

# RTP Rules and Legal Framework (Part 2)

May 21, 2021

TCH Public

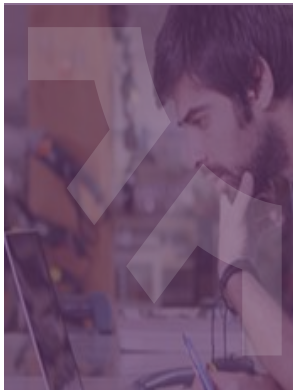
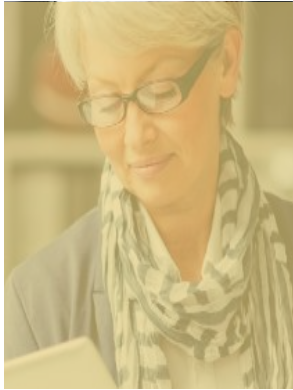


## Disclaimer

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.





## KEY SENDING PARTICIPANT OBLIGATIONS



- Sending Participants must utilize multi-factor authentication to authenticate the identity of customers who transmit Payment Instructions to the Sending Participant.
- Sending Participants must utilize fraud and risk-screening measures prior to submitting a Payment Message to the RTP system.
- Participants are subject to additional requirements set forth in the Risk Management and Fraud Control Requirements schedule, which is available here: <https://www.theclearinghouse.org/-/media/new/tch/documents/payment-systems/tch-rtp-risk-management-and-fraud-control-requirements-schedule-103017.pdf>



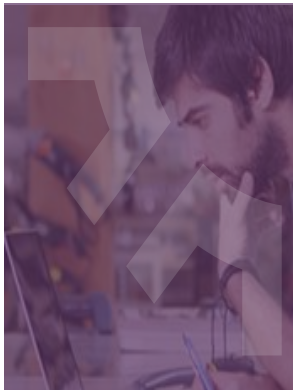
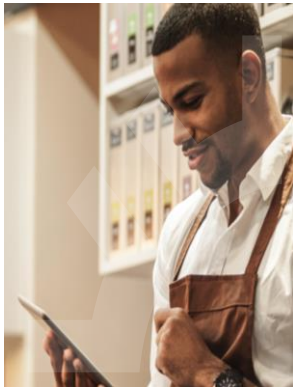
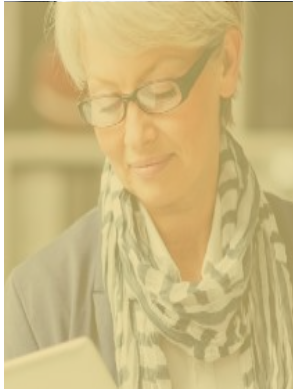
- A Sending Participant becomes obligated to pay the amount of the Payment Message when the Receiving Participant sends an “accept” or “accept without posting” payment status message to the RTP System.
  - This obligation is satisfied when the Payment Message is settled pursuant to the Operating Rule VI(E).
- A Payment Message cannot be cancelled or amended by a Sending Participant once the Payment Message is sent by the Sending Participant to the RTP System. However, a Payment Message may be cancelled by the RTP System in the event of a “time out” (i.e., where the Receiving Participant fails to respond to the Payment Message within the timeframe specified in the RTP Technical Specifications).

- For RTP Payments originating from Accounts of Consumers, the Sending Participant must provide the Sender with the name of the Receiver that is associated with the routing information the Sender has provided to the Sending Participant in the Sender's Payment Instruction.
- A Sending Participant may satisfy this requirement by:
  - Using a directory to look up the name associated with the Receiver's routing information that is provided by the Sender; or
  - Using another reliable method to determine the name associated with the routing information as described in the rules interpretation on this topic
- Under certain conditions set out in the rules interpretation, a Sending Participant does not have to provide a Consumer Sender with the name of the Receiver if the Sender sends an RTP Payment to an account that it has previously sent to without incident.
- The RTP Rules interpretation is available here:
  - <https://www.theclearinghouse.org/payment-systems/rtp/-/media/0bbf8e34e214422e8c7d5c19bf0f6b26.ashx>



- For purposes of this rule “routing information” means information that the RTP Technical Specifications permit a Sending Participant to use to identify the Receiving Participant and Receiver’s Account in a RTP Payment Message.
- A Sending Participant that permits its Senders to provide Payment Instructions that identify the Receiver’s account with an email address, phone number, or other social alias (“social identifiers”) must have risk management in place with respect to any directory the Participant uses to associate such social identifiers with routing information. Such risk management should take into consideration the irrevocable nature of RTP Payments and the need for routing information to be associated with a Sender’s intended Receiver.
- Note: The above rule takes effect on July 1, 2021.





