not want (XCK only)

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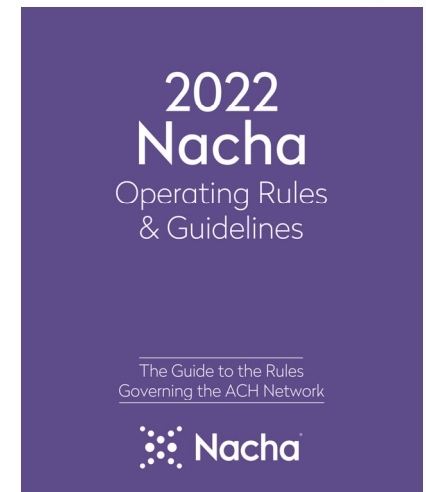**wespay**

Prenotes

- What is a Prenote?
- RDFI Responsibility – Article 3
  - Accept
  - Accept & NOC
  - Return
- Best Practices and RDFI liabilities
- ODFI/Originator Responsibilities and Time Frames
  - May not initiate live entries until for three banking days
  - May not transmit subsequent Entries until it has fixed returned Prenotes / NOCs

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Notification of Change (NOC) Definition

- ACH Entry that:
  - Is Non-Monetary Entry sent by RDFI

  - In response to Prenote or live Entry containing incorrect information

  - Tells Originator there is problem with contents of ACH Entry

  - Provides Originator with specific information to correct ACH Entry

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Notification of Change Rule Reference

- Notifications of Change (NOC) requirements found in Articles Two and Three

  - 2022 Nacha Operating Rules and Guidelines

    - Section 2.11—page OR31

    - Section 3.9—page OR49

Notification of Changes

- Rights and Risks
    - ODFI Responsibilities
        - Must provide to Originator within two Banking Days
    - Originator Responsibilities
        - Must make changes within six Banking Days or prior to next Entry

- RDFI sending NOC warrants information is correct
    - Supersedes (and assumes) ODFI warranties

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RDFI NOC Codes

- Appendix 5-2020 Nacha Operating Rules and Guidelines

  - Table of Notification of Change Codes: Page OR180

- Codes used most often

- Codes used to change more than one piece of information

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Notification of Change

- NOC Codes to be use by original RDFI
    - C01 – Incorrect DFI Account Number
    - C02 – Incorrect Routing Number
    - C03 – Incorrect Routing Number and Account Number
    - C05 – Incorrect Transaction Code
    - C06 – Incorrect Account Number and Transaction Code
    - C07 – Incorrect Routing Number, Account Number and Transaction Code

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- NOC Codes to be use by original RDFI
  - C08 – Incorrect Receiving DFI Identification (IAT only)
  - C09 – Incorrect Individual Identification Number
    - Incorrect Individual Identification Number/Incorrect Receiver Identification Number)
  - C13 – Addenda Format Error
- NOC Codes to be use by Gateway
  - C14 – Incorrect SEC Code for Outbound International Payment

RDFI Method of Sending NOC

- Derived

- Origination software package

- Correspondent or Third-Party arrangement

- ACH Operator arrangement

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RDFI NOC Time Frames

- Transmitted by RDFI within two Banking Days of Settlement

- Exceptions for merger or acquisition situations

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ODFI Receipt of NOCs

- Received in automated format in regular ACH File

- May come in during any processing windows

- Must forward to Originator within two Banking Days of Settlement Date

  - Specific information must be included

ODFI Refused NOC Codes and Time Frames

- Appendix 5-2022 Nacha Operating Rules and Guidelines

- Usually used because of incorrect or missing information

- "…transmit ….within fifteen days of receipt of the NOC or corrected NOC"

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- Refused NOC Codes to be used by ODFI
  - C61 – Misrouted Notification of Change
  - C62 – Incorrect Trace Number
  - C63 – Incorrect Company Identification Number
  - C64 – Incorrect Individual Identification Number
  - C65 – Incorrectly Formatted Corrected Data
  - C66 – Incorrect Discretionary Data
  - C67 – Routing Number not From Original Entry Detail Record
  - C68 – DFI Account Number not From Original Entry Detail Record
  - C69 – Incorrect Transaction Code

ODFI Required Information for Originator

- Company Name
- Company Identification
- Company Entry Description
- Effective Entry Date
- DFI Account Number
- Individual Name/Receiving Company Name

- Individual Identification Number/Identification Number
- Change Code
- Original Entry Trace Number
- Original Receiving DFI Identification
- Corrected Data

Originator's Responsibility for Changes

- Investigate incorrect data

- Make corrections within six Banking Days or prior to initiating further entries to Receiver's account, whichever is later

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Return Rule Reference

- Return requirements found in Articles Two and Three

  - 2022 Nacha Operating Rules and Guidelines

   - ODFI-Section 2.12—page OR31

    - RDFI-Section 3.8—page OR47

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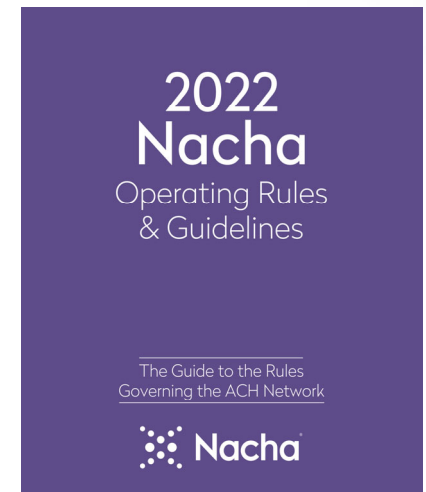
Article Three Section 3.8

- An RDFI may Return an Entry for any reason except as otherwise provided for in Subsection 3.8.1 (Restrictions on RDFI's Right to Transmit Return Entries). An RDFI must comply with the requirements of Appendix Four (Return Entries) for each Return Entry it initiates

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RDFI Method of Return

- Derived Return

- Origination software package

- Correspondent or Third-Party arrangement

- ACH Operator arrangement
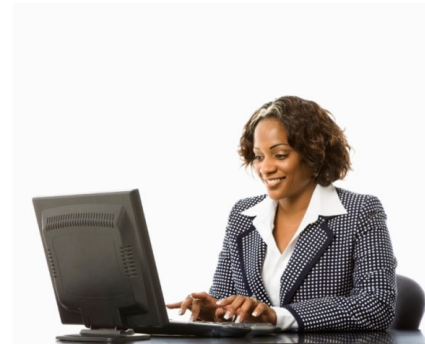
Return Entry Questions

- Why do you want to return the Entry?

- What is the Settlement Date?

- What is the Standard Entry Class (SEC) Code?

- Is this a Consumer or Non-Consumer account?
  - What if the Originator used a Consumer SEC Code on a Non-Consumer account?
  - What if the Originator used a Corporate SEC Code on a Consumer account?

