



**Authorization & Stop Payments Teleseminar
January 13, 2010
Questions & Answers**

Authorization Requirements – Clarifications to Current Language

1. What is the difference between *clear & conspicuous* versus *clear and readily understandable*? **Clear and readily understandable is the terminology used within Regulation E as it relates to authorization requirements. The NACHA Operating Rules were modified to mirror this language simply for purposes of consistency.**

Stop Payment Orders v. Receiver Recredit for Unauthorized/Authorization Revoked – What’s the Difference?

2. I am still unsure as to when we are allowed to return an ACH transaction as a ‘Stop Payment’. I thought in regards to ACH transactions, they should either be ‘Unauthorized’ or ‘Revoked’. Isn’t the ‘Stop Payment’ return reason code only for ACH transactions that have been converted from a check? **A stop payment order is intended to prevent an ACH entry from posting to the Receiver’s account. It is a proactive measure used by the RDFI to prevent its customer’s account from being debited. A stop payment order can be placed on any ACH transaction, regardless of SEC Code. It is not just for check conversion entries. By contrast, a return for ‘unauthorized’ or ‘authorization revoked’ is a reactive measure used by the RDFI to return an unauthorized debit entry for which it has provided re-credit to the Receiver. In these cases, an unauthorized entry has already posted to the Receiver’s account and funds been withdrawn from the customer. (Note: References here to returns for ‘unauthorized’ are also intended to mean the return of improperly originated check conversion entries.)**

Stopping All Future Transactions via RDFI

3. Can we ask the customer at the time of the stop payment request whether the stop is for a one time item or based on a revocation where there could be multiple future items; and if so, could that be the determinant as to whether we have to put the stop payment on as indefinite? How do we document the customer’s response? **Yes. An RDFI must communicate with its customer in order to have a clear understanding about the consumer’s intent with regard to stopping one, multiple, or all future payments. The answers to these questions will help to determine the required duration of the stop payment order. The NACHA Operating Rules do not address the documentation of a stop payment order. Rather, the manner in which an RDFI obtains this instruction from its customers and the length of time such documentation is retained is a business decision to be made by each RDFI.**
4. In regards to our Originators resubmitting items that have been returned as R08, is it okay to still tell them not to resubmit unless reinitiation has been authorized by the Receiver? Under the new Rule there really wouldn’t be a need to resubmit since it states to stop recurring payments, and they will just be returned again anyway. **Yes, that is correct. The Originator must obtain a new authorization from the Receiver to reinitiate an entry after it was returned for R08 (Payment Stopped). However, subsequent entries related to the same authorization**

may still be originated. If the Receiver's intent is to stop all future payments, he should revoke authorization with the Originator.

5. The Rule states the RDFI may require the consumer to confirm in writing that the consumer has revoked the authorization with the Originator before accepting a stop pay order for all future debits. Does this mean the RDFI may require a copy of the revocation and, and if it does not receive it, that the RDFI may refuse the consumer's request to stop payment for future debits? Do the FRB regulators agree with that interpretation? **The RDFI should ask its customer if his intent is to stop one single payment or all future payments. If the intent is to stop all future payments, the RDFI may require the customer to confirm in writing that he has revoked the authorization with the Originator. If the RDFI does not receive this confirmation within 14 days, it may honor subsequent debits to the account. This is consistent with the Federal Reserve Board's Official Staff Interpretation on Regulation E.**
6. If we begin to request/require copies of the customer revocation, do we open the bank up to any additional liability regarding the customer's assertion? **No. Both Regulation E and the NACHA Operating Rules permit an RDFI to request written confirmation from the consumer that he has revoked authorization with the Originator. By obtaining this documentation, it should help an RDFI comply with its obligation to prevent future entries from posting by verifying that the consumer has instructed that such transactions be stopped at their source.**
7. If the consumer says he revoked the authorization and he wants the RDFI to stop all future payments, how should the RDFI return any debits that come in? **The RDFI must prevent any future payments from posting to the consumer's account and return such entries using R08.**
8. This is a question regarding the Stop Payment rule for all subsequent payments once a stop pay has been placed. Currently, if a member is requesting a stop pay to be placed on a particular item, we require them to provide both the name of the company and the dollar amount that the stop pay relates to. If, when the transaction comes through, the dollar amount or name does not match what the member signed the stop payment for, we will not return the item as stop payment. Does the new rule change require the RDFI to specify on the stop payment whether the member is wanting to stop payment on all payments to a particular company or is it for a specific amount for a specific company? We are unclear as to how the RDFI will determine what the member's intent is with the stop payment in regards to future payments. If the credit union states in the stop payment order that it is the member's responsibility to provide the RDFI with specific information for the stop payment and if, when the transaction comes through, those names or amounts differ, then the RDFI will not assume the liability for returning the item. **The RDFI should ask its customer if the intent is to stop one single payment, multiple payments, or all future payments. If the consumer notifies the FI to stop a single entry (or multiple, specific entries), the stop will remain in effect until either the stop is withdrawn or the debit(s) specified by the consumer is returned. If the intent is to stop all future payments, the RDFI must prevent all such payments from posting to the account. In such a situation, the RDFI may also require the customer to confirm in writing that he has revoked the authorization with the Originator. If the RDFI does not receive this confirmation within 14 days, it may honor subsequent debits to the account.**
9. After the first stop, can we just let it post and return unauthorized? **If the intent of the consumer is to stop all future payments from a particular Originator, the RDFI must proactively prevent all such debits from posting to the consumer's account. The RDFI may not wait until the entry posts to the consumer's account before acting on the transaction.**

