

October 1, 2012

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

Re: Person-to-Person Payments Request for Comment

Dear Ms. Bondoc:

The American Bankers Association (ABA)¹ respectfully submits its comments to NACHA, The Electronic Payments Association, on the Person-to-Person (P2P) Payments Request for Comment (RFC) published on August 15, 2012. ABA appreciates NACHA's efforts to improve the Automated Clearing House (ACH) network as new technologies emerge by clarifying rules and promoting efficiencies. The RFC invites comment from the industry on the proposal to standardize the use of the ACH Network for P2P transactions

Background

In recent years, technological advances have enabled the industry to provide more payment services to consumers. NACHA has responded to this interest by gathering information and making changes to the rules as needed. For example, the growth of mobile devices used to initiate ACH payments provided the impetus to create a new Standard Entry Class (SEC) Code to identify these transactions. The result was the WEB debit SEC code that became effective in 2011 and is applied when payments are authorized or initiated via the Internet or a wireless network, or, any form of authorization if the Receiver's instruction for the initiation of the individual debit entry is designed by the Originator to be communicated other than by an oral communication, to the Originator via a Wireless Network.

As a result of industry requests, NACHA has gathered more information on P2P payments to determine the best course of action regarding the ACH Network's treatment of these transactions. This is particularly important because the current Rules

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.

do not reference P2P payments. The absence of rules directing how ACH Network participants should identify and process these transactions increases the risk that they will be routed through various SEC codes and their treatment will be inconsistent. Consistent treatment of similar transactions within the network benefits all participants. But ABA asks whether the impetus for the proposal is really operational efficiency?

ABA Concerns

It is important that the P2P definition be validated in theory and in practice in the marketplace. The Background section of the proposal defines these transactions as “...a P2P payment means a funds transfer from one individual to another individual, and covers scenarios in which: 1) the sender knows the routing and account numbers for the recipient, and 2) the sender does not know the routing and account numbers for the recipient, but uses some other identifying information such as a mobile phone number or e-mail address.” However, transfer from individual to individual is not necessarily the same as transfer from one consumer account to another consumer account which is the formal definition proposed for the P2P designation.

At first it appears that the ODFI should be able to reasonably identify that its own customer originating a funds transfer is an individual initiating the ACH credit from a consumer account. However, the lines often blur when sole proprietors and other small businesses use consumer accounts to conduct banking transactions. Consider a scenario where a commercial entity using a consumer designated bank account, Bob’s Pet Sitting Service, pays an employee using a mobile device. That transaction would be designated a P2P transaction when it would more accurately be designated a B2P transaction. Bob will not care how the transaction is coded as long as it is completed.

The second scenario is also likely to occur if Bob’s Pet Sitting Service receives payment via a mobile device. The consumer making the payment does not know and will not care how the transaction is coded and a commercial transaction will be coded as a P2P transfer when it is more accurately a P2B transaction. If payments initiated over mobile devices become ubiquitous at a reasonable cost, this will happen in higher volumes.

A third scenario would involve Bob’s Pet Sitting Service making a payment via a mobile device to Bill’s Leash Repair, another small business using a consumer account. This is a commercial to commercial transaction that will be coded P2P instead of B2B.

The previous three examples outline the problems when consumer accounts are used to conduct commercial business. It can skew the value of gathering data on P2P transactions if they really P2B, B2P, or B2B transactions.

The risk of inaccurately identifying transactions as P2P can be mitigated during the “onboarding process” for a bank’s P2P service. Customers providing associated email addresses and mobile phone numbers to serve in lieu of account numbers could be

asked to affirm that they meet the definition of consumers. Banks providing this service would need to rely on customer affirmation or conduct audits of account activity to verify how the accounts are used, an expensive undertaking. That leaves the question of how what services should be provided commercial customers that want to conduct mobile transactions via the ACH.

It is not easy to confirm the “consumer” or “commercial” status of parties to mobile payment transaction. And it is often impractical to police whether consumer accounts are only being used for household purposes. Nor is it readily feasible for any originator to know how a recipient’s account is categorized by the RDFI to assure that a mobile initiated transaction with an individual is actually to a “consumer” account rather than a “commercial” account. This challenge becomes greater if the originator of the transaction knows the routing and account numbers of the payee, as outlined in the proposal. Under this scenario, consider a sender who has been “verified” as a true consumer initiates a payment via their mobile device using the P2P app offered by their bank. That ODFI would code the transaction as a P2P entry, but would not be able to verify that the account receiving the funds transfer was a consumer or commercial account. It could be a true P2P transaction or it could be a P2B transaction.

