ACH Rules Compliance Audit Requirements

Request for Comment

Proposed Modifications to the Rules
May 11, 2018

(Proposed effective date – January 1, 2019, to apply to audits due by December 31, 2019)

ARTICLE ONE – GENERAL RULES

SUBSECTION 1.2.2 Audits of Rules Compliance

SUBSECTION 1.2.2.1 General Audit Requirements

A Participating DFI must annually conduct, or have conducted, an audit of its compliance with these Rules, in accordance with Appendix Eight (Rule Compliance Audit Requirements). A Third-Party Service Provider or a Third-Party Sender that has agreed with a Participating DFI to process Entries must annually conduct, or have conducted, an audit of its compliance with these Rules, in accordance with Appendix Eight (Rule Compliance Audit Requirements). An annual audit must be conducted under these Rule Compliance Audit Requirements no later than December 31 of each year.

This requirement to conduct an audit relates solely to compliance with these Rules and is not limited to compliance with any specific rule or group of rules. This audit obligation does not address other audit considerations with regard to a financial institution’s ACH policies, procedures, or regulatory compliance.

For Third-Party Service Providers, these audit requirements apply only to the functions of ACH processing that they perform on behalf of a Participating DFI or a Third-Party Sender. For Third-Party Senders, these audit requirements apply to their performance of any obligations of an ODFI under these Rules. References within these Rules to an audit of an ODFI’s or RDFI’s performance therefore also apply to a Third-Party Service Provider or Third-Party Sender acting in the capacities described above.

An audit of compliance with these Rules must be performed under the direction of the audit committee, audit manager, senior level officer, or independent (external) examiner or auditor of the Participating DFI, Third-Party Service Provider, or Third-Party Sender.
SUBSECTION 1.2.2 Proof of Completion of Audit

The Participating DFI, Third-Party Service Provider, or Third-Party Sender must retain proof that it has completed an audit of compliance in accordance with these Rules. Documentation supporting the completion of an audit must be retained for a period of six years from the date of the audit.

Upon receipt of the National Association’s request, a Participating DFI must provide to the National Association, within ten (10) banking days, proof that the Participating DFI and/or any requested Third-Party Service Provider(s) or Third-Party Sender(s) have completed audits of compliance in accordance with these Rules.

A Third-Party Service Provider or a Third-Party Sender must provide to its Participating DFI proof of completion of its audit for purposes of the Participating DFI’s compliance with a request from the National Association.

Failure of a Participating DFI to provide proof of completion of its own audit, or its Third-Party Service Provider’s and/or Third-Party Sender’s audit, according to procedures determined by the National Association may be considered a Class 2 rule violation pursuant to Appendix Ten, Subpart 10.4.7.4 (Class 2 Rules Violation).

APPENDIX EIGHT – RULE COMPLIANCE AUDIT REQUIREMENTS

Participating DFIs, Third-Party Service Providers, and Third Party Senders must comply with all provisions of these Rules and conduct an audit of such compliance on an annual basis. This audit obligation is not limited to compliance with any specific rule or group of rules, and the descriptions of rules contained within this Appendix Eight are not intended to modify or limit the language of the Rules themselves or the obligation of Participating DFIs, Third-Party Service Providers, or Third-Party Senders to comply with, or to audit compliance with, such rules.

This Appendix Eight provides Participating DFIs, Third Party Service Providers, and Third Party Senders with highlights of the most critical components of an audit of compliance with these Rules. The requirements relate solely to compliance with these Rules and do not address other audit considerations of a financial institution’s ACH policies, procedures, or regulatory compliance. For Third-Party Service Providers and Third-Party Senders, these audit requirements apply only to the ACH functions that they perform on behalf of a Participating DFI and the performance of any obligations of an ODFI under these Rules. References in this Appendix Eight to audit of an ODFI or RDFI performance therefore also apply to Third-Party Service Providers and Third Party Senders acting on behalf of a Participating DFI.

