



NACHA Operating Rules Updates and Reminders 2021

Each company sending ACH transactions is required to comply with the *NACHA Operating Rules* as stated within the ACH Origination Services Agreement between United Bank and the company. The National Automated Clearing House Association (NACHA) is the rule making body governing the ACH network; therefore, all participants of the ACH network must comply with these *Rules*. To ensure the Bank communicates the *Rules* effectively, we have provided these specific Originator (Corporate Customer) and Third Party Sender requirements of the *Rules*. *NACHA* updates the *Rules* with changes, additions, and deletions on an annual basis. United Bank will communicate annually to educate our customers of any updates and/or changes to the *Rules*.

NACHA Operating Rules Reminders

Below are some reminders of the most commonly researched *ACH Rules*; however, they do not constitute all of the required *NACHA Operating Rules*.

Data Security

It is the responsibility of the company to protect his/her current cash management system and implement best business practices to assist in the protection of its account. Some best business practices may include (1) ensuring computer updates regularly (2) initiating ACH entries under dual control (with two systems) – one individual will input the ACH debit and/or credit while another individual will approve the debit and/or credit from another computer (3) implementing a security policy that enforces no social networking sites to be accessed on the same computer as the cash management system (4) monitoring and reconciling your accounts daily (5) implementing a procedure that enforces “red-flag” activity (i.e. the cash management system’s color scheme not looking the same as before, “system down” warnings, etc.), and (6) educating staff on protecting the cash management system.

Company Name Identification

The Originator is required under the *Rules* to ensure a clear source identification of an ACH transaction. Specifically, the *Rules* require the Originator to populate the Company Name Field with the name by which it is known and readily recognized by the Receiver of the entry. When this company name appears on the account holder’s statement, it should be easily recognizable by the account holder and receiver of the debit/credit transaction.

Proper Use of Standard Entry Class Code

The authorization requirements specified within the *Rules* address the minimum requirements needed for authorization of various types of ACH transactions. In the case of United Bank customers, we allow our Originators to initiate PPD (Prearranged Payments and Deposit) and CCD (Corporate Credits and Debit) entries. A PPD Entry is originated by an organization to or from a consumer account and a CCD Entry is originated by an organization to or from a non-consumer account. Any other standard entry class codes will require approval from United Bank.

Authorization Retention

An authorization for a debit or credit entry must be in writing, and signed or similarly authenticated by the Receiver. Authorization must be retained by the Originator for a period of two years following the termination or revocation of the authorization. In the case of a paper authorization that has been signed by the Receiver, the Originator must retain either the original or a copy of the signed authorization. This authorization may be obtained in an electronic

format that (1) accurately reflects the information in the record, and (2) is capable of being accurately reproduced for later reference, whether by transmission, print or otherwise.

Authorization Requirements for Consumer Entries (PPD)

For PPD entries, the Originator should ensure that an authorization is clear and readily understandable by the consumer account holder. The authorization should also include the account number and routing number of the consumer account holder (i.e. a copy of the account holder's check ensures the numbers are accurately obtained). The consumer account holder must date and sign, or similarly authenticate the authorization to validate the company's authorization to initiate transactions on their account. Authorizations should include directions on how to revoke the authorization, the amount of the debit entry, and the date on which the debit(s) will occur. According to the *Rules*, Companies are responsible for ensuring the authorization contains "clear and readily understandable terms." An authorization that is not clear and readily understandable as to its terms (including the amount or timing of debits) does not satisfy the requirements of the *Rules* and will be considered an invalid authorization. Each Company should review their authorizations to ensure the requirements of the *NACHA Operating Rules* are met. Obtaining appropriate authorizations will help protect your company as the Originator in the event of a return sent back as "unauthorized." Authorization must be retained by the Originator for a period of two years following the termination or revocation of the authorization.

