

September 24, 2012

Maribel Bondoc
Manager, Network Rules
NACHA, The Electronic Payments Association
13450 Sunrise Valley Drive
Herndon, VA 20171

Re: IAT Modifications - 2012

Dear Ms. Bondoc:

The American Bankers Association (ABA)¹ respectfully submits its comments to NACHA, The Electronic Payments Association, on the International ACH Transaction (IAT) Modifications published on August 15, 2012. ABA appreciates NACHA's efforts to improve the Automated Clearing House (ACH) network by clarifying rules and promoting efficiencies. The RFC invites comment from the industry on the proposal that would promote more consistent processing of IAT transactions resulting in more effective compliance with the rule's requirements.

Complying with the IAT rule has required that banks expend a large amount of resources during its implementation and meeting the ongoing obligations of monitoring the transactions. Banks wish to meet these compliance requirements as effectively and economically efficiently as possible. These proposed rules changes will improve the IAT processing and compliance effort and ABA favors their adoption.

Background

Recognizing the increasing number of cross-border ACH transactions and the vulnerability of cross-border ACH payments to abuse, NACHA amended its rules effective September 18, 2009, to require that all international transactions use the new Standard Entry Class (SEC) code (IAT) and contain new field requirements. These field requirements include specific data elements defined by the Bank Secrecy Act's "Travel Rule."

Prior to the IAT rule coming into effect, cross-border ACH transactions did not attract much attention because they were simply designated with domestic SEC codes. Receivers typically did not even know that they had received a cross-border ACH, because transmissions from abroad enter the United States through correspondent banks and were then processed as domestic

¹ The American Bankers Association represents banks of all sizes and charters and is the voice for the nation's \$14 trillion banking industry and its 2 million employees. ABA's extensive resources enhance the success of the nation's banks and strengthen America's economy and communities. Learn more at www.aba.com.

transactions. As a result, only originating depository financial institutions (ODFIs) could identify a cross-border ACH transaction. However, the new IAT rule was intended to end this anonymity and to promote the traceability of international electronic payments.

Accordingly, all U.S. financial institutions—not just large internationally active financial institutions operating as Originating Depository Institutions—now have information about inbound cross-border ACH transactions enabling institutions to screen these transactions for OFAC compliance and anti-money laundering risk.

Summary and Recommendations Regarding the Proposed Rule

The NACHA proposal would amend three portions of the rules related to IATs. The amendments are intended to eliminate ambiguities and provide additional clarity to the rules related to IAT formats. The changes are meant to create clearer definition and more consistent use of IAT formats in international transactions. Ultimately, this is intended to increase the transparency of these transactions, reducing the risk of having a transaction directed to a blocked party proceed undetected.

NACHAs' specific intentions with regard to this proposal are to—

- Clarify the manner in which countries must be identified within an IAT entry, eliminating the potential for ambiguity in identifying countries to or from which IAT entries are directed.
- Standardize a process to enable the identification of the ultimate beneficiary in certain international payment models that utilize the IAT entry.
- Narrow the scope of the ODFI warranty for Outbound IAT transactions.

Clarify that the country named within certain fields of an IAT entry are identified using that country's ISO Country Code as defined by the International Organization for Standardization (ISO). Effective date: March 21, 2014

This change would remove ambiguity regarding coding requirements for the originator and receiver fields. Currently, it is not clear whether the country name should be abbreviated, spelled out, or assigned the ISO Country Code. The rule change would require that the ISO Country Code be used in these fields.

Amending the rules to require that a consistent methodology be used to identify countries associated with IATs will improve the monitoring and screening process. The use of the ISO Country Code is preferable because it is internationally known and accepted.

ABA recommends that this proposal be adopted as drafted effective on March 21, 2014.

Establish a new Gateway obligation to identify, within an Inbound IAT entry, the ultimate beneficiary of the funds transfer when the proceeds from the Inbound IAT debit are for further credit to an ultimate beneficiary that is not the originator of the IAT entry. Effective date: March 21, 2014

This change is proposed to reflect that the original IAT rules envisioned a two party system where the originator of the IAT debit would be the direct recipient of the funds. However, it is now known that some IAT debits are originated by third party service providers where the funds are ultimately transferred to another recipient.

For example, a U.S. resident could use a Canadian bank to send funds to a beneficiary in Cuba. The Canadian institution could initiate a debit to the U.S. resident's domestic account to fund a second transfer from the Canadian bank to a recipient in Cuba on behalf of the U.S. resident. The proposed change in the rules would require the Canadian bank to provide information related to the ultimate beneficiary in Cuba with the IAT transaction allowing it to be screened for OFAC compliance.

To be totally effective, customers originating these transactions would have to provide information on the ultimate beneficiary to the foreign bank initiating the debit to the U.S. bank, and that foreign bank would need to pass the information along with the IAT. It would be unreasonable to assume 100% compliance with this proposal, because customers transferring funds for nefarious purposes would not voluntarily provide information that would flag a transaction, but it is worthwhile to request this information. It may prevent some prohibited transactions from being attempted as well as assist in identifying transactions that should be blocked.

ABA believes that this proposal is appropriate and that the benefits of its implementation outweigh any additional obligations on U.S. banks.

ABA recommends that this proposal be adopted as drafted effective on March 21, 2014.

Revise the current ODFI warranty of compliance with foreign payment system rules for Outbound IAT Entries, narrowing its scope to focus only on authorization of the Entry when such authorization is required by the laws or payment system rules of the receiving country. Effective date: March 15, 2013.

Currently, ODFI warranties for Outbound IAT Entries are broad and require the ODFI to be in compliance with ALL laws and payment system rules in the receiving country. The proposed rule change would limit the warranty to validating the authorization of the entry. The intent of

this proposal is to mitigate the risk to U.S. banks originating IATs and encourage more banks to participate in these transactions.

At this time, ABA is not certain that a warranty of compliance to foreign rules and regulations for Outbound IAT Entries represents a large obstacle hindering IAT volume. However, the proposed change does not add to any compliance burden or increase risk to financial institutions, and there is a possibility that it could encourage more IAT transactions while presenting little risk.

ABA recommends that this proposal be adopted as drafted effective on March 15, 2013.

ABA appreciates the opportunity to comment on NACHA's IAT Modifications proposal. If you have any questions about these comments, please contact the undersigned at (202)663-5147 or via email at skenneally@aba.com.

Sincerely,

A handwritten signature in cursive script that reads "Stephen K. Kenneally".

Stephen K. Kenneally
Vice President
Center for Regulatory Compliance