A Participating DFI may wish to audit other aspects of its ACH operations in conjunction with its annual rules compliance audit. These aspects could include OFAC compliance, ACH business continuity plans, ACH risk management policies, and compliance with 31 C.F.R. Part 210 and the Green Book for processing Federal Government ACH transactions.
PART 8.1 General Audit Requirements

Each Participating DFI, Third-Party Service Provider, and Third-Party Sender must, in accordance with standard auditing procedures, conduct an internal or external audit of compliance with provisions of the ACH rules in accordance with the requirements of this Appendix Eight. These audit provisions do not prescribe a specific methodology to be used for the completion of an audit but identify key rule provisions that should be examined during the audit process.

An annual audit must be conducted under these Rule Compliance Audit Requirements no later than December 31 of each year.

This audit must be performed under the direction of the audit committee, audit manager, senior level officer, or independent (external) examiner or auditor of the Participating DFI, Third-Party Service Provider, or Third-Party Sender.

The Participating DFI, Third-Party Service Provider, or Third-Party Sender must retain proof that it has completed an audit of compliance in accordance with these Rules. Documentation supporting the completion of an audit must be (1) retained for a period of six years from the date of the audit, and (2) provided to the National Association upon request.

Failure of a Participating DFI to provide proof of completion of an audit according to procedures determined by the National Association may be considered a Class 2 rule violation pursuant to Appendix Ten, Subpart 10.4.7.4 (Class 2 Rules Violation).

Upon the National Association’s request, a Participating DFI must provide to the National Association proof that its Third-Party Service Provider(s) and/or Third-Party Sender(s) have completed an audit of compliance in accordance with these Rules. A Third-Party Service Provider or a Third-Party Sender must provide such proof to the Participating DFI for purposes of the Participating DFI’s compliance with such a request from the National Association within 10 Banking Days of the ODFI’s request. Failure of a Participating DFI to provide proof of completion of its own audit, its Third-Party Service Provider’s audit, or its Third-Party Sender’s audit according to procedures determined by the National Association may be considered a Class 2 rule violation pursuant to Appendix Ten, Subpart 10.4.7.4 (Class 2 Rules Violation).

PART 8.2 Audit Requirements for All Participating DFIs, Third-Party Service Providers, and Third-Party Senders

Each Participating DFI, Third-Party Service Provider, and Third Party Sender must conduct the following audit of ACH operations. These audit specifications apply generally to all Participating DFIs, regardless of a Participating DFI’s status as an ODFI or RDFI. The specifications also apply to Third-Party Service Providers and Third-Party Senders, with the exception of Part 8.2, item (e).

a. Verify that a Record of each Entry is retained for six years from the date the Entry was transmitted, except as otherwise expressly provided in these Rules. Verify that a printout or reproduction of the information relating to the Entry can be provided, if requested by the Participating DFI’s customer or any other Participating DFI or ACH Operator that originated.
b. When a Record required by these Rules is created or retained in an Electronic form, verify that the Electronic form (a) accurately reflects the information in the Record, and (b) is capable of being accurately reproduced for later reference, whether by Transmission, printing, or otherwise. (Article One, Subsection 1.4.3 – Electronic Record Creation and Retention)

c. Verify that the Participating DFI conducted an audit of its compliance with the Rules in accordance with Appendix Eight (Rule Compliance Audit Requirements) for the previous year. (Article One, Subsection 1.2.2 – Audits of Rules Compliance)

d. Verify that required encryption or a secure session is used for banking information Transmitted via an Unsecured Electronic Network. (Article One, Section 1.7)

e. Verify that for any Entries that are not processed through an ACH Operator but are exchanged with another non-affiliated Participating DFI, the Participating DFI has filed the appropriate N.7 form and paid all Network Administration Fees as required by Section 1.13 (Network Administration Fees). (Article One, Section 1.13)

f. Verify that the Participating DFI has conducted an assessment of the risks of its ACH activities and has implemented a risk management program on the basis of such an assessment. (Article One, Subsection 1.2.4 – Risk Assessments)

g. Verify that the Participating DFI has established, implemented, and updated, as appropriate, security policies, procedures, and systems as required by Article One, Section 1.6. (Article One, Section 1.6 – Security Requirements)

