
IAT SURVIVAL GUIDE - SUPPLEMENT #1

SUMMARY

Since the publication of the first and second editions of the *IAT Survival Guide*, OFAC has revised its requirements and expectations regarding the handling of inbound IAT debit transactions. NACHA had developed recommendations and guidance for Gateway Operators and RDFIs for processing inbound IAT debits in accordance with OFAC requirements, which were issued in December 2008, in response to a number of requests that NACHA had received from ACH Network participants that are considering how they will handle such debits, and that wish to do so in a manner that is as automated as possible. On March 5, 2009, OFAC's revised guidance became effective, making NACHA's original recommendations contained within the *Survival Guide* obsolete. This Supplement provides users of these editions with updated information on OFAC requirements for inbound debit processing.

This supplement also includes additional sections that have been added to address the interaction between OFAC requirements, Regulation E, Regulation CC, and the *NACHA Operating Rules*; the impacts of IAT implementation on a financial institution's compliance with reporting requirements under the Bank Secrecy Act, Anti-Money Laundering Act, and SARs, and formatting of transactions under specific payroll withholding circumstances.

Details of the changes are provided below.

CHAPTER TWO – OFAC OBLIGATIONS



The following new section has been added to page 8 of Chapter Two (OFAC Obligations), just prior to the section on “Impact to ACH Network Participants for International Transactions.”

OFAC vs. Regulation E, Regulation CC, and the *NACHA Operating Rules*

When performing an OFAC review of a suspect transaction, it may take some time to obtain sufficient information on the parties to the transaction in order to clear the suspect item. NACHA has modified the *NACHA Operating Rules* (Article One, Section 1.2, Subsection 1.2.5 – Effect of Illegality) to allow financial institutions the time necessary to clear a transaction before it is processed.

Questions have also been raised about the RDFI's obligation to clear a transaction for purposes of OFAC compliance versus its obligations to comply with Regulation E and Regulation CC. In these cases, which law or regulation – OFAC or Regulation E or Regulation CC – takes precedence?

Most of the OFAC programs fall under the scope of the International Emergency Economic Powers Act and the Trading with the Enemy Act. Both of these statutes involve “declarations of national emergency” by the President and contain “hold harmless” provisions for complying with sanctions law. Specific sections of the regulations citing these provisions are listed below.

International Emergency Economic Powers Act

50 U.S.C. § 1702(a)(3) – Presidential authorities

Compliance with any regulation, instruction, or direction issued under this chapter shall to the extent thereof be a full acquittance and discharge for all purposes of the obligations of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this chapter, or any regulation, instruction, or direction issued under this chapter.

Trading with the Enemy Act

50 U.S.C. App. § 5(b)(2)

Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder.



The following language related to RDFIs replaces the RDFI discussion found on pages 9 and 10 of Chapter Two (OFAC Obligations) under the section on “Impact to ACH Network Participants for International Transactions.” These modifications update the RDFI’s obligations for handling unlawful Inbound IAT debit transactions. No changes have been made to the language regarding unlawful Inbound IAT credit entries; rather, that discussion has simply been re-formatted to more clearly distinguish between unlawful credits where the Receiver is the blocked party versus unlawful credits where the Originator or any other party is the party subject to OFAC sanctions.

RDFIs

RDFIs should be aware that they are subject to the requirements of the *NACHA Operating Rules* and applicable U.S. law when processing ACH entries. This includes the need to comply with OFAC enforcement policies in the event that the RDFI receives an ACH transaction being made to, from, or on behalf of any party subject to OFAC sanctions. The RDFI is responsible for rejecting or freezing the proceeds of a transaction involving interests of blocked parties.

Handling Unlawful Transactions***Credit Entries:***

- If the RDFI receives an inbound unlawful IAT credit entry to a Receiver that is subject to OFAC sanctions, the RDFI holding the blocked party’s account should post the credit entry to the account, ensure the account is frozen, and report the transaction to OFAC.

- If the Originator of the IAT transaction (or any party other than the Receiver) is subject to OFAC sanctions the transaction should not be posted to the Receiver's account, the funds should be frozen and the transaction reported to OFAC.

