



13450 Sunrise Valley Drive • Suite 100 • Herndon, VA 20171
Phone: 703-561-1100 • Fax: 703-787-0996
eMail: info@nacha.org
www.nacha.org

July 22, 2011

[Via e-mail to NSTICnoi@nist.gov](mailto:NSTICnoi@nist.gov)

U.S. Department of Commerce
National Institute of Standards and Technology
c/o Annie Sokol
100 Bureau Drive, Mailstop 8930
Gaithersburg, MD 20899

RE: Docket No. 110524296-1289-02; Models for a Governance Structure for the National Strategy for Trusted Identities in Cyberspace

Dear Ms. Sokol:

NACHA – The Electronic Payments Association¹ respectfully submits this response to the Department of Commerce’s National Institute of Standards and Technology (“NIST”) Notice of Inquiry (the “NOI”) regarding *Models for a Governance Structure for the National Strategy for Trusted Identities in Cyberspace* (“NSTIC”). The NOI seeks responses to specific questions concerning the formation, structure, functions and processes of a new governing body referred to in the NSTIC as the “Steering Group.” The Steering Group would oversee the process for policy and standards development for the “Identity Ecosystem Framework” – an overarching set of interoperability standards, risk models, privacy and liability policies, requirements, and accountability mechanisms that govern the Identity Ecosystem. This would be done in accordance with the NSTIC’s guiding principles that identity solutions must be:

- Privacy-enhancing
- Voluntary
- Secure and resilient
- Interoperable

¹ NACHA manages the development, administration, and governance of the ACH Network, the backbone for the electronic movement of money and data. The ACH Network serves as a safe, secure, reliable network for direct consumer, business, and government payments, and annually facilitates billions of payments such as Direct Deposit and Direct Payment. Utilized by all types of financial institutions, the ACH Network is governed by the *NACHA Operating Rules*, a set of fair and equitable rules that guide risk management and create certainty for all participants. As a not-for-profit association, NACHA represents nearly 11,000 financial institutions via 17 regional payments associations and direct membership. Through its industry councils and forums, NACHA brings together payments system stakeholders to enable innovation that strengthens the industry with creative payment solutions. To learn more, visit www.nacha.org, www.electronicpayments.org, and www.payitgreen.org.

- Cost-effective
- Easy to use

The NOI seeks comment on the structures and processes for Identity Ecosystem governance. The NOI is not soliciting comments or advice on the policies or entities that will be chosen by the Steering Group or specific issues such as accreditation or trustmark schemes, which will be considered by the Steering Group at a later date.

NACHA Comments

NACHA has considerable experience upon which to draw in its response to this NOI. This experience includes its administration of the *NACHA Operating Rules* governing the ACH Network, its involvement in a number of different public-private partnerships in electronic benefits delivery, internet authentication, and credentialing (see Appendix I),² and its history of facilitating stakeholders to test and develop authentication solutions in the financial services arena (see Appendix II).

NACHA is also a founding member and active participant on the Financial Services Sector Coordinating Council (“FSSCC”), which has a long track record of involvement and industry representation on cyber security matters. We understand FSSCC is responding to the NOI on behalf of the financial services sector and NACHA also supports that response.

We look forward to supporting this initiative directly and through the FSSCC.

1. Structure of the Steering Group

There are many models of governance that perform some of the wide range of functions needed to formulate and administer the Identity Ecosystem Framework. While not all of these functions are unique to the Steering Group, few examples of governance cover the same breadth of the technical and economic landscape as the Identity Ecosystem Framework. The Steering Group, therefore, has a greater risk of either being too small to serve its purpose, or too large to govern effectively. There is a full spectrum of affected economic sectors, some of which are highly-regulated and some of which are unregulated.

The Steering Group will need to integrate the Identity Ecosystem Framework with regulatory requirements faced by firms in a variety of industry sectors. At the same time, the Steering Group needs to consider and represent the interest of the broader public in security and privacy. It is imperative to find a working structure that accomplishes all these needs, but is limited to perhaps as few as fifteen seat holders at any given time representing the critical sectors and perspectives. In this way, with this size, the Steering Group could effectively act, while still representing the interests of its core constituencies.

