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By electronic delivery

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By: electronic delivery to
Mbondoc@nacha.org

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

Re: Request for Comment: Authorizations and Returns Proposal

Dear Ms. Bondoc:

The American Bankers Association (ABA)¹ respectfully submits its comments to NACHA, The Electronic Payments Association, on the Request for Comment: Authorizations and Returns (RFC). The RFC describes and invites comments on proposed changes to improve ACH network quality by implementing changes to the return of debits that that receiving banks claim are not authorized.

ABA welcomes and supports the proposal's three significant changes that address several long-standing concerns by the industry: 1) clarify that an authorization that is unclear or deceptive is not valid; 2) revise the required content and procedures associated with the current "written statement under penalty of perjury (WSUPP)," and 3) improve the accuracy of return reason codes for unauthorized debits. ABA includes suggestions on methods to improve the implementation of these changes in this response.

Clarifying that an unclear or deceptive authorization is not a valid authorization

The proposed rule would expand beyond the current requirement that an authorization "must clearly and conspicuously state its terms." The proposed rule would state that authorizations that are unclear or deceptive are not valid. Adding

¹ ABA brings together banks of all sizes and charters into one association. ABA works to enhance the competitiveness of the United States banking industry and to strengthen America's economy and communities. Its members – the majority of which are banks with less than \$125 million in assets – represent over 95% of the industry's \$13.3 trillion in assets and employ over 2 million men and women.

certainty to this process would help banks and their customers identify transactions that should be returned. We agree that this proposal would assist banks in explaining to their customers exactly which transactions are authorized and which are not.

Changing the requirements associated with customer statements of unauthorized transactions

The proposed changes to the WSUPP document would facilitate faster processing of claims that payments were not authorized. The proposal also assists banks processing these claims by allowing the document to be submitted electronically and to state clearly that it is not required to be notarized. Those banks that currently require notarization will be relieved of a burden, and those that banks that do not have such a requirement will not be affected.

The clear statement that the forms do not require notarization will allow customers to submit forms electronically to the bank without making an in person visit to a bank branch. This will accelerate the return process and result in a better customer service experience for bank clients.

The creation of a simple, standardized electronic format that is “customer friendly” would assist banks in submitting these forms efficiently. We recommend that Sample Form B of a “Written Statement of Unauthorized Debit (WSUD),” provided in the RFC, be adopted as the preferred format to replace the WSUPP.

Although ABA supports expediting the time frame when a Receiving Depository Financial Institution (RDFI) must provide a copy of the statement to the Originating Depository Financial Institution (ODFI), shortening it from 60 days to 10 days may pose an issue for banks with small staffs. At times, due to illness or mandatory two-week vacations, qualified bank personnel may be out of the office for 10 straight working days. If these workers are responsible for providing copies of the statements, or if their absence causes a substantial increase in the workload for the remaining staffers, the deadline may be missed.

We recommend that the deadline be set at 15 days. This is five days longer than the proposal, but it is still four times faster than the current time frame, and it would reduce the risk of banks not meeting the requirement due to staffing issues.

ABA also supports the proposed change that provides for only a minimum amount of information to be included in each claim.

Consolidating Return Reason Codes

Under the current rules, RDFIs use certain codes to identify the reason a transaction is being sent back to the ODFI. This proposal would improve the accuracy of the return code process by expanding the general terms of certain return codes by attaching a set of sub-codes that will provide more information on why these transactions are being returned. Under proposed Return Reason Code R10 (unauthorized debit entries) there will be 11 separate sub-codes describing why the return is being made. Under proposed Return Reason Code R51 (improper re-presented check entries) there will be five sub-codes describing different reasons why the transaction is

returned. Providing more detail on return codes used to identify unauthorized transactions as outlined in the proposal appears reasonable and would make the process more efficient. The added clarity of additional sub-codes will also be a benefit to the “new” WSUD. The more detailed return reason sub-codes will assist the customer in selecting the correct reason for the return and enable the ODFI to conduct a more efficient review of the suspect transaction. The costs of these software changes are not expected to very high, but they remain unknown, and that is a concern for banks.

The RFC proposes that the rule changes not affecting ACH software become effective on December 18, 2009; whereas changes requiring coding changes would be mandatory on March 19, 2010. This timing raises the need to proceed cautiously, because banks will also be making software changes to implement the International ACH Transaction (IAT) requirements effective September 18, 2009. There likely would be overlap during the software testing for the IAT requirements and development of the software changes for consolidating return reason codes.

Another issue affecting the cost of the proposed change is that many banks rely on third party vendors to make these software adjustments, and these banks do not have a direct role in making the changes. We recommend that NACHA consult with the major vendors to coordinate the implementation of these requirements and the IAT requirements to ensure that there will be no programming issues that may hinder complying with the implementation deadline or unnecessarily contribute to increased development costs.

ABA appreciates the opportunity to comment on the Authorizations and Returns Proposal. If you have any questions about these contacts, please contact Stephen Kenneally at 202-663-5147 or via email at skenneally@aba.com.

Respectfully submitted,



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