Authorization Requirements for Corporate Entries (CCD)

As with PPD entries, the Originator must obtain authorization for all credit and debit CCD entries. The Originator must enter an agreement with each Receiver of the CCD entry, under which the Receiver has agreed to be bound by the *NACHA Operating Rules*. The agreement should clearly state the representation of credits and/or debits to the corporate customer account.

Notice of Change in Amount/Change in Debiting Date for Recurring Debits

For recurring debits, when the debit amount changes, the *Rules* require the Originator to notify the account holder/receiver within ten (10) calendar days before the scheduled transfer date. An Originator that changes the scheduled date in which debit entries are to be initiated to the Receiver must notify the account holder in writing at least seven (7) calendar days before the first entry is scheduled to be debited from their account. Variations in debiting dates due to Saturdays, Sundays, or holidays are not considered to be changes in the scheduled dates.

Prenotes

A prenotification is a zero-dollar entry generated to validate an account held at a Receiving Depository Financial Institution (RDFI). Companies may originate prenotifications; however, they are not required under the *Rules*. A prenotification is a tool to ensure the account information given by the receiver is accurate prior to initiating a live dollar transaction. If the Originator chooses to initiate a prenotification, they must wait three (3) banking days prior to initiating the live dollar transaction.

Notifications of Change Requirements

A Notification of Change (NOC) is a zero-dollar entry sent by the RDFI to the Originating Depository Financial Institution (ODFI) to alert the Originator of changes to the Receiver's account. Under the *NACHA Operating Rules*, the Originator is required to make the changes specified in the NOC within six (6) banking days of receipt of the NOC information or prior to initiating another entry to the Receiver's account.

Receiving ACH Returns and Re-initiation of Entries

Under the *NACHA Operating Rules*, an Originator or ODFI may re-initiate an entry that was previously returned if (1) the entry has been returned for insufficient or uncollected funds; (2) the entry has been returned for stopped payment and re-initiation has been authorized by the account holder; or (3) the ODFI (United Bank) has taken corrective action to remedy the reason for the return. As a corporate customer, any returns received should be resolved immediately and re-initiation of the same entry should not be transmitted unless one of the three reasons above has occurred.

The *NACHA Operating Rules* state that only NSF and Uncollected Funds (Return Reason Code R01 and R09) may be re-initiated after the Settlement Date of the original entry. An Originator must submit re-initiated entries as a separate batch that contains the word "RETRY PYMT" in the Company Entry Description field. The contents of the Company name, Company identification, and amount fields of the re-initiated entry must be identical to the contents of the original entry. An Originator must not re-initiate an entry that has been returned for insufficient or uncollected funds more than two times following the return of the original entry.

Stop Payments Made by a Consumer or Corporate Customer

A stop payment may be placed on the RDFI's system for all future transactions relating to one Originator for all incoming transactions. Originators or Third Party Senders (Corporate Customers) should train their internal staff accordingly to ensure the understanding that multiple stop payments could be returned. Stop payments should not be re-initiated into the system unless a new authorization has been obtained.

Unauthorized/Revoked Entries by a Consumer or Corporate Customer

An unauthorized or revoked entry may be returned if the customer believes that he/she did not authorize a payment. According to the *Rules*, a new authorization should be obtained prior to re-initiating an entry that you received back as unauthorized or revoked.

Reversing an ACH File or an ACH Entry

An Originator may reverse a file if the file is erroneous or duplicate. The Originator may transmit the reversing file within five (5) banking days after the Settlement Date for the entries within the duplicate or erroneous file. The word "REVERSAL" should be placed in the Company Batch Header Field and the Originator must initiate a correcting file along with the reversing file. A reversal is commonly used in situations of fraud whereby the Originator and/or Third Party Sender attempts to recover fraudulent funds initiated and should be initiated within 24 hours of the discovery of the error. Only an Originator may reverse an entry. The Originator should notify the account holder/receiver of the reversing entry and give the reason for the reversing entry no later than the Settlement Date of the reversing entry. A file or entry that (1) is a duplicate of an entry previously initiated by the Originator or ODFI; (2) orders payment to or from a Receiver different than the Receiver intended to be credited or debited by the Originator; (3) orders payment in an amount different than was intended by the Originator; or (4) is a PPD credit entry satisfying each of the following criteria: (i) the PPD credit entry is for funds related to a Receiver's employment; (ii) the value of the PPD credit is fully included in the amount of a check delivered to the same Receiver at or prior to the Receiver's separation from employment; or (iii) the PPD credit entry was transmitted by the Originator prior to the delivery of the check to the Receiver.

