

RTP Rules and Legal Framework (Part 1)

May 21, 2021

TCH Public

Agenda

- **Speakers**

- Alaina Gimbert – Senior Vice President and Associate General Counsel
- Stephen Krebs – Vice President and Associate General Counsel
- Kelsey Penrose – Senior Counsel

- **Topics**

- Introduction to the RTP Legal Framework
- General Participant Responsibilities (Part 1)
- General Participant Responsibilities (Part 2)
- Key Sending Participant Obligations
- Funding and Settlement
- Key Receiving Participant Obligations
- Requests for Return of Funds, Error Resolution, Fraud Reporting
- Requests for Payment

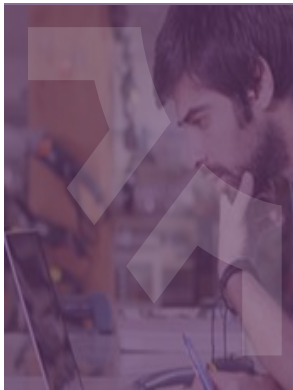
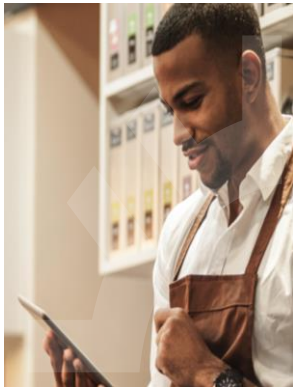
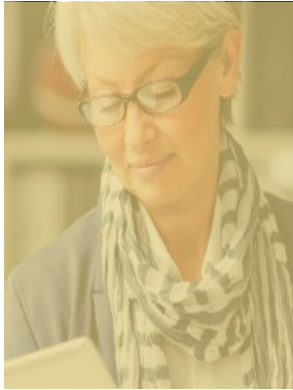


Disclaimer

This presentation does not constitute legal advice and should not be relied on as such.

The presentation reflects key aspects of the RTP Rules as of May 21, 2021. RTP Participants should be aware that the RTP Rules may change from time to time. This presentation is not a substitute for a Participant's own review of the RTP Rules.





INTRODUCTION TO THE RTP LEGAL FRAMEWORK



RTP Agreements

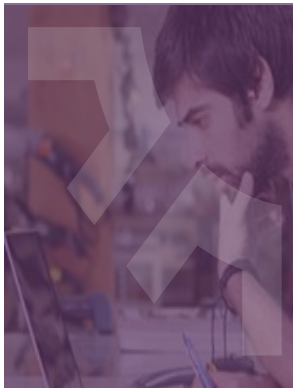
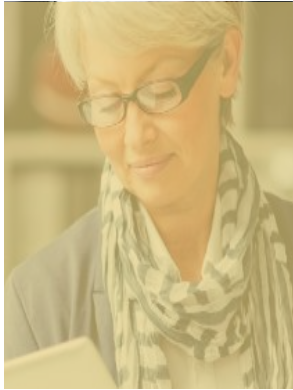
- **RTP Participant Agreement and Indemnity.** All RTP Participants must execute the RTP Participant Agreement. By signing this agreement, a financial institution agrees to abide by the RTP Participation Rules and the RTP Operating Rules (together, the “RTP Rules”), along with the RTP Participant Terms and Conditions.
 - All of these documents are available on TCH’s website at <https://www.theclearinghouse.org/payment-systems/rtp/document-library>.
- **Third Party Service Provider Designation.** RTP Participants that will connect to RTP using a TPSP must execute the TPSP Designation to appoint the TPSP as their agent. The TPSP must also sign.
- **Funding Agent Designation.** RTP Participants that will use a Funding Agent must execute the FA Designation to appoint the FA as their agent. The FA must also sign.
- **RTP Joint Account Agreement.** RTP Participants that do not use a Funding Agent (i.e., “self-fund”) and Funding Agents must execute the RTP Joint Account Agreement by completing the Appendix A letter agreement. This is an Agreement with the FRBNY regarding the jointly owned account used for RTP pre-funding.



