ACH Rules Compliance Audit Requirements
Request for Comment

May 11, 2018

REQUEST FOR COMMENT – RESPONSES DUE JUNE 29, 2018

NACHA requests comments on a proposal to amend the NACHA Operating Rules (Rules) with respect to the obligation of certain ACH participants to conduct annual audits of their compliance with the Rules. This proposal is in response to an industry request to modify the Rules to provide financial institutions and third-party service providers with greater flexibility in conducting those audits. This topic is being addressed through the NACHA rulemaking process with the issuance of this Request for Comment (RFC). Comments are due by June 29, 2018

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Part I: Introduction

NACHA is issuing this Request for Comment (RFC) to gather information and perspectives on proposed revisions to the annual rules compliance audit requirements currently defined within Article One (General Rules) and Appendix Eight (Rules Compliance Audit) of the Rules. Respondents to this RFC are requested to assess the potential benefits, impacts, and costs of these proposed changes to financial institutions and third-parties, and to provide feedback via the ACH Participant Survey.

This proposal is issued in response to a request from industry participants to continue ongoing efforts to further streamline and simplify the Rules where possible, with the goal of making the Rules language more consistent, easier for industry participants to understand and use, and, ultimately, to improve Rules compliance.
The particular changes proposed within this RFC recommend (1) the consolidation of requirements for the annual rules compliance audit into one section of the rules for better clarity on various audit obligations and ease of use of the material, and (2) the removal of redundant material from the appendices and the expansion of the audit discussion within the Guidelines, where recommendations and guidance can be included, as appropriate, without the need for rule changes. NACHA expects these changes to provide ACH participants with greater freedom and flexibility to tailor their audit process to their particular business needs, thus improving the effectiveness and value of the audit process for each individual participant.

Part II: Rules Proposal Description

Consolidation of General Audit Obligations within the Rules; Removal of Certain Audit Requirements

This proposed change would consolidate all requirements for an annual rules compliance audit within one section of the Rules. Presently, the general obligation for participating DFIs (and certain third-party service providers/senders) to conduct an annual audit of their compliance with the Rules is located within Article One, Section 1.2.2 (Audits of Rules Compliance), yet the details pertaining to that audit obligation are separately located within Appendix Eight (Rule Compliance Audit Requirements). Having information on a single topic located throughout the Rules is inefficient for users and has the potential to contribute to user error. This change would retain the core audit obligations currently addressed within the introductory discussion of Appendix Eight, along with the general administrative requirements for completion of such an audit, as currently detailed within Part 8.1 (General Audit Requirements), and would combine these requirements into the existing audit language within Article One.

This proposed change would also eliminate redundant (and somewhat inconsistent and incomplete) language from the Rules by removing from Appendix Eight the specific inventory of points within Parts 8.2, 8.3, and 8.4, which attempts to recap, in abridged form, the actual rules defined in complete detail elsewhere within the Articles and remaining Appendices. Appendix Eight was not designed or intended to serve as a stand-alone guide or workbook for completion of an audit, and this inventory of rules was meant only to remind users of key rules provisions important for various participants to consider during the audit. Many that use this list for purposes of conducting an audit may not be aware that Appendix Eight does not fully incorporate all rules obligations, but they are obligated to audit compliance with all rules nonetheless. Similarly, users have frequently noted that language used within this rules recap has not always been consistent with the actual requirements of the rules themselves. Ongoing efforts to add greater precision to language recapping the rules and keep the list current have resulted in more (not fewer) redundancies within the Rules and caused Appendix Eight to be in an ongoing ballot state since the audit was introduced.

With the consolidation and streamlining of audit language, the existing language of Appendix Eight would no longer be needed and would be removed from the Rules. Under this proposal, the rules recap is expected to be relocated to the NACHA Operating Guidelines (Guidelines) in a more generalized format and provided as part of overall direction on issues that financial institutions and third-parties should examine as part of a rules compliance review. Incorporating more of this
material into the *Guidelines* would also provide greater context for including recommendations on other risk issues not directly covered by the *Rules*.

The removal of the checklist of items from the *Rules* may also help eliminate a misconception among many that a specific financial institution or third party must evaluate its status with regard to each and every provision listed within Appendix Eight, even those provisions not applicable to the particular DFI or third-party. Retaining only the general obligations to conduct an audit within the *Rules* would provide financial institutions and third-parties with greater flexibility to fine-tune their audits to address specific rules issues relevant to their functions in the Network.

**Impact on Rules Framework**

This Rule would modify the following areas of the *NACHA Operating Rules*:

- *Article One, Subsection 1.2.2 (Audits of Rules Compliance)* – consolidates the core audit requirements described within Appendix Eight under the general obligation of participating DFIs and third-party service providers/senders to conduct an audit.

- *Appendix Eight (Rule Compliance Audit Requirements)* – eliminates the current language contained within Appendix Eight; combines relevant provisions with the general audit obligation required under Article One, Subsection 1.2.2.

**Part III: Benefits and Impacts of the Proposals**

**Benefits**

The changes proposed by this RFC would further streamline and simplify the *Rules* where possible, eliminating redundancy, making the *Rules* language more consistent and easier for industry participants to understand and use, and, ultimately, helping to improve *Rules* compliance.

The removal of the detailed rules recap from Appendix Eight also would eliminate ongoing challenges and industry confusion related to inconsistent or incomplete references within Appendix Eight compared to the various rules obligations defined within the actual rules language.

Having guidance on general audit provisions within the *Guidelines* instead of the *Rules* would facilitate NACHA’s ability to update audit information as industry needs change, without the need for a rule change and formal ballot process. It would also allow NACHA to make recommendations on additional risk-related issues that should be considered as an essential part of a risk-based ACH audit, but that are not otherwise mandated by the *Rules*.

**Impacts**

Some organizations will need to change or modify their methodologies for conducting ACH Rules compliance audits. Although a convenient resource for some users, Appendix Eight is not designed to serve as a complete guide or workbook for conducting an audit of rules compliance
and instead serves as a high-level discussion of material detailed elsewhere within the Rules. Parties that currently rely exclusively on Appendix Eight as a checklist for conducting their audits should be aware of its limitations (noted earlier) and should be prepared to audit on all relevant rules, even those not currently expressly listed within current Appendix Eight language. Current users of Appendix Eight’s checklist should already be consulting the language within the Articles themselves and the remaining Appendices to ensure compliance with all relevant sections of the Rules since the listing within Appendix Eight does not include full detail with respect to the rule requirements.

For those financial institutions and third-parties that may prefer a workbook or guide to facilitate their annual audit, more robust educational resources exist separately in the form of audit guides and checklists to serve the industry’s need for conducting a thorough check of ACH compliance. Several stand-alone ACH audit guides/workbooks will continue to be available for purchase via the NACHA e-store and the Regional Payments Associations.

Without the worry of the checklist, some participating DFIs and third-parties may find themselves freer to determine for themselves which specific topics their ACH audits should cover.

**Part IV: Proposed Effective Dates**

The language changes are proposed to become effective on January 1, 2019 to apply to audits required to be conducted by December 31, 2019.