² Current involvement includes the “Collaborative Forum” of stakeholders identifying more efficient and secure means for delivering benefits payments. Past involvement includes the e-Authentication Initiative (with GSA), the Federated Identity and Cross-credentialing System (FIXS), and the FI Authentication Forum (initiated in 2004 by the Internet Council), and others. These are outlined more fully in the Appendix to this response.

A significant challenge in structuring the Steering Group will be effectively reflecting the breadth and diversity of stakeholders who should be represented. Considering the large number of stakeholders, a hierarchical structure would seem appropriate through which the greatest number of stakeholders could engage without compromising the Steering Group's ability to act, and it can exercise its ability to call upon outside experts as required. Further, through workgroups organized along functional lines (e.g. legal, technical, business models, and policy) and represented on the Steering Group, all stakeholders would have an opportunity to participate in all issues and decisions. Consistent with the FSSCC's response, an existing organization that comes close to representing the number and diversity of global interests and skills is the Internet Corporation for Assigned Names and Numbers (ICANN). ICANN has a Board of Directors whose composition rotates and is voted on by the members, a number of Working Groups and Committees, an Ombudsman, a President and CEO and full time staff. ICANN therefore represents a model to look to when defining the structure of the Steering Group against the objectives specified. Another example from NACHA's own experience of convening diverse entities in a structured manner with a common purpose was the Electronic Benefits & Services (EBS Council), which had a representative governing body elected from much larger and very disparate membership.³

What makes the proposed Steering Group even more difficult to sketch out at this time is the lack of an existing, defined and operational Identity Ecosystem. Since sharpening the focus of this Ecosystem, and nurturing its evolution, is the primary objective of the Steering Group, the process must allow for flexibility, changing market factors, and empowerment of the private sector. The structure of the Steering Committee, its specific responsibilities, its authority, and the manner in which it operates therefore must be transparent and well-defined (e.g., through a charter/by-laws that include a defined process for their amendment). Most importantly, it must be embraced by the stakeholder community and ultimately supportive of this higher objective.

With respect to the Identity Ecosystem objective itself, we support FSSCC's recommendation that from the outset the understanding prevail that the policies, guidance and standards issued by the Steering Group will not be overly prescriptive. Instead they should be confined to broad guidelines and objectives (e.g. identifying the need for any framework/solution to address security and privacy concerns, to have processes and approaches for dispute resolution). Further, the Steering Group should recognize that different sectors have different needs that can result in many different types of identity frameworks needing to co-exist and interoperate. A wide range of business models, technical approaches and process flows should therefore be supported, requiring only the minimal standards necessary to permit interoperability amongst differing approaches. Establishing and obtaining acceptance of this understanding of the objective among the stakeholders up front, as the structure of the Steering Group itself is defined, will be critical to upholding the Guiding Principles of the Strategy through effective, supportive stakeholder engagement.

2. Steering Group Initiation

In its role of supporting the private sector's leadership of the Identity Ecosystem, the government's aim is to accelerate establishment of a Steering Group that will uphold the Guiding Principles of the Strategy. The government thus seeks comment on the ways in which it can be a catalyst to the establishment of the Steering Group.

³ Attached is a copy of the original EBS Council Charter showing the different categories of members and how these perspectives were represented in the governance of the Council.

In our view, funding the Steering Group's establishment and operations is a critical factor. The Federal government should be prepared to pay for the start-up costs and administrative support, at a minimum, to ensure the Steering Group launches on a solid footing. Private-sector stakeholders, generally, could be expected to cover their own costs of travel and resources, with scholarships/funding assistance available to ensure participation of any critical organizations with a financial need.

