

SUMMARY OF RULES CHANGES: CORPORATE ORIGINATORS

Enforcement: *Went into Effect on January 1, 2021*

This rule will:

- Define an Egregious Violation as a willful or reckless action that involves at least 500 entries or multiple entries with an aggregate of \$500,000.
- Allow the ACH Rules Enforcement Panel to classify as a class 2 or 3 rule violation
 - Sanction for class 3 violation can be up to \$500,000 per occurrence and a directive to the ODFI to suspend to the Originator or Third-Party Sender
- Expressly authorize NACHA to report Class 3 Rules violations to the ACH Operators and industry regulators.

Same-Day ACH Processing – 3rd Same-Day ACH Processing Window: *Effective March 19, 2021*

A third Same-Day ACH processing window will be added which will extend the time that authorized Originators have to submit Same-Day ACH files and transactions.

- *Our core provider has announced that the tentative cutoff time for the 3rd Same-Day ACH processing window will be 2:15 pm CT.* A notification will be sent if this cut-off time changes.
- Interbank settlement for these entries would occur at 5:00 pm Central Time.
- Receiving Depository Financial Institutions (RDFIs) must make the funds from Same-Day ACH transactions from the third processing window available no later than the end of their processing day. An RDFI does **not** need to make the funds from transactions from the third Same-Day ACH third processing window available for withdrawal only the day they are processed. They only need to be made available to offset other transactions during their nightly processing.
- An RDFI could decide to make funds available sooner than the deadline.

Northeast Bank offers Same Day ACH services to authorized Originators for use in special circumstances. An Originator must sign the Same-Day ACH Attachment 1-1 and be approved for access to Same Day ACH.

WEB Debits– Supplemental Fraud Detection: *Effective March 19, 2021*

- Currently, ACH Originators of WEB debit entries are required to use a “commercially reasonable fraudulent transaction detection system” to screen WEB debits for fraud.
- This existing screening requirement will be supplemented to make it explicit that “account validation” is part of a “commercially reasonable fraudulent transaction detection system.”
- The supplemental requirement applies to the first use of an account number, or changes to the account number.

Unauthorized Entry Fee for R11: *Effective April 1, 2021*

As of April 1, 2021, ACH Originators will be subject to the Unauthorized ACH Entry Fee for any ACH Returns with the Return Reason Code R11 – Customer Advises Entry Not in Accordance with the Terms of the Authorization.

Northeast Bank’s current fee for Unauthorized ACH Entries is \$5.00 per return.

Supplementing Data Security Requirements:

Phase 1 for ACH Originators and 3rd Parties with 6 million+ ACH payments annually: *Effective June 30, 2021*

Phase 2 for ACH Originators and 3rd Parties with 2 million+ ACH payments annually: *Effective June 30, 2022*

- The existing ACH Security Framework including its data protection requirements will be supplemented to explicitly require large, non-FI Originators, Third-Party Service Providers (TPSPs) and Third-Party

Senders (TPSs) to protect deposit account information by rendering it unreadable when it is stored electronically.

- Implementation begins with the largest Originators and TPSPs (including TPSs) and initially applies to those with ACH volume of 6 million transactions or greater annually. A second phase applies to those with ACH volume of 2 million transactions or greater annually.

Limitation on Warranty Claims: *Effective June 30, 2021*

This rule limits the length of time in which an RDFI will be permitted to make a claim against the ODFI's authorization warranty.

For an entry to a non-consumer account, the time limit will be one year from the settlement date of the entry (analogous to one-year rule in UCC §4-406 that applies to checks and items charged to bank accounts).

For an entry to a consumer account, the limit will cover two time periods.

The first ninety-five (95) calendar days from the settlement date of the first unauthorized entry to the consumer's account will always be covered (i.e., the first 95 days).

- This period covers the time period in Regulation E in which an RDFI may be liable to a consumer for errors for 60 days from the transmittal of an account statement that shows the first error.

If outside the first 95 days, then two years from the settlement date of the entry (i.e., the last two years).

- This period exceeds the one-year Statute of Limitations in the Electronic Funds Transfer Act (covering Regulation E claims), which runs from the date of the occurrence of the violation, which may be later than the settlement date of the transaction.
- This also allows for "extenuating circumstances" in which a consumer is delayed from reporting an error to his or her financial institution.

As of June 30, 2021, an RDFI may make a claim regarding an entry using the new time frames in this rule. These time frames apply to all warranty claims moving forward, no matter the settlement date of the Entry.

Reversals: *Effective June 30, 2021*

This Rule will explicitly address improper uses of reversals. It will expand the permissible reasons for a reversal to include a "wrong date" error – 1) the reversal of a debit Entry that was for a date earlier than intended by the Originator, or 2) a credit Entry that was for a date later than intended by the Originator

The Rule will establish formatting requirements for reversals, beyond the current standardized use of the Company Entry Description field ("REVERSAL")

- The Company ID, SEC Code, and Amount fields of the reversal must be identical to the original entry
- The contents of other fields may 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

In addition, the rules will explicitly permit an RDFI to return an improper Reversal:

- R11 for consumer accounts, 60-day return timeframe upon receiving a consumer claim
- R17 for non-consumer accounts, 2-day return timeframe
- An RDFI will be permitted to use R17 to return an improper Reversal that it identifies on its own (i.e., not based on a customer contact), 2-day return timeframe

Meaningful Modernization: *Effective September 17, 2021*

There are several rules slated for September intended to improve and simplify the ACH user experience. Aspects of these rule changes and their implementation are still being finalized. We will provide more details closer to the effective date.