State of North Carolina
Office of the State Controller

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STATE CONTROLLER

International ACH Transactions (IAT) Rules Advisory
July 28, 2009 (Revised August 18, 2009)

Intent of Advisory
This advisory is intended to provide governmental entities within the State of North Carolina with information to assist them in adhering to the International ACH Transaction (IAT) rules that go into effect September 18, 2009.

Which Governmental Agencies Will be Affected?
Governmental agencies that are most affected are those that originate electronic payments via the ACH network. Governmental entities would include State agencies, universities, community colleges, boards and commissions, clerks of courts, component units, and local governmental units (counties, cites, public authorities, local school systems, etc.). The advisory is of particular importance to those entities subject to the Office of the State Controller's (OSC's) governance regarding the manner in which disbursement of State funds are made.

Domestic ACH Payments
While on the surface it may appear that governmental entities are not affected by the IAT rules since they do not ordinarily make international ACH payments, a closer examination reveals that any entity that remits domestic ACH payments is potentially affected. All entities originating payments electronically, whether they be for payroll, pensions, or vendor payments, are therefore advised to examine the rules to see how they apply. Origination of electronic payments includes submitting ACH credits to payees (for disbursements), as well as originating ACH debits to draft payors' accounts (for collecting funds).

Governmental entities will need to develop and document the procedures and processes they will implement to demonstrate the due diligence efforts they will undertake to comply with the new rules.

Examples of Potential IAT Payments
Governmental entities that make electronic payments (payroll or otherwise) to the following payees could be affected: 1) foreign individuals who are students attending universities or colleges; 2) foreign individuals who are employed or contracted by the governmental entity (e.g., professors, contractors, etc.); 3) foreign individuals or companies that are vendors of the governmental entity, and 4) individuals who may or may not be foreign citizens, but who have a foreign address (e.g., retirees, tax refund recipients, child support recipients, etc.).

Governmental entities that collect funds electronically from payors by originating an ACH debit (bank draft) against the payor's bank account could be affected: 1) tax payments received from enrolled payors through a third-party data collection center; and 2) payments (taxes, fees, tuition, child support, etc.,) initiated online via the entity's website.

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Why New IAT Rules?

The new IAT Rules require all international ACH transfers to be identified so that they can be screened for unlawful or sanctioned entities. The new IAT rules also expand the definition of international ACH transfers so that if any part of an ACH transfer involves an office of a foreign financial agency, the transfer must be labeled as an IAT.

OFAC and NACHA

The IAT rules to which even governmental entities must adhere are based upon requirements of the Office of Foreign Assets Control (OFAC) of the US Department of the Treasury, as well as those of the National Automated Clearing House Association (NACHA).

OFAC administers and enforces economic and trade sanctions based on US foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the United States. OFAC acts under Presidential national emergency powers, as well as authority granted by specific legislation, to impose controls on transactions and freeze assets under US jurisdiction. The website for OFAC is http://www.treas.gov/offices/enforcement/ofac/.

NACHA is a not-for-profit association that oversees the Automated Clearing House (ACH) network, and that issues the "ACH Operating Rules" under which the various parties of ACH transactions are contractually bound by. The various parties bound by the Rules include: 1) Originating Companies; 2) Originating Depository Financial Institutions (ODFIs); 3) Receiving Depository Financial Institutions (RDFIs); and 4) ACH Gateway Operators.

Every governmental entity originating ACH entries through the ACH Network (which is primarily a domestic network) is bound to the NACHA Operating Rules through the agreement it has with its ODFI. In the case of a governmental entity that participates in the State Controller's EFT (electronic funds transfer) master services agreement (MSA) with Wachovia Bank, the entity is bound by the State's MSA. The website for NACHA where IAT information may be viewed is http://www.nacha.org/IAT_Industry_Information/.

The IAT rules are a result of NACHA amending the ACH Operating Rules to align them with OFAC compliance obligations and to make it easier for RDFIs (the bank receiving the ACH payments) to comply with those obligations. The IAT rules, a subset of the NACHA Operating Rules, basically expand the obligations of originating companies (governmental entities), ODFIs, and gateway operators to assist in identifying payments being made to parties that have been sanctioned by OFAC.