PART 8.3 Audit Requirements for RDFIs and Third-Party Service Providers

In addition to the audit procedures outlined in Parts 8.1 (General Audit Requirements) and 8.2 (Audit Requirements for All Participating DFIs, Third Party Service Providers, and Third Party Senders) of this Appendix Eight, all RDFIs and their Third Party Service Providers must conduct an audit of the following relating to the receipt of ACH entries:

a. Verify that the account number contained in a Prenotification Entry is for a valid account. If the Prenotification does not contain a valid account number, or is otherwise erroneous or unprocessable, verify that the RDFI Transmits either (a) a Return Entry, or (b) a Notification of Change. (Article Three, Section 3.5 – Specific Provisions for Prenotifications)

b. Verify that, if the RDFI chooses to initiate Notifications of Change, such COR Entries are Transmitted within two banking days of the Settlement Date of the entry to which the Notification of Change relates, with the exception of Notifications of Change due to merger, acquisition, or other similar events. (Article Three, Subsection 3.9.1 – General Rule for Notification of Change (COR Entry))
e. Verify that, subject to the RDFI’s right of return, all types of Entries that comply with these Rules and are received with respect to an account maintained with the RDFI are accepted. Verify that the RDFI handles XCK entries and entries to non-transaction accounts appropriately. (Article Three, Subsection 3.1.1 – RDFI Must Accept Entries and Subsection 3.8.2 – Exceptions to Restrictions on RDFI’s Right to Transmit Return Entries)

d. Verify that, subject to the RDFI’s right of return, the amount of each credit Entry received from its ACH Operator is made available to the Receiver as required by Article Three, Subsection 3.3.1 (Availability of Credit Entries to Receivers). Verify that debit entries are not posted prior to the Settlement Date, even if the Effective Date of the Entry is different from the Settlement Date of the Entry. (Article Three, Subsection 3.3.1 and Subsection 3.3.2 – Timing of Debit Entries)

e. For Consumer Accounts, verify that the RDFI provides or makes available to each of its Receivers required information concerning each credit and debit Entry to a Consumer Account of such Receiver. (Article Three, Subsection 3.1.5.1 – RDFI Must Provide Entry Information for Consumer Accounts)

For Non-Consumer Accounts, verify that the RDFI provides or makes available to the Receiver the contents of the Check Serial Number Field of an ARC, BOC, or POP Entry. (Article Three, Subsection 3.1.5.2 – RDFI Must Provide Entry Information to Receivers of ARC, BOC, or POP Entries to Non-Consumer Accounts)

f. For all entries except RCK:

Verify that the RDFI Transmits Return Entries to its ACH Operator by the ACH Operator’s deposit deadline for the Return Entries to be made available to the ODFI no later than the opening of business on the second Banking Day following the Settlement Date of the original Entry, except as otherwise provided in these Rules. (Article Three, Section 3.8 – RDFI’s Right to Transmit Return Entries)

Verify that late returns of unauthorized CCD or CTX Entries are Transmitted with the agreement of the ODFI and that such entries utilize the appropriate Return Reason Code. (Article Three, Subsection 3.8.3.5 – Late Return Entries for CCD or CTX Entries with ODFI Agreement; Appendix Four)