The previously mentioned scenarios illustrate the difficulty in identifying transactions that will fit the given P2P definition. In its current form, transactions that are initiated via a mobile device by commercial entities and/or received by commercial entities will be designated as P2P transactions and that is not accurate. The one consistent theme that runs across all of these scenarios is that they are all initiated by a mobile device.

It is important to note that P2P payments would also include transactions initiated online via personal computer by individuals to individuals. However, just as noted above, it will be difficult or impossible for the ODFI to identify the Receiver as an individual when the payment is originated. This class of payment can’t be limited to mobile transactions or to transactions between individuals.

Consequently, the question is what information about “P2P” is sought to be generated and how will it be used?

Will it be used to capture an accurate tally of payments flowing from consumer to consumer? It may collect a good approximation, but it’s accuracy can’t be evaluated at this time due to the complications noted above.

Is the purpose to capture accurate differentiations among the parties to a transaction or is the purpose of assigning the code to capture any transaction initiated by a user of a particular means of payment instruction—i.e., the mobile application? No, because it would also capture payments made via mobile and non-mobile devices.

ABA recommends that NACHA review the proposed rule to determine if the term P2P should be considered as an interim final rule that will need further refinement as better methods of confirming that individuals are the actual Originators and Receivers in these transactions. There is value in treating similar participants and similar transactions consistently and this is a laudable first step, but under this rule P2P stands for "Probably Personal Payments," but contains no guarantee of accuracy.

Summary and Recommendations Regarding the Proposed Rule

The NACHA proposal would amend portions of the Rules to define P2P transactions, assign the WEB SEC Code, and make other additional changes as needed to facilitate the new transaction type.

P2P Definition and the WEB SEC Code

The proposal would define a P2P Entry as follows, "...a credit Entry initiated by or on behalf of a holder of a Consumer Account to a Consumer Account of a receiver." This change would be made in the Rules by modifying the General Rule for Web Entries to include an additional description for credit entries, "A WEB credit Entry is a credit Entry initiated by or on behalf of the holder of a Consumer Account to the Consumer Account of a Receiver."

In the ACH Network, different transaction types are assigned different SEC Codes. The new definition of P2P Entries introduces the need for a new SEC Code. However, introducing new SEC Codes results in programming update costs for all network participants and in general it is best to only introduce new codes when they are absolutely needed. The NACHA proposal recognizes these competing interests and offers to identify P2P entries as WEB credit entries. Currently, WEB entries are restricted to debit transactions only that are authorized via Internet or wireless network communications. Under the proposed scenario, all WEB credit entries would be P2P transactions.

While assigning P2P transactions the WEB credit designation may be an appropriate method of identifying this new type of transaction without creating the burden of creating a new SEC Code; as noted in the previous section, there are serious practical challenges in ensuring that commercial entities are excluded from P2P transactions.

ABA recommends that NACHA reconsider the proposed definition once the true nature of the characteristics of the transactions sought to be captured have been determined and are able to be feasibly identified by ODFIs.

Formatting Requirements for P2P WEB Credit Entries

Regulation E requires financial institutions provide periodic statements to consumers that contain information regarding “the name of any third party to or from whom funds were transferred.” Currently, Receiving Financial Depository Institutions (RDFI) meets this obligation for consumers that receive payments by pulling information from Company Name field, or the Individual Name Field of the Customer Initiated (CIE) Entry Detail Record.

To meet this obligation using the WEB Credit Entry Code, NACHA proposes the following:

- The sender’s name be placed in the Individual ID Field of the Entry Detail Record,
- The sender’s financial institution be placed in the Company/Batch Record,
- The consumer Receiver’s name appear in the Individual Field Name field of the Entry Detail Record.

Standardizing the placement of information will enable FIs to meet the requirements of Regulation E for P2P transactions. This data can be extracted and placed on periodic statements for the benefit of senders and receivers of P2P payments.

Under the proposed description of this payment process, it would be possible for a P2P payment be initiated to a Receiver if the Sender provides the routing and account number. Would the Sender also have to provide the Receiver’s name to the ODFI and verify that the Receiver is a consumer and not a commercial entity? This would be an awkward process.

ABA recommends that this formatting proposal be reviewed to allow for commercial transactions.