Obligations of RDFIs and ODFIs

Under US Law, RDFIs (banks receiving ACH payments) are basically required to screen all ACH payments, whether they be international or domestic payments, to ascertain if the funds associated with a payment are being remitted to (or being received from) any party subject to OFAC sanctions. The RDFI is responsible for rejecting or freezing the proceeds of a transaction involving interests of blocked parties that have been sanctioned. The RDFI is required to perform a match of suspect ACH payments against the "Specially Designated Nationals (SDN) List." The ODFI (the governmental entity's bank that originates the payments) also has a role in the process. The SDN List is maintained and published by OFAC "to assist the public in complying with the various sanctions programs administered by OFAC." The SDN List may be viewed at the following website http://www.treas.gov/offices/enforcement/ofac/sdn/.

Parties to a Typical ACH Transaction – Potentially Remitted to an Off-shore Bank

In a typical electronic payment transaction, a governmental entity (functioning as an originating company) submits an ACH transaction to its EFT processor bank (functioning as an ODFI), which then remits the transaction through an ACH gateway operator (e.g., Federal Reserve Bank), for further credit to the payee's depository bank (functioning as a RDFI). Such payments are made based either upon a pre-authorization form that the payee provides to the governmental entity, or made based upon a one-time authorization if a qualified WEB entry.

Payments submitted by the governmental entity are typically received by a US financial institution functioning as the RDFI and are credited to the payee's bank account. However, there are situations where foreign financial institutions offer services allowing originating companies in the United States to send funds to persons or businesses holding accounts outside of the United States. It is these types of situations that have prompted the IAT rules, which require such payments to be flagged with an IAT identifier, if they are known to be such by the originator.

Under one scenario, the foreign financial institution uses a U.S. branch of a foreign, off-shore financial institution (the RDFI), with the entries being subsequently forwarded by the off-shore financial institution to the payee's offshore bank account. Under another scenario, the foreign financial institution uses a correspondent in the United States (the RDFI) as the collection point within the ACH network, and the funds representing the entire payment are subsequently up-streamed daily to the foreign financial institution, thereby making the foreign institution the designation.

Thus, it is not the location of the payee's designated RDFI that determines if the ACH transaction should be flagged as an IAT, but the involvement of the off-shore financial institution (considered under the IAT rules as an "office of a financial agency") that is associated with the payment designation. If a "financial agency" located off-shore is part of either the instruction or settlement of a domestic ACH transaction, then it should be flagged by the originating company (governmental entity) as an IAT. Difficulty arises in applying the "subsequent funds transfer" condition, as the governmental entity is not normally in the position to be aware of such arrangements the payee may have with their bank. Additionally, the payment would only be an IAT if the full amount of the payment is subsequently up-streamed to the foreign designation.

NACHA's Definition of an International ACH Transaction (IAT)

An IAT is thereby defined as: An ACH entry that is part of a 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 (IAT) 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.

"Payment Transaction" is not defined in the IAT definition, but OFAC requested that the following guidance be included in the ACH Operating Guidelines. A "Payment Transaction" is:

- 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
- any and all settlements, accounting entries, or disbursements that are necessary or appropriate to carry out the instruction.

Know Your Customer

Under the new IAT rules, it appears that all parties to an ACH transaction, not just the RDFI and the ODFI, are to participate in identifying ACH payments that should be identified as an IAT, which would allow it to be screened as a payment to an OFAC sanctioned party. An obvious IAT would be a payment made to a payee's account maintained at an offshore financial institution (which is not a common government initiated transaction). However, an ACH transaction sent to a domestic financial institution (RDFI) for credit to an account subject to transfer to an off-shore financial institution, which could be a typical government initiated transaction, would also be defined as an IAT. Such transaction would not be one that can be easily or definitively identified by the originator as an IAT