Return Codes . . . My best friend!

- 2022 Rules – OR136

Return Reason Overview

- Return Timeframe: Most Entries must be returned by RDFI so Return is made available to ODFI no later than opening of business on the second Banking Day following Settlement Date of the Entry

- Return Codes
  - R01 - Insufficient Funds (All SEC Codes)
  - R02 - Account Closed (All SEC Codes)
  - R03 - No Account/Unable to Locate (All SEC Codes)
  - R04 - Invalid Account Number (All SEC Codes)
  - R08 - Stop Payments (All SEC Codes)
  - R09 - Uncollected Funds (All SEC Codes)

- More Return Codes
  - R14 - Representative Payee Deceased
  - R15 - Beneficiary Deceased
  - R16 - Account Frozen (All SEC Codes & OFAC blocked Debits)
  - R20 - Non-Transaction Account
  - R24 - Duplicate Entry
  - R29 - Corporate Customer Advises Unauthorized
  - R31 - Permissible Return Entry (CCD & CTX only)
  - R37 - Source Document Presented for Payment
  - R38 - Stop Payment on Source Document
  - R39 - Improper Source Document/Source Document Presented for Payment

R17 – Return for Questionable Transaction

- RDFIs may return Entries R17 to indicate that the RDFI believes the Entry was initiated under questionable circumstances
  - Micro-credits to invalid accounts under same Company ID
  - Enter "QUESTIONABLE" in the Addenda Information field

- Allows RDFI receiving questionable Entries to communicate this to the ODFI
  - Existing Nacha guidance currently advises RDFIs that they can use R17 to return questionable Entries that would otherwise be returned via existing Invalid/No Account Return Codes (R02/R03/R04)

- Returns must still be processed in the normal two-day time frame

R23 – Credit Entry Declined by Receiver

- Used when a Receiver dos not want a credit that has posted to their account
  - No timeframes as to when a Receiver has to decline a credit

- Subsection 3.8.3.2: RDFI must transmit Return Entry to the ACH Operator so that it is made available to the ODFI no later than the opening of business on the second Banking Day following RDFI's receipt of denial from the Receiver

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- Specific conditions excuse RDFI from its obligation to return credit entry:
  - Insufficient funds available to satisfy the Return, including due to any third-party lien or security interest
  - Return is prohibited by Legal Requirements
  - RDFI has claim against the proceeds of the credit Entry, including by offset, lien, or security interest

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Stopped Payments

- RDFI must honor stop payment orders (written or oral)
  - If given orally, RDFI *may* require written confirmation within 14 days

- Consumer Accounts:
  - Stop notices received at least three days prior to transaction date for recurring Entries

- Exceptions for single Entry debits *and* for stopped payments affecting Non-Consumer Accounts
  - May honor if notice is provided to RDFI in such a time and manner the allows RDFI a reasonable opportunity to act

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How Stopped Payment is Ended

- Consumer Accounts
  - Remains in effect until earlier of:
    - Withdrawal of stop payment order by Receiver, or
    - Return of debit Entry

  - Remains in effect "indefinitely" if:
    - Stop applies to more than one debit, and
    - Under specific authorization, and
    - Involves specific Originator

- Non-Consumer Accounts
  - Remains in effect until earlier of:
    - Withdrawal of stop payment, or
    - Return of debit Entry, or
    - Six months unless renewed in writing

ODFI Receipt of Returns

- Received in automated format in regular ACH File

- Initiated by
  - RDFI as Entries refused or that could not be posted

- May come in during any processing window
  - Including Returns on the same day as the Settlement Date

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- Send back to Originator for their action

- Reinitiate Entry

- Dishonor Return

Originator's Reinitiation of Returned Entry

- Insufficient or uncollected funds

  - All Entries except RCK
    - RCK— adds additional language relating to Entry being processed as a check

  - Entries may be reinitiated no more than two times after initial Entry
    - "RETRY PYMT" in Company Entry Description field
   - Except RCK, where *initial* Entry Description must be REDEPCHECK

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Originator's Reinitiation of Returned Entry

- Stopped payment
  - If Receiver removes stop payment order

- Corrective action by ODFI/Originator
  - Problem causing returned Entry is fixed

- Page OR32
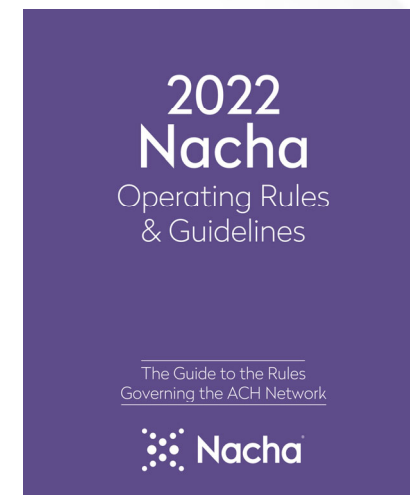
ODFI Dishonored Return Reasons and Time Frames

- Appendix 4-2022 Nacha Operating Rules and Guidelines

  - Page OR149

- Sent within five Banking Days of Settlement Date of Return
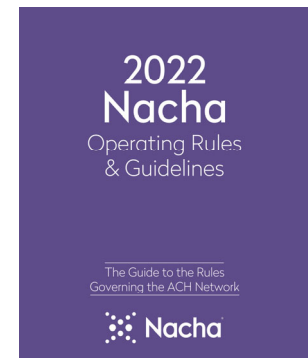
Dishonored Return Entries

- Dishonored Return Reason Codes for use by ODFI
  - R61 – Misrouted Return
  - R62 – Return of Erroneous or Reversing Debit
  - R67 – Duplicate Return
  - R68 – Untimely Return

- Dishonored Return Reason Codes for use by ODFI
  - R69 – Field Errors
    - 01 – Incorrect DFI Account Number
    - 02 – Incorrect Original Entry Trace Number
    - 03 – Incorrect Dollar Amount
    - 04 – Incorrect Individual Identification Number
    - 05 – Incorrect Transaction Code
    - 06 – Incorrect Company Identification Number
    - 07 – Invalid Effective Entry Date
  - R70 – Permissible Return Entry Not Accepted/Return Not Requested by ODFI

- Must transmit within two Banking Days from settlement of Dishonored Return

Contested Dishonored Return Entries

- May contest or correct dishonor
  - R71 – Misrouted Dishonored Return
  - R72 – Untimely Dishonored Return
  - R73 – Timely Original Return
  - R74 – Corrected Return
  - R75 – Return Not a Duplicate
  - R76 – No Errors Found
  - R77 – Non-Acceptance of R62 Dishonored Return