A strong launch does not guarantee success, however; the funding approach must reflect a longer term perspective. In our experience, there are numerous examples (including our own EBS Council) where participation and funding levels were significant at the outset as stakeholders eagerly sought the means to address specific challenges through newly defined rules, standards, practices, etc. However, as those initial challenges were met and the role of the respective initiatives transitioned into more of an administrative/maintenance nature, the level of dedicated participation – and funding – invariably declined over time. NACHA believes that NSTIC, over the long term, is likely to be subject to the same transitional forces from development to administration. Therefore, we believe it is critical to understand and plan for this at the outset through a consistent funding source that will support the Steering Group throughout its lifespan.

3. Representation of Stakeholders in the Steering Group

NACHA agrees that representation of all relevant stakeholders in the Identity Ecosystem, in a balanced manner, will be a difficult objective to reach but it is essential to the mission. Equally essential is ensuring the process of engagement in policy formulation is fair and transparent. We further concur that the Steering Group must be accountable to all participants in the Identity Ecosystem, including individuals, and that every effort must be made to include organizations or individuals who may not be direct participants in the Identity Ecosystem, such as privacy and civil liberties advocacy groups.

As noted above, the structure of the Steering Group will benefit from the (1) establishment of workgroups organized most likely along functional lines, and (2) inclusion of diverse stakeholder interests and industries (financial institutions and payments systems being key examples) through their representative organizations. Financial services industry representation will be critical, reflecting that the industry's need for the highest levels of assurance provides a unique and important operational perspective.

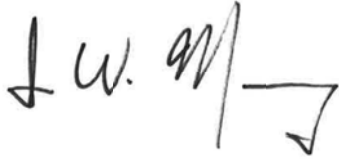
4. International

NACHA agrees that the Identity Ecosystem cannot be isolated from internationally available online services and their identity solutions, and that international interoperability should be an objective. It is also clear to us that no single entity, including the Federal government, can effectively participate in every international standards effort, meaning that international integration of the Identity Ecosystem will depend in great part upon private sector leadership.

* * *

Again, NACHA appreciates the opportunity to provide comments on the Board's Proposed Rule. If you have any questions regarding our comments, please do not hesitate to contact me at imacoy@nacha.org, or (703) 561-3929.

Sincerely,

A handwritten signature in black ink, appearing to read "I.W. Macoy". The signature is stylized with a large, sweeping "M" and a checkmark-like flourish at the end.

Ian W. Macoy, AAP
Managing Director, Government & Industry Outreach

Appendix I: Public-Private Partnership Initiatives Involving NACHA

Appendix II: Authentication Solutions Development

Attachment: Charter of the EBS Council

APPENDIX I: PUBLIC-PRIVATE PARTNERSHIP INITIATIVES INVOLVING NACHA

1. Electronic Benefits and Services (EBS) Council⁴ and Development of the *QUEST Operating Rules*[®]

Purpose: NACHA's EBS Council was established to bring together financial institutions, electronic benefit transfer (EBT) service providers, payment networks, merchants, government entities, trade associations and others representing the interests of state and local governments. The Council's first major accomplishment was developing the *QUEST Operating Rules*[®] which were first approved on April 25, 1996. The *Rules* govern the delivery of EBT transactions in 44 states, the District of Columbia and the U.S. Virgin Islands. They provide for uniformity and interoperability between EBT programs (allowing for portability of benefits and access), and are consistent with commercial Infrastructure.

Status: NACHA continues to maintain the *QUEST Operating Rules*[®], with the ability to update them to accommodate new technology and reflect developments in EBT. The functions and membership of the EBT Council unrelated to *Rules* administration were acquired by the Electronic Funds Transfer Association (EFTA) with effect from January 2009, and merged into what is now EFTA's *eGovernment Payments Council*.⁵

2. Collaborative Forum

Purpose: The Collaborative Forum provides an open and transparent venue for State and local officials as well as federal and non-governmental stakeholders for the purpose of providing and consulting on potential pilot projects to be funded by the Partnership Fund for Program Integrity Innovation (Partnership Fund). These pilot projects further the Forum's four key objectives regarding the administration of Federal assistance programs:

- Improving payment accuracy
- Improving administrative efficiency
- Improving service delivery
- Reducing access barriers.