Verify that dishonored Return Entries received by the RDFI are handled appropriately, and that contested dishonored Return Entries and corrected Return Entries are initiated in a timely manner. (Article Three, Subsection 3.8.5 – Receipt of Dishonored Returns; Appendix Four)

g. Verify that Return Entries relating to RCK Entries are Transmitted to the RDFI’s ACH Operator by midnight of the RDFI’s second Banking Day following the Banking Day of the receipt of the RCK Entry. (Article Three, Subsection 3.8.3.3 – Timing Requirements for Return of RCK Entries)
h. Verify that the RDFI returns any credit Entry that is refused by a Receiver by Transmitting a Return Entry to its ACH Operator by the ACH Operator’s deposit deadline for the Return Entry to be made available to the ODFI no later than the opening of business on the second Banking Day following the RDFI’s receipt of notification from the Receiver that it has refused the Entry. Also verify that the RDFI returns all credit Entries that are not credited or otherwise made available to its Receivers’ accounts by Transmitting a Return Entry to its ACH Operator by the ACH Operator’s deposit deadline for the Return Entry to be made available to the ODFI no later than the opening of business on the second Banking Day following the Settlement Date of the original Entry. (Article Three, Subsection 3.8.3.2 – Timing Requirements for Credit Entries Refused by Receiver and Subsection 3.8.4 – RDFI Must Return Unposted Credit Entries)

i. Verify that the RDFI honors stop payment orders provided by Receivers, either verbally or in writing, to the RDFI at least three Banking Days before the scheduled date of any debit Entry to a Consumer Account other than a Single Entry. Verify that the RDFI honors stop payment orders provided by Receivers to the RDFI at such time and in such manner as to allow the RDFI a reasonable opportunity to act upon the order prior to acting on any debit Entry to a Non-Consumer Account, or an ARC, BOC, POP, or RCK Entry, or a Single Entry IAT, PPD, TEL, or WEB Entry to a Consumer Account. (Article Three, Subsection 3.7.1.1 – RDFI Obligation to Stop Payment of Recurring Entries, Subsection 3.7.1.2 – RDFI Obligation to Stop Payment of Single Entries and Subsection 3.7.2 – RDFI Obligation to Stop Payment of Entries to Non-Consumer Accounts)

Verify that the RDFI uses Return Reason Codes R38 (Stop Payment on Source Document) and R52 (Stop Payment on Item Related to RCK Entry) properly. Verify that, for each ARC, BOC, or RCK Entry for which a stop payment order was in force with respect to (a) the Check that was used as an Eligible Source Document for the ARC or BOC Entry, or (b) the item to which the RCK Entry relates, the Extended Return Entry is Transmitted to the RDFI’s ACH Operator by its deposit deadline for the Extended Return Entry to be made available to the ODFI no later than the opening of business on the Banking Day following the sixtieth calendar day following the Settlement Date of the original Entry. (NOTE: No Written Statement of Unauthorized Debit is required for entries returned for these reasons.) (Article Three, Subsection 3.11.2.2 – RDFI Obligation to Recredit for ARC, BOC, and RCK Entries Regarding Stop Payment Orders and Subsection 3.13.1 – RDFI May Transmit Extended Return Entries; Appendix Four)

j. Verify that Written Statements of Unauthorized Debit are obtained from consumers for all returns bearing Return Reason Codes R05, R07, R10, R37, R51, and R53, and that each Extended Return Entry is Transmitted to the RDFI’s ACH Operator by its deposit deadline for the Extended Return Entry to be made available to the ODFI no later than the opening of business on the Banking Day following the sixtieth calendar day following the Settlement Date of the original Entry. Verify that copies of Written Statements of Unauthorized Debits are provided to the ODFI within the required time frame, when such copies are requested in writing by the ODFI. (Article Three, Subsection 3.11.1 – RDFI General Obligation to Recredit Consumer Accounts, Subsection 3.12.5 – RDFI Must Accept Written Statement of Unauthorized Debit, Subsection 3.12.7 – Copy of Written Statement of Unauthorized Debit, and Subsection 3.13.1 – RDFI May Transmit Extended Return Entries; Appendix Four)
k. Verify that the RDFI has provided the Receiver with proper notice to ensure compliance with UCC Article 4A with respect to ACH credit transactions. (Article Three, Subsection 3.1.6—RDFI Must Provide Certain Notices to the Receiver for Credit Entries Subject to Article 4A)