RTP Rules

- RTP Participation Rules
 - The Participation Rules set forth the requirements relating to eligibility to participate in the RTP System and the process for becoming a Participant.
 - The Participation Rules also address other topics related to participation in the system, such as the different categories of Participants (e.g., Funding Participants, Non-Funding Participants), requirements relating to use of a Third-Party Service Provider (“TPSP”) or Funding Agent, TCH’s authority to terminate/suspend a Participant, and TCH and Participant liability
- RTP Operating Rules
 - The Operating Rules set out requirements relating to use of the RTP system.
 - The Operating Rules address topics such as sending and receiving RTP Payments and Non-Payment Messages, funds availability, pre-funding and settlement, as well as special topics such as Requests for Payment and Payment Service Providers
- Other Requirements Documents
 - RTP Rules Schedules (e.g., Risk Management and Fraud Control Requirements, Requirements for Request for Payment Customers)
 - RTP Technical Specifications
- RTP Rules Governance
 - RTP Business Committee
 - Input from other stakeholders, interested parties and the public sent to RealTimePaymentsRules@theclearinghouse.org.
- The RTP Rules and Schedules are available on TCH’s website at: <https://www.theclearinghouse.org/payment-systems/rtp/document-library>.





GENERAL PARTICIPANT RESPONSIBILITIES (PART 1)



- Participants are required to operate and manage their RTP activity on a continuous basis twenty-four (24) hours a day, seven (7) days a week, fifty-two (52) weeks a year, including holidays.
- The RTP Technical Specifications (“RTP Continuous Operations Specification”) provide additional detail regarding the “continuous operation” requirement and permissible downtime.
- Specifically, TCH has established a standard of 99% continuous connection measured monthly, during which they must be available to accept or reject Payment Messages or Non-Payment Messages.
 - This allows cumulative non-connectivity of roughly 7.3 hours per month.
 - In addition, TCH will not consider any non-connectivity during a maintenance window each Sunday from 2 AM to 6 AM Eastern Time towards its assessment of the continuous operations standard.
- An updated requirement (establishing a 99.9% connectivity standard, with certain permissible downtime) is scheduled to take effect April 1, 2022.



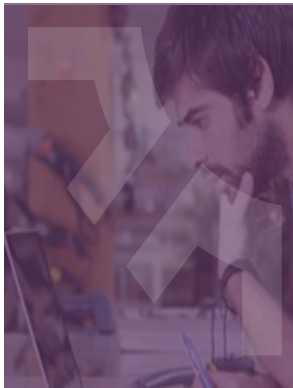
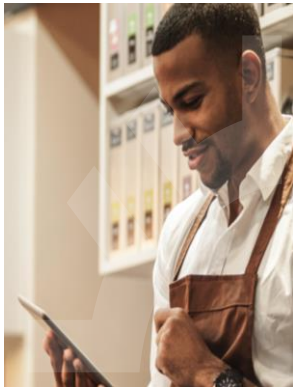
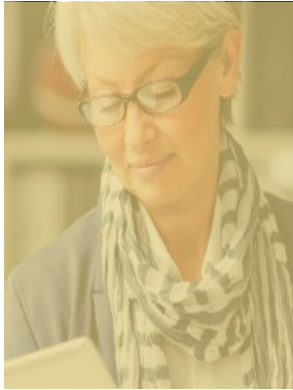
- A Sending Participant may only permit a Sender to initiate an RTP Payment from the Sender's Account
- An RTP Payment may not exceed the general transaction limit of \$100,000.
 - Sending Participants may establish a lower transaction limit for their Senders.
 - Receiving Participants may not establish a lower transaction limit for their Receivers.



- Participants may not reduce the principal amount of an RTP Payment as a means of collecting fees, including when a Participant returns funds in response to a Request for a Return of Funds.
- This rule does not restrict a Participant from charging fees for RTP services.
- TCH has issued an RTP Rules Interpretation that provides additional information and is available here:
 - <https://www.theclearinghouse.org/payment-systems/rtp/-/media/C7D336BA340849ECB8DC6FCDDA6E1D76.ashx>



- RTP Payments or Non-Payment Messages should only be used to determine if account numbers, whether in tokenized or un-tokenized form, are associated with valid, active Accounts when an account number has been given to the Sender (or Message Sender) by an intended Receiver (or Message Receiver) who is expecting to receive one or more Payments from the Sender.



