

SECTION 2.15 Reinitiation of Returned Entries by Originators

For all entries except RCK entries, an entry that has been returned may not be reinitiated unless (1) (a) the entry has been returned for insufficient or uncollected funds; (b) the entry has been returned for stopped payment and reinitiation has been authorized by the Receiver; or (c) the ODFI has taken corrective action to remedy the reason for the return, and (2) the entry is reinitiated within 180 days after the settlement date of the original entry. An entry that has been returned for insufficient or uncollected funds may be reinitiated no more than two times following the return of the original entry.

For RCK entries, an entry that has been returned may not be reinitiated unless (1) the RCK entry has been returned for insufficient or uncollected funds, and (2) the item to which the RCK entry relates has been presented no more than one time through the check collection system (as a physical item, substitute check, or image) and no more than one time as an RCK entry.

SECTION 2.16 Media and Format Specification Requirements

Each entry transmitted by an ODFI to its ACH Operator must comply with the requirements of and be identified by the appropriate Standard Entry Class Code specified in Appendix Two (ACH Record Format Specifications).

SECTION 2.17 Release of Information

Each ODFI agrees that each ACH Operator may release to the National Association data regarding ACH return entries transmitted to or by the ODFI.

SECTION 2.17 Authorization by ODFI for Release of Designated Data

Each ODFI authorizes and instructs each ACH Operator to provide to the National Association Designated Data related to entries transmitted to or by the ODFI, and shall hold each ACH Operator harmless against any claim by the ODFI arising out of the ACH Operator's compliance with such instructions.

SECTION 2.18 ODFI Reporting Requirements

Upon receipt of a written request to the ODFI's Chief Operating Officer, each ODFI must provide the National Association with the following information for each Originator or Third-Party Sender within ten banking days. Such information must be provided to the National Association via traceable delivery method.

- the complete legal name; any doing-business-as name(s); and taxpayer identification number(s) of the Originator or Third-Party Sender;

- a statement as to whether the Originator or Third-Party Sender acts as the ODFI's Sending Point with direct access to the ACH Operator;
- the Originator's or Third-Party Sender's origination volume for the time period specified by the National Association;
- the actual return rate for unauthorized entries, in total and by SEC Code, for the Originator or Third-Party Sender when computed by either:
 - (1) dividing the number of debit entries returned as unauthorized for the preceding 60 days or two calendar months by the total number of debit entries contained within the file(s) in which the original entries were transmitted; or
 - (2) dividing the number of debit entries returned as unauthorized for the preceding 60 days or two calendar months by the total number of debit entries originated for the preceding 60 days or two calendar months, respectively; and
- a statement either (1) refuting NACHA's claim that the Originator's or Third-Party Sender's return rate for unauthorized entries exceeded the one percent return threshold; or (2) explaining the reason(s) causing the Originator or Third-Party Sender to have exceeded the return threshold.

When the Originator's or Third-Party Sender's return rate, as calculated above, exceeds the return threshold, the ODFI must also provide the National Association with the following information within the ten-banking-day time frame:

- a detailed plan and timeline for reducing the Originator's or Third-Party Sender's return rate for entries returned as unauthorized to a rate below the return threshold for unauthorized entries within sixty (60) days after receipt of the National Association's written request for information, as described within this section 2.18;
- the address; telephone number; contact person; and, when such Originator or Third-Party Sender is a privately-held company, principal owner(s) and officers of the Originator or Third-Party Sender;
- a description of the nature of the business of the Originator or Third-Party Sender, and the methods used by the Originator(s) to obtain proper authorization for ACH transactions;
- the length of the ACH relationship between the ODFI and the Originator or Third-Party Sender;
- the date of the ODFI's most recent review of the exposure limit for the Originator or Third-Party Sender pursuant to section 2.1.12 (ODFI Exposure Limits); and

an entry which is, in whole or in part, not authorized by such person shall have rights, including the right to have the account recredited as provided by law or agreement. Except as provided for in subsection 8.6.8 (Waiver of Right to Recredit), these rules shall not provide for or restrict any such rights.

SUBSECTION 4.4.6 Reliance on Standard Entry Class Codes

An RDFI may consider an entry containing a Standard Entry Class Code specified in Appendix Two (ACH Record Format Specifications) as complying with the requirements of these rules for that type of entry.

