



## NACHA RULE CHANGES – STOP PAYMENTS AND AUTHORIZATION REVOKED

### Executive Summary:

NACHA operating rules changed effective March 19, 2010, regarding stop payments and authorization revoked transactions. Have you revised your stop payment forms and written statements, and provided training to your staff on the changes to ensure compliance with Regulation E and the NACHA rules?

Two changes to the National Automated Clearing House Association (NACHA) operating rules relating to stop payments and Regulation E and authorization and returns became effective on March 19, 2010. These changes require a review of the procedures and forms a financial institution has established to ensure compliance with Regulation E and the rules. The amendments to the rules are intended to enhance the network in the following ways:

- The stop payments rule change was made to realign the NACHA operating rules with the requirements of the Federal Reserve Board's Regulation E. Interpretations of Regulation E have changed causing differences between the rules and Regulation E. As a result, receiving depository financial institutions (RDFIs) may have had difficulty complying with both the rules and Regulation E.
- The authorization and returns rule more clearly defines originator requirements for obtaining a consumer's authorization and requirements for information obtained and documented when a receiver claims an ACH debit to their account is unauthorized.

### STOP PAYMENTS AND REGULATION E

Staff commentary to Regulation E became effective on January 1, 2007. This commentary states a consumer's right to stop payment applies to all future debits relating to the particular preauthorized electronic debit from a specific originator if that is the consumer's intent. Financial institution procedures should be established so that no future debits related to the specific authorization and originator are posted to the consumer's account. The financial institution may not wait for the originator to cease origination of the debit. The rule was revised regarding the expiration of stop payment orders to agree with the requirements of Regulation E. The following specific changes were made relating to consumer accounts:

- The change eliminates the six-month time period after which a stop payment order expires.

- When a stop payment order applies to more than one debit entry under a specific authorization, the order will remain in effect until all such entries have been returned.
- If the receiver instructs the RDFI to stop all future payments related to a specific authorization and originator, the RDFI may require the receiver to confirm in writing they have revoked authorization with the originator.

Stop payments for ACH debits to consumer accounts are no longer entitled to be treated as expired at the end of six months unless renewed. The financial institution impact may include changes to forms, procedures, systems, and training. Considerations relating to the rule change are discussed below:

- Stop payment returns apply when a consumer makes a request prior to the entry posting to the account. If the consumer indicates the request relates to all future entries, RDFIs must have procedures established to ensure the entries relating to a particular debit from a specific originator are not posted to the consumer's account. Stop payment forms may require modifications to document if the request applies to only one entry or to all future entries. The RDFI must clearly understand the consumer's intent regarding the stop payment in order to determine when the order expires.
- Systems may require changes to support the placement of a stop payment order on multiple transactions for a specific authorization and originator for longer than six months.
- Updating operational procedures relating to stop payments will be necessary. Training on the revised procedures should be conducted.
- Regulation E allows the RDFI to request proof the consumer has revoked authorization with the originator and if not provided within 14 days, the stop payment order is no longer in effect. A determination should be made if this proof will be required from consumers.
- Originating depository financial institutions (ODFIs) should inform originators the R08 – Payment Stopped return code could mean all future entries should be stopped.

These revisions do not change the following aspects relating to stop payments:

- A financial institution can still require three days' notice for a stop payment request on a recurring payment.
- For one-time entries, the consumer must provide the stop payment request so the financial institution has a reasonable opportunity to act on the request.
- The return time frames and return reason code (R08) remain the same.
- Fees can still be assessed.
- A stop payment order can be required in writing.
- An oral stop payment request is valid for 14 days.
- Stop payment rules for nonconsumer accounts have not changed.

## AUTHORIZATION AND RETURNS

The rule changes regarding authorization and returns clarify the requirements for obtaining a receiver's authorization for an ACH payment and uses language consistent with Regulation E. The change also modifies an RDFI's processes for handling receivers' claims of unauthorized debits. Key components of the rule changes are:

- The language relating to requirements for obtaining a receiver's authorization was changed from "clear and conspicuous" to "clear and readily understandable." The change was made to provide consistency with the terminology and requirements of Regulation E. The rule also clarified that an authorization that is not clear and readily understandable as to its terms or is invalid under applicable law is not a valid authorization.
- The rules had defined an unauthorized transaction as a debit entry in an amount "greater than" authorized by the receiver. Because a transaction in any amount other than the amount authorized by the receiver is unauthorized, the rules were changed to define an unauthorized transaction as an amount "different than" the amount authorized by the receiver.
- The requirement that a receiver's written statement for an unauthorized debit be made "under penalty of perjury" has been removed from the rules. The written statement under penalty of perjury (WSUPP) has been renamed written statement of unauthorized debit (written statement). This change was meant to avoid conflicts with state law that would require the document to be notarized.
- The previous rules regarding WSUPP did not require any specific information to be included on the statement and only indicated the WSUPP be in a form as required by the RDFI. The rule changes have now defined minimum information required for the written statement. Standardizing the information required will improve efficiencies in the process allowing RDFIs to clearly understand what information is needed on the written statement. The changes may allow ODFIs to improve their ability to identify and address concerns with originators' authorization practices. The information required on a written statement includes the following:
  1. Receiver's printed name and signature
  2. Receiver's account number
  3. Party debiting the account (the payee), as identified to the receiver
  4. Posting date of the entry
  5. Dollar amount of the entry
  6. Reason for return
  7. Signature date
  8. Receiver assertion that the written statement is true and correct
  9. Receiver assertion that the receiver is an authorized signer or has authority to act on the account
- The written statement must be signed and dated on or after the settlement date of the entry(ies) for which recredit is being requested.
- The rules allow more than one unauthorized debit from a specific originator to be documented on the same written statement. All specific details for each debit must be provided for each transaction the receiver is requesting recredit.

- When the ODFI requests a copy, the RDFI must provide a copy of the written statement within 10 banking days following the request. This requirement was reduced from 60 days.
- The rules previously did not contain retention requirements for the written statement. The RDFI is now required to retain a copy of the written statement for one year after the settlement date of the adjustment entry. The rules always required the RDFI to provide a copy of the written statement within one year of the date of the adjustment entry but did not specifically state a retention requirement.

Financial institutions efforts to comply with the rule changes include modification to written statements if they do not already include the required minimum information and the establishment of procedures to comply with rule changes regarding the completion and retention of the forms.

## **CONCLUSION**

The rule changes that became effective March 19, 2010, will require financial institutions to review their existing procedures and forms to verify they are in compliance with Regulation E and NACHA rules. The changes will also require training of staff and customers to ensure proper steps are taken when stop payments or unauthorized transaction situations occur.

## **CONTACT INFORMATION**

For more information, please contact your Wipfli relationship executive or:

Teresa Francis  
Manager, Internal Audit  
920.832.2417

Or e-mail us at [WipfliFiPractice@wipfli.com](mailto:WipfliFiPractice@wipfli.com).

**Please check our website ([www.wipfli.com](http://www.wipfli.com)) regularly for current updates.**