Addenda Records

The proposal would allow for Originating Depository Financial Institutions (ODFIs) to include an URL link in the Payment Related Information field of the Addenda Record to allow for additional payment related information to be accessed via the Internet. This would enable consumers to access data such as account statements or payroll information related to the payment. RDFIs would be notified of the URL through a new Addenda Type code.

The proposal would make providing an URL optional for the ODFI. And, it would also be optional for the RDFI provided to its customers. In addition to URLs being available for WEB transactions, they would also be available for other consumer and commercial transaction types.

Providing URL links can be an effective way of communicating information to customers. This is especially true if consumers are accessing their statements online and would be able to “click through” to more detailed information. However, it can also be an effective method of initiating fraud, by introducing a malicious Internet link through a third party. There is a risk to ODFIs and RDFIs if they unknowingly pass along an infected link to a customer who then clicks on it. The benefits of this proposed rule change is that it allows all parties to assess the risk involved and determine if providing this services is worth the risk involved. ODFIs would not be obligated to provide this service, and if they do, ODFIs would not be required to pass the information along to their customers.

ABA recognizes the potential benefits in passing along information rich URLs to customers while also noting the potential risk. ABA believes that the FIs involved in these transactions are best suited to determine whether to participate in this information exchange.

ABA concurs with this proposal that allows for each ODFI and RDFI to have the right, but not the obligation, of participating in gathering URL related information and providing it to the consumer.

Company Entry Description

Regarding P2P transactions, some entries are initiated under the Split Transaction Model. The proposal would require that P2P WEB credit Entries and any WEB debit entry used to fund a P2P transaction be identified properly for the benefit of the sender and receiver.

Split Transactions occur when an FI uses a Third-Party Service Provider to process their P2P transactions. Consider this example; a consumer initiates a P2P transaction to another consumer through the Internet, the Third-Party may “split” the transaction by initiating a WEB debit of the consumer sender account and then generating a separate ACH credit to benefit the consumer receiver’s account. The consumer receiver should be informed that this was originated as a P2P payment.

The NACHA proposal would require that all P2P Web credit Entries and any WEB debit entries used to fund a P2P transaction be identified as P2P transactions to the consumer receiver. The proposal is not prescriptive regarding the message that should be passed on and allows for the FIs and Third-Parties to develop a solution that best fits their customer needs.

ABA recommends that this proposal be reviewed with the consideration that commercial transactions will be conducted via mobile devices.

Notifications of Change (NOCs) for P2P WEB Credits and Bill Payment Customer Initiated Entries (CIEs)

In the ACH system, NOCs are used by RDFIs to notify ODFIs that an entry contains outdated or erroneous information. The ODFIs are obligated to provide the information to the Originator who must make the specified changes within six banking days of receipt or prior to initiating another entry. These can be used when a bank revises its routing or account number system and a bank customer's Direct Deposit payments are being sent to an "old" account number. The RDFI would send an NOC to the ODFI notifying them of the corrected account number. The ODFI would notify the Originator who would make the correction.

If approved, the new rule would place the burden of correcting the payment information on the ODFI and not the Originator of the WEB or CIE transaction within six days of receipt of the NOC. The proposed rule change would apply to WEB and CIE transactions. CIEs are transactions initiated by Consumers via the Internet, most commonly via bill payment services. Both are conducted on behalf of Originators who are individual consumers and aren't necessarily engaged in regular, repeating high volume payments like an employer payroll or automated monthly ACH debits for car payments. Therefore, consumers may not be as responsive in updating their authorizations as commercial entities.

NACHA is also seeking information regarding the value of notifying the Originator of the changes made due to the NOC.

ABA believes that there is value in ensuring that identifiable and resolvable errors related to ACH payment transactions are fixed when they can be fixed. This is the basis for the existing NOC process. The possibility of imperfect account information related to a payment will exist in future P2P Entries and where they can be corrected via NOCs they should be corrected by that process. ABA believes that there is value in informing the Sender when their payment instructions are altered by an NOC. While not obligating them to change the banking information in question themselves, it is prudent to disclose changes in payments that they authorize.

ABA concurs with the proposal and recommends that NACHA consider appropriate rule changes to ensure that Originators, both commercial and consumer, are informed of NOCs in a manner that facilitates the efficiency of transactions across the ACH Network.

Effective Date

The proposal would make the effective date for standardizing SEC Code usage March 21, 2014. On that date, Originators would be allowed to begin using the new WEB Code and it would become mandatory on March 20, 2015.

ABA concurs with the proposed effective date schedule.

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

Sincerely,



Stephen K. Kenneally
Vice President
Center for Regulatory Compliance