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Extended Returns

- ACH Entry for which Receiver indicates
  - They revoked authorization
  - They never provided authorization
  - Entry was not in accordance with terms of authorization

- Considered Return Entry

- Different wording for RCK, POP, ARC & BOC

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- Extended Return requirements found in Article Three

  - 2022 Nacha Operating Rules and Guidelines

    - Sections 3.11 to 3.13—page OR49
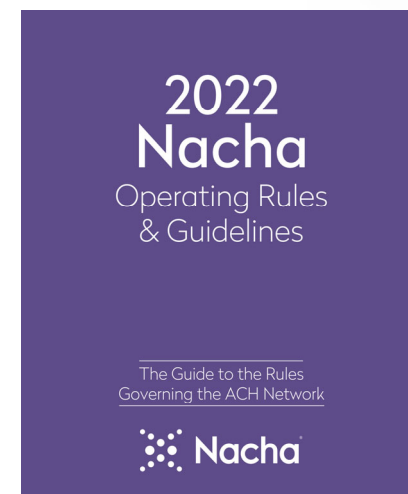
RDFI's Requirements for Extended Return Entries

- Obtain Written Statement of Unauthorized Debit from customer
  - Sample on page OG347

- Warrant it has obtained written statement

- Provide copy to ODFI if requested
  - May be signed electronically

- Provide prompt credit to Receiver if required

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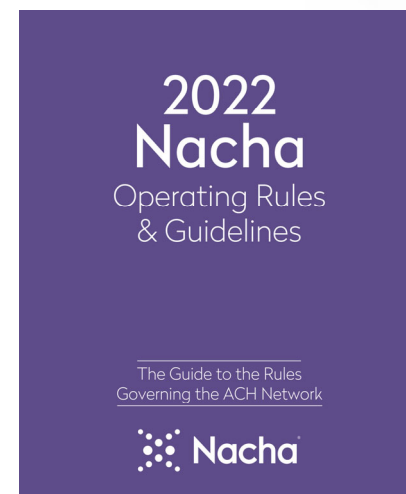
Written Statement Minimum Information

- Receiver name and signature

- Receiver's account number

- Identity of party debiting account

- Date Entry posted to account

- Dollar amount of Entry

- Reason for Return

- Signature date

- Receiver assertion that written statement is true and correct

- Receiver assertion that they are authorized signer or have authority to act on account

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(FINANCIAL INSTITUTION NAME)
WRITTEN STATEMENT OF UNAUTHORIZED DEBIT (ACH)

1. Account/Transaction Information

Name _____

Account Number _____

Amount of Debit _____

Date of Debit _____

Party Debiting the Account _____

2. Statement

I (the undersigned) herby attest that (i) I have reviewed the circumstances of the above electronic (ACH) debit to my account; (ii) the debit was not authorized, or did not conform to the terms of my authorization; and (iii) the following, to the best of my ability to identify, is the reason for that conclusion.

I did not authorize the debit to my account.

☐ I do not know or did not authorize the party listed above to debit my account.

☐ The signature of a check that was processed electronically is not my signature.

I authorized the party listed above to debit my account, but the entry does not conform to the terms of my authorization.

☐ My account was debited before the date that I authorized.

☐ My account was debited for an amount different than I authorized.

☐ My account was debited by an authorized third party, but that third party failed to make my payment as instructed.

☐ My check was improperly processed electronically.

☐ A debit to my account that was previously returned was improperly reinitiated.

I authorized the party listed above to debit my account, but:

☐ I revoked the authorization I had given to the party to debit my account before the debit was initiated.

☐ Other (must specify) _____

_____

3. Signature

I am an authorized signer, or otherwise have authority to act, on the account identified in this statement. I attest that the debit above was not originated with fraudulent intent by me or any person acting in concert with me.

I have read this statement in its entirety and attest that the information provided on this statement is true and correct.

Signature: _____

Date: _____

RDFI Extended Return Time Frames

- RDFI General Obligation to Recredit

- Return using R05, R07, R10, R11, R37, R38*, R51, R52* or R53
  - To ODFI at opening of business on Banking Day following sixtieth calendar day from Settlement Date of original Entry

    *Does not require Written Statement of Unauthorized Debit

- Does not apply to the goods and services

- R05 - Unauthorized – CCD or CTX to a Consumer account
  - 60 days from Settlement
  - WSUD
- Consumer did not authorize the debit either in writing, verbally or electronically with the Originator
- Authorized different amount or date

R07 - Authorization Revoked

- R07 - Authorization Revoked - (PPD, IAT, WEB or TEL)
  - 60 days from Settlement
  - WSUD

- Used to return an unauthorized Entry that posts to Receiver's account where authorization with the Originator was previously revoked by the Receiver

- R10 – Unauthorized
  - Consumer SEC Only
  - 60 days from Settlement
  - WSUD
  - Consumer did not authorize the debit either in writing, verbally or electronically with the Originator

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- R11 – Issues with Authorization
  - Consumer SEC Only
  - 60 days from Settlement
  - WSUD

- Examples:
  - Wrong date
  - Wrong amount
  - Incomplete transaction

ODFI Limitation on Warranty Claims

- Section 1.15: Limitation of Claims Based on Unauthorized Entries
  - Limits time for RDFI to make claim against ODFI authorization warranty
    - Consumer account:
      - Covers *two* time periods:
        - Ninety-five (95) calendar days from Settlement Date of first Unauthorized Entry to Consumer's account (i.e., first 95 days)
        - Two years from Settlement Date of Entry (i.e., last two years)
    - Non-Consumer account:
      - One year from Settlement Date of Entry
        - Similar to one-year rule in UCC §4-406 that applies to checks and items charged to bank accounts

