

State of Nebraska International Transaction ACH Policy (OFAC Policy)

Updated as of November 16, 2010

Background: On September 18, 2009, an amendment to the National Automated Clearing House Association (NACHA) Operating Rules became effective that had the potential to impact the State of Nebraska agency payments to consumers and state vendors.

NACHA establishes the standards, rules, and procedures that govern the ACH networks and its' participants. ACH is the process for funds transfer (direct deposit/direct debit of payment), which does not include wires.

The IAT standard entry class code was developed in response to a request from the Office of Foreign Asset Control (OFAC). OFAC has expressed its concerns to NACHA that the speed and efficiency of the ACH Network appeals to terrorists and terrorist organizations. OFAC believed that there are transactions flowing through the ACH Network that were funded by international sources. In the past, these transactions could not be identified within the Network because they are formatted as domestic transactions.

This initial ACH Rules amendment required all payments coming from or being sent to international financial institutions (banks outside the territorial jurisdiction of the United States) via the ACH Network be identified as International ACH Transactions using a new Standard Entry Class (SEC) Code—IAT. The IAT standard entry class code is used for both vendor and consumer (individuals and employees) ACH payments. The purpose for IAT is to stop/prevent the funding of terrorist activity via the ACH network.

Note: IAT does not impact international wires, purchasing card payments, payments being sent to prepaid cards, or the sending of State Treasury warrants (checks) to vendors or consumers who bank with foreign financial institutions (banks located outside the territorial jurisdiction of the United States).

2010 Update: There has been a recent change in the interpretation of what is within the scope of transactions required to be originated as IAT (International ACH transactions). The scope widened when the OFAC and NACHA put more responsibility on the originator. The originator is responsible for knowing if their customer (vendor, employee, payee) is moving 100% of the payment to a foreign bank from where the original payment settled even if the original payment is transmitted to a bank inside the territorial jurisdiction of the United States.

State of Nebraska International ACH Origination Policy

This policy detailed in the coming pages has been developed by the State Treasurer's Office with the understanding that there are multiple points of state government originating both ACH payments and ACH debits at any given time.

ACH Credits to vendors and consumers

There are currently no plans to reprogram the State Accounting system and sub-systems utilized by agencies to accommodate International ACH Transaction (IAT) payments to consumers or vendors. In lieu of programming to accommodate IAT, agencies have been instructed to put in place mechanisms to detect or block known international routing numbers. Agencies entering bank instructions into sub-systems (that feed bank information into the State Accounting System, the address book or payment files) or directly into the State Accounting System are not allowed to enter foreign bank instructions into those systems.

The State Accounting address book staff and the Treasurer's Office will work with State agency staff/vendors on ACH Enrollment forms that are received containing routing numbers for banks **not** located in the territorial jurisdiction of the United States.

The State Treasurer's Office recommends that those agencies entering their own banking information for payables to vendors or consumer payments, utilize the Federal Reserve ACH Routing number database. The database should be used as a part of their set-up process to verify routing numbers of new businesses or consumer ACH payment instructions to confirm that the bank is located within the territorial jurisdiction of the United States.

The following instructions detail the process to access the Federal Reserve routing number database: The routing number database can be downloaded off the Federal Reserve website at www.frbservices.org. At the website, in the Search box, type in "ACH routing numbers", and click "go". When the search result populates, select E-payments Routing Directory, then either select Search Fed ACH Participants RDFIs to view information or download the directory by clicking on Download E-Payments Directories. If you download the E-Payment Directory, you will need to select Receive All Fed ACH Participants RDFIs. If an agency is downloading the database, it should be updated at least weekly. Please contact the Treasurer's Office if you need someone in Treasury Management to assist you with this process.

Agencies should also examine current vendors/consumers that are located outside the territorial jurisdiction of the United States being paid by ACH and determine if any changes to outgoing payment methods need to be made to banking information.

The IAT ACH format is more complicated and requires additional details to be sent with the transaction that have previously not been required.

Consumer Payments

Agencies **will not** be able to send **International ACH Transactions** for Payroll, Expense Reimbursements or other government consumer payments thru NIS or any NIS interfaces. International ACH Transactions will be handled by an exception basis. If you have employees/students/retirees/government benefit recipients that are working/living internationally and receiving consumer payments to a foreign bank from your agency, you will not be able to pay them via traditional direct deposit unless it is IAT formatted. Please call the Treasury Management Division staff to discuss these types of consumer payments and the options that are available to your agency in handling these international transactions.

Payments to consumers that bank with foreign banks will be sent out by State Warrant (check), wire, loaded to a prepaid debit card, or handled as detailed in International ACH exception handling (section detailed below).

Payments to vendors and corporations

Agencies **will not** be able to send **International ACH Transactions** to foreign banks as Accounts Payable Transactions for any corporate or non-consumer payment thru the State Accounting System or any interfaces. International ACH Transactions will be handled by an exception basis. The State Treasurer's Office will be the only agency that will be able to send IAT formatted transactions. Please contact the Treasurer's Office if a vendor that banks in a foreign country is requiring your agency to remit via ACH.

ACH Debit Origination Programs

ACH Origination programs that create debits against consumers/corporate bank accounts must also be in compliance with the IAT rules requirements. These files must be formatted to meet the IAT standard entry class code requirements if the entity banks outside the United States. The State Treasurer ACH contracted vendor and the State Treasurer's Office, who are currently operating consumer and corporate ACH debit programs for State agencies will not be originating IAT debits to foreign banks. Agencies originating ACH debits to bank accounts on their behalf are responsible for ensuring that ACH debits sent to banks outside the territorial jurisdiction of the United States are properly IAT formatted.

