



Stephen M Vajs
Director, Risk Management Division
Financial Management Service
U.S. Department of the Treasury
Room 423
401 14th Street, SW
Washington, DC 20227

RE: 31 CFR Part210-Government Participation in the Automated Clearing House ("ACH") Network

Dear Mr. Vajs;

On behalf of WACHA, I respectfully submit these comments in response to the notice of proposed rulemaking("NPRM") issued by the Treasury Department's Financial Management Service ("FMS") regarding proposed changes for Federal agency payments. WACHA represents 379 financial institutions in the 7th Federal Reserve District. When talking with our members we found significant concerns with a number of proposals.

A. 4. Re-Presented Check Entry Service Fees

FMS is proposing to reduce the authorization requirement for collecting service fees for returned checks that have been represented using the RCK application. FMS is proposing to reduce this authorization to simple disclosure to the Receiver at the point where the original check was accepted for payment. The NACHA rules require a separate written authorization. However, Regulation E states that notice = authorization and that NACHA rules require greater consumer protection and that if NACHA changed its rules then Regulation E would change. Currently, the state of WI was sued on this ruling because they required a company to follow the NACHA rules. The WI Department of Financial Institution Consumers Affairs Department has received numerous complaints about companies who are collecting a fee on notice = authorization. Consumers are already confused and not sure who has their account information and then to be charged a fee electronically without any type of written authorization would only create more concern as how did the company/government obtain their account information. We have come a long way in promoting Direct Deposit and actions as proposed may discourage people about electronic payments that anyone can charge their account at anytime.

B. Reclamations; Misdirected Payments

(1) Mandatory Use of R15 or R14 Return Reason Codes

While the proposal would seem to offer simplicity and clarity, placing the liability on the RDFI if they did not use the correct return code when in actuality they did because the account is actually closed is without reason. This is an automatic process and the RDFI would have to research as to why the original account was closed. In addition, SSA and SSI are consistently informing financial institutions that they have accidentally returned a payment when it should not have been using an R14 and R15 thus this proposed rule change would cause the agencies to see an increase of incorrect returns.

(2) To provide that financial institutions are not liable for post-death benefit payments to which the recipient was entitled;

Currently a benefit recipient has to be alive on payment date because the financial institution does not know if the estate is entitled to the benefit payment or not. If the financial institution was to rely on the determination of the certifying agency as to whether a recipient is entitled to a post-death payment would be very confusing. The financial institutions focuses on payment not entitlement. If this change was to occur the financial institution is placed in the middle of whether or not to return payment(s) and thus would increase their liability. It would also cause an agency to tell the entity entitled to the payment a different interpretation than the financial institution.

(3) Misdirected payments and notifying the agency:

Currently, the NACHA rules notify the agency by having the Receiving Depository Financial Institution (RDFI) send an NOC (Notification of Change) to change the account information. This is electronic and the liability moves from the Agency to the RDFI. If you had a Financial institution call, it would place additional burden and create a chance for error because you would have no written documentation. In addition, contacting an agency is also difficult, numbers and functions of departments change. The maintenance and up keep creates tremendous burden on the agency as well as the financial institution.

(4) Seven year Limit on Reclamations

According to the NACHA Rules all ACH records must be maintained for 6 years. If you were to change this rule to allow government agencies to reclaim payments that was made more than seven years prior to the date of the notice of reclamation would create additional costs for the financial institutions as they would have to maintain all of their ACH records for 7 years vs 6 years. However, we do support the change of not allowing an agency to reclaim payments as far back as deemed.

WACHA and its member financial institutions again would like to thank FMS on the ability to comment on these issues. WACHA and a few other regional payment associations helped rewrite the Green Book the last time changes were made. We would again extend offer to assist in this process. If you have any questions please feel to contact me by e-mail at: mschnell@wacha.org, or by telephone at (262)-796-0252.

Sincerely,

Mary Schnell AAP
President