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Scenario 1 - ODFI 95 Day Limited Warranty Consumer Account – Timely Reg. E Notification
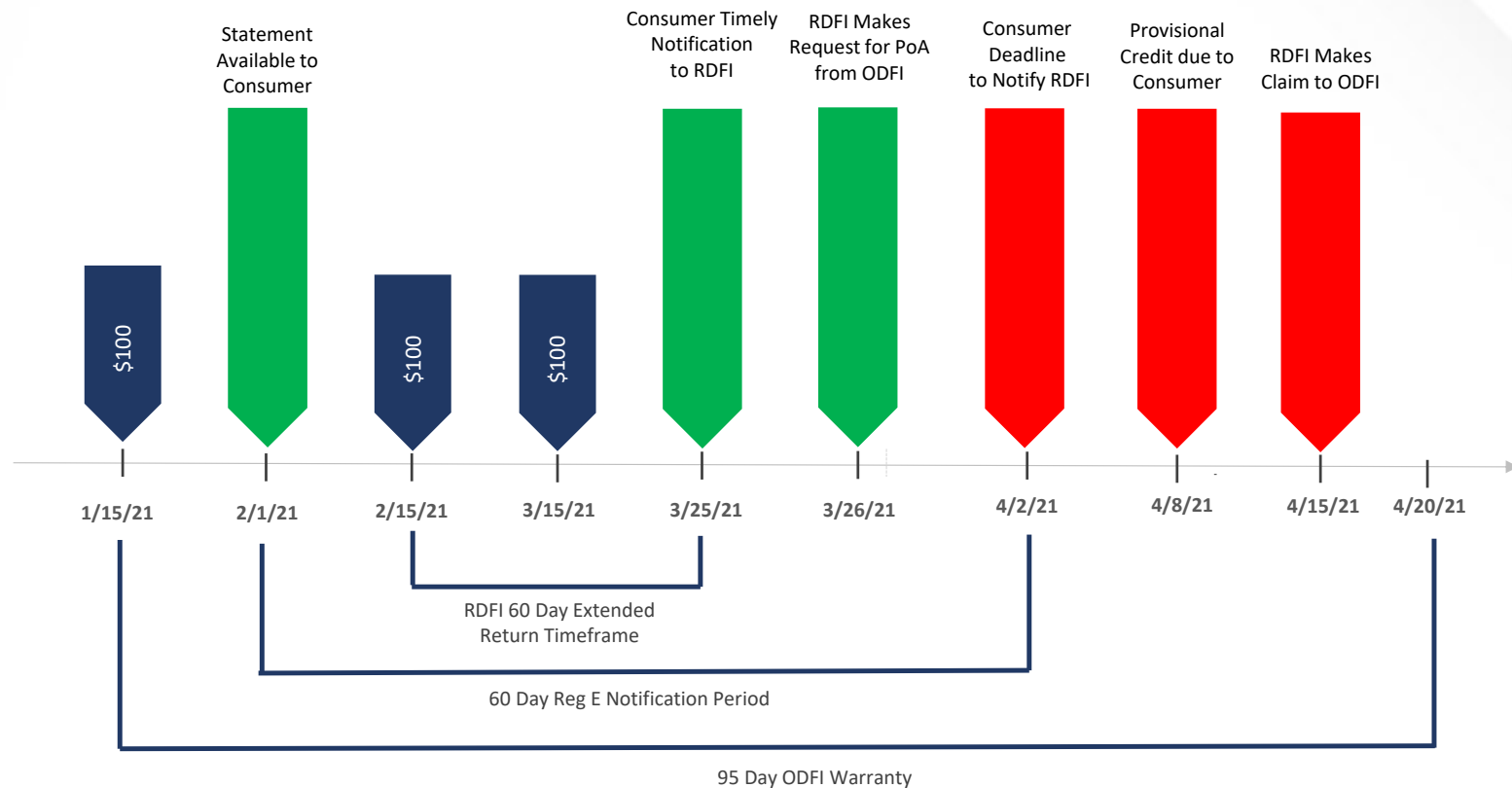
Scenario 2 – ODFI 95 Day Limited Warranty Consumer Account – Untimely Reg. E Notification

Statement Available to Consumer

Consumer Deadline to Notify RDFI

Consumer Untimely Notification to RDFI

RDFI makes Claim to ODFI

$100 $100 $100

10/15/20   11/1/20   11/15/20   12/15/20   12/31/20   1/18/21   3/25/21   4/1/21

60 Day Reg E Notification Period

95 Day ODFI Warranty

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Statement Available to Consumer

Consumer Deadline to Notify RDFI

Consumer Untimely Notification to RDFI

RDFI Request PoA from ODFI

RDFI Makes Claim to ODFI

$100 $100 $100 $100 $100 $100 $100 $100 $100

Consumer Loss $1,100

1/15/18 2/1/18 2/15/18 3/15/18 4/2/18 4/15/18 4/18/18 5/15/18 3/15/19 3/30/19 4/15/19 2/15/21 3/15/21 3/25/21 3/26/21 3/30/21

60 Day Reg E Notification Period

95 Day ODFI Warranty

RDFI 60-Day Extended Return Timeframe

Two Year ODFI Warranty

Monthly recurring $100 debit Entry from January 15, 2018 through March 15, 2021 = $3,900

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RCK Return Codes

- **R50 - State Law Affecting RCK Acceptance**
  - Not within WesPay Territory
- **R51 - Item Ineligible (= R10)**
  - 60 days from Settlement
  - WSUD
- **R52 - Stop Payment (= R38)**
  - 60 days from Settlement
  - No WSUD required*
- **R53 – Source Document Presented for Payment (= R37)**
  - 60 days from Settlement
  - WSUD

- Mrs. Smith comes into your branch because she has been debited by a company and she has no idea who they are

  - Do you need to have her fill out a WSUD?

  - What return code should be used for the debit:
    - R10 or R11?

- When Mrs. Smith's debit is returned by the RDFI:

    - Can the Originator correct the error?

    - Do they need a new authorization?

Which scenario applies?

- Mr. Murphy comes into your branch because he has been debited by his cell phone carrier for $750 and his monthly bill was only $75

  - Do you need to have him fill out a WSUD?

  - What return code should be used for the debit:
    - R10 or R11?

- When Mr. Murphy's $750 debit is returned by the RDFI:

    - Can his cell phone carrier correct the error?

    - Do they need a new authorization?

Which scenario applies?

- Mrs. Prebish comes into your branch because she was debited for her monthly HOA fees, but the service provider didn't pay her fee to the HOA and now her HOA says they haven't been paid

    - Do you need to have her fill out a WSUD?

    - What return code should be used for the debit:
        - R10 or R11?

- When Mrs. Prebish's debit for her HOA fee is returned by the RDFI:

    - Can the service provider correct the error?

    - Do they need a new authorization?

- Mr. Jackson comes into your branch because his checks were stolen, and one check was written and converted into a BOC Entry

  - Do you need to have him fill out a WSUD?

  - What return code should be used for the debit:
    - R10 or R11?

- When Mr. Jackson's BOC debit is returned by the RDFI

  - Can the merchant correct the error?

