

INTERNATIONAL ACH TRANSACTIONS

for

CORPORATE PRACTITIONERS

1. What is an IAT?

The IAT is a new Standard Entry Class code for ACH payments to identify international transactions. International transactions are those payments that have been funded internationally or are being sent to another country and a part of the transaction will be processed via the ACH Network.

2. Why was the IAT developed?

The IAT was developed in response to a request from the Office of Foreign Asset Control (OFAC). In its letters to NACHA, OFAC stated that it thought that the ACH Network is vulnerable to abuse due to the speed and efficiency of the Network. OFAC understands that there are currently transactions flowing through the Network that are funded by international sources. These transactions cannot currently be identified within the Network and are formatted as domestic transactions. OFAC has requested that NACHA modify the *NACHA Operating Rules* to adequately identify international transactions and have the banks review the international transactions for OFAC compliance.

3. As a Corporate Originator, does OFAC impact me?

Yes, U.S. corporations are also required to comply with OFAC obligations, and the penalties for ignoring those obligations can be both criminal and civil and include both jail time and fines ranging from \$10,000 to \$10,000,000 per occurrence. If these fines are levied against the financial institution they may be passed back to the corporate originator depending on the specifics of the case and the details of their contract with the financial institution. The fines are levied by the U.S. government and funds collected are the property of the government, not the financial institution. Additional information on OFAC obligations and fines can be found at <http://www.treas.gov/offices/enforcement/ofac/>.

4. How do I know if the IAT applies to my ACH transactions?

If you answer yes to any of the following questions, please read the rest of the document and then contact your financial institution about the impact of the IAT to your company.

- Is your company a subsidiary of a multi-national company?
- Does your company have foreign subsidiaries?
- Does your company buy or sell to organizations or individuals outside the territorial jurisdiction of the United States?
- Does your company send payroll, pension or benefit payments via the ACH Network to individuals that have permanent resident addresses outside the territorial jurisdiction of the United States?

For additional information on the IAT corporate responsibilities and requirements please read the following document.

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On September 18, 2009, an amendment to the *NACHA Operating Rules* will become effective that has the potential to impact U.S. businesses that send or receive ACH payments. This amendment will require all payments funded internationally or sent to another country via the ACH Network to be identified as International ACH Transactions using a new Standard Entry Class (SEC) Code—IAT. The new Rule will also require that IAT payments include specific data elements defined by the Bank Secrecy Act's (BSA) "Travel Rule."

Classification of International ACH Transactions

This new rule will classify International ACH Transactions (IATs) by focusing on where the financial agency¹ that handles the payment transaction (movement of the funds) is located and not where any other party to the transaction (e.g., the Originator or Receiver) is located. Therefore, certain transactions that are currently sent as domestic PPDs or CCDs would be categorized as international transactions and must be sent as IATs.

Structuring the Formats to Comply with U.S. Law

The information currently included within the cross-border payment formats and other ACH records does not provide sufficient information for the financial institutions and regulators to readily identify all parties to an international transaction in order to comply with OFAC-administered U.S. sanctions policies. The new IAT format has added the following mandatory fields to carry the information needed for a regulatory review:

- Receiver's Account Number
- Receiver's DFI Identification Number
- Payment Amount
- Reason for Payment
- Receiver's Name
- Receiver's Street Address (not P.O. Box)
- Receiver's City, State or Province, and Postal Code
- Originator's Name and Identification Number
- Originator's Street Address (not P.O. Box)
- Originator's City, State or Province, and Postal Code
- ISO destination country code country code (or at least destination country)
- Receiving bank (name, identification, qualifier, branch country code)
- Amount of entry and FX arrangements
- Transaction type code (reason for payment)

¹ Financial agency means an entity that is authorized by applicable law to accept deposits or is in the business of issuing money orders or transferring funds.

Compliance with OFAC Requirements by Participants

NACHA is responding to a request from OFAC to be able to adequately identify transactions that are international in scope. The agreements that corporate originators sign with their financial institutions state that they will be in compliance with the *NACHA Operating Rules* and U.S. law. Effective September 18, 2009, the new IAT SEC code will be in place that requires participants to identify international transactions and to code those entries as IAT transactions. If a corporate originator does not comply and the transactions are identified or reported by other financial institutions, ACH Rules Violations can be filed against the Originating Depository Financial Institution (ODFI). If the problem is not resolved, the ODFI may be fined for a rules violation.

U.S. corporations are also required to comply with OFAC obligations and the penalties for ignoring those obligations can be both criminal and civil and include both jail time and fines ranging between \$10,000 and \$10,000,000 per occurrence depending on the sanctions program that is violated. If the corporate Originator has been educated by their financial institution on their IAT requirements and the corporate Originator ignores the requirements, in the event of a problem with a transaction, it is very likely that any fines or jail time would be levied against the corporation and not their financial institution. Fines levied for OFAC violations are property of the U.S. government and levied by the OFAC not the financial institutions. It is also likely that if a financial institutions receives a fine due to non-compliance by a corporate originator of ACH transactions that they financial institution will pass those fines back to the customer. This issue should be covered in the legal agreement between the financial institution and the corporate originator.