The NACHA Rules specifically require all parties to adhere to all US Laws, and transactions conducted through the ACH network carry such warranties with them. While not specifically stated in the NACHA Rules, the premise of the IAT rules implies that all parties have an obligation to "know their customer." In many cases, the originating company (governmental entity) is in the best position to know that the payment to a person or company could potentially be part of a transaction where the funds could be remitted upstream to a party that is sanctioned by the OFAC, by virtue of being on the "Specially Designated Nationals (SDN) List." Such evidence known by the governmental entity could include, but not be limited to, the federal tax withholding requirement associated with the payment (e.g., nonresident alien), the payee's physical address, or the known incorporated status of the payee if a vendor (e.g., non-domestic).

NACHA acknowledges that it is not always possible for the originating company or ODFI to know whether funds remitted to an RDFI are subject to being subsequently forwarded to a foreign, off-shore bank. In fact, no one party to an ACH transaction has sufficient information to make a definitive determination, perhaps other than the RDFI or the payee. Information known by the governmental agency alone (such as the payee's physical address or country of incorporation) is not necessarily a sufficient reason to designate payments to the person or company (payee) as an IAT, but it can be enough to prompt the governmental entity to make a due diligence inquiry of the payee.

Because of privacy regulations banks must adhere to, the governmental entity is unable to obtain information from either the ODFI or RDFI regarding the payee's bank account (which is a component to knowing definitively if the payment should be flagged as an IAT or not). Supplemental information obtained directly from the payee could therefore be the only evidence available to the governmental entity to flag payments made to the payee as an IAT.

In spite of the vagueness of the specific responsibilities that a governmental entity functioning as an originating company has, and in spite of its limited knowledge of the entire transaction details, the entity is obliged to adhere "in spirit" to the requirements of US Law. The US Law referenced is that under which OFAC operates and is imposed upon the governmental entity via way of the NACHA Operating Rules, specifically the subset or rules referred to as the IAT rules. Under the rule of reason, adherence would include making a good faith effort to determine if payments made to a payee (or drafted from a payer) through the ACH network should be flagged as an IAT, as defined under the NACHA Operating Rules.

Good Faith Efforts and Due Diligence

Prudency would dictate that the governmental entity should develop procedures and processes to identify and manage payees in its database to which payments are made through the ACH network. A good set of procedures and processes should demonstrate a reasonable good faith effort to adhere to the IAT rules.

Good faith efforts generally involve following commercially reasonable practices, as well as determining and incorporating processes being performed by peer groups in complying with a particular requirement. However, since the IAT rules are new, there are no industry standards that specify actions that would be a benchmark for what would be considered minimum good faith efforts. Additionally, the NACHA Operating Rules do not specify how the IAT rules are to be adhered to, other than to flag a transaction as an IAT if defined (known) to be one.

In the absence of specific actions required by an originating company (governmental entity) to take in order to identify which payments are required to be flagged with the IAT designation, the onus is on the originating governmental entity, or its governing oversight agency/body, to establish a set of due diligence criteria that would hold scrutiny. Due diligence criteria must take into consideration not only the requirements of OFAC and NACHA, but other requirements the governmental entity may be bound to, such as privacy rights and non-discriminatory rights of the payees. Due diligence criteria should recognize the different levels of risk that may be associated with employees and vendors.

The current due diligence criteria to be used in developing procedures and processes, by entities subject to the oversight governance of the NC Office of the State Controller are denoted in the "Compliance With IAT Rules Policy" (see below). Agencies may add additional due diligence criteria appropriate for a particular application, provided the agency has the ability to perform.

Applicability of OFAC Regulations and Fines

According to OFAC, all U.S. persons must comply with OFAC regulations, including all U.S. citizens and permanent resident aliens regardless of where they are located, all persons and entities within the United States, all U.S. incorporated entities and their foreign branches. This definition of applicability includes governmental entities.