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Regulation E vs. ACH Rules

- Regulation E
  - Implements the Electronic Funds Transfer Act (1978)
  - Governed by the CFPB (2011)
  - Consumer rights, responsibilities and liabilities for EFTs
  - Guidelines for reporting & resolving disputes on unauthorized transactions

- ACH Rules
  - Contract law: Participants agree to be bound by the Rules
  - Governed by Nacha (1974)
  - Provides rules, warranties and liabilities of Participants
  - Allows an Extended Return timeframe for unauthorized debit Entries

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- Electronic Funds Transfer (EFT) (Reg. E): any transfer of funds that is initiated through an electronic terminal, telephone, computer, or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit a Consumer's account

- Entry (ACH): an order or request for the transfer/withdrawal to/from a deposit or loan account of a Receiver
  - Consumer or Corporate

- Unauthorized EFT (Reg. E): an EFT from a Consumer's account initiated by a person other than the Consumer without actual authority to initiate the transfer and from which the Consumer receives no benefit

- Unauthorized Debit Entry (ACH): Entry not authorized by Receiver if:
  - Authorization requirements are not met
  - Authorization revoked prior to Entry, in accordance with authorization
- Debit Entry not in Accordance With Terms of Authorization (ACH):
  - Debit Entry was initiated in an amount different than authorized
  - Debit Entry was initiated for settlement earlier than authorized
  - Incomplete Transaction

- Regulation E
  - Consumer accounts only
    - Includes demand deposit (checking), savings, or other Consumer asset account
  - All ACH Standard Entry Class Codes (SEC) except RCK

- ACH Rules
  - Consumer and Non-Consumer Accounts
    - Includes checking, savings, and loan accounts
  - All Standard Entry Class Codes, including RCK

Documentation Requirements

- Regulation E
  - FI may require Consumer to provide written confirmation of dispute
  - FI may not delay initiating or completing an investigation pending receipt of the written confirmation
  - Two-year retention

- ACH Rules
  - Written Statement of Unauthorized Debit (WSUD) required before RDFI initiates an Extended Return Entry
  - RDFI warrants they have a signed WSUD prior to Extended Return
  - One-year retention

Regulation E Consumer Liability

- Timely Notice: "Consumer must report an unauthorized electronic fund transfer that appears on a periodic statement <u>within</u> 60 days of the financial institution's transmittal of the statement to avoid liability for <u>subsequent</u> transfers"

- Timely Notice not Given: "If Consumer fails to do so, Consumer's liability shall not exceed the amount of the unauthorized transfers that occur <u>after</u> the close of the 60 days <u>and</u> before notice to the institution…"

- Subsection 3.11.1 – RDFI General Obligation to Recredit Consumer Account
  - RDFI must promptly recredit the amount of a debit Entry to a Consumer Account of a Receiver, regardless of SEC Code, if it receives the WSUD in time and in a manner that reasonably allows RDFI to meet the deadline for transmitting an Extended Return Entry
    - Subsection 3.13.1(b) – RDFI may transmit an Extended Return Entry so it is available to ODFI no later than the opening of business on the Banking Day <u>following</u> the 60th calendar day <u>following</u> Settlement Date of original Entry

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Time Limits for Disputes

- Regulation E
  - No statute of limitations
  - Liability and error resolution requirements based on when Consumer gives notice
  - FI not required to comply with error resolution procedures if Consumer notifies FI after 60 calendar days from statement availability
    - Must apply §1005.6 – Liability of Consumer for Unauthorized Transfers

- ACH Rules
  - Statute of limitations: 95 days from initial and two years from claim 60-day Extended Return timeframe
  - Late Returns allowed upon ODFI approval
  - RDFI right to request copy of authorization

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Regulation E Error Resolution Timeline

- Promptly investigate error
  - May not delay pending receipt of written confirmation
  - Determine if error occurred within 10 business days (20 business days for new account)
    - Correct within one business day
    - Report results within three business days

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- May take up to 45 days (90 days if IAT)
  - Provisionally credit amount of alleged error (if timely)
    - Inform Consumer within two business days
      - Amount and date of provisional credit
      - Full use of funds during investigation
  - Investigation finds error
    - Correct error within one day
    - Report results to Consumer within three business days
      - Make provisional credit final

Regulation E Error Resolution Timeline

- If investigation finds no error
  - Provide written explanation of findings within three business days
  - Debit provisional credit (if provided)
    - Notify Consumer of date of debit and amount
    - Notify Consumer that FI will honor certain items for five business days, or when account will be debited five business days from the transmittal of the notification
      - specifying the calendar date on which the debiting will occur

RDFI Best Practices

- Procedures for Reg E. error resolution
  - Track timeframes

- Staff Education
  - Provide education to all customer facing staff regarding Reg E. requirements and "how to identify an error"
  - Ensure escalation of reported errors to appropriate departments

- Reg E. error resolution disclosures and forms
  - Ensure you provide required disclosures

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- Commercial reclamation is an ACH Entry that;
  - is a debit Entry
  - recovers all/part of pension, annuity, benefit payment
  - is originated by non-Federal government entity

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- Reclamation requirements found in Articles Two and Three of 2022 Nacha Operating Rules and Guidelines
  - Section 2.10 - Page OR29
  - Section 3.6 - Page OR45
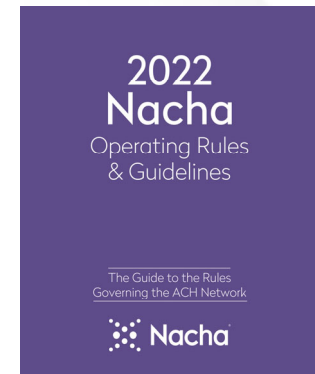
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- ## Commercial Reclamations
  - Requirements of RDFI
  - Amount of Liability
  - Demand for Payment
  - Timing
    - ODFI/Originator must originate Entry or written demand for payment within five Banking Days after notification of death
      - Originator may send written demand within 15 Banking Days after it receives returned Reclamation Entry

- ## Federal Government Reclamations
  - 2.10.5 - Superiority of United States Government Claims

- Originated debit or written demand for payment
    - Within 5 Banking Days after Originator learns of death

- Written demand for payment must identify
    - Name of Receiver
    - Account credited
    - Exact amount of benefit
    - Approximate date of initiation of each Entry involved

- If ACH debit Entry (Reclamation) returned
  - 15 Banking Days to make written demand for payment

- Special formatting for Reclamation Entry
  - Must place "RECLAIM" in Company Entry Description field

- Amount of Reclamation or amount in account
  - Whichever is less

- No liability until
  - Reclamation received and not returned by RDFI
 - Written demand for payment received from ODFI or Originator

Death Notification Entries

- Originated by Federal agency

- Look like Prenotes with an addenda

- Should be included in your exception reports

- Addenda includes date of death, Social Security number and amount of payment

- DNE is official notification of death

- Return next payment – if received

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- Some payments may get returned in error after receipt of DNE
  - Joint Accounts
    - Flag is at account level, not individual
    - May take 3-6 months to get these fixed
    - Returns sent in error increases your liability

  - Erroneous DNE
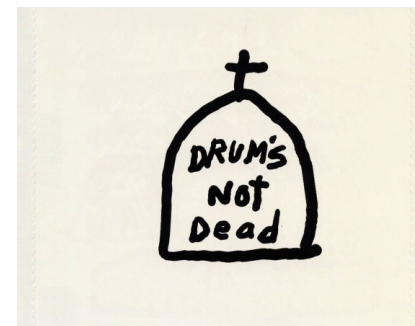
Reclamations Definition

- "Reclamation is a procedure used by the federal government to recover benefit payments made through ACH to the account of a recipient who died or became legally incapacitated or a beneficiary who died before the date of the payment(s)"

