

# AMERICAN PAYROLL ASSOCIATION

June 19, 2020

Ms. Maribel Bondoc  
Manager, Network Rules  
Nacha  
2550 Wasser Terrace, Suite 4001  
Herndon, VA 20171  
Email: mbondoc@nacha.org

Re: Reversals and Enforcement – Request for Comment

Dear Ms. Bondoc:

The American Payroll Association (APA) thanks you for the opportunity to provide feedback concerning Nacha's proposed rule changes to clarify the circumstances in which a reversal would be improper and to provide additional enforcement mechanisms when there are violations of the rules pertaining to reversals. The APA supports the proposed rules and believes that payroll professionals, payroll service providers, and individual employees paid by direct deposit will all benefit from them.

In a recent high-profile case, a third-party provider improperly reversed direct deposit payroll payments. Not only did this action have an immediate and negative effect on those directly affected by the improper reversals, it raised questions about payroll direct deposit in general. While ACH direct deposit is a safe and reliable method of wage payment, the questions were understandable. The proposed rules will create additional safeguards to prevent improper reversals and provide Nacha with enforcement measures that will serve to deter future bad actors. This will strengthen the ACH network and provide greater confidence in payroll direct deposit.

## **About the American Payroll Association**

The APA is a nonprofit professional association of over 20,000 payroll professionals in the United States. Our membership also includes representatives of large, medium, and small payroll service providers who are responsible for processing payroll for an additional 1.5 million employers. In total, the APA represents those professionals responsible for paying an aggregate total of one-third of the private sector workforce. The APA's primary mission is to educate its members and the payroll industry regarding best practices associated with paying America's workers, while complying with applicable federal, state, and local laws. In addition, the APA's Electronic Payments Committee promotes the expanded use of direct deposit and electronic payments.



### **Survey question responses**

Here are APA's responses to the specific questions included in the request for comment.

1. *Does your organization think that these proposals are appropriate to deter and prevent, to the extent possible, future instances of the improper use of reversals?*

Yes, APA believes that the proposals are appropriate to deter and prevent future instances of improper reversals. The clarification in the rules of when a reversal would be proper and the nonexclusive list of examples of when reversals are improper will provide guidance to participants in the ACH network and serve to prevent improper reversals.

The proposed enforcement authority – the power to enforce an “Egregious Violation” as a Class 2 or 3 violation, with the maximum penalty for a Class 3 violation of \$500,000 per improper reversal and potential suspension of the Originator or Third-Party Sender – should deter network participants from initiating improper reversals. If an entity initiates an improper reversal anyway, Nacha would have the power to sanction the bad actor appropriately.

2. *Does your organization agree that the proposal addresses the improper uses of reversals as described?*

Yes. The rule provides clarity as to when a reversal would be improper. The addition of Subsection 2.9.4, which provides examples of improper reversals, is especially helpful.

3. *Does your organization agree with the proposed formatting requirements for reversals?*

Yes. By aligning the formatting standards for reversals with those for a reinstated entry, the proposed rule creates additional standardization.

4. *Does your organization agree with the identified return reason codes for RDFIs to return improper reversals?*

Yes. Adding that a “Reversing Entry was improperly initiated by the Originator or ODFI” to codes R11 (Customer Advises Entry Not in Accordance with the Terms of the Authorization) and R29 (Corporate Customer Advises Not Authorized) will provide additional clarity to network participants.

5. *Does your organization agree with the proposal to add a permissible use of reversals for when a payment is for a date not intended by the Originator?*

Yes. Adding this reason to the list of Erroneous Entries in Subsection 2.9.1 will provide additional clarity as to when a reversal is proper.

6. *Does your organization support the proposed definition of an Egregious Violation?*

Generally, yes. APA supports defining an Egregious Violation as one “in which the violation has (a) impacted at least 100 other Participating DFIs, or (b) affected Entries in the aggregate amount of at least \$1,000,000.” Because of the harm that improper reversals can have on small businesses and individual employees, APA recommends extending the definition to cover 100 affected accounts. This would focus on the number of individual victims and provide a clearer definition of an Egregious Violation. As written, unless the aggregate amount of the improper reversal reaches \$1,000,000, you could have a situation

where an improper reversal affecting more individual account holders at a small number of DFIs is not considered an Egregious Violation, but one that affects fewer individual accounts but more than 100 DFIs is considered egregious.

7. *Does your organization support the potential sanctions for an Egregious Violation as a Class 2 or 3 violation?*

Yes. Because of the harm that improper reversals can have on individual businesses and employees paid by direct deposit, along with negative publicity that can create the perception that direct deposit is an unsafe method of wage payment, APA supports defining an improper reversal as a Class 2 or 3 violation.

8. *Does your organization support the proposed effective date of January 1, 2021 for the proposed changes included in this RFC?*

Yes. Due to the serious nature of the issue and because the rules will not require significant changes to business practices, APA believes a swift implementation date is appropriate.

9. *Will these proposals have any technology or software impacts on your organization?*

Members of APA's Electronic Payments Committee are not aware of any significant technical changes that would be needed, at least for the processing of payroll ACH direct deposit files.

10. *Do you have any other comments on these proposals? Do you have any suggestions for guidance or best practices regarding reversals?*

Not at this time.

### **Conclusion**

The APA supports the proposed rules and believes that they will achieve the goals of deterring and preventing improper use of reversals.

If you have any questions, please contact Curtis Tatum, whose contact information is provided below.

Sincerely,



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Co-Chair, Electronic Payments Committee  
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