OSC believes at this time that a governmental entity and its officials could be considered parties required to comply with OFAC obligations. The penalties for ignoring those obligations can be both criminal and civil and include both jail time (10 to 30 years) and fines ranging from $10,000 to $10,000,000 per occurrence for willful violations. It is unclear which obligations specifically apply to a non-financial institution; however, if these fines are levied against a responsible financial institution they could possibly be passed back to the corporate or governmental agency originator, depending on the specifics of the case and the details of their contract with the financial institution. Additional information on OFAC obligations and fines can be found at
http://www.treas.gov/offices/enforcement/ofac/civpen/index.shtml.

According to NACHA's "IAT Survival Guide – 2nd Edition," 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. The hold harmless provisions of the laws apply to anything done or omitted in good faith in connection with the administration of the various federal rules and regulations. Protection afforded under the laws' hold harmless provisions emphasizes the importance of government officials acting in good faith to comply with the IAT rules.

As is the case with most new rules affecting an industry, there is often a period of time during which there is uncertainty of the rules' application, with clarifications and regulatory advisories being issued once the parties begin to apply the rules. This will likely be the case with the IAT rules.

Flagging of an ACH Payment as an IAT

The IAT rules will affect the format of the ACH origination file that an originating company must submit to its ODFI when it submits payment transactions to its ODFI. In addition to having to include seven specific addendum records, each payment transaction will be designated with a new "standard entry class" (SEC). Prior to the IAT rules going into effect, the SEC assigned to most government domestic ACH payments was either "PPD" (personal payment), "CCD" (corporate payment), or "CTX" (corporate trade exchange). The new SEC for ACH transactions described herein is "IAT." There is no distinction between a personal IAT and a corporate IAT. The governmental entity's IT staff should examine the new ACH format being required by NACHA. The file format layout can be obtained from the entity's ODFI. Information on the layout is also available on NACHA's website, under "IAT Corporate Tool Kit." See link: http://www.nacha.org/IAT_Industry_Information/

Impact on Procedural Payment Processing

Should a payee (or payor) in a governmental entity's database (i.e., employee, retiree, vendor, contractor, company, person, etc.) be determined to be one whose payments should be flagged as an IAT, then the governmental entity has several options:

- Discontinue making payments to the payee via the ACH Network and pay via check or wire transfer instead. (IAT only applies to ACH transactions.) This option should only be pursued if the governmental entity does not have the capability to originate IATs with its ODFI.
- Make the appropriate technological changes to create and submit properly formatted ACH origination files to the ODFI, with the "standard entry class" (SEC) being designated as an IAT and the specified seven addendum records being included. This option may be appropriate if the governmental entity has a large number of payments identified as IATs.
- Manually enter the transactions into the ODFI's online ACH origination system that accommodates the special formatting required for an IAT. This option may be appropriate if the governmental entity only has a small volume of payments identified as IATs.

Impact on Payee Designated as an IAT-Payee

If an electronic payment is flagged as an IAT (whether it actually does or does not meet the definition of an IAT), there could be a potential adverse impact on the payee. In the case of a payment made to an individual (e.g., payroll or pension), NACHA Rules require the RDFI to make the funds (currently submitted with the SEC designation of "PPD") available to the payee at the opening of business on the settlement date. However, payments submitted with an IAT designation are not required to be available at the opening of business. Additionally, if the IAT transaction were found to be suspect during the OFAC review, the transaction must be held by the RDFI until the issue is resolved and the item cleared or identified as an actual OFAC violation. The adverse impact may be greater on a payee that was previously paid as a "PPD" (personal / individual) than on a payee that was previously paid as a "CCD" (corporate / vendor). This is because a CCD transaction, like an IAT does not currently have to be made available to the payee at the opening of business.

In addition to the impact on the payee, the governmental entity may experience an unnecessary cost for flagging payments as IATs when they do not meet the definition. An IAT transaction generally incurs a higher bank transaction fee than a PPD or CCD transaction. This extra cost is due to the inclusion of addendum records sent with an IAT.