## FUNDING AND SETTLEMENT





- RTP uses a prefunded, real-time, gross settlement model. Prefunding is held in a special deposit account at the FRBNY that is jointly owned by Funding Participants and Funding Agents (the “Prefunded Balance Account”).
- Under the RTP Participation Rules, a Participant may be either a “Funding Participant,” which satisfies its prefunding obligations on its own; or a “Non-Funding Participant,” which uses a Funding Agent to satisfy funding obligations.
- Funding Participants are required to have Federal Reserve accounts and the ability to send Fedwire payments to the Prefunded Balance Account.
- Non-Funding Participants must designate a Funding Agent to act on their behalf to fund in accordance with the RTP Rules.
- A Non-Funding Participant may choose between two types of Funding Agents:
  - a Funding Manager, which provides separate funding for each Non-funding Participant; or
  - a Funding Provider, which provides shared funding for Participants in its “Non-Funding Group.”



- A Non-Funding Participant may choose between two types of Funding Agents:
  - a Funding Manager, which provides separate funding for each Non-funding Participant; or
  - a Funding Provider, which provides shared funding for Participants in its “Non-Funding Group.”
  
- Non-Funding Participants that use Funding Managers. Non-Funding Participants that use a Funding Manager rely on the Funding Manager to satisfy the Participant’s prefunded requirement. The designation of a Funding Manager by a Non-funding Participant does not relieve the Non-funding Participant of its obligation to satisfy its funding obligations under the RTP Rules in the event that the Funding Manager is unable or fails to satisfy the Non-funding Participant’s funding obligation. *Operating Rule VI.B.2.a.*
  - In addition, a Non-funding Participant and its Funding Manager must have appropriate communication and financial arrangements in place to ensure that the Funding Manager meets the Non-funding Participant’s funding obligations in a timely and reliable manner. *Operating Rule VI.B.2.b.*
  
- Non-Funding Participants that use Funding Providers. Non-Funding Participants that use Funding Providers are members of a Non-Funding Group. Such Participants do not have funding obligations under the RTP Rules. Rather, the prefunded requirement belongs directly to the Funding Provider, and the system liquidity resulting from Funding Provider’s funding belongs to the Funding Provider, which permits the Non-funding Group to use its liquidity. *Operating Rule VI.B.3.*
  
- TCH can require a different funding arrangement if an arrangement is unreliable or creates risk for the RTP system. *Operating Rule VI.B.1.d.*



# Prefunded Requirement and Settlement (Overview)

- The RTP System is a prefunded, real-time gross settlement (RTGS) system.
- Settlement happens on the RTP ledger 24x7 and is irrevocable.
- Negative Prefunded Positions are not permitted.
- No credit risk

## Prefunding

- Minimum Prefunded Requirement established for each Sending Participant or its Funding Provider.

## Positions

- Prefunded Position. Based on prefunding, net position (payment activity), and disbursements.
- Net Position. Used for settlement.

## Settlement

- Immediate and irrevocable
- Debit to Sending Participant's Net Position and credit to Receiving Participant's Net Position.

## Supplemental Funding and Disbursement

- "top up" if position falls below Prefunded Requirement
- Disbursement can be requested for amounts above Prefunded Requirement



### Prefunded Requirement

- TCH will determine a Prefunded Requirement for each Sending Participant that (i) is a Funding Participant or (ii) is a Non-Funding Participant that uses a Funding Manger.
- Prefunded Requirements will be based on relevant factors, as determined by TCH, which may include the Sending Participant's domestic transaction account deposit balances and/or anticipated and actual RTP activity.
- Such Sending Participants must satisfy the Prefunded Requirement (either directly as a Funding Participant, or through a Funding Manager) by transferring funds in the amount of its Prefunded Requirement to the Prefunded Balance Account before the Participant can begin sending Payment Messages.
- TCH will also determine a Prefunded Requirement for Funding Providers. The system liquidity resulting from the Funding Provider's funding belongs to the Funding Provider, which permits the Non-Funding Group to use its liquidity.