Debit Entries:

If the RDFI receives an unlawful IAT debit transaction, the RDFI should investigate the transaction and, if it is found to be in violation of an OFAC sanction, contact OFAC directly. The Gateway Operator may have missed this transaction, or the OFAC list may have been revised. OFAC will handle these situations on a case-by-case basis. (See Chapter Five – Guidelines for additional information on IAT debit processing.)

CHAPTER THREE – FINANCIAL INSTITUTION RESPONSIBILITIES



The following language replaces the discussion on “Gateway Operators: Recommendations for Inbound IAT Debit Transactions” found on pages 17 and 18 of Chapter Three (Financial Institution Responsibilities - Gateway Operators).

Gateway Operators (ODFIs): Recommendations for Processing Inbound IAT Debit Transactions

(Note: This information reflects OFAC's revised requirements for inbound IAT debit processing, which became effective on March 5, 2009.)

A financial institution acting as a Gateway Operator (ODFI) for Inbound IAT debits should:

1. Review all Inbound IAT debits for OFAC compliance, including all parties to the transaction and all remittance data;
2. Segregate any suspect transactions into an OFAC review module or queue;
3. Populate the Gateway Operator OFAC Screening Indicator (Field 10, IAT Entry Detail Record) for clean transactions with “0.” (NOTE: This field is Optional under the NACHA Operating Rules, but its use is strongly encouraged);
4. Rebalance original batch and file, if necessary, and send to ACH Operator (see section below on Gateway Operator Procedures for Rebalancing a Batch and File);
5. Investigate suspect transactions:
 - a. For a suspect transaction **cleared** by the investigation:
 - i. Populate the Gateway Operator OFAC Screening Indicator (Field 10, IAT Entry Detail Record) for clean transactions with “0.” (NOTE: This field is Optional under the NACHA Operating Rules, but its use is strongly encouraged);
 - ii. Batch cleared transactions and send to the ACH Operator for normal processing and settlement.

- b. For transactions **confirmed** as an OFAC hit:
 - i. Cease processing of the entry;
 - ii. Notify the Foreign Gateway Operator that the debit entry has been rejected and is in violation of U.S. law;
 - iii. Notify OFAC within 10 days;
 - iv. Notify the RDFI that the transaction destined for one of its customers has been rejected, and provide a copy of the transaction.

Under these processing guidelines, there should be no instances in which a Gateway Operator sends an inbound IAT debit in which there is a “1” in the OFAC Screening Indicator. All suspect transactions would either be cleared or processing would cease.



The following language replaces the discussion on “RDFIs: Recommendations for Processing Inbound IAT Debits” found on pages 19 - 20 of Chapter Three (Financial Institution Responsibilities - RDFI Responsibilities). The section entitled “Exception Processing” on pages 20 and 21 has been deleted.

RDFIs: Recommendations For Processing Inbound IAT Debits

An RDFI should recognize that it may receive IAT debits and be prepared in advance to handle the IAT debits. The RDFI for Inbound IAT debits should:

1. Review all incoming IAT debits for OFAC compliance;
(NOTE: Use of the Gateway Operator Screening Indicator field by the Gateway Operator is optional. An RDFI should not assume a transaction is clean because of the presence of a “0” in the Gateway Operator OFAC Screening Indicator (Field 10, IAT Entry Detail Record), or because of the absence of any indicator in this field. The RDFI should rely on the results of its own investigation.);
2. Post clean transactions normally;
3. Investigate any suspect IAT debits:
 - a. For a suspect transaction **cleared** by an investigation, post normally;
 - b. For a suspect transaction **confirmed** as an OFAC hit – contact OFAC directly. The Gateway Operator may have missed this transaction or the OFAC list may have been revised. OFAC will handle these situations on a case-by-case basis.

Under these processing guidelines, there should be no instances in which an RDFI receives an inbound IAT debit in which there is a “1” in the OFAC Screening Indicator. This does not relieve the RDFI of its obligation to screen the IAT debits that it receives and report SDN hits to OFAC.

If an RDFI receives notification from a Gateway Operator that an inbound IAT debit destined for one of its accounts has been rejected due to the presence of a blocked party (as described in Gateway Operator Responsibilities, section 5(b)(iv)), the RDFI should take appropriate due diligence measures.