State Agency Payee Databases

There are a number of databases within State government that are affected by the IAT rules. Some of the major databases include:

- NC Accounting System (NCAS), administered by the Office of the State Controller (OSC)
    - Trade Vendor Database – Maintained by OSC
    - Non –Trade Vendor Database – Maintained by individual NCAS agencies
- BEACON Payroll System - Payroll
- Central Payroll System - Payroll
- Retirement System - Retirees
- Various State Universities – Students, vendors, and Payroll
- Various Community Colleges – Students, vendors, and Payroll
- Various agency off-line databases (e.g., Child Support, Medicaid, Medical Plan, DOR, ESC, DOT, etc.)

Incoming ACH Payments (Collections)

While the major impact of the IAT rules relate to ACH payments that a governmental entity may be originating to payees, the IAT rules also affect governmental entities that may be collecting funds electronically. Governmental entities that collect funds electronically from payors by originating an ACH debit (bank draft) against the payor's bank account could be affected: 1) tax payments received from enrolled payors through a third-party service provider; and 2) payments (taxes, fees, tuition, child support, etc.,) initiated online, either via the entity's website or via a website hosted by the entity's service provider.

In the case of enrolled taxpayers involving a third-party service provider, the governmental entity generally maintains a database of the taxpayers, and should establish procedures and processes to identity the payors that should be flagged as IAT payors, similar to the manner it flags IAT payees in its vendor database.

Cases where the governmental entity maintains a website, allowing the payee to authorize the entity to originate an ACH debit (bank draft) online against a bank account entered on the website by the payee allow for the possibility that the resulting ACH debit could be defined as an IAT under the NACHA Rules. As a due diligence precaution, the governmental entity should advise that all such payments made through its website are intended only for payments not associated with a foreign bank account, which would classify it as an "international ACH transaction (IAT)." Such advisement should be incorporated into the website's privacy statement.

If the entity authenticates an online payor as one that is in the entity's payor database before allowing the payment to be initiated online, the entity should ascertain if the payor has been identified in its database as an IAT payor. If the

payor has been identified as an IAT payor, the payment transaction should either be flagged as an IAT, or the transaction should be denied if the application does not accommodate IATs. There is no restriction for an IAT payor who elects to pay online using a credit or debit card, as card transactions do not involve the ACH network.

The IAT rules will also have a minor affect on governmental entities that receive ACH payments originated by a payor's ODFI. Such payments currently received with a standard entry class (SEC) of PPD or CCD will, if designated by the originator, receive them with the SEC being IAT. The effect pertains primarily to the format which the payment will be received, and how the item will appear on the depository bank's online reporting system. Reference should be made to your depository bank instructions regarding the effect. The two major State agency programs affected are electronic tax payments received by the Department of Revenue and the Employment Security Commission. It should be noted that the governmental entity functioning as the "receiver" of an ACH credit transaction has no obligation under the IAT rules to ensure that the transaction is properly flagged (labeled). Such obligation is that of the "originator."

Resources

Office of Foreign Assets Control
http://www.ustreas.gov/offices/enforcement/ofac/
Federal Reserve Bank
http://www.frbservices.org/eventseducation/education/fedach_iat_resource_center.html
National Automated Clearing House Association (NACHA)
http://www.nacha.org/IAT_Industry_Information/
NC Office of the State Controller (NC OSC)
http://www.osc.nc.gov/SECP/SECP_IAT_Rules.html

Questions Pertaining to Advisory

Questions regarding information contained in this Advisory may be addressed to David C. Reavis, Director of E-Commerce Initiatives, NC Office of the State Controller; email address: david.reavis@osc.nc.gov. Future updates of the Advisory, and related information, may be viewed at the State Controller's website: **http://www.osc.nc.gov/SECP/SECP_IAT_Rules.html**

Disclaimer

The content of this advisory is based upon information obtained from various documents published by the OFAC, NACHA, the Federal Reserve Bank, the State's primary ODFI, and OSC's interpretations of the new requirements. Input was requested of each of the above parties as well, including the Southeast Regional Payments Association (EastPay.org). OSC's interpretations of the IAT rules may or may not be the same as those of the parties referenced. This advisory is subject to being revised as additional information and clarifications are obtained, and legal opinions are made. You are advised to consult your counsel when implementing IAT due diligence requirements for your agency.