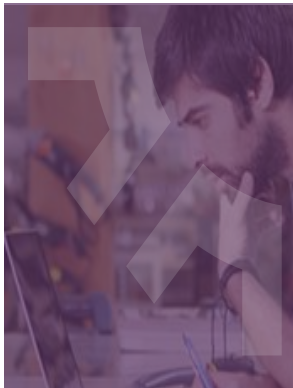
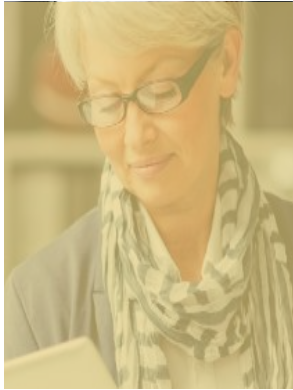
### Settlement

- The RTP system continuously maintains Net Position for each Participant (regardless of their funding model) and settles each Payment in real time by increasing the Net Position of the Sending Participant and decreasing the Net Position of the Receiving Participant on the system ledger. Increases and decreases to a Participant's Net Position results in corresponding increases and decreases to the Participant's (or its Funding Provider's) Prefunded Position. Each Prefunded Position is backed dollar-for-dollar by the funds in the Prefunded Balance Account. *See Operating Rules VI.C.3.b and VI.E.*



- Supplemental Funding and Obligations to Manage Positions. The RTP system continuously maintains a Current Prefunded Position (CPP) for each Funding Participant (or Non-Funding Participant that uses a Funding Manager) that is based upon any prefunding the Participant has provided and adjusted based upon its payment, disbursement, and supplemental funding activity. *See Operating Rule VI.C.3.c.*
  - Each Participant with a CPP must (directly or through a Funding manager, as applicable) monitor and manage its CPP at all times and provide supplemental funding to “top up” to a Participant or Funding Provider’s Prefunded Requirement should happen (i) no later than the next opening of Fedwire, if the Current Prefunded Position falls below the Prefunded Requirement during hours when Fedwire Funds is closed, or (ii) before the next close of Fedwire, if the Current Prefunded Position falls below the Prefunded Requirement during hours when Fedwire is open. *Operating Rule VI.D.2.a-b.*
  - A Sending Participant must also monitor and manage its Current Prefunded Position and provide supplemental funding as needed prior to the close of Fedwire so that its CPP will not fall below its Prefunded Requirement and ensure it has sufficient liquidity to cover anticipated payment origination activity when Fedwire is closed. *Operating Rule VI.D.3.* Note that Participants are expected to maintain Excess Liquidity for no purpose other than their reasonably anticipated liquidity needs for their RTP Payments. *Operating Rule VI.C.1.e.*
- Disbursements of Excess Liquidity. A Funding Participant (or Non-Funding Participant with a Funding Manager) may request a disbursement of the amount of any Excess Liquidity (the amount of a Participant’s CPP that exceeds the Participant’s Prefunded Requirement) from the Prefunded Balance Account during Fedwire operating hours. *Operating Rule VI.G.* TCH may require a Participant to request a disbursement if TCH determines that the Participant’s Excess Liquidity is not consistent with the Participant’s RTP activity. *Operating Rule VI.C.1.e.*





## KEY RECEIVING PARTICIPANT OBLIGATIONS



- A Receiving Participant must immediately respond to a Payment Message with one of the following Payment Message Responses:
  - Accept;
  - Reject; or
  - Accept without Posting.

- Receiving Participants are generally required to accept all Payment Messages that conform to the RTP Technical Specifications.
- However, a Receiving Participant is not required to accept a Payment Message (and may reject it) if one of the following exceptions applies:
  - (i) the identified Receiver Account is closed, invalid, or being monitored for suspected fraudulent or other illegal activity, or is not a “transaction account” as defined in the Federal Reserve Board’s Regulation D;
  - (ii) an Account owner has indicated that it does not wish to accept all or certain specified RTP Payments for the Account; or
  - (iii) the Payment Message cannot be accepted due to legal or regulatory compliance requirements.
- If a Receiving Participant accepts a Payment Message, it must provide immediate funds availability to the Receiver. *Operating Rule VI(E)(1)*.