IAT Rules Framework

1. Definition of International ACH Transaction

The IAT rule defines an International ACH Transaction as an ACH entry that is part of a payment transaction (see next section for guidance on Payment Transaction) involving a financial agency's office that is not located in the territorial jurisdiction of the United States.

Specifically, an office of a financial agency is involved in the payment transaction if it:

- holds an account that is credited or debited as part of a payment transaction; or
- receives funds directly from a Person or makes payment directly to a Person as part of a payment transaction; or
- serves as an intermediary in the settlement of any part of a payment transaction.

The definition of International ACH Transaction focuses on where the financial institution that handles the payment transaction (movement of the funds) is located and not where any other party to the transaction (e.g., the Originator or Receiver) is located.

2. Payment Transaction Guidance

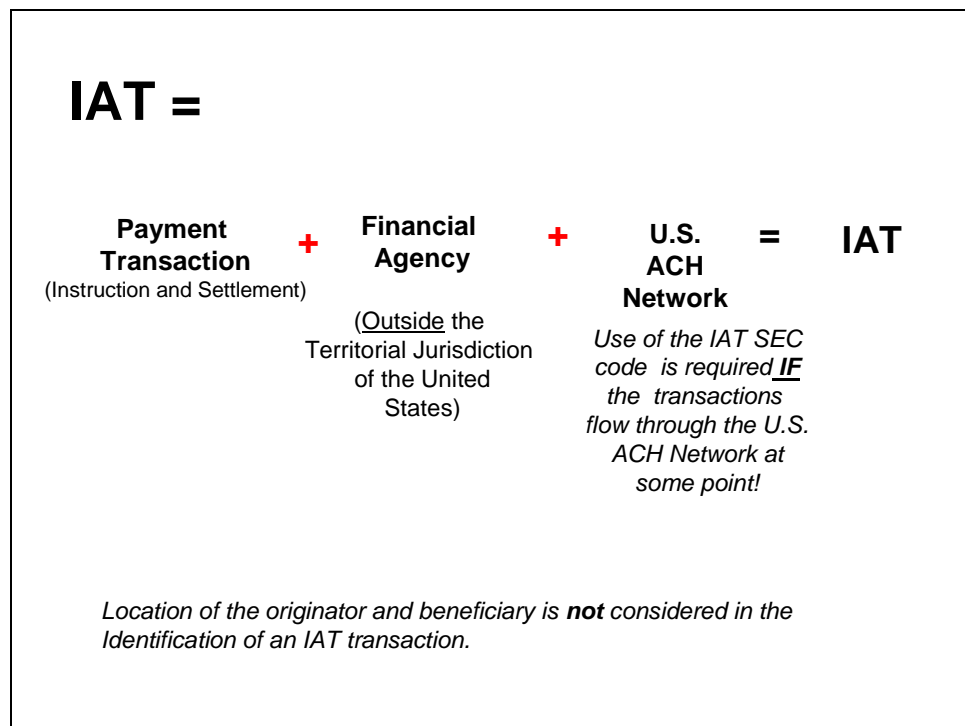
A payment transaction is -

- 1) an instruction of a sender to a bank to pay, or to obtain payment of, or to cause another bank to pay or to obtain payment of, a fixed or determinate amount of money that is to be paid to, or obtained from, a receiver, **and**
- 2) any and all settlements, accounting entries, or disbursements that are necessary or appropriate to carry out the instruction.

The message or payment instructions do not have to come at the same time as the funding of the transaction. Example – a SWIFT instruction message is received by a financial institution on Monday with instructions to create an ACH file for the company payroll. On Tuesday, the financial institution receives the funding for that SWIFT message from a foreign correspondent bank. The payroll items in the ACH file should be in the IAT format since the funding was received from a foreign financial institution.

3. *IAT Equation*

The following diagram illustrates the 3 parts that need to be considered when determining if an ACH transaction should be formatted as an IAT transaction.



When to use the IAT Format

The following are some questions that a corporate practitioner needs to consider in determining if the IAT rule change will impact your company:

- Is your company a subsidiary of a multi-national company?
- Does your company have foreign subsidiaries?
- Does your company buy or sell to organizations or individuals outside the territorial jurisdiction of the United States?
- Does your company send payroll, pension or benefit payments via the ACH Network to individuals that have permanent resident addresses outside the territorial jurisdiction of the United States?

If you answered yes to any of the preceding questions please contact your financial institution about the impact of the IAT to your company.