Payments Subject to Reclamations

- Social Security benefit & disability (SSA)

- Supplemental Security Income (SSI)

- Black Lung disability (Dept. of Labor)

- Military and Coast Guard retirement (DFAS)

- Civil Service annuity (OPM)

- Veterans benefits (VA)

- Railroad Retirement Board annuity (RRB)

- U.S. Coast Guard

- Workman's compensation (FECA)

- DC Pensions

- Compensation Act (Dept. of Labor)

- Any other federal retirement or annuity

Payments Not Subject to Reclamations

- Federal salary, allotments and travel payments
- U.S. savings bond payments
- Vendor/miscellaneous payments
- IRS tax refunds
- Discretionary allotments
- Public debt payments (TreasuryDirect)
- Other types of federal ACH payments

- Financial institution cannot limit liability after it knows of death
  - May qualify to limit liability if it:
    - Certifies it had no actual or constructive knowledge of recipient's death at time of deposit of post-death benefit payments, and
    - Returns all post-death benefit payments received after learning of death (but <u>not</u> post-death benefit payments it received before it learned of the death), and
    - Responds to Notice of Reclamation completely and adequately (within 60 days)

- Exception to Liability Rule
  - RDFI will not be held liable for post-death benefit payments sent to a representative payee if beneficiary dies
    - Paying agency will collect from representative payee

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Reclamation Liability (continued)

- RDFI required to immediately notify paying agency of death or legal incapacity (if it learns from source other than agency)
  - R14 or R15 return constitutes proper notification

- Liability limited to payments received within last six years from date of notice of Reclamation, with exception

- "Amount in the account" defined as balance when Reclamation was received plus period not to exceed one business day

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- Used to determine financial institution liability after date of death
  - Actual knowledge through:
    - Executor of estate
    - Family member reporting death
    - Funeral home or other group reporting death
  - Constructive knowledge through:
    - Unopened letter at RDFI (example)
      - Would "commercially reasonable business practices" have resulted in discovery of information?

- 120 day rule
  - Reclamations should be sent within 120 days of the agency discovering the death of the beneficiary

- 1 day rule
  - You must verify the balance in the account within one day of the receipt of a reclamation

- 60 day rule
  - Financial Institutions must respond to all reclamations within 60 days to limit their liability

- 45 day amount
  - The dollar amount of post death benefit payment received within 45 calendar days following death PLUS the balance in the account

Four Ways to Respond

1. Outstanding total amount was previously paid

2. Outstanding total amount is available for repayment

3. Less than full amount, or no amount at all is available for repayment

4. Payee is not deceased

Begin response process immediately upon receipt of FMS-133.

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Total Amount Previously Paid

- Return Reclamation with proof of prior return of requested Entries

- Attach proof to FMS-133 and return within 60 days from issue date of FMS-133

Case is closed. No further action will be taken.

- Originate R15 Return for each payment requested

- Attach proof to FMS-133 and return within 60 days from issue date of FMS-133

Case is closed. No further action will be taken.

If RDFI receives a FMS-2942, Follow-up Notice, check to see if Returns were dishonored. If so, determine why and originate new R15 Returns.

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Less Than or No Amount Available

- Sign Cert 1 attesting "Notice to Account Holders" was mailed

- Sign Cert 2 attesting that FI had no knowledge of death at time of deposit/withdrawal of post-death payments, and that RDFI returned amount of account balance

- Provide name and address of account co-owner(s), persons authorized to withdraw funds from account, and all persons who withdrew funds from account after date of death

> If Federal agency cannot recover remaining amount, FI is liable for amount of funds received within 45 days from date of death, or balance of amount due if it is less.

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Black or Blue Ink

All Dates

Signatures

•No Pencil

•No Rubber Stamp

•First Initial

•Last Name

•Be Legible

All Blanks Filled

THIS BLOCK FOR FINANCIAL INSTITUTION USE

If information on the face of this form is WRONG, check appropriate box, and enter the corrections below:

☐ Recipient/beneficiary did not die; financial institution will not take further action.

☐ Date of death is wrong. Date of death from death certificate is _____

☒ Adjusted Outstanding Total (total of payments received after the correct date of death):
(The Adjusted Outstanding Total is used by the financial institution if it is less than the OUTSTANDING TOTAL shown on the face of the form.): $ _____

☐ Adjusted outstanding total is greater than outstanding total on face of this form. (See Green Book for detailed instructions.)

IF LESS THAN THE OUTSTANDING TOTAL IS BEING PAID, PROVIDE THE NAMES AND ADDRESSES OF THE PERSONS WHO WITHDREW FROM THIS ACCOUNT: _____

_____

(If the names of withdrawers cannot be determined, provide names of co-owners or persons with access to the account and explain why names of withdrawers cannot be provided.)

CERTIFICATION NO. 1

This certifies that the Notice to Account Owners form was mailed to the owners of the account at the addresses on the records of this financial institution on _____
If a correction has been made to the fact or date of death, this certifies that the date of death entered above is correct and that this financial institution took prudent measures to assure that the person is alive or that the date of death was erroneous.

CERTIFICATION NO. 2

In accordance with 31 CFR 210, this certifies that this financial institution received the Notice of Reclamation on _____ and first learned of the death on_____. The financial institution had no knowledge of the death or legal incapacity of the recipient or death of the beneficiary at the time any of the payments listed were credited to or withdrawn from the account. An amount equal to the amount remaining in the account, including any additions to the account balance since the receipt of this notice, has been paid to the Government.