"Compliance With International ACH Transactions (IAT) Rules Policy" issued by the NC State Controller is contained below.

North Carolina Office of the State Controller
Compliance With International ACH Transactions (IAT) Rules Policy
July 28, 2009 (Revised August 18, 2009)

Applicability of OSC's Policy
All agencies subject to oversight governance of the North Carolina Office of the State Controller (OSC), as the governance relates to the "manner in which disbursements of State agencies shall be made," pursuant to G.S. 143B-426.39(5)

Applicability of NACHA's IAT Rules – Effective September 18, 2009
- All entities and officials subject to U.S. laws administered by the Office of Foreign Assets Control (OFAC)
- All entities that originate electronic payments through the ACH network – subject to the NACHA Operating Rules issued by the National Automated Clearing House Association (NACHA)

Required Actions to Comply with IAT Rules
- Become familiar with the IAT rules
  - Consider information available from NACHA and OFAC
  - Consider information available from the State Controller
  - Consider information available from your ODFI
- Prepare a document that describes the agency's policy regarding complying with the IAT rules
  - Consider two processes for identifying potential IAT payees
    - Current payee database
    - Future payees added to the database
  - Consider two types of potential IAT payees and the different levels of risks associated with each
    - Employees and retirees (Individuals normally receiving consumer payments)
    - Vendors (Payees normally receiving corporate payments)
  - Consider two types of possible ACH originations
    - Outbound payments originated as ACH credits to payees
    - Inbound payments originated as ACH debits against payors
- Identify the due diligence criteria to be followed to adhere to the IAT rules
  - Criteria required by the State Controller
  - Additional criteria that may be appropriate for a particular payment application, and which the entity has the ability to perform
- Implement procedures identified in the policy document

Due Diligence Criteria for Entities Subject to OSC Governance
- The agency's stated policy shall include certain governing statements
  - It is the intent of the agency not to use the ACH system for transactions in violation of U.S. Law, including the sanctions administered by the Office of Foreign Assets Control (OFAC)
  - It is the intent of the agency to be in compliance with IAT rules that are part of the NACHA Operating Rules
  - In the absence of specific requirements contained in the NACHA Operating Rules as how to identify IATs, and in the absence of commercially reasonable practices being available to identify good faith efforts, the current due diligence requirements of the NC Office of the State Controller will be followed, which should also reflect the due diligence processes being performed by peer groups (other governmental agencies)
  - The implied responsibility of the agency "to know its customers (payees)" is recognized, to the extent that the agency has legal authority to do so, and that obtaining or possessing the information does not infringe on the privacy rights that are appropriately afforded the payees

- Payees that are paid/drafted through the ACH network shall be designated as either an "IAT payee" or a "non-IAT payee"

- In order for a payee to be designated as an "IAT payee," there should be evidence or existing reasonable conditions for the payee to be so designated
  - In the case of employees (e.g., payroll), there should be definitive evidence
  - In the case of vendors, there may be established conditions
- If nothing exists to cause the agency to reasonably consider that a payee could potentially be designated as an IAT payee, the presumption is that they are a "non-IAT payee"
- When one or more conditions exist that cause the agency to reasonably consider a payee as a potential IAT payee, the agency should make an inquiry of the payee, particularly if the payee is a vendor
- Designation of a payee as an "IAT payee" will be based upon actual knowledge that the agency has to make such determination, based upon
  - Input obtained from the payee as the result of a written inquiry
  - Information obtained from an ACH authorization form, or other form the payee may be asked to complete
  - Existing conditions in the case of vendors
  - Other readily available information