Effect of Rule Change on Existing Stop Orders

10. If we placed a 6 month stop payment on a company in December before the rules change, do we need to expire the 6 month date to comply with the new rule, or will this change just be for

stops that take effect on or after March 19, 2010? While this rule change is not retroactive, any stop payment orders already in place as of the effective date of this change should be reviewed to remove an automatic lapse date. Having a date in place after which a stop payment order automatically expires, even prior to the implementation date of this amendment, could result in the RDFI's failure to comply with Regulation E, which presently requires the RDFI to stop an entry(ies) and prevent it from posting to the consumer's account. An RDFI would be out of compliance with Regulation E today if its system were to automatically remove a stop order after six months and such action enabled an entry to post when the consumer didn't want it to. This amendment simply re-aligns the NACHA Operating Rules with Regulation E by removing a rules provision that has the potential to cause conflict. RDFIs that are in the position to implement this change prior to the effective date are strongly encouraged to do so in order to avoid the potential to be out of compliance with Regulation E.

Duration of Stop Orders

11. We'd like to know if stop payments will have an indefinite stop date or will the maximum time frame for the stop to remain in place be 1 year? There is no time frame defined for the duration of a stop order, and a stop order should not automatically lapse based solely on an arbitrary date. Instead, the stop order must remain in place until all debits specified by the consumer to be stopped have been stopped by the RDFI. An RDFI will need to ensure that it has a clear understanding of its customer's intent (e.g., stop one payment, stop multiples, stop all future payments) in order to appropriately apply a stop payment order to the consumer's account.
12. If a stop payment is placed for a recurring ACH debit, will that stop payment order be in effect forever? If the consumer wishes to stop all future transactions, the FI must prevent all such transactions from posting to the consumer's account. The stop order must remain in effect for as long as entries covered by the stop order could be received by the RDFI. To ensure that future entries are not originated, the FI should ensure that its customer has revoked authorization directly with the Originator, and it may request the consumer to provide written confirmation of such action. If written confirmation is requested by the FI but not provided, the FI may permit future entries to post to the account.
13. If a stop payment is placed on a single transaction, how long is the stop in effect? If the entry is re-presented, what is the proper course of action for the bank? If the consumer notifies the FI to stop a single ACH transaction, the stop order will remain in effect until either the stop is withdrawn or until the debit is returned. The NACHA Operating Rules prohibit an entry that has been returned as payment stopped from being reinitiated, unless the reason for the return has been remedied. In such a situation, the remedy would require the Receiver to re-authorize the Originator to initiate the entry.
14. If our Stop Payment forms state that the stop payment order will be in effect for 6 months, are we in compliance with the new ACH rule and Regulation E? No, you will not be in compliance with either Regulation E or the NACHA Operating Rules if you remove the stop after 6 months. The stop order must remain in place long enough that every entry specified by the consumer is stopped by the RDFI. This could involve an indefinite period of time if the stop order applies to all future transactions. To facilitate and expedite the termination of the origination of all future entries, they must be stopped at their source, i.e., revocation must take place directly with the Originator. The RDFI may request its customer to provide written confirmation that he has revoked authorization directly with the Originator, and, if such confirmation is not provided, may permit future transactions to post to the account.
15. So when it says stop all future payments from this merchant, is this considered a revocation? If it is a onetime stop pay, once the debit tries to come through and we send it back stop pay