l. Verify that, when requested to do so by the Non-Consumer Receiver, the RDFI provides all information contained within the Payment Related Information field of an Addenda Record(s) Transmitted with a CCD, CTX, CIE, or IAT Entry. The RDFI must provide this information by the opening of business on the RDFI’s second Banking Day following the Settlement Date of the Entry. (Article Three, Subsection 3.1.5.3—RDFI Must Provide Payment-Related Information to Receivers of CCD, CTX, CIE, and IAT Entries to Non-Consumer Accounts)

PART 8.4 Audit Requirements for ODFIs, Third-Party Service Providers, and Third-Party Senders

In addition to the audit procedures outlined in Parts 8.1 (General Audit Requirements) and 8.2 (Audit Requirements for All Participating DFIs, Third-Party Service Providers, and Third-Party Senders) of this Appendix Eight, ODFIs, and Third-Party Service Providers, and Third-Party Senders when performing an obligation of the ODFI, must conduct an audit of the following relating to the origination of ACH entries. Part 8.4, items (l) and (m) do not apply to Third-Party Senders.

a. Verify that the ODFI has entered into Origination Agreements with all Originators or Third-Party Senders that bind the Originator or Third-Party Sender to these Rules; that authorize the ODFI to originate entries on behalf of the Originator or Third-Party Sender; that, within such agreements, the Originator or Third-Party Sender acknowledges that Entries may not be initiated that violate the laws of the United States; that includes any restrictions on types of Entries that may be originated; that includes that the Third-Party has entered into an agreement with each Originator, and that such agreements include the right of the ODFI to terminate or suspend the agreement for breach of the Rules, and the right of the ODFI to audit the Originator’s, the Third-Party Sender’s, and the Third-Party Sender’s Originators’ compliance with the Origination Agreement and the Rules. With respect to IAT Entries, verify that agreements contain all necessary provisions. (Article Two, Subsection 2.2.2.1—ODFI Must Enter Origination Agreement with Originator, Subsection 2.2.2.2—ODFI Must Enter Origination Agreement with Third-Party Sender, and Subsection 2.5.8.3—Origination Agreements for IAT Entries)

b. Verify that, if applicable, the ODFI has entered into agreements with all Sending Points that Transmit Entries on the ODFI’s behalf to an ACH Operator. (Article Two, Subsection 2.2.2.3—ODFI Agreement with Sending Points)

c. Verify that the ODFI has assessed the risks of the Originator’s or Third-Party Sender’s ACH activity, and has established, implemented, and periodically reviewed an exposure limit for each Originator or Third-Party Sender. Verify that the ODFI has established and implemented procedures to monitor the Originator’s or Third-Party Sender’s origination and return activity across multiple Settlement Dates; enforce restrictions on the types of Entries that may be originated; and enforce the exposure limit. (Article Two, Subsection 2.2.3—ODFI Risk Management)
d. Verify that the ODFI accepts Return Entries and Extended Return Entries that comply with these Rules and that are Transmitted by the RDFI within the time limits established by these Rules. Verify that dishonored Return Entries are Transmitted within five Banking Days after the Settlement Date of the Return Entry and that contested dishonored Return Entries are accepted, as required by these Rules. Verify that the ODFI is using Return Reason Codes in an appropriate manner. (Article Two, Subsection 2.12.1 — ODFI Acceptance of Timely Return Entries and Extended Return Entries, Subsection 2.12.5.1 — Dishonor of Return by ODFI, and Subsection 2.12.5.3 — ODFI Must Accept a Contested Dishonored Return Entry; Appendix Four)