Debit Blocks And Filters

A number of financial institutions currently offer a debit block service to their corporate customers. For an IAT debit that is not in violation of an OFAC sanctions program, an IAT debit processed against an account with a debit block may be returned as unauthorized as with any other debit transaction. For an IAT debit that is in violation of an OFAC sanctions program, contact OFAC directly before the debit is returned. OFAC has indicated that it wants to address this issue on a case-by-case basis.



***Remember:* Any entry that is identified as a potential hit against the SDN list must be handled as an exception item, requiring investigation and closer examination by the RDFI. Such transactions may not be automatically returned by the RDFI.**



The following new section has been added to page 21 of Chapter Three (Financial Institution Responsibilities – RDFI Responsibilities), just prior to the section on “Statement Requirements.”

OFAC vs. Regulation E, Regulation CC, and the NACHA Operating Rules

When performing an OFAC review of a suspect transaction, it may take some time to obtain sufficient information on the parties to the transaction in order to clear the suspect item. NACHA has modified the *NACHA Operating Rules* (Article One, Section 1.2, Subsection 1.2.5 – Effect of Illegality) to allow financial institutions the time necessary to clear a transaction before it is processed.

Questions have also been raised about the RDFI’s obligation to clear a transaction for purposes of OFAC compliance versus its obligations to comply with Regulation E and Regulation CC. In these cases, which law or regulation – OFAC or Regulation E or Regulation CC – takes precedence?

Most of the OFAC programs fall under the scope of the International Emergency Economic Powers Act and the Trading with the Enemy Act. Both of these statutes involve “declarations of national emergency” by the President and contain “hold harmless” provisions for complying with sanctions law. Specific sections of the regulations citing these provisions are listed below.

International Emergency Economic Powers Act

50 U.S.C. § 1702(a)(3) – Presidential authorities

Compliance with any regulation, instruction, or direction issued under this chapter shall to the extent thereof be a full acquittance and discharge for all purposes of the obligations of the person making the same. No person shall be held liable in any court for or with

respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this chapter, or any regulation, instruction, or direction issued under this chapter.

Trading with the Enemy Act

50 U.S.C. App. § 5(b)(2)

Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder.



The following new section has been added to page 21 of Chapter Three (Financial Institution Responsibilities – RDFI Responsibilities), immediately following the section on “Exception Handling.”

AML and SARS Impacts

The implementation of the IAT does not change a financial institution’s BSA, AML, or SARs reporting requirements. It does, however, provide additional information on a customer’s activities and the information provided in the IAT transactions should be taken into consideration in any BSA and AML compliance review of the customer.

CHAPTER FIVE – GUIDELINES



The following new section has been added to page 25 of Chapter Five (Guidelines), immediately following the section on “ODFI Originator of Outbound IAT Transactions - OFAC Screening Indicators (Not the Gateway Operator).”

PAYROLL WITHHOLDING TRANSACTIONS

NACHA has provided the following guidance to the American Payroll Association regarding payroll withholding payments (i.e., child support payments sent from the employer to the State Disbursement Units [SDUs]) remitted to federal, state, and local taxing and other collecting agencies. NACHA has concluded that these payments are not required to be IATs, even when the associated payroll entries to employees (Direct Deposit) and any offsetting debit to fund the payroll would otherwise qualify as IATs. The scenarios associated with this process have been reviewed by OFAC, and OFAC has agreed with NACHA’s position on this issue.

In providing this guidance to the payroll industry, it is important to remember that employers, payroll processors, all payroll professionals, and governmental agencies understand OFAC requirements and their organizations' obligations.

While this guidance indicates that the payroll withholding payments are not required to be formatted as IAT transactions a company is still allowed to use the IAT for these types of payments if they choose to do so.



The following language replaces the discussion on “OFAC Requirements Related to Inbound IAT Debits” found on pages 26 and 27 of Chapter Five (Guidelines).

OFAC REQUIREMENTS RELATED TO INBOUND IAT DEBITS

(Note: This information reflects OFAC's revised requirements for inbound IAT debit processing, which became effective on March 5, 2009.)

Under OFAC's revised requirements, a Gateway Operator that identifies the presence of a blocked party in an inbound IAT debit should cease processing the entry, and should take several additional steps to report the hit to OFAC, the Foreign Gateway Operator, and the RDFI.

