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By electronic delivery
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12 January 2010

Maribel Bondoc
Manager, Network Rules
NACHA, the Electronic Payments Association
13450 Sunrise Valley Drive
Herndon, VA 20171
Re: Request for Comment: Rules Simplification

Dear Ms. Bondoc:

The American Bankers Association (ABA)¹ respectfully submits its comments to NACHA, The Electronic Payments Association, on the Request for Comment: Rules Simplification (RFC). The RFC describes and invites comments on proposed changes to the organization of the ACH Network Rules (Rules) to make them more user-friendly to ACH Network participants without altering their substantive meaning.

Overview

NACHA is seeking industry input on the proposal to provide a more user-friendly set of Rules for ACH Network participants. The objectives of this Rules Simplification initiative are to—

1. Provide a more user-friendly set of Rules and rule-related publications for ACH Network participants;
2. Lower barriers to use of the ACH Network;
3. Achieve higher quality of ACH transactions and processes;
4. Improve compliance with the Rules; and
5. Achieve these objectives without altering the substantive meaning of the underlying Rules.

¹ ABA brings together banks of all sizes and charters into one Association. ABA works to enhance the competitiveness of the United States banking industry and to strengthen America's economy and communities. Its members – the majority of which are banks with less than \$125 million in assets – represent over 95 percent of the industry's \$13.6 trillion in assets and employ over 2 million men and women.

NACHA drafted the proposal according to two guiding principles. First, the reorganized Rules should group together the rights and obligations of each type of participant in the ACH Network. Second, clearer and more consistent language should be used to ensure greater understanding of the Rules and therefore improved compliance.

ABA Comments

1. Provide a more user-friendly set of Rules and rule-related publications for ACH Network participants

ABA agrees that the proposed revisions set of Rules is more user-friendly than existing Rules. The proposal's grouping of requirements based on participant roles in the network is an improvement. The simplification will allow an Originating Depository Financial Institution (ODFI) to research its obligations by reviewing one clearly labeled section of the Rules instead of having to look for citations in multiple locations. This improvement will also benefit Receiving Depository Financial Institutions (RDFIs), ACH Operators, Gateway Operators, and Associations, who will have their own rights and responsibilities segmented into separate articles of the Rule.

The simplification will have a very positive impact on the ACH participants who are not necessarily experts, but who are required to research the Rules from time to time at their financial institution. Many of the ACH related questions we receive at ABA do not have to do with interpreting a rule, but in helping the banker find the section of the rules that applies to the participant. This reorganization will allow participants to focus on the intent of the Rule and not get distracted trying to find the relevant citations.

It is important to recognize that changing the Rules structure may have the greatest impact on bank personnel that are currently well versed in the "old Rules." This group may need additional time and training to migrate to the new system.

2. Lower barriers to use of the ACH Network

ABA agrees that the proposal will make the Rules easier to understand for all participants. It is reasonable to project that this improvement may lead to greater usage of the ACH Network by some non-bank entities that could benefit from originating or receiving ACH transactions, but currently do not take advantage of the automated payments.

ABA is uncertain as to what extent the current Rules serve as a barrier to prevent non-bank entities from originating or receiving ACH transactions. If the current construction of the Rules does pose a barrier because of their complexity, the simplified organization of the proposed Rules could reduce this obstacle. But, estimating this potential benefit is difficult.

ABA does not perceive the current Rules as a barrier to ACH participation for banks since they all participate currently.

3. Achieve higher quality of ACH transactions and processes

ABA agrees that this proposal will improve the quality of ACH transactions and processes. As noted previously, the reorganized rules will make it easier for Network participants to comprehend their obligations under the Rules. By grouping those requirements under new articles by participant type, such as ODFI, RDFI, and Gateway Operator, it is simpler for individuals to determine what their obligations are under the Rules. This will result in a higher quality of ACH transactions.

4. Improve compliance with the Rules

ABA agrees that this proposal will improve compliance with the Rules. As noted previously, the Rules will be easier to understand and therefore Network participants will have a greater sense of their obligations under the Rules. This will result in better compliance.

5. Achieve these objectives without altering the substantive meaning of the underlying Rules

This is the most important issue regarding this proposal and undoubtedly was the greatest challenge in drafting the revised set of Rules. ABA's positive comments on this proposal are all based on the premise that there are no substantive changes to the Rules other than a reorganization and simplification of their structure.

If there is an inadvertent affect on the meaning of the underlying Rules due to this change, there should be an expedited procedure in place to ensure that it is corrected as soon as possible so that the original intent and meaning of the Rules is not altered by mistake. NACHA should consider a streamlined rule change process focused solely on technical corrections related to any potential problems posed by the Rules simplification. No ACH participant should unduly benefit or be penalized because of an unintended consequence of this effort.

Implementation Date

The proposed effective date is January 1, 2011. ABA believes this is reasonable.

Online Access to the Rules

Simplifying the Rules to make them more user-friendly and to improve compliance will improve the experience of all ACH Network participants. The participants would benefit further from having enhanced online access to the Rules instead of relying on the annual paper version and its updates when the Rules are amended. An online version of the Rules would be able to be updated in a timely manner and could also be used to help transition participants from the current Rules to the new Rules. The Excel spreadsheet-based mapping tool provided in the RFC was helpful when trying to translate sections from the old Rule to the new Rule. A similar tool integrated into an online version of the new Rule and the "old" Rule would be of great benefit to ACH Network participants.

ABA appreciates the opportunity to comment on the Rules Simplification RFC. If you have any questions about these comments, please contact Stephen Kenneally at 202-663-5147 or via email at skenneally@aba.com.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stephen K. Kenneally". The signature is written in a cursive, flowing style.

Stephen K. Kenneally
Vice President
Center for Regulatory Compliance