SUBSECTION 4.4.7 Reimbursement of RDFI

For a credit entry subject to Article 4A, credit given to the Receiver by the RDFI as provided in subsection 4.4.1 (Availability of Credit Entries to Receivers) is provisional until the RDFI has received final settlement through a Federal Reserve Bank or has otherwise received payment as provided in Section 4A-403(a) of Article 4A. If such settlement or payment is not received, the RDFI is entitled to a refund from the Receiver of the amount credited, and the Originator is considered not to have paid the Receiver the amount of the entry. This subsection applies only if the Receiver has agreed to be bound by the rules contained in this subsection 4.4.7.

SECTION 4.5 Periodic Statements

An RDFI must send or make available to each of its Receivers information concerning each credit and debit entry to a Consumer Account of the Receiver in accordance with Appendix Four (Minimum Description Standards). In the case of CIE entries, this requirement and the requirements of Appendix Four apply to the ODFI for each credit entry debited to a Consumer Account of the Originator. An RDFI must send or make available to each of its Receivers specific information concerning ARC, BOC, and POP entries to non-Consumer Accounts in accordance with the requirements of Appendix Four.

SECTION 4.6 Notice to Receiver

An RDFI is not required to notify a Receiver of receipt of an entry to its account unless otherwise provided for in an agreement between the RDFI and Receiver or required by a federal or state statute or regulation which cannot be varied by these rules or by agreement of the parties.

SECTION 4.7 Release of Information

~~Each RDFI agrees that each ACH Operator may release to the National Association data regarding ACH return entries transmitted to or by the RDFI.~~

SECTION 4.7 Authorization by RDFI for Release of Designated Data

~~Each RDFI authorizes and instructs each ACH Operator to provide to the National Association Designated Data related to entries transmitted to or by the RDFI, and shall hold each ACH Operator harmless against any claim by the RDFI arising out of the ACH Operator's compliance with such instructions.~~

SECTION 4.8 Liability of RDFI for Benefit Payments

SUBSECTION 4.8.1 Liability of RDFI

If a Receiver has died and the Receiver's right to receive one or more pension, annuity, or other benefit payments by PPD entry has terminated before the receipt by the RDFI of one or more credit entries to the Receiver's account representing those payments, the RDFI may be liable to the Originator for the amount of those entries credited to the Receiver's account if neither the Receiver's estate nor any other holder of the account is entitled to the payments. The liability an RDFI would incur under this subsection 4.8.1 is limited as provided in this section 4.8.

SUBSECTION 4.8.2 Amount of RDFI Liability

An RDFI's liability under this section 4.8 shall be the lesser of (1) the amount of any payments to which the Receiver was not entitled, or (2) the amount in the Receiver's account at the time the RDFI receives (i) a reclamation entry initiated by the ODFI pursuant to section 2.6 (Reclamation Entries) and not returned by the RDFI or (ii) a written demand for payment from the ODFI or Originator pursuant to subsections 4.8.3 (Demand for Payment) and 4.8.4 (Timing) and has a reasonable opportunity to act upon such demand. A claim or demand by an Originator (or ODFI on the Originator's behalf) will be subordinate to claims or potential claims of the United States Government under 31 C.F.R. Part 210. The Originator must reimburse the RDFI for any payments made to the Originator pursuant to this section 4.8 that are subject to a subsequent claim of the United States Government under 31 C.F.R. Part 210.

SUBSECTION 4.8.3 Demand for Payment

An RDFI will have no liability under this section 4.8 unless and until it receives (1) a reclamation entry initiated by the ODFI pursuant to section 2.6 (Reclamation Entries) and not returned by the RDFI, or (2) a written demand for payment from the ODFI or Originator. The reclamation entry or written demand for payment must identify the name of the Receiver, the account at the RDFI credited on the Receiver's behalf, and the exact amount and approximate date of initiation for each entry involved.

entries contains an incorrect Originator Status Code or contains no Originator Status Code, the ACH Operator must either reject the batch or insert the correct Originator Status Code.

SECTION 9.5 Non-Settled Entries

If a Participating DFI is unable to meet its settlement obligations under the settlement rules established by the Participating DFI and its ACH Operator for entries it has originated or received (“non-settled entries”), the ACH Operator must return or reverse the non-settled entries in accordance with sections 9.7 (Entries Originated to an RDFI that Cannot Settle) and 9.8 (Entries Received from an ODFI that Cannot Settle). Each ACH Operator is responsible for establishing the definition of non-settled entries and the procedures under which settlement balances are to be adjusted within its own settlement rules.