OFAC further expects that Gateway Operators' notifications to RDFIs about OFAC hits will eventually take place through the ACH Network. NACHA will issue additional guidance when methods and procedures for these notifications are established.



The following language replaces the discussion on “Gateway Operators: Recommendations for Processing Inbound IAT Debit Transactions” found on pages 27 and 28 of Chapter Five (Guidelines).

GATEWAY OPERATOR (ODFI) RESPONSIBILITIES FOR INBOUND IAT DEBIT TRANSACTIONS

A financial institution acting as a Gateway Operator (ODFI) for Inbound IAT debits should:

1. Review all Inbound IAT debits for OFAC compliance, including all parties to the transaction and all remittance data;
2. Segregate any suspect transactions into an OFAC review module or queue;
3. Populate the Gateway Operator OFAC Screening Indicator (Field 10, IAT Entry Detail Record) for clean transactions with “0.” (NOTE: This field is Optional under the NACHA Operating Rules, but its use is strongly encouraged);
4. Rebalance original batch and file, if necessary, and send to ACH Operator (see section below on Gateway Operator Procedures for Rebalancing a Batch and File);

5. Investigate suspect transactions:
 - a. For a suspect transaction **cleared** by the investigation:
 - i. Populate the Gateway Operator OFAC Screening Indicator (Field 10, IAT Entry Detail Record) for clean transactions with “0.” (NOTE: This field is Optional under the NACHA Operating Rules, but its use is strongly encouraged);
 - ii. Batch cleared transactions and send to the ACH Operator for normal processing and settlement.
 - b. For transactions **confirmed** as an OFAC hit:
 - i. Cease processing of the entry;
 - ii. Notify the Foreign Gateway Operator that the debit entry has been rejected and is in violation of U.S. law;
 - iii. Notify OFAC within 10 business days;
 - iv. Notify the RDFI that the transaction destined for one of its customers has been rejected, and provide a copy of the transaction.

Under these processing guidelines, there should be no instances in which a Gateway Operator sends an inbound IAT debit in which there is a “1” in the OFAC Screening Indicator. All suspect transactions would either be cleared or processing would cease.



The following language replaces the discussion on “Gateway Operator Procedures for Rebalancing a Batch and File” found on page 28 of Chapter Five (Guidelines).

GATEWAY OPERATOR PROCEDURES FOR REBALANCING A BATCH AND FILE

ACH Operations software would rebalance the batch and file to include revisions to the following fields: Total Debit Entry Dollar Amount in Batch/File, Total Credit Entry Dollar Amount in Batch/File, Entry/Addenda Count and Entry Hash at both the Batch Control and File Control level and possibly the Batch Count and/or Block Count in the File Control Record.



The following language replaces the discussion on “RDFIs: Recommendations for Processing Inbound IAT Debits” found on pages 28 – 30 of Chapter Five (Guidelines).

RDFI RESPONSIBILITIES FOR INBOUND IAT DEBIT TRANSACTIONS

An RDFI should recognize that it may receive IAT debits and be prepared in advance to handle the IAT debits. The RDFI for Inbound IAT debits should:

1. Review all incoming IAT debits for OFAC compliance;

(NOTE: Use of the Gateway Operator Screening Indicator field by the Gateway Operator is optional. An RDFI should not assume a transaction is clean because of

the presence of a “0” in the Gateway Operator OFAC Screening Indicator (Field 10, IAT Entry Detail Record), or because of the absence of any indicator in this field. The RDFI should rely on the results of its own investigation.);

2. Post clean transactions normally;
3. Investigate any suspect IAT debits:
 - a. For a suspect transaction **cleared** by an investigation, post normally;
 - b. For a suspect transaction **confirmed** as an OFAC hit – contact OFAC directly. The Gateway Operator may have missed this transaction or the OFAC list may have been revised. OFAC will handle these situations on a case-by-case basis.

Under these processing guidelines, there should be no instances in which an RDFI receives an inbound IAT debit in which there is a “1” in the OFAC Screening Indicator. This does not relieve the RDFI of its obligation to screen the IAT debits that it receives and report SDN hits to OFAC.

