



**Compensation, Arbitration & Rules Enforcement
Module 6**

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Compensation

- Claims of compensation between Participating DFIs
 - Loss of use of funds
 - Intend no participant to be unjustly enriched or injured
 - Not admission of negligence or fault
 - Loss suffered must be at least \$200
 - Loss suffered calculated using provided formula excluding \$200 administrative fee per entry
 - Claim not to exceed benefit received

Compensation

- Compensation claims may include
 - Failure of a payment to be transmitted timely
 - Transmission of a payment to an incorrect account or incorrect Participating DFI
 - Transmission of a duplicate entry



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Compensation

- Compensation formula includes
 - Entry amount
 - Federal Funds Rate
 - Number of days
 - \$200 Administrative Fee
 - Applicable Deposit Insurance Assessment



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Arbitration

- Low cost, expeditious mechanism for resolving disputes within the ACH Network, bypassing the need to resolve disputes through the court system



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Arbitration

- Damages claimed must be \$250 or more
- \$250 non-refundable application fee
- Claim submitted by officer of complainant to NACHA
- Within 2 years of alleged violation



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Arbitration

- Arbitration Procedure A
 - Damages of \$250 or more but less than \$10,000
 - Mandatory for both parties
 - No hearing is held
 - 1 arbitrator
 - Stipend is \$100

Arbitration

- Arbitration Procedure B
 - Damages of \$10,000 or more but less than \$50,000
 - Mandatory for both parties
 - No hearing is held
 - 3 arbitrators
 - Stipend is 1% of decision for each arbitrator

Arbitration

- Arbitration Procedure C
 - Damages are \$50,000 or more
 - Both parties must first agree to arbitration
 - Hearing is held
 - Parties can agree to Procedure B
 - Legal counsel may be present at hearing
 - 3 arbitrators
 - Stipend is 1.5% of decision for each arbitrator

Arbitration

- Selection of arbitrators
 - NACHA maintains list of arbitrators nominated
 - Procedure A
 - Each party given 10 days to delete 2 names from list of 5
 - NACHA will choose 1 arbitrator not deleted from either
 - Procedures B and C
 - Each party given 10 days to delete 3 names from list of 10
 - NACHA will choose 3 arbitrators not deleted from either

Arbitration

- Presentation of case
 - Arbitration Procedures A and B
 - Notification of arbitrator(s), party has 14 days to submit supporting information
 - Arbitrator(s) has 30 days to render decision
 - Arbitrator(s) and each party pays own expenses

Arbitration

- Presentation of case
 - Arbitration Procedure C
 - Arbitrator sets hearing date not less than 90 days after each party notified of arbitrator selections
 - At least 30 days notice provided by NACHA prior to hearing
 - After hearing, arbitrators have 30 days to render decision
 - Arbitrators entitled to recover some expenses from either party

Arbitration

- **Payment and appeal**
 - Arbitration Procedures A and B
 - Party has 14 days after notice to pay
 - Arbitrator(s) decision is final
 - Except as prohibited by state law, decision is not appealable to the courts

Arbitration

- **Payment and appeal**
 - Arbitration Procedure C
 - Absence an appeal to the courts, party has 14 days after notice to pay
 - Arbitrators decision is final in the absence of an appeal
 - Either party may appeal to the courts

Rules Enforcement

- Governs the rules enforcement procedures to be applied in the event of:
 1. A *NACHA Operating Rules* violation,
 2. The identification of an Originator or Third-Party Sender with excessive return rates, or
 3. The failure of a Participating DFI to comply with a direct obligation to NACHA



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Rules Enforcement

- Report of Possible Rules Violation
 - Submitted by Participating DFI or ACH Operator that is party to the transaction within 90 days of the occurrence of the violation
 - Paper submission or via Internet
 - Identifies parties involved in the dispute
 - Summarizes the facts of the dispute
 - Provides supporting documentation
 - Signed by an authorized representative of the financial institution submitting the report




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Rules Enforcement

- Notice of Possible *ACH Rules* Violation



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10 Banking Days

1. Acknowledgment of violation and intent to correct by specific date

2. Statement, along with supporting documentation, that an infraction has not occurred

ABC BANK | 123 Main St.
Anytown, USA 12345

ABC Bank
123 Main St.
Anytown, USA 12345

January 10


Dear NACHA,

We have included the following information as requested within the specified 10 banking days.

We acknowledge the violation and will correct by February 15.

We will also monitor and maintain our return rate below the threshold for an additional 180 days.

Sincerely,


John Smith
President of ABC Bank

ABC BANK | 123 Main St.
Anytown, USA 12345

ABC Bank
123 Main St.
Anytown, USA 12345

January 10


Dear NACHA,

We have included the following information as requested within the specified 10 banking days.