SECTION 9.6 Entries Originated to an RDFI that Cannot Settle

The ACH Operator must create a return entry complying with the requirements of Appendix Five (Return Entries) for each non-settled entry and transmit that non-settled entry to the ODFI. An ODFI that receives a return entry complying with the requirements of this section 9.7 must accept and may not dishonor that entry. The ODFI may not reinitiate a non-settled entry.

SECTION 9.7 Entries Received from an ODFI that Cannot Settle

The ACH Operator must create a reversing entry complying with the requirements of Appendix Two (ACH Record Format Specifications) for each non-settled entry and transmit that non-settled entry to the RDFI. An RDFI that receives such a reversing entry complying with the requirements of this section 9.8 must accept and may not return that reversing entry.

SECTION 9.8 Record of Entries

Each ACH Operator must retain a record of all entries, return entries, and adjustment entries (all referred to in this section as “entries”) received or transmitted by it for one year from the date of receipt or transmittal of the entry. The ACH Operator must provide a printout or other reproduction of the information relating to a particular entry if requested to do so by the Participating DFI or other ACH Operator that originated, transmitted, or received the entry.

SECTION 9.9 Optional Services

An ACH Operator may provide optional services. The use of the optional services must not inconvenience or adversely affect the rights of other ACH Operators or Participating DFIs that do not use optional services.

SECTION 9.10 Requirement to Provide Information to National Association

~~Each ACH Operator will provide to the National Association monthly reports relating to return entry data, as specified by the National Association. The National Association will disclose such information only to the ODFI and RDFI that are parties to the return entry, and to such other parties as the National Association deems reasonable or necessary to conduct an enforcement proceeding under these rules, or to facilitate the operation or administration of these rules, including, but not limited to, risk management and the maintenance of network quality.~~

SECTION 9.10 Requirement to Provide Designated Data to National Association

SUBSECTION 9.10.1 General Obligation

~~Each ACH Operator shall provide Designated Data to the National Association in accordance with the requirements of this section 9.10. No ACH Operator shall be obligated to provide any other data to the National Association.~~

SUBSECTION 9.10.2 Timing and Method

~~Each ACH Operator shall provide Designated Data to the National Association in accordance with timelines and procedures that are mutually agreed between the ACH Operator and the National Association.~~

SUBSECTION 9.10.3 Exception to Obligation to Provide Designated Data

~~If the National Association is in material breach of its obligations under section 12.6, each ACH Operator may suspend, upon one Banking Day’s prior written notice, the sharing of Designated Data with the National Association until such time as the National Association cures such breach and implements such policies, procedures, and systems as may be necessary to prevent a recurrence of such breach.~~

ARTICLE TEN — CHECK TRUNCATION ENTRIES

SECTION 10.1 Scope

The rules contained within this Article Ten apply to all entries initiated under the rules of a check truncation program that uses the TRC or TRX Standard Entry Class Code (referred to as “program”). For this Article, “entry” refers to a demand for payment made upon an RDFI by

SUBSECTION 12.1.5 Liability for Breach of Warranty

Any Association that breaches any of the representations and warranties contained in this section 12.1 shall indemnify each other Association and Participating DFI of the other Association from and against any and all claim, demand, loss, liability, or expense, including attorneys' fees and costs, resulting directly or indirectly from the breach or from the fact that any matter is not as represented and warranted by the warranting Association.

SECTION 12.2 Requirements to Provide Information to National Association

If requested to do so by the National Association, each Association must provide the National Association with information relating to matters warranted in section 12.1 (Warranties of Associations).

