



July 17, 2020

BY ELECTRONIC DELIVERY

Jane Larimer, CEO
Nacha
2550 Wasser Terrace, Suite 400
Herndon, VA 20171

Re: Nacha Request for Comment on Account Information Improvements through the ACH Network

Ms. Larimer:

The Clearing House Payments Company L.L.C. (“The Clearing House”)¹ respectfully submits this comment letter in response to Nacha’s request for comment on account information improvements through the ACH Network (“Proposal”).²

I. Executive Summary

Nacha’s Proposal addresses three topics: Prenotifications (“Pre-notes”), Micro-Entries, and Notifications of Change (NOCs). Nacha believes the proposed changes would benefit “both sides” of ACH transactions by improving account validation for Originators and improving the effectiveness of Notifications of Change for RDFIs. All aspects of the Proposal would take effect on March 18, 2022.

As discussed below, The Clearing House’s member financial institutions hold varying viewpoints on most aspects of the Proposal. In addition, The Clearing House does not support the proposal to prohibit an Originator from invalidating a Receiver’s authorization or requiring the Receiver to provide

¹ Since its founding in 1853, The Clearing House has delivered safe and reliable payments systems, facilitated bank-led payments innovation, and provided thought leadership on strategic payments issues.

Today, The Clearing House is the only private-sector ACH and wire operator in the United States, clearing and settling nearly \$2 trillion in U.S. dollar payments each day, representing half of all commercial ACH and wire volume. It continues to leverage its unique capabilities to support bank-led innovation, including launching RTP®, a real-time payment system that modernizes core payments capabilities for all U.S. financial institutions. As the country’s oldest banking trade association, The Clearing House also provides informed advocacy and thought leadership on critical payments-related issues facing financial institutions today. The Clearing House is owned by 23 financial institutions and supports hundreds of banks and credit unions through its core systems and related services.

² Nacha Request for Comment regarding Account Information Improvements through the ACH Network, <https://www.nacha.org/rules/account-information-improvements-through-ach-network>.

updated account information due to the receipt of a NOC, as we believe determinations about the adequacy of an authorization should be left to the discretion of the Originator.

II. Discussion

A. Prenotifications

Currently, an RDFI must respond to a Pre-Note only when account information in the Pre-Note is not valid, by returning the entry if the information in the Pre-Note is incorrect and correct information is not available, or using an NOC if information in the Pre-Note needs to be corrected. Under the Proposal, an RDFI would instead be required to respond to every Pre-Note using the acknowledgement (ACK) SEC Code. The RDFI would be required to include a “Y” in the discretionary data field of the ACK entry if the account information in the Pre-Note is valid, and an “N” in that field if the account information in the Pre-Note is not valid. An Originator that originates a Pre-Note entry would be required to use the word “VALIDATION” in the Company Entry Description Field of the Pre-Note; and use the name by which the Originator is known in the Company Name field, which must be the same Originator name used for future “live” entries.³

Some of The Clearing House’s member financial institutions strongly support this aspect of the proposal and believe it would benefit Originators and the ACH network, including that the changes would make Pre-Notes more effective for Originators, and may be useful for purposes of compliance with the “WEB Debit Account Validation Rule” that will take effect on March 19, 2021. Some of our members also support the Proposal from the RDFI perspective, as they believe these changes would enhance the overall quality of live transactions processed through the network.

However, some of our other members believe that the costs of these changes outweigh the benefits, and do not support this component of the Proposal. In particular, some believe that the incremental benefit to Originators associated with the proposed Pre-Note changes may not justify the significant operational and technical changes and related development that would be needed on the RDFI side. These concerns focused on the costs and resources of putting in place systems and processes for RDFIs to respond to every Pre-Note within one banking day, and reflected the view that the money and resources may be better expended elsewhere.

B. Micro-Entries

Nacha also proposed to create a rules framework for “Micro-Entries,” which would be defined as entries for less than \$1 that are used for account validation purposes. Similar to the proposed changes for Pre-Notes, the Proposal has formatting standards that would require the word

³ An Originator would be permitted to originate live entries as soon as it receives the “Y” response in the ACK entry. In contrast, under the current rule, an Originator is permitted to originate future live entries “as soon as the third Banking Day following the Settlement Date of the Prenotification Entry” provided the Originator did not receive a return or NOC.