The purpose of the Forum is not to make policy recommendations but to develop innovative concepts that promote these key objectives while considering that the total collective spending effects from all pilots must maintain cost neutrality.

NACHA Role: NACHA is an active participant as a non-governmental organization representing EBT experience and *QUEST Operating Rules*[®] for state-sponsored EBT programs.

Status: The Forum was established in 2010 and remains in operation.

3. Certification Authority Rating and Trust (CARAT)

Purpose: State governments were actively pursuing methods for creating non-legislative standards for the use of digital signatures verifiable through public key certificates. In May 1997, the National Association of State Information Resource Executives (NASIRE), the National Association of State Purchasing Officers

⁴ At establishment, "Electronic Benefits Transfer (EBT) Council." Name subsequently changed to EBS Council

⁵ See <http://www.efta.org/eGovernmentCouncil.php>.

(NASPO), the National Association of State Auditors, Comptrollers and Treasurers (NASACT), and several states, sought to create a forum to explore this issue in collaboration with private sector participants.

The initiative produced Guidelines that help organizations create closed, but interoperable public key infrastructures (PKIs) that can be used to facilitate pilot projects employing public key technology. Such organizations, called *Policy Authorities*, can use the Guidelines to analyze their particular needs and to construct a PKI that meets those needs. One important product of that analysis is likely to be a *Certificate Policy*, which may be thought of as a charter for a particular PKI. A Certificate Policy defines who the parties are, the relationships and obligations of the parties to one another, and what uses are acceptable within the PKI. The Guidelines suggest that Policy Authorities use contracts to make the provisions of a Certificate Policy legally binding among the parties.

NACHA Role: Following a competitive solicitation of proposals, NACHA was selected by the aforementioned state representatives and established the Certification Authority Rating and Trust (CARAT) Task Force through the Internet Council.

Status: NACHA published the *CARAT Guidelines* in 2000.⁶ The CARAT evaluation process and resulting Guidelines helped spawn the formation of Identrus.

⁶ *CARAT Guidelines: Guidelines for Constructing Policies Governing the Use of Identity-Based Public Key Certificates*, NACHA, January 2000.

APPENDIX II: **AUTHENTICATION SOLUTIONS DEVELOPMENT**

1. Authentication & Network of Trust (ANT)

Purpose: NACHA's Internet Council established the ANT work group in July 1997 to explore how FIs could provide Certification Authority (CA) services, and to test this through a pilot.

NACHA Role: The Internet Council developed and administered the *CA Interoperability Pilot* through the ANT work group.

Status: The CA Interoperability Pilot ran from June through October 1998 with participation from FIs, technology vendors and merchants. Guidelines based on Pilot results were published by NACHA in 1999.⁷ Among other things, these guidelines:

- Evaluated the role of FIs as certification authorities
- Defined legal framework, business practices, and technical specifications for organizations seeking to create closed, but interoperable public key infrastructures (PKIs) that can be used to facilitate pilot projects employing public key technology.

The Pilot and CARAT evaluation processes also helped spawn the formation of Identrus.

2. Internet Secure ATM Payments (ISAP) Pilot

Purpose: A pilot process was developed allowing consumers to use Internet-enabled ATM/debit cards to make Internet-initiated debit payments from their checking accounts processed through Electronic Funds Transfer (EFT) networks. The pilot relied on public key infrastructure (PKI) using digital signatures rather than PINs to validate transactions. It demonstrated technical standards, business practices and operational rules for EFT Networks to facilitate the acceptance of secure Internet-initiated ATM/debit card payments. To evaluate/develop technology to transport Internet-initiated ATM /debit card payments secured by digital signatures through EFT networks.

NACHA Role: The pilot was developed and administered by NACHA's Internet Council.

Status: The Pilot successfully concluded in 2000.

3. Financial Institution Authentication Forum

Purpose: The Forum established an environment for FIs to openly share information and identify best practices and guidelines for authentication and identity management across the industry. The Forum supported:

- FIs' need to confer on issues, raise awareness and promote an industry position
- Consensus-building in the area of federated identity, identity management, and authentication
- A unified FI-centric voice for feedback to standards-setting bodies

⁷ *Certification Authority Interoperability: From Concept to Reality*, NACHA Internet Council, 1999.