then we would expire the stop on the account up to six months, correct? **No.** No stop order should automatically expire just because six months have passed. The RDFI should ask its customer if the intent is to stop a single payment or all future payments. The stop order is valid for whatever length of time is required to stop all entries specified by the RDFI's customer. The stop order can not automatically expire simply because six months' time has lapsed. When a customer requests an RDFI to stop all future payments, he should be instructed to contact the Originator directly to revoke authorization. Revocation of the authorization directly with the Originator should result in all future entries being stopped at the source. If for a single payment, the stop order must remain in effect until the payment has been stopped, regardless of how long that takes. If for all future payments, the stop order must remain in effect until all future payments have been stopped, regardless of how long that takes. If the intent is all future payments, the RDFI may require the customer to confirm in writing that he has revoked the authorization with the Originator. If the RDFI does not receive this confirmation within 14 days, it may honor subsequent debits to the account.

16. Currently our Check and ACH Stop Payment Order specifies a "one time" stop only and is in effect for six months. If our member writes a check that is converted to an ACH check, does the signed stop payment order then automatically default to an indefinite stop payment request, since the entry has now become an ACH item and clearly has not been authorized to post to the member's account, as specified by the signed stop payment order? Under Regulation E, paper checks are stale dated after six months. When the stop payment order is initially signed, the member has no idea if their check will remain as such or if it will ultimately be converted to an ACH check. **Yes.** If the consumer notifies the FI to stop a single item that is subsequently converted to an ACH entry, the ACH stop payment must remain in effect until either the stop is withdrawn or the debit is returned. RDFIs will need to consider the potential impacts of having two different processes for check and ACH stop payments and ensure that automatic lapse of a stop order on the check side does not automatically apply to ACH stop orders.
17. I am unclear if it was stated that if our FI stop payment form/document completed by the client contains the language that our policy is *the stop only remains in effect for 6 months* if that circumvents the NACHA indefinite rule on stop payment. **No.** Any stop order must remain in effect for as long as it takes to stop the entry(entries) specified by the Receiver. The stop order may not automatically lapse solely by virtue of the expiration of a particular time frame specified by the RDFI.
18. Can we place an ACH stop payment on an entry for only 6 months as long as we disclose that to our customer? I know the new rule states we need to stop all recurring, but we feel that most payments will most likely be stopped before that if we start returning them as stop payment back to the Originator. We would not like to have stops put on indefinitely if possible. **Any stop order must remain in effect for as long as it takes to stop the entry(entries) specified by the Receiver. The stop order may not automatically lapse solely by virtue of the expiration of a particular time frame.**
19. Confirm that any existing ACH stop payments that were requested prior to 3/19/2010 but in fact cross over this date due to the prior 6 month expiration would have to be changed to remove the expiration so the stop stays indefinitely?? **Yes.**
20. What is the RDFI's liability for stop payment on a 14 day verbal notice? If you stop within the 14 days, do you need to get it in writing? What if another comes in after the 14 days? **The RDFI should ask its customer if the intent is to stop a single payment or all future payments. If the intent is to stop a single payment, and the payment is stopped within the 14 days, the RDFI may decide whether it would still like to obtain documentation in writing. If the intent is to stop all future payments, the RDFI would likely want to get the stop order in writing so that it has tangible documentation of the customer's request. In such cases, the RDFI may require the customer to confirm in writing that he has revoked the authorization with the**

Originator. If the RDFI does not receive the written confirmation within 14 days, it may honor subsequent debits to the account.

