

Trending Now

Regulation E and Stop Payment Rights

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Why Are We Talking about Stop Payment Rights?

- Controversy over payday lending has brought intense scrutiny to the ACH Network.
 - Media
 - Political
 - Regulatory
 - Litigation
- Much of the scrutiny has fallen on ODFIs and their gatekeeper role.
- Regulators are also focused on RDFIs and their relationship with consumers.

“RDFIs have an important role in the ACH network since they directly interface with their customers who are the victims of abusive Originators... In many cases, RDFIs do not stop transactions when consumers invoke their stop-payment rights, in violation of the NACHA rules and federal law. These practices undermine important consumer protections.”

- Benjamin Lawsky, Superintendent of Financial Services, New York State Department of Financial Services, January 3013

Regulation E Provides Stop Payment Rights to Consumers for Recurring EFTs.

- 205.10 (c) Consumer's right to stop payment –
 - (1) *Notice*. A consumer may stop payment of a preauthorized electronic fund transfer from the consumer's account by notifying the financial institution orally or in writing at least three business days before the scheduled date of the transfer.
 - (2) *Written confirmation*. The financial institution may require the consumer to give written confirmation of a stop-payment order within 14 days of an oral notification. An institution that requires written confirmation shall inform the consumer of the requirement and provide the address where confirmation must be sent when the consumer gives the oral notification. An oral stop-payment order ceases to be binding after 14 days if the consumer fails to provide the required written confirmation.
- *Note: NACHA Rules section 3.7 tracks this language.*

The Commentary to Regulation E Provides Further Guidance Regarding Reinitiated EFTs and Revocation of Authorization.

- Supplement I to Part 205 – Official Staff Interpretations; 10 (c)
 - 1. *Stop-payment order.* The financial institution must honor an oral stop-payment order made at least three business days before a scheduled debit. If the debit item is resubmitted, the institution must continue to honor the stop-payment order.
 - 2. *Revocation of authorization.* Once a financial institution has been notified that the consumer's authorization is no longer valid, it must block all future payments for the particular debit transmitted by the designated payee-originator. The institution may not wait for payee-originator to terminate the automatic debits. The institution may confirm that the consumer has informed the payee-originator of the revocation. If the institution does not receive the required written confirmation within the 14-day period, it may honor subsequent debits to the account.

The NACHA Rules Supplement the Regulation E Stop Payment Regime.

- Rule 3.7.1.1 – An RDFI shall have no liability or responsibility to any Originator, ODFI, or other Person with interest in an Entry for honoring a stop payment order in accordance with this subsection.
- Rule 3.7.1.2 – An RDFI must honor a stop payment order provided by a Receiver, either verbally or in writing, to the RDFI at such time and in such manner as to allow the RDFI a reasonable opportunity to act upon the order prior to acting on an ARC, BOC, POP, RCK or a Single Entry IAT, PPD, TEL or WEB.

What Are the Issues?

- Concerns and complaints shared with CFPB
- Practical Difficulties for RDFIs
 - Stop payment has to be an automated process.
 - Automated process requires fixed identifiers (i.e., account number + company id or amount)
 - Originators have figured out how to evade automated stop payment processes by using different names, ids, amounts.

What Can Be Done?

- Banks that are refusing to honor stop payment rights
 - Ensure that front line staff understand that consumers have the right to stop recurring debits as well as one-time debits (with sufficient notice)
 - Ensure that your customers can easily navigate the stop payment process at your bank
 - Best Practices
 - Provide forms that enable consumers to explain their problem in layman’s terms
 - Train staff to “dig in” to understand what consumers are asking for
 - Remember: it is not the RDFI’s job to adjudicate whether the consumer “ought” to pay the originator. If the receiver has legal obligations to originator, these matters should be taken up outside the network.
 - FAQs and scripts for front line staff and consumers
 - Look at your bank’s website – can a consumer easily navigate to information about stopping EFTs? What about your site’s search function?
 - Consider including reminders about Reg E stop payment rights in account statements, on pages that display account activity, or other customer facing materials.

What Can Be Done?

- Originators that purposefully evade automated stop payment processes
 - RDFIs should anticipate that this will happen and plan how they can “make it right” for their customer
 - Best Practices
 - When consumer contests a debit that they previously ordered to be stopped, recredit immediately and refund any fees
 - Allow customers to fill out unauthorized forms for debits even after the debits have been automatically returned as NSF; refund all fees

ACH Stop Payments

- Personal background
- Role with the CFPB
- CFPB mission
- Consumer rights
- Consumer complaints
- Stop payment challenges
- Market opportunities

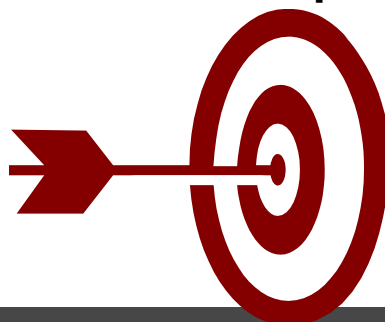
SENSITIVE & PRE-DECISIONAL



Stops for Checks and Recurring ACH Debits

- › **Stop Payment Orders on checks**
 - › **Multiple field matches, account number, check serial number, \$ amount***
 - › **High success rate - certainty = automated processing**
 - › **Relatively low numbers of suspects = manageable manual input**

- › **Stop Payment Orders on Recurring (Traditional) ACH Debits**
 - › **Multiple field matches, account number, company ID, \$ amount***
 - › **High success rate – Certainty = automated processing**
 - › **Relatively low numbers of suspects = manageable manual input**



Stops for Non-Recurring/Represented ACH Debits

- › **Non-recurring (single entry) ACH debits - lack of certainty**
 - › **No field matches other than account**
 - › **Moving target - changing company ID number issue**
 - › **Essentially every entry becomes a suspect**
 - › **Manual review in an automated high volume processing environment**



- › **Exception – checks converted to ACH – high success rate by reintroducing the check serial number**

Stops on Non-Recurring/Represented ACH Debits

› Possible Options Available to the Receiver's FI

› More timely, efficient account closure process

- › Stops everything
- › Outstanding item issues
- › Negative balance issues



› Timely re-credit via ACH Unauthorized process

- › Some RDFIs limit this option
- › Often not applicable, as NSF already processed



› Timely re-credit of all associated OD fees

- › Often manual investigation and decision
- › When refund delayed account can be subject to more NSFs

Stops on Non-Recurring/Represented ACH Debits

- › **Possible Options to Re-establish Stop Automation**
 - › **Require static company ID for all debits associated with a particular loan**
 - › **Require use of a converted check SEC**
 - › **Re-establishes the check serial number**



Questions?

Type your question in the bottom of the Q&A Pod on your screen. To submit your question, click Send to the right of the text box, or press return.