NACHA Role: The Forum was established and managed by NACHA's Internet Council. It was comprised of regulated depository financial institutions which were council members.

Status: The Forum operated from 2004 – 2007 to respond to the increasing demand from the government and industry for FI solutions in identity management. Its function was ultimately subsumed by the Internet Council.

ATTACHMENT

CHARTER OF THE EBS COUNCIL OF THE NATIONAL AUTOMATED CLEARING HOUSE ASSOCIATION

(AMENDED NOVEMBER 12, 2004)

Article I Nature

1. *Name.* The name of the group is the – Electronic Benefits and Services Council, commonly referred to as the EBS Council (herein the "Council"). *(AMENDED NOVEMBER 12, 2004)*
2. *Location.* The principal office of the Council is at 13665 Dulles Technology Drive, Suite 300, Herndon, Virginia 20171. *(AMENDED AUGUST 18, 1999)*
3. *Nature.* The Council consists of financial institutions, EBT service providers, payment networks, merchants, Government entities, trade associations, associations representing the interests of State and local governments, and other stakeholders that are interested in Electronic Benefits Transfer (EBT).
4. *Structure.* The Council is an emancipated group within the National Automated Clearing House Association, and since NACHA is a Delaware, non-stock corporation, the general corporate law of Delaware shall apply. Any rules approved by the Council shall be subject to final review by the NACHA Board of Directors. *(AMENDED NOVEMBER 15, 2001)*
5. *Purposes.* The purposes of the Council are to: develop, maintain and update EBT operating rules that detail the rights, responsibilities, and liabilities of the participants processing EBT transactions and to reflect innovations in EBT; provide a forum for the communication and exchange of EBT-related information for all EBT stakeholders including but not limited to Federal and State Governments, government-designated issuers, acquirers, payment networks, merchants, third party processors, and EBT recipients; and to act as an information resource for research-and fraud-related activities.

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(AMENDED NOVEMBER 15, 2001)#

1. *Classes of Membership.* There are two classes of membership: full and associate.
 - a. *Full Members.* All EBT stakeholders are eligible for full membership in the Council. Each member shall be entitled to one vote as specified in Article IV and is entitled to participate in the resolution of any issue that is before a Committee or Work Group of the Council.
 - b. *Associate Members.* All EBT stakeholders are eligible for associate membership in the Council. Each member shall be entitled to participate in the resolution of any issue before a Committee or Work Group of the Council but shall not be entitled to vote.
2. *Categories of Membership.* There shall be five categories of membership: Financial Institutions (FIs), EBT Service Providers, Payment Networks, Merchants, and Government Entities. (See Article VIII - Consumer Advisory Board.) EBT stakeholders may participate in more than one category of membership. Organizations that would otherwise be eligible for membership but do not currently process EBT transactions may nonetheless participate in that category of membership until January 1999. *(AMENDED NOVEMBER 15, 2001)*

- a. Financial Institution (FI): Depository financial institutions eligible for federally sponsored deposit insurance such as commercial banks, savings institutions, and credit unions.
- b. EBT Service Provider: An EBT Service Provider performs one or more of the following functions:
 - > Organization or individual which provides EBT services as either a prime contractor or a transaction processor; typically, responsible for maintaining cardholder accounts, issuing cards, and authorizing transactions.
 - > Independent Sales Organization or Encryption Support Service Provider (ESSP).
 - > Organization which provides hardware, software, or other services and supplies in support of EBT.

Examples of these organizations include EBT processors, data processing service providers, hardware/software providers, and consultants.

