



March 7, 2013

## NACHA: Compliance and Operational Topics

(February 2013 Proposal)

### Executive Summary

- NACHA - the Electronic Payments Association has issued another proposal to address certain compliance and operational topics on the Automated Clearing House (ACH) network.
- Specifically, this proposal would amend the NACHA Operating Rules (NACHA Rules) on three topic areas by: 1) removing change code C04 (incorrect individual name/receiving company name) to reduce compliance and liability challenges associated with name changes, 2) reducing the mandatory six-day waiting period associated with prenotification (prenote) entries to permit live entries by an Originator to a Receiver's account if a return of the prenote has not been received by the Originating Depository Financial Institution (ODFI) by the opening of the second banking day following the prenote settlement date, and 3) making technical corrections to the rules on the authorization of reclamation entries.
- NACHA believes that these changes would benefit ACH network participants by clarifying meaning or intent, improving processing efficiency, and eliminating requirements that no longer add value to the ACH network.
- CUNA is interested in how this proposal would affect credit union operations and compliance on the ACH network. These proposed changes are intended to be technical amendments.
- Comments for the proposed rule are due to NACHA by April 5, 2013; **please submit your comments to CUNA by March 25, 2013.**
- For further details, please visit the NACHA [request for comment executive summary](#); proposed [modifications](#) to the NACHA Rules; and their [ACH participant survey](#).
- Please e-mail your comments to CUNA Assistant General Counsel for Regulatory Research Dennis Tsang at [dtsang@cuna.com](mailto:dtsang@cuna.com).

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The proposal would amend the NACHA Operating Rules in three areas:

- 1. Removal of Change Code C04** - This proposed amendment would remove the Notification of Change (NOC) Code C04 (Incorrect Individual Name/Receiving Company Name) from the NACHA Operating Rules.

NACHA has become aware of a scenario with the use of change code C04 that creates compliance and liability challenges for the Originator, Originating Depository Financial Institution (ODFI), and Receiving Depository Financial Institution (RDFI). In most cases, when the Receiver's name on the debit entry is different than the name on the account (or not the primary name on a joint account), RDFIs will post the entry based on the account number or return the transaction using return reason code R03. However, a number of RDFIs have chosen to transmit NOCs using C04 to instruct the Originator to change the Receiver's name on future entries. NACHA believes that a name change is significant and should be accomplished through communication between the Receiver and Originator so the authorization held by the Originator is accurate; a name change should not use change code C04.

This proposed amendment is intended to benefit ODFIs and RDFIs by permitting an Originator to rely on the Originator's contracts and records to properly identify the Receiver's name being credited or debited without being in violation of the failure to respond to a NOC with a C04. The proposal would also lessen the RDFI's risk as it has to warrant the information in a NOC with a C04 is correct.

Under the proposed amendment, a RDFI that identifies a name mismatch could post the entry based on the account number, return the entry using R03, or communicate directly with the ODFI or Originator. NACHA believes that any of these options should cause the Originator and the Receiver to communicate on the name change, while relieving the RDFI of the warranty that the information is correct. NACHA believes that the proposed amendment will lower risks for ODFIs and RDFIs.

*The proposed effective date for this change is March 20, 2015.*

- 2. Reducing the Mandatory Six-Day Waiting Period on Prenotification Entries** - This proposed amendment would reduce the current six banking-day waiting period for initiating "live entries" by permitting an Originator of a prenotification entry (prenote) to initiate live entries to a Receiver's account if a return of the prenote has not been received by the ODFI by opening of business on the second banking day following the settlement date of the prenote. A prenote is a non-dollar entry transmitted through the ACH Network by an Originator to an RDFI, which will convey this information (except the dollar amount and transaction code) on subsequent entries, and requires the RDFI to verify the accuracy of the account number.

NACHA provides an example of a prenote that is transmitted on a Monday with a settlement date of Tuesday. A return of that prenote needs to be available to the ODFI no later than the opening of business on Thursday. Currently, the Originator is restricted from sending live entries until six banking days after settlement date (i.e., Wednesday of the following week). The proposal would allow the ODFI to permit the Originator to send a live entry later during the day on Thursday if a return was not

received. In this example, the Originator is able to send a live entry six calendar days (or four banking days) sooner than under the existing rules.

NACHA believes this proposed change would reduce barriers to the use of the prenote due to the six banking-day waiting period. Also, ODFIs will have to make programming changes, such as origination agreements or procedures to accommodate a reduced timeframe to initiating an entry following a prenote.

*The proposed effective date for this change is September 19, 2014.*

- 3. Technical Corrections to Rules on Authorization of Reclamation Entries** - This proposed amendment aims to make the rules for reclamation entries consistent with the rules for reversing entries, and does not make any substantive changes. NACHA notes these proposed amendments would correct technical and drafting discrepancies that arose when rule changes for reclamation entries and reversing entries were conducted independently, since the early 1990s.

These proposed technical drafting changes are intended to provide greater clarity for all ACH Network participants without adding additional costs.

*The proposed effective date for this change is September 20, 2013.*

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### Questions to Consider Regarding the Proposal

1. Does your credit union support the proposed changes to the NACHA Operating Rules in these areas? Why or why not?
  - a. Removal of change code C04 (incorrect individual name/receiving company name)?  
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  - b. Reducing the mandatory six-day waiting period associated with prenotifications entries?  
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  - c. Technical corrections to rules on the authorization of reclamation entries?  
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2. Do you have comments related to the benefits or the compliance costs associated with this proposal?  
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3. Also, do you have any comments regarding the proposed effective dates?  
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4. Any other comments or suggestions?  
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Thank you for your comments.