If an RDFI receives notification from a Gateway Operator that an inbound IAT debit destined for one of its accounts has been rejected due to the presence of a blocked party (as described in Gateway Operator Responsibilities, section 5(b)(iv)), the RDFI should take appropriate due diligence measures.

CHAPTER SIX – FREQUENTLY ASKED QUESTIONS



The following questions within Chapter Six (Frequently Asked Questions) have been newly added or revised for better clarity.

3. How do I know if I should use IAT?

There are three things to consider when determining if an ACH transaction should be formatted as an IAT transaction:

- Payment instruction to create ACH transactions (or a file already created) plus explicit funding for the ACH file. The funding and data do not necessarily have to be included in the same file (Payment Transaction).
- Funding for the transactions is transmitted to or received from a Financial Agency located outside the territorial jurisdiction of the United States. (The territorial jurisdiction of the United States includes all 50 states, U.S. territories, and U.S. military bases and U.S. embassies in foreign countries).
- Any part of the transaction is processed through the U.S. ACH Network.

If the answer is “yes” to all three of the above criteria, the item should be formatted as an IAT.

37. Must an RDFI returning an IAT transaction scan the return entry before transmitting it to its ACH Operator? Does it matter if it is returned the next day versus weeks or more later?

If there has been a change to the SDN list since the time that an original entry was screened by the RDFI and posted, a previously ‘clean’ transaction may now be considered suspect and require investigation by the RDFI. If found to be a hit, the RDFI would be obligated to seize the funds and contact OFAC. To that end, it is recommended that an RDFI re-screen an entry for OFAC compliance prior to transmitting the return to its ACH Operator. An RDFI should, within its OFAC policies, establish procedures to re-screen IAT transactions as well as its account base each time the SDN list is updated.

43. For the return of an outbound IAT entry, could the dollar amount of the transaction be different from the dollar amount of the forward entry due to changes in the foreign exchange rate?

Yes. For the return of an outbound IAT entry, the dollar amount of the return may be different from the amount reflected in the original forward entry if the exchange rate is different at the time of the return. The foreign exchange reference field would also be changed to reflect the foreign exchange rate that is applicable at the time of the return if a foreign exchange rate were provided within this field on the forward entry.

70. What OFAC screening services will be provided by the ACH Operators?

None. The Federal Reserve and the Electronic Payments Network, as ACH Operators, will not screen IAT entries for OFAC compliance.

CHAPTER EIGHT – TECHNICAL STANDARDS AND MAPPING



The following questions within Chapter Eight (Technical Standards and Mapping) have been newly added or revised for better clarity.

7. Can an IAT pre-note be initiated?

Yes. Prenotification entries may be initiated for inbound IAT entries. When used, IAT prenotification entries must include the seven mandatory addenda records and must be screened for OFAC compliance. The *NACHA Operating Rules* do not apply the use of prenotifications to outbound IAT entries since, generally speaking, there is no prenote counterpart within the payment systems of most foreign countries. Although prenotes for outbound IAT entries will flow over the ACH Network and will not be stopped by the ACH Operator, they are unlikely to move across the border and trigger a response from the foreign financial institution.

20. What if a portion of the content of a field is not available (for example, either the Country or postal code is not available for the Originator Country and Postal Code field)?

- If you have all the data, the field is formatted: “Country*postalcode\”.
- If the missing segment is not the last segment, use “*” as a placeholder. In the example, if missing Country, the format would be: “*postalcode\”.

- If the missing segment is the last element, do not include the “*”. In the example, if missing Postal Code, the format would be: “Country\”.
- If a convention includes more than two data elements, and the missing data element falls in between other data elements, an asterisk (“*”) would act as a placeholder for the missing data element and would immediately follow the asterisk used as the delimiter for the previous data element. For example, using the POP convention where the Terminal City data element is missing, the format would be “CheckSerialNumber**TerminalState/ForeignCountry\”.

CHAPTER ELEVEN – IAT CORPORATE TOOL KIT



A new chapter (Chapter Eleven – IAT Corporate Tool Kit) has been included at the end of the IAT Survival Guide to provide tools to assist ODFIs in communicating with and educating their Originators about international payments and the requirements of IAT. All of this information can be accessed and downloaded from the IAT Industry Information page on NACHA’s website at http://www.nacha.org/IAT_Industry_Information/.