- c. Merchant: A person or entity that has entered in an agreement with an AFI specifying the merchant agrees to be bound by the EBT Operating Rules and to accept EBT cards for purchases of goods or services. Merchants may be "food stamp-only," "cash-only," or "food stamp and cash program" participants. Examples of such organizations include grocery stores, department store chains, retailers, and any other organizations that cash checks or accept credit and/or debit cards.
 - d. Payment Network: An organization which: (i) manages and operates a payment system that supports authentication, authorization, clearing and settlement of retail point of sale, ATM and other transactions among Network Participants bound by the Network's Operating Rules; and (ii) has entered into a Processor Agreement with an Issuer or its Designated Agent. Participants in a Network include Financial Institutions, Merchants, and organizations that provide transaction processing services to the Network. Depending on the context, the term Network may be used to apply to the payment system manager/operator, the hardware, software and telecommunication links used to interchange transactions among Network Participants, and/or all Network Participants. (AMENDED MAY 30, 2002)
 - e. Government Entities: Governmental bodies and associations representing government bodies. Examples include States, Commonwealths, Counties, Municipalities, associations representing interests of State and local governments, and coalitions.
3. Advisors to the Council. Agencies of the federal government that issue and administer food stamp, cash, and/or other benefit programs to individuals/recipients may appoint non voting advisors to the Council. Such advisors shall meet with the Council and Representative Board and shall consider upon and make recommendations to the Council and Representative Board with respect to the EBT Operating Rules.
 4. Membership Application. Application for membership shall be in writing to NACHA and the Council. The application must include information that establishes the applicant's eligibility for a particular membership category in the Council.
 5. Membership Determination. Determination of membership is based upon whether the applicant meets the criteria for membership and pays the required dues.

6. Resignation. Any member may resign by filing a written resignation with NACHA and the Council; however, resignation does not relieve a member from liability for the required dues accrued and unpaid for year of resignation, or any other obligation arising prior to the date of resignation.
7. Termination. Any member may be terminated for failure to maintain eligibility for membership.

Article III Dues

1. Dues. Dues for each class of membership are as determined by NACHA with consultation from the Council. Dues cover a one-year term from the date of the application. A one-time initial fee will be assessed.
2. Delinquency. NACHA may take whatever action it deems necessary with respect to any member that is delinquent in paying the required dues for a period of ninety days.
3. Refunds. No dues or initiation fees will be refunded.

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1. Meetings. The Council shall hold at least two general meetings of its members per year and may meet more often as necessary. The time and place of these meetings are determined by the Council. Any member of the Council, or of any Committee thereof, may participate in a meeting by means of conference telephone or similar communication equipment by means of which all persons participating in the meeting hear each other, and participation in a meeting by such means shall constitute presence in person at such meeting. (AMENDED MAY 9, 2000)
2. Allocation of Votes.
 - a. Full Members. Each Full Member shall have one vote.
 - b. Associate Members. Associate Members do not have voting rights.
3. Membership Voting Rights.
 - a. Full Members. Each Full Member shall be eligible to (1) participate in the selection of one or more Representative Board members for its membership category; (2) vote on any issue before the Council, or a Committee or Work Group of the Council; (3) chair a Committee or Work Group; (4) approve amendments to the EBT Council Charter; and (5) take other actions not reserved for the Representative Board under this Charter.
 - b. Associate Members. An Associate Member shall not be entitled to any votes for the purposes of (1) selecting a Representative Board member; (2) resolving any issue before the Council, or a Committee or Work Group of the Council; (3) approving amendments to the EBT Council Charter; or (4) taking actions reserved for a Full Member or the Representative Board under this Charter.
4. Quorum of Members. The presence in person or by proxy of fifty percent of the Council membership shall constitute a quorum for the purpose of transacting Council business. A simple majority of votes cast by members present or represented by proxy carries any action except where provided otherwise by law or by this Charter. (Amended May 30, 2002)

5. Proxy. An employee from the same organization may serve as a proxy for any member during a meeting of a Work Group, committee, or the Representative Board without providing a written authorization. However, a written authorization must be submitted to the NACHA staff if the person serving as proxy is not employed by the same organization as the member. (AMENDED NOVEMBER 15, 2001)

