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October 16, 2009

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

Re: Request for Comment: Extended Timeframe for Adjustment Entries

Dear Ms. Bondoc:

The American Bankers Association (ABA)¹ respectfully submits its comments to NACHA, The Electronic Payments Association, on the Request for Comment: Extended Timeframe for Adjustment Entries (RFC). The RFC proposes to extend the period where a Receiving Financial Depository Institution (RDFI) may transmit an adjustment entry in the event of a claim that a transaction was not authorized. The proposal would allow these adjustments to be made 90 days after the settlement date of the transactions, an increase of 30 days beyond the current 60 day period. ABA supports an extension of the adjustment period, but recommends that it be set at 100 days to best align with the Regulation E error resolution process.

Overview

The proposal to extend the allowable timeframe for submitting adjustment entries is intended to align the NACHA Rules timeframe more closely with the Federal Reserve Board's Regulation E (Reg E) timeframe. Under Reg E, a consumer may submit a claim of an unauthorized transaction for a time period ending 60 days after the date the consumer's statement is transmitted. The allowable time frame for claims under Reg E is not as precise as the NACHA timeframe that uses the settlement date as its trigger. However, it is clear that the timeframe allowed for adjustments under Regulation E is longer than the period that NACHA allows for

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

adjustment entries. This proposal would improve the handling of claims made during the “gap period” defined as the time beyond the ending of the 60-day from settlement established by the NACHA rule, but prior to the ending of the 60-day from statement transmission as defined by Regulation E.

Under the current NACHA rules, a consumer who makes a claim of an unauthorized transaction during the gap period, more than 60 days after the settlement date, but within 60 days of the statement being issued, would be eligible for credit under Reg E, but the RDFI would not be able to submit an automated adjustment entry under NACHA rules. The RDFI would be required to follow a manual claims process that is expensive and time consuming.

Consider a transaction that takes place on October 1st. Under current NACHA rules, if a consumer claims the transaction was unauthorized, the RDFI could submit an adjustment entry related to the debit up until 60 days after it settled, or November 29th. After November 29th, the RDFI would be obligated to make the claim manually. The Reg E timeframe would begin when that consumer’s statement is transmitted, sometime between October 2nd and sometime in November, depending on the lag between the end of the period and when the statement is sent. The result is that the Reg E obligation period for crediting the customer’s account could be much longer than the time period allowed under the NACHA Rules for adjustments. This gap period would be reduced, but not eliminated, by extending the NACHA timeframe to 90 days after settlement.

Comments

ABA supports the NACHA proposal to extend the time period allowed for adjustment entries for several reasons:

- It will allow for a more efficient and automated claims process by shrinking the gap period and subsequently the number of claims that would need to be processed manually.
- It will encourage banks to submit more small dollar value claims that have merit, but that may have been absorbed as losses and not submitted at all because the manual claims process in itself would have been more expensive than crediting the customer account.
- It creates no additional obligations on banks and makes it simpler to comply with Reg E claims submitted by customers.
- It is not anticipated that this change would result in any significant additional software or hardware expenses.

ABA supports the implementation date of December 17, 2010, as reasonable.

ABA suggests an additional modification to enhance the rule change by extending the time period defined by the NACHA Rule to 100 days from the settlement date instead of the proposed 90 days. This will better account for both the duration of the billing period and the Reg E 10-day prompt investigation period. Such an allowance will further shrink the gap period to allow for even more claims to be processed more efficiently.

ABA appreciates the opportunity to comment on the Extended Timeframe for Adjustment Entries RFC. If you have any questions about these comments, please contact Stephen K. Kenneally at 202-553-5147 or via email at skenneally@aba.com.

Respectfully submitted,

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

Stephen K. Kenneally
Vice President
Center for Regulatory Compliance