“VALIDATION” in the Company Entry Description Field of the Micro-Entry; and the name by which the Originator is known in the Company Name field, which must be the same Originator name used for future “live” entries. Either debit or credit entries of less than \$1 could be Micro-Entries.⁴

As with the proposed changes regarding Pre-Notes, The Clearing House’s member financial institutions hold varying viewpoints on this aspect of the Proposal. Some of our members believe that the proposed changes, and formatting requirements in particular, would make it more likely that Receivers would recognize the existence and purpose of a Micro-Entry, and that there is a benefit to formalizing the existing use of micro-entry validation in the Nacha Rules.

However, some of our members do not believe Nacha has established that the lack of standardized formatting requirements for micro-entry transactions is a problem that needs to be addressed. In addition to believing these changes are unneeded, some members also oppose this aspect of the Proposal because they believe they may create an unnecessary burden on ODFIs to police their Originator’s practices to ensure compliance with the formatting standards. Further, some members expressed concern that the requirement that an Originator not originate future live entries until it has completed its validation process could put financial institutions in the middle of disputes or misunderstandings between Receivers and Originators regarding a validation process that occurs outside of the ACH network and over which the financial institution has no control.

Some of our members also raised concerns about the use of the term “Validation” itself, and whether it may be confusing to Receivers. If Nacha moves forward with the proposed changes for Micro-Entries, we recommend that Nacha provide additional detail and clarity about the meaning of the term “Validation” in this context, and education through the Payment Associations for RDFIs on communicating with Receivers about the meaning and significance of such entries under the Nacha Rules,⁵ and to ensure Originators understand that Micro-Entries only validate that an account exists and that a person has access to it, and not necessarily that the account is owned by that person.

C. Notifications of Change

Nacha also proposed changes to the rules for Notification of Change entries (NOCs). In particular, Nacha proposed to:

- require an ODFI to provide information from a NOC to its Originator within one Banking Day (a reduction from the current two Banking Days);

⁴ If a debit Micro-Entry is used, the Proposal would require the Originator to simultaneously transmit one or more credit Micro-Entries that equal or exceed the amount of the debit Micro-Entry.

⁵ One issue raised is that a consumer may be confused to see the term “Validation” on an account statement where a fraudster with access to a Receiver’s account misuses the Micro-Entry process to facilitate a fraud scheme. This concern could potentially be addressed through customer education that the purpose of the standardized “Validation” descriptor is to make it easier for customers to recognize the Micro-Entry validation process, including if it is being misused.

- prohibit an Originator from invalidating a Receiver’s authorization or requiring the Receiver to provide updated account information due to the receipt of a NOC; and
- strengthen Nacha rules enforcement provisions where an ODFI’s Originator does not use corrected information from a NOC by classifying the first failure to use corrected information as a Class 1 Rules violation (subject to a \$2,500 fine), and the second failure by the same Originator as a Class 2 Rules violation.

Among our member banks, there was some support for the proposal to require an ODFI to provide information from a NOC to its Originator within one Banking Day. Some of our member financial institutions believe that reducing this timeframe would be beneficial, and noted that financial institutions already have a natural customer service and competitive incentive to deliver information from an NOC as quickly as possible. That said, other financial institutions questioned whether the proposed one banking day timeframe is achievable with respect to customers that receive information through certain delivery channels, such as U.S. mail, and encouraged Nacha to take that into account if it moves forward with this proposal.

The Clearing House does not support the two other proposed changes regarding NOCs. Specifically, we do not believe it is appropriate for Nacha to prohibit Originators from taking steps to confirm a Receiver’s account information or update an authorization after they receive an NOC. That said, we agree that it may be helpful for Nacha to remind the industry that Originators may rely on an NOC and that receipt of an NOC does not necessarily require an Originator to obtain a new authorization. However, the decision about whether a new authorization is required should be left to the discretion of Originators who may have legal, compliance, customer service or other factors to consider when making a determination that is appropriate for their customer relationship and the specific facts and circumstances.

In addition, there was limited support for the proposed changes regarding Nacha rules enforcement. Some of our member financial institutions do not believe these changes would result in improvements to the NOC process, and believe that Nacha should continue to evaluate rules violations regarding NOCs under the existing rules violation classifications.

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Thank you for the opportunity to comment on the Proposal. If you have any questions or wish to discuss The Clearing House's comments, please do not hesitate to contact me using the contact information provided below.

Sincerely,

/s/

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