Bill Schoch

Signed

Operations Manager

Title

04/5/19

Date

Bill Schoch

Signed

Operations Manager

Title

04/5/19

Date

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Other Financial Institution Responsibilities

- Must certify date RDFI had actual or constructive knowledge of death or legal incapacity

- Must provide information about other account holders who withdrew funds if balance in account is less than amount of Reclamation

- Must send "Notice to Account Owners" portion by mail

- Must inform account owners of any actions FI is taking against account

Errors in Death

- If person did not die, financial institution can terminate Reclamation with proof
  - Drivers license, other picture ID or other similar evidence
  - Signed, dated and notarized statement if person cannot appear at RDFI
  - Written statement from authorizing federal agency

- If date of death is wrong
  - Financial institution course of action determined by whether it is day of the month that is wrong, or month or year that is incorrect

Federal Reserve Debiting RDFI's Account

- If RDFI fails to respond completely and accurately to Notice of Reclamation by due date or if limited liability amount is owed

- Reclamation ticket number referenced on statement of account from Federal Reserve
  - Green Book provides example of how debit will appear on Fed statement


Representation of Fed Statement

Automated Reclamation Processing

- Fiscal Services has developed the capability for FIs to submit form FS-133 electronically through the Department of the Treasury's Pay.gov web portal
  - Eliminates need for FIs to process paper forms and remit checks
  - Allows Fis to limit its liability and/or satisfy Reclamation in full
  - Processing time is much faster and more streamlined

- Fiscal Services currently onboarding FIs

BUREAU OF THE
Fiscal Service
U.S. DEPARTMENT OF THE TREASURY

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Automated Reclamation Processing

- How to get started
  - Go to **Pay.gov web portal**
  - Create an account (recommend a general login for FI)
  - Sign a Memorandum of Understanding
  - Start completing form 133 – Notice of Reclamation
    - BFS will provide step by step instructions
  - Green Book update in 2022
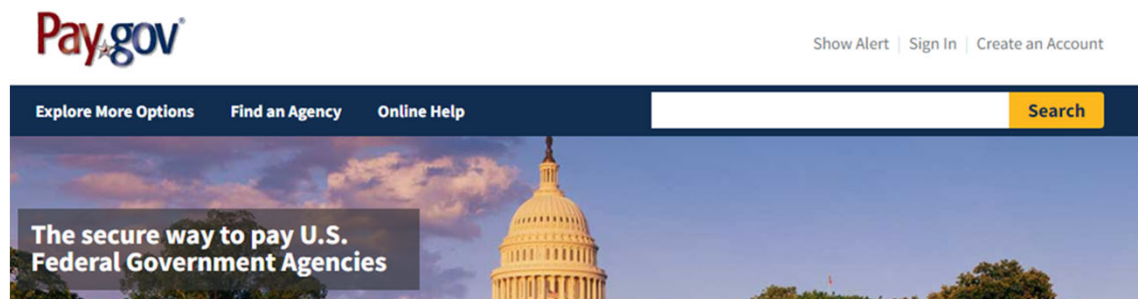
Automated Reclamation Processing

What does the portal do?

- FI will look up a received Notice of Reclamation by the Reclamation ticket number
- Allows FI to complete Reclamation electronically
  - Digital signatures for certifications
  - Information on who removed funds from account
  - Correction to date of death
  - Etc.
- Allows FI to input remittance information to have its FRB account debited for amount (full or partial) of Reclamation
- Reclamations will be timestamped when completed
  - PDF available for download

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Automated Reclamation Processing

What does the portal not do?

- Does not manage your FIs Reclamations
    - Save copies of completed Reclamations
    - Track Reclamations for potential liability
- Does not accept partial payments without a Reclamation
- Does not replace how you receive Reclamations
    - Electronically via FedMail (preferred method)
    - USPS
- Does not alter your responsibility to respond to Reclamations timely or accurately

Agenda

- Prenotes and NOCs
- Returns & Extended Returns
- Regulation E
- Reclamations & DNEs
- Recalls & Reversals
- Rejects
- Addenda Records and Appendices 7 – 9

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R06 - ODFI Request for Return

- An oral or written request by the ODFI for return or adjustment of an erroneous Entry

- The RDFI may, but is not obligated to, comply with such a request

- ODFI indemnifies RDFI against any loss

- No time limit

- Use R06 Return Reason Code

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Reversals

- Creates offsetting Entries for file or Entry that was
  - Duplicated
  - Erroneous
- Created by Originator, ODFI or ACH Operator

- Reversal requirements found in Article Two of 2022 Nacha Operating Rules and Guidelines
  - May not Settle prior to the original File or Entry
  - Section 2.8 & 2.9 — Page OR28
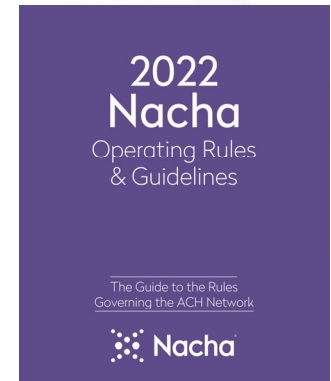
Reversing File Time Frames and Requirements

- Available to RDFI within 5 Banking Days of settlement

- Transmitted within 24 hours of discovery of duplication or error

- Matches original file with debits changed to credits and vice versa

- "REVERSAL" in Company Entry Description field

- RDFI may, but is not obligated to comply
    - i.e., RDFI may return a Reversal Entry NSF

- Originator must make a reasonable effort to contact Receiver no later then Settlement Date

- Subsection 2.9.2
  - An ODFI that initiates a Reversing Entry shall indemnify each RDFI and ACH Operator from and against any and all claims, demands, losses, labilities and expenses, including attorneys' fees and costs, that result directly or indirectly from the debiting or crediting of the Reversing Entry to the Receiver's account
  - This indemnification applies to Reversing Files, Entries and Request for Return

Correcting Files

- Used when Reversal necessitated by Erroneous File

- Must be sent at same time as Reversal File

Agenda

- Prenotes and NOCs
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Automatic File Rejection

- Cannot be successfully read

- Undefined record type

- Invalid sending point or ACH operator

- Out-of-balance

- Invalid mandatory fields

- Incorrect record sequence

- Duplicate

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Automatic Batch Rejection

- Contains invalid characters
- ODFI identification is not valid routing number
- Service Class Code error
- Trace Numbers not in ascending sequence
- Record sequence error
- Company Name is all spaces or all zeros
- Invalid SEC Code

- The ACH Operator may reject an Entry (including returns, NOC's, etc.) Rejected return does not extend the deadline
    - R13: Invalid RDFI Routing Number
    - R18: Improper Effective Entry Date
    - R19: Amount Field Error
    - R25: Addenda Error
    - R26: Mandatory Field Error
    - R27: Trace Number Error
    - R28: Routing Number Check Digit Error
    - R32: RDFI Non-settlement
    - R34: Limited Participant DFI
    - R35: Return of Improper Debit Entry
    - R36: Return of Improper Credit Entry

Agenda

- Prenotes and NOCs
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- Reclamations & DNEs
- Recalls & Reversals
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- CCD, CIE, CTX, and IAT Entries
  - Must provide payment-related information if requested
    - Within 2 banking days
  - May require special arrangement with Receiver
  - Determine method of providing information

- PPD Entries
  - No requirement to provide payment related information

- POS, SHR and MTE Entries
  - Terminal information for periodic statements

- Claims of compensation between Participating DFIs
  - Loss of use of funds
  - Intend no participant to be unjustly enriched or injured
  - Not admission of negligence or fault
  - Loss suffered must be at least $200
  - Loss suffered calculated using provided formula excluding $200 administrative fee per Entry
  - Claim not to exceed benefit received

