

IAT Corporate Due Diligence

The determination of an appropriate type and degree of due diligence in properly identifying international payments is not defined by either NACHA or OFAC. OFAC mandates that a company properly identify and handle a payment involving the movement of funds internationally, and NACHA mandates the proper use of Standard Entry Class Code and application of the rules based on the nature of the funds transfer and the parties involved in the payment, however neither provides rules or specific guidance on how necessary information to comply with those standards is obtained. As a result, it is left to the parties bound to such standards to establish business practices that enable them to gather necessary information to comply with those standards.

Although the ODFI warrants proper formatting of transactions and compliance with relevant rules, the corporate Originator is also bound to comply with those rules through its contract with its ODFI. In most cases, the corporate Originator, rather than its ODFI, is in the better position to know the parties with which it does business, where those funds are destined, where its employees reside, etc. As a result, Originators should generally hold the responsibility for asking appropriate questions of their vendors and employees sufficient to determine whether those funds will remain domestic or whether the funds will move internationally.

The ODFI and its customer should work closely together to identify what level of risk each is willing to take on regarding their compliance with NACHA and OFAC requirements and what level of research is necessary to meet that risk tolerance for potential violations of these rules and regulations. These issues, and the specific responsibilities of each party, should be specifically defined within the ODFI-Originator contract.

NACHA has developed some sample language for communications between Originators and their employees and vendors, which can be found on NACHA's IAT Resource Page (at www.nacha.org). This or similar language could be included within employee newsletters, on companies' websites, and included with new-hire information. Similar notifications could be provided to current and potential new vendors. NACHA does not suggest that companies survey and receive responses from every employee or vendor. Rather, each company should determine whether they have transactions being sent out of the country, develop a specific company policy to determine how this should be addressed, and implement that policy. Whether the company identifies specific parties to contact or whether a general notice is provided to all, and the frequency with which such notice may be re-issued, will need to be determined by each company on an individual basis.