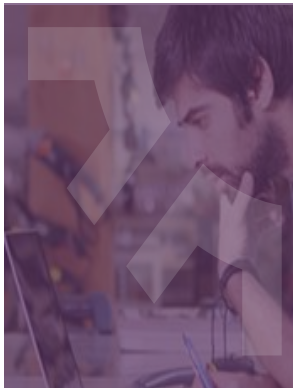
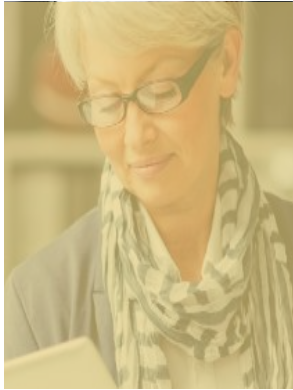




- Receiving Participants may not establish cut-off times for receiving Payment Messages that would cause a Payment associated with a Payment Message to be made on a different RTP Day (calendar day) than the RTP Day on which the Payment Message was received or otherwise delay funds availability as required by the RTP Rules.

- A Receiving Participant may send an “Accept without Posting” message when it has not yet determined whether to send an “Accept” or “Reject” message in response to the Payment Message and will not provide immediate funds availability to the Receiver due to the need to review the RTP for legal or compliance purposes.
- An Accept without Posting message *may not* be used for any other reason outside the need to review for legal or compliance purposes. “Legal and compliance purposes” may include AML or sanctions compliance, suspected fraud, or if the account is subject to certain court-ordered restrictions.
- A Receiving Participant that accepts without posting is expected to determine by 11:59 p.m. local time the next business day following its “accept without posting” message whether the Receiving Participant will make funds available to the Receiver, except in cases in which the RTP Payment is being reviewed for compliance with sanctions laws applicable to or otherwise complied with by the Receiving Participant.
  - Upon making its decision, the Receiving Participant must, as applicable, either (i) make funds available and send a follow up acknowledgement message to the Sending Participant or (ii) refund the amount of the Payment to the Sending Participant.





## REQUESTS FOR RETURN OF FUNDS, ERROR RESOLUTION, FRAUD REPORTING



## Cooperation; Requests for Return of Funds

Operating Rules II(I)(3), VII(C), RTP Standard Optional Indemnity Schedule

- The RTP Operating Rules require Participants to reasonably cooperate among themselves and with TCH in attempts to address and recover erroneous RTP Payments. *Operating Rule II.1.3*. The fact that RTP Payments are final and irrevocable does not negate this duty to reasonably cooperate.
- A Sending Participant may send a Request for Return of Funds for any reason, including to request a return of funds related to an erroneous RTP Payment or an RTP Payment made in response to a fraudulent Request for Payment.
- When sending a Request for Return of Funds, a Participant may offer an optional indemnity, as provided in the RTP Standard Optional Indemnity Schedule (by selecting a “with indemnity” code when sending the Request for Return of Funds message).
- A Participant that receives a Request for Return of Funds is not required to return the funds.
  - The Participant is, however, required to respond within ten banking days, except when the Request for Return of Funds message is sent due to claimed fraud (“FRAD”) or breach of a Request for Payment warranty (“UPAY”).



- The limitation of liability and error resolution requirements of the EFTA and Regulation E are applicable to erroneous and unauthorized consumer payments conducted through RTP.
- If a consumer Sender or consumer Receiver claims that an error has been made with respect to a RTP Payment, pursuant to Regulation E the Sending Participant or Receiving Participant must investigate the error, report the results of the investigation, and correct any error.
- Although RTP provides a Request for Return of Funds message, which can be used when a Sending Participant determines that a RTP Payment was unauthorized, the Sending Participant's obligation under Regulation E to correct the error by crediting the Sender's account is independent of whether it requests or receives a return of funds from the Receiving Participant. The amount that the Sending Participant would be liable for is specified in Regulation E (12 CFR 1005.6).