SECTION 12.3 Association Liability for Negligence and Willful Misconduct of its ACH Operator

Each Association is liable to each Participating DFI and each other Association for (1) its negligence and willful misconduct related to its functioning as an ACH Operator, and (2) for the negligence and willful misconduct of each ACH Operator (other than a Federal Reserve Bank) with which the Association has contracted to provide services to Participating DFIs. The measure of damages with respect to a credit entry (including a return credit entry) is limited to damages attributable directly and immediately to the failure to exercise ordinary care or to willful misconduct. These damages do not include damages that are attributable to the consequences of the conduct, even if such consequences were foreseeable at the time of the conduct. The measure of damages with respect to a debit entry (including a return debit entry or a debit entry adjustment) is the amount of the entry reduced by an amount that could not have been realized by the use of ordinary care. Where there is willful misconduct with respect to a debit entry, the measure of damages includes other damages that are attributable directly and immediately to the willful misconduct, but does not include damages that are attributable to the consequences of the misconduct, even if such consequences were foreseeable at the time of the misconduct. The measure of damages for failure to exercise ordinary care or willful misconduct with respect to a prenotification, a notification of change or other notice is limited to the amount of the fee received by such Association or ACH Operator for the notice. For this section 12.3, negligence and willful misconduct of an Association or an ACH Operator includes the negligence or willful misconduct of its officers or employees.

SECTION 12.4 Protection for the National Association from Frivolous Lawsuits

Each Participating DFI which commences a legal proceeding against the National Association shall pay

on demand the attorneys' fees and costs incurred by the National Association in connection with the proceeding if judgment is rendered in the National Association's favor or if the National Association is otherwise dismissed from the proceeding.

SECTION 12.5 ACH Operator Not Agent of Participating DFI

An ACH Operator is not an agent of a Participating DFI. In the case of a credit entry subject to Article 4A, where the terms of the entry originated by the ODFI differ from the terms of the entry received by the RDFI, the ODFI shall be obligated for the entry it originated. This rule shall not affect the liability of an Association or an ACH Operator as otherwise provided in these rules.

SECTION 12.6 Use and Disclosure of Designated Data by the National Association**SUBSECTION 12.6.1 Use of Designated Data**

The National Association may use Designated Data solely for the following purposes:

- to monitor ACH network quality and compliance with these rules, including, without limitation, for correct use of SEC codes and formats and for potential rules violations or related risks to participants in, and users of, the ACH system; or
- in support of an enforcement proceeding pursuant to Appendix Eleven of these rules.

SUBSECTION 12.6.2 Prohibited Use of Designated Data

The National Association shall not sell Designated Data or information derived from Designated Data to any third party and shall not use Designated Data for any purpose other than as provided in subsection 12.6.1 (Use of Designated Data).

SUBSECTION 12.6.3 Disclosure of Designated Data

The National Association may disclose Designated Data to third parties solely as follows:

- to the ACH Operator from which the Designated Data were obtained;
- to any Participating DFI involved in a transaction to which Designated Data relate;
- to the National Association's board of directors, committees, employees, agents, contractors, and Payments Associations in connection with a permitted use under subsection 12.6.1 (Use of Designated Data), provided that such disclosure shall be limited to the type, amount, and elements of

Designated Data that are necessary for such person or entities to perform their respective designated functions:

- to the extent otherwise permitted by applicable law and regulation, including the Federal Right to Financial Privacy Act and Title V of the Gramm-Leach-Bliley Act, to a financial institution regulatory agency with authority with respect to a Participating DFI to which Designated Data relate;
- as required by law, regulation, subpoena, or other applicable legal process, subject to compliance with the Federal Right to Financial Privacy Act and Title V of the Gramm-Leach-Bliley Act, to the extent applicable; or,
- in an aggregate manner that does not identify any ACH Operator, Originator, Receiver, Third-Party Service Provider, or Participating DFI.

SUBSECTION 12.6.4 Privacy and Security of Designated Data

SUBSECTION 12.6.4.1 Data Security Policy

The National Association shall adopt and implement data security policies and procedures designed to (i) ensure the security and confidentiality of Designated Data that are identifiable to a Participating DFI, Originator, or Receiver; (ii) protect against any anticipated threats or hazards to the security or integrity of Designated Data; (iii) protect against unauthorized access to or use of Designated Data that could result in substantial harm to any such Participating DFI, Originator, or Receiver; and (iv) ensure the proper disposal of Designated Data.

SUBSECTION 12.6.4.2 Data Breach Policy

The National Association shall comply with the Interim Policy on Data Breach Notification Requirements, and any revision or replacement thereof, to the same extent as an ODFI in possession of Designated Data.

SUBSECTION 12.6.4.3 Compliance with Privacy Laws

The National Association shall comply with all applicable laws and regulations governing the confidentiality and security of Designated Data. To the extent such laws require the National Association to respond to or provide notice to Originators or Receivers about a data security or data privacy breach with respect to Designated Data in the control of the National Association, the National Association shall be solely responsible for providing the response or notice, provided that the National Association shall coordinate with the affected Participating DFI. The ACH Operators will have no responsibility or liability

with respect to any data security or data privacy breach related to Designated Data in the control of the National Association.