Article V Representative Board

1. Representative Board. The Representative Board shall vote on the EBT Operating Rules and any amendments thereto, and on any implementation issues related to the development of a nationwide EBT program. The Representative Board shall approve amendments to this Charter, as provided for in Article X. The Representative Board shall approve an annual business plan for the Council. (AMENDED NOVEMBER 15, 2001)
2. Government Entities' Right to Vote on EBT Operating Rules. In the event sixty percent or more of the Representative Board members from the Government Entity membership category vote against approval of a proposed EBT Operating Rule or any amendment thereto, such rule change shall be forwarded to the members of the Government Entities membership for vote. If sixty percent of the members of the Government Entities membership vote against the approval of the proposed EBT Operating Rule or amendment thereto, such rule shall have been defeated.
3. Appointment of Initial Representative Board. Each membership category shall have the same voting power regardless of the number of Representative Board members in a membership category (i.e., 16 2/3%). For each Full Member of the Council one Representative Board member may be elected to the Representative Board to a maximum of five members. (This section is in effect until March 1, 1996.)
4. Appointment of Representative Board Members. Full Members shall select representatives from their category of membership to serve on the Representative Board. For each membership category, one Representative Board member may be selected for every two Full Members subject to the limitation below. However, if only one organization represents a membership category that organization shall represent such category. A maximum of five Representative Board members shall represent each membership category. For example, if there are ten merchant Members, then that category of stakeholders may select five Representative Board members. Each Full Member of the Council shall be limited to having only one member on the Representative Board. (Effective March 1, 1996)
5. Term of Office. For the first election of the Representative Board after the ratification of the charter, fifty percent of the members shall be elected to serve one term of three years and fifty percent of the members shall be elected to serve one term of two years. Each Representative Board member shall be selected for a term of two years. Elected Representative Board members may succeed themselves, but may only serve a maximum of two successive terms on the Representative Board. All terms shall begin January 1 with the exception of the first term which shall begin September 29, 1995. (AMENDED NOVEMBER 12, 2004)
6. Duties. The Chairperson and Vice Chairperson shall perform those duties that are usual to their positions. In addition, the Chairperson is the chief elected officer of the Council and presides at meetings of the Representative Board and the membership. The Vice Chairperson is also an elected position and presides at meetings of the Representative Board and membership in the absence of the Chairperson. The Staff Director serves as the chief operating officer of the Council. The Staff Director has responsibility for activities and programs of the Council as assigned by the Council Chairperson and the Representative Board.

7. Vacancies. If any vacancy occurs on the Representative Board before the expiration of a term, the affected stakeholder group shall select a new representative. If any vacancy in an office occurs on the Representative Board before the expiration of a term, the Representative Board shall hold an election.
8. Meetings. The Representative Board meets at least two times per year and may meet more often as necessary. Meetings of the Representative Board shall be called by the Chairperson. (AMENDED MAY 9, 2000)
9. Quorum of Members. The presence in person or by proxy of sixty percent of the Representative Board membership shall constitute a quorum for the purpose of transacting Representative Board business. A two-thirds (2/3) majority of votes cast by Representative Board members present or represented by proxy carries any action on the EBT operating rules and any amendments, except where provided otherwise by law or by this Charter. Mail voting is permitted. (AMENDED MAY 30, 2002)
10. Removal. Representative Board members may be removed for cause upon the majority vote of the members in that membership category.
11. Compensation. Elected Representative Board members do not receive compensation.