The State Treasurer's Office has worked with ACH debit origination programs that could be affected by IAT to modify debit authorization forms by adding language to ACH debit enrollment forms.

If an agency needs the State Treasurer's Office to debit a vendor or consumer that banks outside of the United States, the agency will need to contact the Treasurer's Office to discuss their options and the risks associated with IAT transactions (relating to foreign exchange, etc.).

Represented Check ACH debit program

The State Treasurer's Office will not process IAT transactions for returned NSF checks that are drawn off banks located outside of the United States.

Agencies that hire or do business with vendors not hired by the State Treasurer's Office

Agencies, Boards, and Commissions that hire or contract with third-parties for services are responsible for any NACHA fines and OFAC penalties that may result from the rules violation regarding foreign transactions, IAT or ACH processing. Third-parties include any entity not hired by the State Treasurer's Office. Agencies hiring non-State Treasurer contracted vendors must visit with these vendors to make sure they have an International ACH (OFAC) policy in place to manage these types of transactions.

Unless approved by the State Treasurer or his/her designee, third-party vendors will not be allowed to originate ACH transactions under the State of Nebraska ACH Services Contract in order to mitigate payment risk.

International ACH exception handling

Agencies that are required to send a consumer or vendor payment via ACH that need to be sent to a bank outside the United States will obtain the foreign bank and ACH format instructions. Agencies will then work with the Treasurer's Office and State Accounting to complete the manual payment in NIS so that the payment may be sent directly from the Treasurer's Office. Agencies need to understand that although the Treasurer's Office will originate IAT transactions on behalf of agencies, risk associated with loss of payments and foreign exchange rates, etc. will be the responsibility of the requesting state agency.

IAT work around options

Agencies needing to make payments to vendors that bank outside of the United States will be encouraged to make payments via State Treasury warrants, purchasing card payments, or international wires.

Agencies needing to make payments to consumers that bank outside of the United States will be encouraged to make payments via State Treasury warrants, consumer Prepaid branded debit cards, or international wires on rare occasion.

Wires to vendors and consumers are sent by exception only and the agency is required to pay the international wire fees. Please contact the Treasurer's Office for more information.

State of Nebraska – Receiving International ACH Transactions

The State Treasurer's Office is able to receive IAT transactions from vendors sending payments from banks located outside the United States.

Some of the risks associated with receiving IAT payments from foreign banks include the following:

*Payments may be delayed at any point during the payment screening process if a false positive match occurs during the OFAC screening process.

*Payments may be seized and turned over to OFAC if a match occurs (after additional screening from the first false positive and once an investigation is complete). It is possible funds may never be received by the State in cases where OFAC seized the funds.

*NACHA Rules and Regulations are not international unless the Federal Reserve is utilized as the Gateway Operator. Currently, the Federal Reserve cannot offer IAT processing for all countries outside the United States. Different ACH rules and regulations are in effect in foreign countries. Our understanding from ACH experts is that international ACH rules across other countries do not have the strict time frames that NACHA Rules and Regulations utilize to protect participants.

*IAT received payments may be for a different amount than originally agreed upon due to foreign exchange rates.

Agencies should contact the State Treasurer's Office if they are interested in accepting funds from a vendor that utilizes a bank outside territorial jurisdiction of the United States.

Additional Information

State of Nebraska ACH Enrollment Forms

State Accounting and the State Treasurer's Office recently changed the State of Nebraska ACH Enrollment form to include updated ACH addenda language and a box that vendor can check to indicate that the bank is located outside of the United States. All agencies are required to submit custom ACH forms for approval. Those forms can be emailed to: nst.tmstaff@nebraska.gov . Agencies need to have all custom forms submitted, approved, and in place with new changes prior to September 18, 2009.

2010 Update: The State of Nebraska ACH Enrollment form was updated to include language that will allow state staff to be aware of any concerns regarding IAT or the transferring of 100% of the funds from a bank inside the territorial jurisdiction of the United States to a foreign bank. Agencies may view the most current version of the State of Nebraska ACH Enrollment form at:

<http://www.treasurer.org/documents/tm/pubachform.pdf>

As a part of the recent form update, all agencies were asked to submit any custom forms to the Treasurer's Office for review and approval by both the Treasurer's Office and AS Accounting.

Agencies originating ACH Credits that have been contacted include the following: NE Department of Labor, NE Department of Revenue, AS Accounting, University of Nebraska, State College System, Nebraska Child Support Payment Center, NPERS and Nebraska Department of Health & Human Services. Agencies were updated on recent changes and suggestions were given to incorporate new wording into ACH forms, newsletters, websites, payment information emails, etc.

The Treasurer's Office and AS Accounting will continue to release warrants that meet the IAT exception and those that now require release because the vendor is moving 100% of the funds to a foreign bank account.

Prepaid debit cards remain an excellent option for consumers that have foreign bank accounts or who are transferring their funds to a foreign bank account. The State prepaid card vendor is required to transmit all payments off the cards to a foreign bank account via IAT. Prepaid cards remain exempt from the new scope since the State's banking services provider manages those issues for individuals utilizing prepaid cards.

Approved:



Nebraska State Treasurer

11/16/10

Date