Stop Payment Orders – Documentation, Retention

21. If a member states that he did not authorize a transaction or revoked an authorization, will a WSUPP suffice to place a stop payment order and process a return, or do we need both forms to process a system stop and a return? **The NACHA Operating Rules define specific requirements related to the use of written statements for purposes of re-crediting its customer and returning an unauthorized/improper debit entry; however, the Rules are silent with respect to the manner in which an RDFI documents a stop payment order. RDFIs may choose to combine both actions on one form, provided that the minimum information, as defined by the Rules, is included.**
22. Will there be suggested language for stop payment disclosure / notice regarding the change? **Recommended language for stop payment forms is not addressed by the NACHA Operating Rules and Guidelines. RDFIs should consult their legal counsel for guidance on specific wording for such documentation.**
23. What is the retention period for a stop payment order? Should we count from the date received, the date the first payment was stopped, or if “all future” from the date the last payment was stopped? **The NACHA Operating Rules do not define a time period for the retention of a stop payment order. The determination of how long to retain such documentation would be an individual bank decision.**

WRITTEN STATEMENTS

Written Statement Forms – How/When to Use

24. Do we use the new sample written statement form now or wait until after March 19th? **You may begin to use this form now. (Note: You may continue to use your current written statement forms after the March 19th implementation date, provided that they meet all data requirements and specifications that will be required by the new rule.)**
25. If a client has a Regulation E claim open for 3 unauthorized items and two are from the same originator, would the client have to fill out one WSUPP for the two items with the same originator and another one for the other originator? **Yes, multiple entries from the same Originator may be included on the same Written Statement provided that all required information is included for each entry. You may not include entries from different Originators on the same Written Statement.**
26. It was stated that as long as our current WSUPP contained the minimum information statement we could continue to utilize it. Is there a sunset date for Financial Institutions to convert documentation to contain Written Statement of Unauthorized Debit? **All Written Statements must contain the minimum required information no later than March 19, 2010. If your current WSUPP contains the required minimum information, you may continue to use that version of the document, regardless of the title on the document.**
27. If we return an ACH entry as an unauthorized entry and then subsequent entries continue to come through from the same company, for the same amount or a different amount, are we required, under the ACH rules to have our member sign a new Written Statement of Unauthorized Debit each and every time the unauthorized entry is presented for payment? **Yes, a Written Statement must be obtained for each entry that has posted to the Receiver's account and for which recredit is sought. The Written Statement must be signed and dated**

on or after the Settlement Date. Multiple entries from the same Originator may be included on the same Written Statement, provided that all required information is included for each entry.

28. Will a sample Written Statement be available online? The sample Written Statement is included in the 2010 NACHA Operating Guidelines and will be included in the 2010 version of the ACH Rules Online.
29. If a corporate account receives a consumer entry and the RDFI returns it as unauthorized, does the RDFI have to obtain a Written Statement? If the RDFI returns the entry within the 2-day return time frame using R29, a Written Statement is not required. If the RDFI uses the extended return time associated with consumer entries (R07 or R10), the RDFI must first have obtained a completed and signed Written Statement.
30. If the RDFI receives verbal notice of unauthorized activity and begins error resolution and recredit the account holder, what should the RDFI do to return the entry if the consumer does not sign a Written Statement within ten days? The RDFI warrants that it has a properly signed and completed written statement from its customer at the time it transmits a return related to an unauthorized/improper debit. The RDFI may not return the entry via the ACH Network without such documentation in its possession. If the RDFI is unable to obtain this document from its customer within the time period required for transmitting a return, the RDFI will need to contact the ODFI directly to discuss other options for resolving the matter.

Copies of Written Statements

31. Does the RDFI have to provide a copy of the Written Statement? The RDFI is obligated to provide a copy of the written statement to the ODFI, but only upon receipt of a written request from the ODFI.
32. Why was the 60 days to provide a copy of a Written Statement reduced to 10 days? The time period to provide a copy of the written statement was reduced in order to be more responsive to ODFIs and Originators seeking to investigate a claim of an unauthorized entry. This change should not adversely impact an RDFI since it should already have the Written Statement in its possession at the time of the return of the entry; RDFIs should be readily able to accommodate the shorter time period. This time frame is also provides consistency with the amount of time an ODFI has to provide the RDFI with a copy of an authorization.

Returns Beyond 60 Days

33. What are the best practices for handling returns after 60 days? Because an untimely return is likely to be dishonored by the ODFI, the RDFI should contact the ODFI to discuss the problem related to the unauthorized entry and determine the manner in which the ODFI will make the RDFI whole for an unauthorized debit entry.