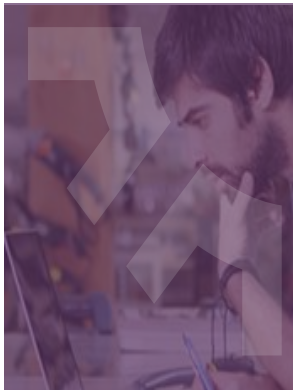
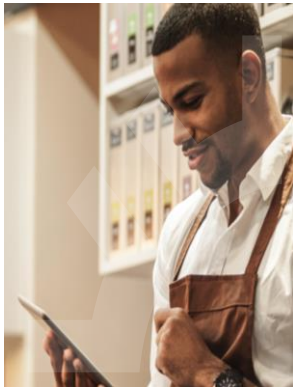
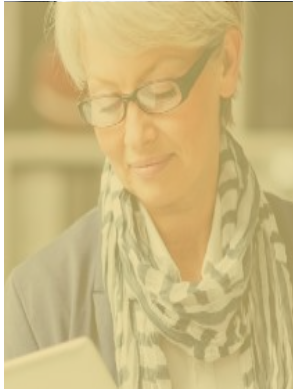


- The requirements of Article 4-A of the New York Uniform Commercial Code apply with respect to erroneous or unauthorized transactions that are not subject to the EFTA.
- Article 4-A allocates responsibility for various errors between the parties to a funds transfer. With respect to unauthorized RTP Payments, liability as between the Sender and the Sending Participant will be determined based upon Article 4-A's security procedure framework.
- As with unauthorized consumer Payments, whether a Participant returns funds in response to a Request for Return of Funds does not alter a Sending Participant's Article 4-A obligations to the Sender with respect to an unauthorized RTP Payment.



- Participants are required to (i) act on alerts from TCH regarding suspected fraud; and (ii) report fraud to TCH.
- TCH has issued a Rules interpretation elaborating on these requirements.
  - TCH Fraud Alerts. Participants that receive fraud notifications from TCH are expected to take reasonable steps in a timely manner to (i) incorporate the information into existing fraud prevention processes, procedures or programs; and (ii) use the information to take appropriate action with respect to particular customers, to the extent TCH has provided the notice on an individual Participant level.
  - Fraud Reporting. To comply with the requirement to report fraud, a Sending Participant that has determined an RTP payment was unauthorized must report the unauthorized payment by sending a Request for Return of Funds message (camt.056) to the Receiving Participant with the “FRAD” reason code.
    - Participants are also required to report to TCH material findings (such as patterns or persistent threats) regarding (i) Unauthorized Payments; or (ii) authorized Payments that were sent in response to a Request for Payment that the Sender claims was deceptive or misleading.
- The RTP Rules Interpretation is available here: <https://www.theclearinghouse.org/payment-systems/rtp/-/media/D8765383FC804BC6A8F5E4CCE2E1BE61.ashx>





## REQUESTS FOR PAYMENT





- General. A Participant's customer may submit a Request for Payment (RFP) message to the RTP System to request payment from a customer of another Participant. An RFP is not a debit, and the RTP Rules do not require a customer that receives an RFP to make a payment through RTP in response. *Operating Rule VII.B.1.*
- Delivery.
  - The Participant that receives the RFP is required to deliver the RFP to its customer, unless the customer has elected not to receive (i) RFPs from the person that initiated the RFP, or (ii) all RFPs. *Operating Rule II.F.2.c.*
  - While the RTP Rules permit Participants to allow their customers to opt out of receiving RFPs, the Rules do not require a Participant to permit their customers to opt out or provide a specific opt out notice.
  - If an RFP is not delivered to the customer, the Participant that received the RFP is required to notify the Participant that sent the RFP that the RFP was not delivered. *Operating Rule VII.A.3.*



- A Participant that sends a RFP to the RTP System must:
  - Ensure that the Request for Payment complies with the RTP Technical Specifications;
  - Comply with the Requirements for Request for Payment Customers, which is a schedule to the RTP Rules;
  - Warrant that each RFP it sends is made for a legitimate purpose and is not fraudulent, abusive, or unlawful;
  - Take corrective action with respect to a Customer that has initiated Requests for Payment that are not made for a legitimate purpose or are fraudulent, abusive or unlawful (e.g., suspend ability to initiate RFPs or ability to receive Payments); and
  - Respond to reports from TCH regarding abuse of RFPs.
  
- The Requirements for Request for Payment Customers schedule describes the due diligence and monitoring requirements applicable to Participants that TCH has approved to submit Requests for Payment. Among other things, such Participants must:
  - Implement documented procedures for performing appropriate, risk-based due diligence on a Customer that seeks to initiate Requests for Payment;
  - Implement documented procedures for monitoring Requests for Payment submitted by a Customer;
  - Implement documented procedures for investigating any report of fraudulent or abusive Requests for Payment received from any source, including TCH, a Customer, or another Participant; and
  - Retain the right to suspend a Customer’s ability to initiate Requests for Payment immediately upon the Participant’s determination that the Customer is misusing Requests for Payment or at TCH’s direction.