e. Verify that information relating to NOCs and Corrected NOCs is provided to each Originator or Third Party Sender within two Banking Days of the Settlement Date of the NOC or Corrected NOC in accordance with Appendix Five (Notification of Change). For CIE and creditWEB Entries, verify that information relating to NOCs and Corrected NOCs is provided to any Third-Party Service Provider initiating such Entries on behalf of the consumer Originator. Verify that refused NOCs are Transmitted within 15 days of receipt of an NOC or corrected NOC. (Article Two, Subsection 2.11.1 — ODFI and Originator Action on Notification of Change (NOC) and Subsection 2.11.2 — ODFI Right to Refuse Notification of Change Entries)

f. With the exception of XCK Entries, verify that the ODFI provides to the RDFI, upon receipt of the RDFI’s written request, the original, a copy, or other accurate Record of the Receiver’s authorization with respect to a Consumer Account within ten Banking Days of receipt of the request without charge. (Article Two, Subsection 2.3.2.5 — Retention and Provision of the Record of Authorization and Subsection 2.5.18.6 — Rules Exceptions for XCK Entries). For a CCD, CTX, or Inbound IAT Entry to a Non-Consumer Account, verify that the ODFI provides to the RDFI, upon receipt of the RDFI’s written request, an accurate record evidencing the Receiver’s authorization, or the contact information for the Originator (that at a minimum, includes (a) the Originator’s name and (b) the Originator’s phone number or email address) within ten Banking Days of receipt of the request without charge). (Article Two, Subsection 2.3.3.3 Provision of the Record of Authorization)

g. Verify that, when agreed to by the ODFI, late Return Entries are accepted in accordance with these Rules. (Article Two, Subsection 2.12.6 — Discretion to Accept Late Returns)

h. Verify that the ODFI has provided the Originator with proper notice to ensure compliance with UCC Article 4A with respect to ACH transactions. (Article Two, Subsection 2.3.3.2 — Notice by ODFI to Originator for Non-Consumer Credit Entries)

i. Verify that the ODFI has utilized a commercially reasonable method to verify the identity of each Originator or Third Party Sender that enters into an Origination Agreement with the ODFI. When an ODFI has a relationship with a Third-Party Sender rather than with an Originator directly, also verify that the Third-Party Sender has utilized a commercially reasonable method to verify the identity of each Originator that enters into an Origination Agreement with the Third-Party Sender. (Article Two, Subsection 2.2.1 — ODFI Verification of Originator or Third-Party Sender Identity)
j. Verify that Reversing Entries and Reversing Files are initiated in accordance with the requirements of these Rules. (Article Two, Section 2.8 – Reversing Files and Section 2.9 – Reversing Entries)

k. For BOC Entries, verify that the ODFI has (1) established and implemented commercially reasonable procedures to verify the identity of each Originator or Third Party Sender of such entries; and (2) established and implemented procedures to document specific information with respect to each Originator, as required by these Rules, and that, upon request, such information is provided to the RDFI within the required time frame. (Article Two, Subsection 2.5.2.5 – Additional ODFI Warranties for BOC Entries)

l. Verify that the ODFI has reported Return Rate information on each Originator or Third Party Sender, as requested by the National Association. (Article Two, Subsection 2.17.2 – ODFI Return Rate Reporting)

m. Verify that the ODFI has (1) registered its Direct Access status with the National Association; (2) obtained the approval of its board of directors, committee of the board of directors, or its designee for each Direct Access Debit Participant; (3) provided required statistical reporting for each Direct Access Debit Participant; and (4) notified the National Association of any change to the information previously provided with respect to any Direct Access Debit Participant. (Article Two, Subsection 2.17.1 – Direct Access Registration)

n. Verify that the ODFI has either (1) stated to the National Association that it has no Third-Party Senders; or (2) registered its Third Party Senders with the National Association, and updated as necessary any such registrations. (Article Two, Subsection 2.17.3 – Third Party Sender Registration)

o. Verify that the ODFI has kept Originators and Third-Party Senders informed of their responsibilities under these Rules. (Article Two, Section 2.1 – General Rule – ODFI Is Responsible for Entries and Rules Compliance)