GENERAL PARTICIPANT RESPONSIBILITIES (PART 2)



- The RTP System shall be used by Participants only to effectuate RTP Payments between a Sender and Receiver whose Accounts are located in the United States of America.
- To the extent a Sender sends or a Receiver receives a Payment on behalf of another Person, whether such Sender or Receiver is a Payment Service Provider or not, the Person on whose behalf the Sender sends or the Receiver receives must be a resident of or otherwise domiciled in the United States.
- Participants must inform Senders and Receivers of their obligation to comply with this restriction regarding Payments sent or received on behalf of other Persons and with OFAC regulations in the legal terms that govern their Customers' use of RTP.
- In addition, Participants are required to have a written OFAC compliance program that is reasonably designed to promote and monitor compliance with OFAC sanctions programs and regulations.



- A Participant may not submit a Payment to the RTP System that is instructed by a Sender or instructs payment to a Receiver that is a foreign depository institution.
- In addition, a Participant generally may not submit a Payment to the RTP System that is instructed by a Sender or instructs payment to a Receiver that is a Participant or a domestic depository institution, unless certain exceptions apply.
 - This restriction does not apply to a Participant that acts as an eligible Third Party Service Provider to another Participant under the RTP Rules.
 - There are also certain exceptions under Operating Rule II.B.1.b. that permit a Participant and a non-Participant depository institution to use the RTP System to send and receive their own corporate payments, subject to restrictions and requirements described below.
 - Sending Participants may send RTP Payments in which other Participants or other domestic depository institutions are the Senders and/or Receivers so long as there are no further payable on behalf of and/or receivable on behalf of parties related to the Payment.
 - This provision does not permit a depository institution (i) to be a Sender, if the Payment is being sent by the depository institution on behalf of another party, or (ii) to be a Receiver, if the Payment is being received by the depository institution for further credit to another party.
 - In addition, Participants may not use the RTP network for Cover Payments. “Cover Payment” is defined in the RTP Rules to mean “[a] Payment that pays an obligation owed by one depository institution to another depository institution for a previous payment instruction from the paying depository institution to the payee depository institution.” *Operating Rule I.A.9.*
 - The Sending Participant is responsible for ensuring that RTP Payments meet these requirements if it submits RTP Payments to the RTP System in which a depository institution is the Sender or Receiver, and provides a related warranty to TCH regarding such compliance.



Making Payment Status Information Available to Customers Immediately

Operating Rule II(F)(1)

- Sending Participants and Receiving Participants must immediately make available information regarding the status of an RTP Payment to the Receiver and Sender, respectively, unless the Receiving Participant has rejected the RTP Payment in accordance with the Operating Rules.



- Participants must test and validate their implementation of the RTP Technical Specifications, including updates and changes to the specifications, as directed by TCH from time to time. TCH makes available the RTP Test Solutions for purposes of such testing and validation. *Operating Rule II.K.*
- Participants must complete an annual self-audit to verify compliance with the RTP Rules and submit the Self-Audit Form to TCH. *Operating Rule IX.A.2.*
 - When submitting the Self-Audit Form, a Participant certifies to TCH that it has completed the self-audit and that any material findings of non-compliance, as determined by the Participant's audit standards or risk management framework, were reported to the Participant's audit committee or equivalent body responsible for overseeing the Participant's internal controls.
 - TCH does not require the RTP self-audit to be completed using any specific set of procedures or approach.
 - The RTP Participant Self-Audit Workbook is an optional resource that Participants may wish to utilize to assist with the design and execution of the self-audit.
 - Participants that “go live” on the RTP system by June 30 of a calendar year are subject to the self-audit requirement for that calendar year (and each year going forward).
 - The Self-Audit Form and Self-Audit Workbook can be accessed on TCH's website at: <https://www.theclearinghouse.org/payment-systems/rtp/self-audit>.