SUBSECTION 12.6.5 Other Data

Nothing in this section 12.6 shall affect the National Association's rights or obligations with respect to information or data other than Designated Data it receives pursuant to section 9.10.

SECTION 12.7 Indemnification of ACH Operators

The National Association shall indemnify each ACH Operator from and against any and all claims, demands, losses, liabilities, or expenses, including attorneys' fees and costs, that result directly or indirectly from the breach of the National Association's obligations under section 12.6.

SECTION 12.8 Limitation of Liability

Notwithstanding any other provision of these rules, no ACH Operator or Participating DFI shall have any liability for the acts or omissions of the National Association, its employees, agents, or contractors.

SUBSECTION 14.1.19 “Consumer Account”

means an account held by a Participating DFI and established by a natural person primarily for personal, family or household and not for commercial purposes.

SUBSECTION 14.1.20 “CTX entry”

means a credit or debit entry initiated by an organization to effect a transfer of funds to or from the account of that organization or another organization and accompanied by addenda records that relay information formatted in accordance with the ANSI ASC X12.5 and X12.6 syntax, an ASC X12 transaction set containing a BPR or BPS data segment, or payment related UN/EDIFACT syntax. A CTX entry can contain up to 9,999 addenda records.

SUBSECTION 14.1.21 “Designated Data”

means the following data regarding Entries, excluding CIE Entries, processed by an ACH Operator, to the extent such ACH Operator agrees to provide such data to the National Association from time to time: (i) data derived from return or adjustment Entries, (ii) aggregate information from forward Entries that does not permit identification of the Receiver; and (iii) data requested by NACHA to investigate and respond to a specific incident involving potential violation of these rules or risk to Participating DFIs, Originators, or Receivers. The term “Designated Data” does not include the DFI Account Number, Individual Name, and Individual Identification Number fields of Entry Detail Records.

SUBSECTION 14.1.21 14.1.22 “Direct Financial Institution”

means a Direct Financial Institution as defined in the NACHA Bylaws.

SUBSECTION 14.1.22 14.1.23 “DNE entry” or “DNE”

means a notice to an RDFI of the death of a Receiver. Only an agency of the Federal Government may originate a DNE entry.

SUBSECTION 14.1.23 14.1.24 “Electronic”

means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

SUBSECTION 14.1.24 14.1.25 “Electronic Record”

means an agreement, authorization, written statement under penalty of perjury, or other record created, generated, sent, communicated, received, or stored by electronic means.

SUBSECTION 14.1.25 14.1.26 “Electronic Signature”

means an electronic sound, symbol, or process attached to or logically associated with an agreement, authorization, written statement under penalty of perjury, or other record and executed or adopted by a person with the intent to sign the record.

SUBSECTION 14.1.26 14.1.27 “ENR entry” or “ENR”

means a credit or debit enrollment entry initiated by a participating DFI to a Federal Government Agency on behalf of an account holder at the DFI and who requests the initiation of the ENR. An ENR entry may contain up to 9,999 addenda records.

SUBSECTION 14.1.27 14.1.28 “Entry”

means an order or request complying with the requirements of Appendix Two (ACH Record Format Specifications) (1) for the transfer of money to the account of a Receiver (a “credit entry”), (2) for the withdrawal of money from the transaction account or general ledger account of a Receiver (a “debit entry”), (3) a zero dollar entry, (4) a DNE entry, or (5) an ENR entry. For all entries except RCK entries, each debit entry shall be deemed an “item” within the meaning of Revised Article 4 of the Uniform Commercial Code (1990 Official Text) and that Article shall apply to such entries except where the application is inconsistent with these rules, in which case these rules shall control. An RCK entry is an item as defined by Revised Article 4 of the Uniform Commercial Code only for the limited purposes of presentment as set forth in Article 4-110(c) and notice of dishonor as set forth in Article 4-301(a)(2).

SUBSECTION 14.1.28 14.1.29 “Entry data”

means, as applicable, prenotifications, returned entries, adjustment entries, notifications of change and/or other notices or data transmitted through one or more ACH Operators pursuant to these rules.