International ACH Transactions (IAT)

Certain ACH payments that are classified as domestic transactions may be classified as international payments, also known as IAT transactions. As a result, an ACH transaction that is originated today may need to be originated as an

IAT transaction under this Rule. The ACH transaction may be classified as an international payment (IAT transaction) if your company (1) is a subsidiary of a multi-national corporation; (2) has foreign subsidiaries; (3) buys or sells to organizations or individuals outside of the territorial jurisdiction of the United States; or (4) sends payroll, pension or benefit payments via the ACH Network to individuals that have permanent resident addresses outside the territorial jurisdiction of the United States. As an Originator, the *Rules* may affect you as a Corporate Customer. Corporations are required to comply with OFAC obligations. The penalties for ignoring these obligations can be both criminal and civil and may include both jail time and fines ranging from \$10,000 to \$10,000,000 per occurrence. If these fines are levied against the financial institution, they may be passed back to the corporate originator depending on the specifics of the case and the details of their contract with the financial institution. The fines are levied by the U.S. government and funds collected are the property of the government, not the financial institution. *Note: United Bank does not allow its Originators to initiate IAT transactions.*

Same Day ACH

As of March 20, 2020, the per-transaction dollar limit for Same Day ACH increased to \$100,000 per item. This includes credit and debit transactions. United Bank will offer Same Day ACH by request for contingency purposes only.

Requirement to Complete a Third Party Sender Audit

A third party sender is an intermediary between the bank and the entity's (Third Party Sender's) customers. The *Rules* require all Third Party Senders to conduct an audit of its ACH operation no later than December 31st of each year. As this is a Rule requirement, United Bank will be requesting confirmation of such an audit. This Rule change was created to help reduce risk by requiring Third Party Senders to conduct annual *Rules* compliance audits to identify and correct any shortcomings in their processes as they relate to compliance with the *NACHA Operating Rules*. Documentation and proof of completion of an audit must be retained for six (6) years from the date of the audit. This Rule applies only to Third Party Senders.

Third Party Sender audits required upon request by NACHA - This Rule reinforces a Third Party Sender's existing obligation to monitor and assess limitations on their customer's origination and return activities in the same manner as the Originating Depository Financial Institution (ODFI) does today. This Rule also requires that a Third Party Service Provider or Third Party Sender provide proof of completion of its *Rules* compliance audit to its ODFI upon request, in order to fulfill a request from NACHA. Failure to comply with this requirement may result in a NACHA Class II *Rules* violation, and fines up to \$100,000 per month until resolved.

Requirement to Register Third Party Senders

As of September 29, 2017, the *Rules* required United Bank to register each Third Party Sender with NACHA providing the following information:

- The bank's name and contact information;
- The name and principal business location of the Third-Party Sender;
- The bank's routing numbers used in ACH transactions originated for the Third-Party Sender; and
- The Company Identification(s) of the Third-Party Sender.

Note: This Rule applies only to Third Party Senders.

Risk Management and Assessment Requirements of United Bank

This change updates the *Rules* to codify additional risk management practices regarding (1) the performance of due diligence with respect to Originators and Third Party Senders; (2) the assessment of the nature of the Originator's or Third Party Sender's ACH activity and the risk it presents; and (3) the establishment of procedures to monitor an Originator or a Third Party Sender's origination and return activity and to enforce exposure limits and restrictions on the types of ACH transactions that may be originated. Originators should understand the necessity of the risk management changes that have been applied to the *Rules*. United Bank, as an ODFI, may establish additional risk management procedures such as requiring an audit of its Originator's activity be performed, closely monitoring the return volume of its originators, and assessing the risk associated with the type of ACH activity performed by each Originator. United Bank may also limit the types of standard entry class codes which can be originated using United Bank's routing number.