## Requests for Payment – Legitimate Purpose

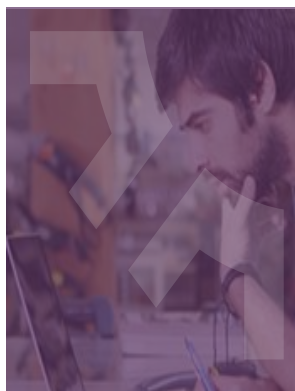
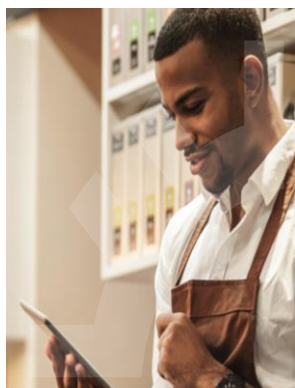
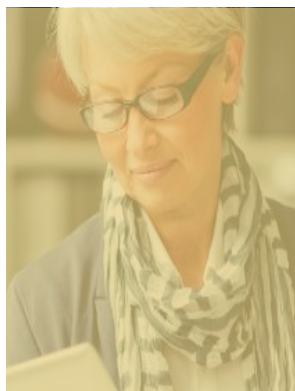
### Operating Rules VII(B)(2)(c) and VII(B)(3)

- Operating Rule VII.B.2.c requires Participants that send Requests for Payment to warrant to TCH and to the Message Receiving Participant that the Request for Payment is made for a legitimate purpose and is not fraudulent, abusive, or unlawful.
  
- The RTP Rules define the meaning of “legitimate purpose” and distinguish between Requests for Payment initiated by a non-Consumer Customer and a Consumer Customer.
  - RFPs Initiated by a non-Consumer Customer. Requests for Payment initiated by a non-consumer Customer are made for a legitimate purpose when they are sent to request payment for (i) a current sale or transaction; or (ii) an amount that is due, owed or otherwise agreed to be paid to the Customer of the Participant sending the RFP. *Operating Rule VII.B.3.a.*
  
  - RFPs Initiated by a Consumer Customer. Requests for Payment initiated by a Consumer Customer are made for a legitimate purpose when they are sent to request payment from a Person who (i) is known to the Message Sender’s Customer and (ii) would reasonably expect to receive the Request for Payment from the Message Sender’s Customer. *Operating Rule VII.B.3.b.*



- As noted previously, Operating Rule VII.B.2.c requires Participants that send Requests for Payment to warrant to TCH and to the Message Receiving Participant that the Request for Payment is made for a legitimate purpose and is not fraudulent, abusive, or unlawful.
- Under the RTP Participation Agreement and Indemnity, a Participant that breaches the warranty in Operating Rule VII.B.2.c (“RFP Warranty”) would be liable to and must indemnify another Participant to the extent the other Participant has costs, charges, expenses, losses, etc. resulting from the breach of warranty.
- Note, however, that the RFP Warranty does not create a new consumer (or corporate customer) right, or change the nature of RTP Payments as final and irrevocable.
  - Absent a legal obligation outside of the RTP rules, it is a Sending Participant’s decision whether it will compensate its customer for a RTP Payment sent in response to a “bad Request for Payment” (i.e. that is not made for a legitimate purpose or is fraudulent, abusive, or unlawful).
  - A Sending Participant may send a Request for Return of Funds message to attempt to recover funds from the Receiving Participant in the event of a customer dispute or error regarding an RTP Payment. It is a Receiving Participant’s decision whether it will return funds in response to a Request for Return of Funds; returning funds in response to a Request for Return of Funds is always voluntary, even when related to a bad RFP.
- The RFP Warranty enables a Sending Participant that has absorbed the cost related to a bad RFP and whose customer has a legal claim to compensation under its account agreement or some other area of law, to bring a claim against the Receiving Participant outside of the RTP system.





Visit the RTP Document Library for additional information and RTP Rules material:

<https://www.theclearinghouse.org/payment-systems/rtp/document-library>