Article VI Operating Rules Committee

1. Purpose. The Operating Rules Committee identifies opportunities and initiates and manages Work Groups that address EBT rule amendments and operational issues related to the implementation of EBT programs.
2. Operation and Meetings. The Operating Rules Committee defines issues of importance and assigns them to various Work Groups. It also outlines the necessary documentation and deliverables that will be required from the Work Groups. Meetings and conference calls of the Committee shall be open to full and associate members and invited guests. (AMENDED NOVEMBER 15, 2001)
3. Composition. The Operating Rules Committee consists of a Chairperson and Vice Chairperson appointed by the Chairperson of the Council and additional members, who shall be selected by the Full Members of their category of membership. For each membership category, one Operating Rules Committee member may be selected for every two Full Members. The Chairperson and Vice Chairperson of the Committee shall not be from the same membership category. (AMENDED NOVEMBER 15, 2001)
4. Term of Office. Each Operating Rules Committee member shall serve a two-year term. However to achieve staggered terms, for the first election to be conducted in 2002, fifty percent of the members shall be elected to serve a term of one year and fifty percent shall be elected to serve a term of two years. All terms that begin in a year when a new Chairperson assumes office shall begin when the Chairperson's term commences and end when the Chairperson's term ends. All terms that begin in other years shall commence during the second meeting of the year or May 15, whichever is earlier. Operating Rules Committee members may serve an unlimited number of terms. (AMENDED NOVEMBER 15, 2001)
5. Vacancies. If any vacancy occurs on the Operating Rules Committee before the expiration of a term, the Full Members of the affected membership category may elect a new representative. (AMENDED NOVEMBER 15, 2001)

Article VII Work Groups

1. Creation and Purpose. Work Groups are ad hoc groups created by the Operating Rules Committee, Council, or Representative Board. The purpose of a Work Group is to address a particular issue that is of concern to the Council. The Chairperson of a Work Group created by the Operating Rules Committee shall be appointed by the Committee Chairperson. The Work Group Chairperson does not have to be a member of the Operating Rules Committee. (AMENDED NOVEMBER 15, 2001)
2. Composition. Work Groups are composed of full and associate Council member representatives. Work Groups of the Operating Rules Committee shall be comprised of any Operating Rules Committee members who volunteer and other individuals that the Work Group Chairperson invites to participate. (AMENDED NOVEMBER 15, 2001)

Article VIII Consumer Advisory Group

1. Creation and Purpose. A Consumer Advisory Group shall be established that is open to any organization representing the views of EBT recipients. The purpose of the Advisory Group is to address particular EBT operating issues of concern to EBT recipients.

§ 11-111; § 11-112

1. Timing of Elections. Elections shall be in alternating years after the first Council meeting of the calendar year or in the month of April, whichever is earlier. (AMENDED NOVEMBER 15, 2001)
2. Election of Council Chairperson and Vice Chairperson. The Council shall elect the Chairperson and Vice Chairperson from the Full Members of the Council. The Chairperson and Vice Chairperson also shall be members of the Representative Board upon their election. The Chairperson and Vice Chairperson shall each be from a different membership category, with either the Chairperson or Vice Chairperson representing the Government Entity membership category. The Government Entity membership category shall be represented in the position of Chairperson in alternating terms. The immediate Past Chairperson replaced by election of the then current Chairperson shall be a member of the Representative Board for a two-year term. (AMENDED MARCH 9, 2000 and NOVEMBER 12, 2004)

Article X Amendments, Committees, Indemnification

1. Amendments. Amendments to this Charter must be approved by a majority vote of the Representative Board. Such amendments must subsequently be approved at any meeting of the Council at which a quorum is present by a two-thirds (2/3) vote of voting members of the Council present or represented by proxy. Notice of the proposed amendments shall be provided to all Council members at least thirty days in advance of the vote. Amendments are subject to review and ratification by NACHA. (AMENDED NOVEMBER 15, 2001 and MAY 30, 2002))
2. Committees. Either the Council or the Representative Board may create additional Committees as it deems necessary.
3. Release. In consideration for the opportunity to join and participate in the Council, each member waives and discharges any and all rights that the member or any of its affiliates may now or in the future have to pursue any right, claim or cause of action, enforcement of any obligation or liability to it, recovery of any loss or other damage, or any other form of relief, by litigation, arbitration or any other means, resulting from any action or inaction of such person(s) in connection with activities of the Council. In the event a member resigns from or otherwise terminates its membership on the Council,

this waiver shall continue indefinitely in full force and effect with respect to any such action or inaction occurring while such former member was a member of the Council.

4. Severability of Provisions. Each provision of this Charter shall be incorporated in such manner as to be effective and valid under applicable law. In the event that any one or more of the provisions of this Charter shall be held to be invalid, illegal or unenforceable, the remaining provisions of this Charter shall not be affected or impaired thereby.