We acknowledge the violation and will correct by February 15.

We will also monitor and maintain our return rate below the threshold for an additional 180 days.

Sincerely,


John Smith
President of ABC Bank



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Rules Enforcement

- Fines and penalties

NACHA imposes fine with approval of ACH Rules Enforcement Panel

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Start at \$1,000

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Up to \$100,000 per month

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Up to \$500,000 per month



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Rules Enforcement

- ODFI Return Rate Reporting

**Administrative
Return Rate Level 3%**

**Overall Return
Rate Level 15%**

**Unauthorized
Return Rate
Threshold
0.5%**

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Rules Enforcement

- ODFI Return Rate Reporting

The Electronic Payments Association®

ABC BANK

10 Banking Days

1. Information related to Originator or Third-Party Sender
2. Statement to NACHA's claim
3. Plan to reduce Return Rate in 30 days

10 Banking Days

Maintain Reduced Return Rate for 180 Days

ABC BANK | 123 Main St.
Anytown, USA 12345

ABC Bank
123 Main St.
Anytown, USA 12345

January 10

Dear NACHA,

We have included the following information as requested within the specified 10 banking days.

1. Information related to Originator or Third-Party Sender
2. Statement to NACHA's claim
3. Plan to reduce Return Rate in 30 days

We will also monitor and maintain our return rate below the threshold for an additional 180 days.

Sincerely,

John Smith
John Smith
President of ABC Bank

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Rules Enforcement

- Administrative or Overall Return Rate Level exceeded
 - NACHA may initiate an inquiry to review the origination and business practices of the Originator or Third-Party Sender
 - Review may result in the ACH Rules Enforcement Panel determining if the situation warrants a recommendation to reduce the return rate



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Rules Enforcement

- NACHA may initiate a rules enforcement proceeding for a Class 2 Rules Violation if the ODFI
 - Fails to provide a response to NACHA's written request within 10 banking days
 - Fails to reduce the Unauthorized Entry Return Rate, Administrative Return Rate and/or Overall Return Rate within 30 days
 - Successfully reduces the Unauthorized Entry Return Rate, Administrative Return Rate and/or Overall Return Rate, but fails to maintain it for 180 days



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Rules Enforcement

- Rules enforcement proceeding for a Class 2 Rules Violation may be initiated if NACHA believes an ODFI has failed to register its Direct Access Debit Participant and Third-Party Sender registration status



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Test Your Knowledge

Case #1 – The Facts

- Trainer's Credit Union sends an NOC to Backwoods Bank
- Backwoods Bank provides the information to its Originator, AAP Telecom Company
- AAP Telecom does not make the change before sending the live Entry
- This is the first time AAP Telecom failed to respond to an NOC



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Case #1 – Test Your Knowledge

- Which process could be used to resolve this issue?
 - Compensation rules
 - Arbitration procedures
 - Rules enforcement
- What is the time frame to submit for the process chosen?
- Would any fine be assessed or transfer of money take place in this situation? Why or why not?



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Case # 1 – Bonus Question

- If AAP Telecom failed to respond to another NOC within the next year, what could happen?



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Case #2 – The Facts

- Backwoods Bank sent a \$2M credit transaction on behalf of AAP Telecom Company to an account at Trainer's Credit Union
- Trainer's Credit Union's new team member in operations thought the \$2M didn't need to be posted right away and held the amount in the General Ledger account
- The funds were held for three days until Backwoods Bank called Trainer's Credit Union



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Case #2 – Test Your Knowledge

- Which process could be used to resolve this issue?
 - Compensation rules
 - Arbitration procedures
 - Rules enforcement
- What, if any, fee is associated with the chosen process?

Case # 2 – Bonus Question

- What are some factors included in calculating the amount suffered by a claimant under the compensation rules?

Case #3 – The Facts

- Trainer's Credit Union returns a \$35K CCD debit as R29 (Corporate Customer Advises Not Authorized) untimely
- Backwoods Banks' Originator obtained a proper authorization for the debit; thus, Backwoods Bank dishonors the return as R68 (Untimely Return)
- Trainer's Credit Union contests the dishonored return as R73 (Timely Original Return)



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Case #3 – Test Your Knowledge

- Which process could be used to resolve this issue?
 - Compensation rules
 - Arbitration procedures
 - Rules enforcement
- What is the time frame to submit for the process chosen?
- What, if any, fee is associated with the chosen process?



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Case # 3 – Bonus Questions

- What procedure would be followed? Please explain why.
- How many arbitrators will decide the case?
- What is the stipend amount?
- Is a hearing required to be held under this procedure?
- Is arbitration mandatory for both parties under this procedure?



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Questions?



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