Compensation

- Compensation claims may include
  - Failure of a payment to be transmitted timely
  - Transmission of a payment to an incorrect account or incorrect Participating DFI
  - Transmission of a duplicate Entry

- Compensation formula includes
  - Entry amount
  - Federal Funds Rate
  - Number of days
  - $200 Administrative Fee
  - Applicable Deposit Insurance Assessment

- Low cost, expeditious mechanism for resolving disputes within the ACH Network, bypassing the need to resolve disputes through the court system

- Damages claimed must be $250 or more

- $250 non-refundable application fee

- Claim submitted by officer of complainant to Nacha

- Within 2 years of alleged violation

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- Arbitration Procedure A
  - Damages of $250 or more but less than $10,000
  - Mandatory for both parties
  - No hearing is held
  - 1 arbitrator
  - Stipend is $100

Arbitration

- Arbitration Procedure B
  - Damages of $10,000 or more but less than $50,000
  - Mandatory for both parties
  - No hearing is held
  - 3 arbitrators
  - Stipend is 1% of decision for each arbitrator

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- Arbitration Procedure C
  - Damages are $50,000 or more
  - Both parties must first agree to arbitration
  - Hearing is held
  - Parties can agree to Procedure B
  - Legal counsel may be present at hearing
  - 3 arbitrators
  - Stipend is 1.5% of decision for each arbitrator

- Selection of arbitrators
  - Nacha maintains list of arbitrators nominated
    - Procedure A
      - Each party given 10 days to delete 2 names from list of 5
      - Nacha will choose 1 arbitrator not deleted from either
    - Procedures B and C
      - Each party given 10 days to delete 3 names from list of 10
      - Nacha will choose 3 arbitrators not deleted from either

Arbitration

- Presentation of case
  - Arbitration Procedures A and B
    - Notification of arbitrator(s), party has 14 days to submit supporting information
    - Arbitrator(s) has 30 days to render decision
    - Arbitrator(s) and each party pays own expenses

- Presentation of case
  - Arbitration Procedure C
    - Arbitrator sets hearing date not less than 90 days after each party notified of arbitrator selections
    - At least 30 days notice provided by Nacha prior to hearing
    - After hearing, arbitrators have 30 days to render decision
    - Arbitrators entitled to recover some expenses from either party

Arbitration

- Payment and appeal
  - Arbitration Procedures A and B
    - Party has 14 days after notice to pay
    - Arbitrator(s) decision is final
    - Except as prohibited by state law, decision is not appealable to the courts

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- Payment and appeal
  - Arbitration Procedure C
    - Absence an appeal to the courts, party has 14 days after notice to pay
    - Arbitrators' decision is final in the absence of an appeal
    - Either party may appeal to the courts

- Governs the rules enforcement procedures to be applied in the event of:
  - Nacha Operating Rules violation
  - Identification of Originator or Third-Party Sender with excessive return rates
  - Failure of a Participating DFI to comply with a direct obligation to Nacha

- Report of Possible Rules Violation
  - Submitted by Participating DFI or ACH Operator that is party to the transaction within 90 days of the occurrence of the violation
    - Paper submission or via Internet
  - Identifies parties involved in the dispute
  - Summarizes the facts of the dispute
  - Provides supporting documentation
  - Signed by an authorized representative of the financial institution submitting the report

- **Notice of Possible *ACH Rules* Violation**

1. Acknowledgment of violation and intent to correct by specific date
2. Statement, along with supporting documentation, that an infraction has not occurred

10 Banking Days

ABC Bank
123 Main St.
Anytown, USA 12345

January 10

Dear NACHA,

We have included the following information as requested within the specified 10 banking days.

We acknowledge the violation and will correct by February 15.

We will also monitor and maintain our return rate below the threshold for an additional 180 days.

Sincerely,

John Smith
President of ABC Bank

- Fines and penalties

1 Start at $1,000

2 Up to $100,000 per month

3 Up to $500,000 per month

Nacha imposes fine with approval of ACH Rules Enforcement Panel

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• ODFI Return Rate Reporting

<div>

Unauthorized Return Rate Threshold 0.5%

</div>

<div>

Administrative Return Rate Level 3%

Overall Return Rate Level 15%

</div>

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- **ODFI Return Rate Reporting**

1. Information related to Originator or Third-Party Sender
2. Statement to Nacha's claim
3. Plan to reduce Return Rate in 30 days

ABC Bank
123 Main St.
Anytown, USA 12345

ABC Bank
123 Main St.
Anytown, USA 12345

January 10

Dear NACHA,

We have included the following information as requested within the specified 10 banking days.

1. Information related to Originator or Third-Party Sender
2. Statement to NACHA's claim
3. Plan to reduce Return Rate in 30 days

We will also monitor and maintain our return rate below the threshold for an additional 180 days.

Sincerely,

John Smith
President of ABC Bank

10 Banking Days

Maintain Reduced Return Rate for 180 Days

- Administrative or Overall Return Rate Level exceeded
  - Nacha may initiate an inquiry to review the origination and business practices of the Originator or Third-Party Sender
  - Review may result in the ACH Rules Enforcement Panel determining if the situation warrants a recommendation to reduce the return rate

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- Nacha may initiate a rules enforcement proceeding for a Class 2 Rules Violation if the ODFI
  - Fails to provide a response to Nacha's written request within 10 banking days
  - Fails to reduce the Unauthorized Entry Return Rate, Administrative Return Rate and/or Overall Return Rate within 30 days
  - Successfully reduces the Unauthorized Entry Return Rate, Administrative Return Rate and/or Overall Return Rate, but fails to maintain it for 180 days

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- Rules enforcement proceeding for a Class 2 Rules Violation may be initiated if Nacha believes an ODFI has failed to register its Direct Access Debit Participant and Third-Party Sender registration status

2021 Enforcement Change

- Defines an Egregious Violation as "A willful or reckless action, and involves at least 500 Entries, or involves multiple Entries in the aggregate amount of at least $500K"

- Allows ACH Rules Enforcement Panel to determine whether a violation is Egregious, and classifies an Egregious Violation as a Class 2 or 3 Rules Violation
  - Sanctions for Class 3 violations can be up to $500,000 per occurrence and a directive to ODFI to suspend Originator or Third-Party Sender

- Expressly authorizes Nacha to report Class 3 Rules violations to ACH Operators and industry regulators

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Contact Information

Payments Hotline
(415) 373-1200
info@wespay.org

Member Services
Phone: (415) 433-1230
memberservices@wespay.org

Mailing Address
601 Montgomery St, Suite 710
San Francisco, CA 94111
www.wespay.org

www.linkedin.com/company/western-payments-alliance

https://twitter.com/WesPayCEO