Return Rate Reminders

Unauthorized Return Rate Threshold - The current return rate threshold for unauthorized debit Entries (Return Reason Codes R05, R07, R10, R11*, R29 and R51) is 0.5% of the total Entries originated.

*Information related to the Return Reason Code R11 – Customer Advises Entry Not in Accordance with the Terms of the Authorization. An Originator that has received a Return Entry using Return Reason Code R11 may correct, if possible, the error or defect in the original Entry and Transmit a new Entry that conforms to the terms of the original authorization, without the need for re-authorization by the Receiver. Originators must Transmit the new Entry within 60 days after the Settlement Date of the Return Entry.

Administrative and Overall Debit Return Rates - This Rule established a guideline for an Originator's administrative return rate of 3% or below of the total Entries originated. The guideline applies to debit Entries returned due to administrative or account data errors (Return Reason Codes R02, R03 and R04). Additionally, this Rule also establishes an acceptable guideline for an Originator's overall debit Entry return rate of 15% or below of the total Entries originated (excluding RCK entries).

Return rates that exceed these guidelines may prompt an inquiry and review process by NACHA and the engagement of an industry review panel to evaluate the facts behind an Originator's ACH activity. Return rates above these levels may provoke a NACHA evaluation but may not result in a *Rules* violation or a *Rules* enforcement proceeding.

NOTE: We suggest a prudent review of unauthorized, administrative and overall debit return Entries and return rates within your company. Ongoing monitoring of your returns and return rates will ensure your company's compliance with the Rules. If you have any questions or concerns regarding your company's return rates, please contact United Bank.

NACHA Enforcement Authority - This Rule adds more options for which NACHA may begin an initial investigation or *Rules* enforcement proceeding when an entity originates an excessive number of unauthorized Entries. This could result in increased investigations of Originator activity, and could ultimately result in fines passed on to those Originators.

NOTE: We suggest that you review existing NACHA Rules regarding authorization requirements pertaining to originating ACH Entries to ensure your organization's compliance with the Rules.

Clarification on Prenotification Entries and Addenda Records - This Rule revises the NACHA Operating *Rules* to clarify that, with the exception of an IAT (International ACH Transaction) Entry; the Prenote Entry does not need to include addenda records that are associated with the subsequent live Entry. The *Rules* require that the format of a Prenote Entry be the same as the live Entry. Some differences between Prenotes and live Entries to which the Prenote relates include:

- The dollar amount of a Prenote Entry must be zero;
- A Prenote Entry is identified by a unique transaction code; and
- Addenda records associated with a live Entry are not required with a Prenote (unless the Prenote relates to an IAT Entry).

NOTE: While the Rules do not prohibit an Originator from transmitting addenda records with a Prenote Entry, an Originator should have no expectation that a Receiving Depository Financial Institution (RDFI) will do any processing or verification of remittance data contained within. Originators wishing to validate proper formatting of remittance data for future entries to a non-consumer account should, instead, transmit a zero dollar Entry using the appropriate zero dollar transaction code.

If you have any questions regarding the impact of the *Rules*, please contact United Bank. You may also obtain a copy of the *NACHA Operating Rules* by visiting <https://www.nacha.org/store>.

Helpful ACH Links

Below are some helpful links for you and your staff to assist with complying with the *NACHA Operating Rules* and protecting your funds through fraud mitigation tips.

Current Fraud Threats: <https://www.nacha.org/content/current-fraud-threats>

OFAC Obligations: <https://home.treasury.gov/policy-issues/office-of-foreign-assets-control-sanctions-programs-and-information>