



# Understanding Nacha compliance for nonbanks

Perspectives related to compliance requirements for nonbanks accessing the US payment rails



Nonbanks participating in the Automated Clearing House (ACH) network should understand their compliance requirements as set by the National Automated Clearing House Association (Nacha).<sup>1</sup> Companies may participate in the ACH network as an originating institution, receiving institution, a Third-Party Service Provider (TPSP), or a Third-Party Sender (TPS), depending on their business activities and relationship with partner banks or other payment service providers. ACH participants who fail to comply with applicable requirements may face fines or restriction in their ACH participation.<sup>2</sup>

## 5 insights you should know

**Requirements differ for nonbanks:** Nacha's requirements for nonbanks may vary depending on the established relationship with a financial institution and the products and services that the nonbank offers. It is important to know what your responsibilities are under Nacha and establish appropriate risk mitigating routines.

**Framework for rules:** Nacha sets the rules for how the ACH network collects payments. Rules are different for each network provider, but the focus remains on the following: standardization, improving usability, fraud reduction, and data security enforcement.

**Reference guidance:** In addition to the TPSP and TSP third party requirements, the federal banking regulators issued interagency guidance on their TPRM expectations.<sup>4</sup> This guidance describes sound risk management principles to consider when entering in a third-party relationship.

**Risks for noncompliance:** Noncompliance will lead to a higher error rate and more returns when processing transitions. This can lead to fines or restrictions imposed by the ACH network. Moreover, financial institutions may impose additional fines and/or cut ties with a nonbank if the issue is pervasive.

**Focus on fraud:** New 2024 Nacha requirements focusing on fraud risk (i.e., business email compromise) will require base-level fraud monitoring from participants in the ACH network. The new guidance and the enhancement of the *Nacha Risk Management Portal* aim to support fraud investigation and recovery efforts for all participants.<sup>5</sup>

## 5 considerations to evaluate

1 **Third-Party Sender classification:** Gain an understanding of provider definitions and applicable requirements under Nacha. Nonbanks can also leverage the Nacha Third-Party Sender Identification Tool to help understand their roles as an intermediary involved in some aspect of ACH payment processing.<sup>3</sup>

2 **Understand in-scope Nacha rules:** Based on how Nacha defines your institution, create a legal framework of in-scope Nacha requirements. This framework should include roles and responsibilities across the organization.

3 **TPRM program:** The use of third parties, especially those with new technologies may present elevated risks to an organization and their customers. In addition to Nacha's third-party requirements, consider referencing the Interagency Guidance when developing your TPRM program. Further, consider operational, compliance, and strategic risk to facilitate sound risk management.

4 **Monitoring and testing:** Develop a monitoring and testing plan to determine the design of established controls in place to mitigate Nacha risks are operating effectively. Keep the appropriate stakeholders (e.g., bank partners, your board and senior management) abreast of identified or potential risks.

5 **Review financial institution contractual obligations:** Review fraud practices and update your contact information in the ACH Contact Registry. Additionally, review agreements with financial institutions to understand how partners may assess Nacha compliance as part of their TPRM programs (e.g., risk assessment results, monitoring and testing programs).

1 See e.g., National Automated Clearing House Association (Nacha), "Third-Party Sender Roles and Responsibilities," September 30, 2022; Nacha, "Disclosure Requirements for POS Entries," March 18, 2016.

2 Nacha, "What is Rules Compliance?," accessed July 18, 2024.

3 Nacha, "Third-Party Sender Identification Tool," accessed July 18, 2024.

4 Federal Reserve Board of Governors (FRB), Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), "Interagency Guidance on Third-Party Relationships: Risk Management," *Federal Register*, June 9, 2023.

5 Nacha, "New Nacha Risk Management Portal Tool Will Help RDFIs Comply with New Rules on Fighting Fraud," accessed July 18, 2024.

Payment model partnerships are continually evolving, and it is critical for all ACH network participants to clearly understand regulatory and industry expectations. Below are some illustrative use cases of nonbank activities with Nacha obligations.

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### Direct deposit into stored value cards

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Nonbanks offer stored value cards to meet customer needs, including to unbanked or under-banked consumers. In this instance:

- Customer receives direct deposit into account and funds are accessed through stored value cards.
- Nonbank owns stored value card and sits between customer and the financial institution. Stored value funds are accessed through card network (no outbound ACH).

Nonbanks are considered Third Party Service Providers in the ACH network.

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### Banking as a Service (BaaS)

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Nonbanks become the customer facing entity for banking products. Potential relationships:

- TPSP relationship: Nonbanks provide financial services directly to consumers. Consumer has relationship with the nonbank and the nonbank has relationship with a financial institution.
- TPS relationship: Nonbank originates outbound ACH payments to a financial institution.

Products and services provided by nonbanks through BaaS may trigger Nacha requirements.

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### Applications with payments capabilities

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Nonbanks develop or enhance applications with payment processing as a byproduct. For example:

- Food delivery application that arranges payment from the customer to the restaurant
- “Task Bidding” application that provides payment to worker from the service recipient.

These ACH transactions may be defined as a “TPS arrangement.” The payments flow through the Nonbank’s financial institution to pay one party on behalf of the other party.

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