- Conditions that would prompt the agency to reasonably consider the payee as a potential IAT payee, thereby resulting in an inquiry, other than a general notice, being made of the payee
  - Physical or mailing address of payee is a foreign address; or
  - No US Tax ID number or social security number is on file; or
  - Vendor is known not to be a domestic corporation recognized by the Internal Revenue Service (not created or organized in the United States or under the laws of the United States, any of its states, or the District of Columbia); or
  - Payee is known to be a "foreign person" as defined by the Internal Revenue Service, which includes nonresident aliens, foreign corporations, foreign partnerships, foreign trusts, foreign estates, foreign governments, international organizations, and any other person who is not a U.S. person (Generally, the U.S. branch of a foreign corporation or partnership is treated as a foreign person); or
  - Payee meets the definition of a "nonresident alien" for IRS tax withholding purposes pursuant to the Internal Revenue Code

- Develop procedures and processes to identify IAT payees in the current payee database
  - If IAT payees will be eligible to continue to receive electronic payments, modify the database to denote the IAT payee status in the database
  - If IAT payees will not be eligible to continue to receive electronic payments, the database does not necessarily have to be modified to denote the payee's IAT status

- Develop procedures and processes to identify payees that may be added to the payee database in the future
  - Modify authorization (enrollment) forms to include a statement that the payee/payor affirms that all payments authorized hereunder are not transactions in violation of U.S. Law, including the sanctions administered by the Office of Foreign Assets Control (OFAC)
  - Modify authorization (enrollment) forms for ACH credits (disbursements) to allow the payee to affirm that payments authorized hereunder "are" or "are not" to an account that are subject to being transferred to a foreign bank account
  - Modify authorization (enrollment) forms for ACH debits (collections) to allow the payor to affirm that payments authorized hereunder "are" or "are not" from an account funded by funds received from a foreign bank account
  - Modify procurement processes (e.g., Requests for Proposals, Contract Terms & Conditions, etc.) to incorporate vendor's responsibility to advise if any electronic payments made to the vendor under any awarded contract are subject to being transferred to a foreign bank account, thereby requiring such payments to be labeled as an "International ACH Transaction" (IAT) pursuant to the NACHA Operating Rules, and subject to requirements of the Office of Foreign Assets Control (OFAC)

- Develop procedures and processes to inform all current and future payees eligible to enroll to receive payments electronically of the general requirements of the IAT rules
    - Provide a general explanation of the IAT rules
    - Advise of the requirement for all enrolled electronic payment payees to inform the agency if the entire amount of direct deposit payments to their designated financial institution is subject to being forwarded to a bank in another country
    - In the case of vendors, advise of the criteria (conditions) the agency will use to reasonably consider a payee as a potential IAT payee, thereby prompting a specific inquiry of the vendor
    - In addition to general correspondence, consider notification via employee payroll statement

- Develop procedures and processes to notify a payee that they have been designated, or is being designated, an IAT Payee
    - Advise the payee that availability of funds credited to the designated account will be subject to their financial institution's policies and procedures
    - Provide a process for an IAT Payee to be re-classified as a non-IAT Payee if appropriate

- Develop procedures and processes to respond to notifications that may be received from an ACH gateway operator, ODFI, RDFI, or OFAC regarding the status of an IAT Payee, to assist in their responsibilities to identify and classify IAT transactions

- Establish procedures and processes to ensure that an "IAT payee" is paid with the IAT Standard Entry Class (SEC) code, or is paid by paper check or by wire transfer instead
    - Procedures for employees
    - Procedures for vendors

Due Diligence Criteria for ACH Collections Programs - Payors

- Programs involving pre-enrolled ACH Payors (ACH debits are originated)
    - Identify conditions for IAT designation similar to those for "payees" above
    - Develop procedures and processes similar to those for "payees" above
- Programs involving website online payments (ACH debits are originated)
    - Incorporate within the website's Privacy Statement a policy regarding IAT
    - The policy should state that all payments made through the website are intended only for payments not associated with a foreign bank account, which would classify it as an "international ACH transaction (IAT)"
    - For payors that are authenticated against the agency's payor database, develop procedures and processes to ascertain if the payor has been identified in its database as an IAT payor, and if so: process the payment as an IAT; or if the online application does not accommodate IATs, only allow the payment to be made by merchant card or deny the online transaction

Sample Correspondence and Forms – State Controller's Website
http://www.osc.nc.gov/SECP/SECP_IAT_Rules.html