



## Third-Party Participants / Registration Rule Module 9

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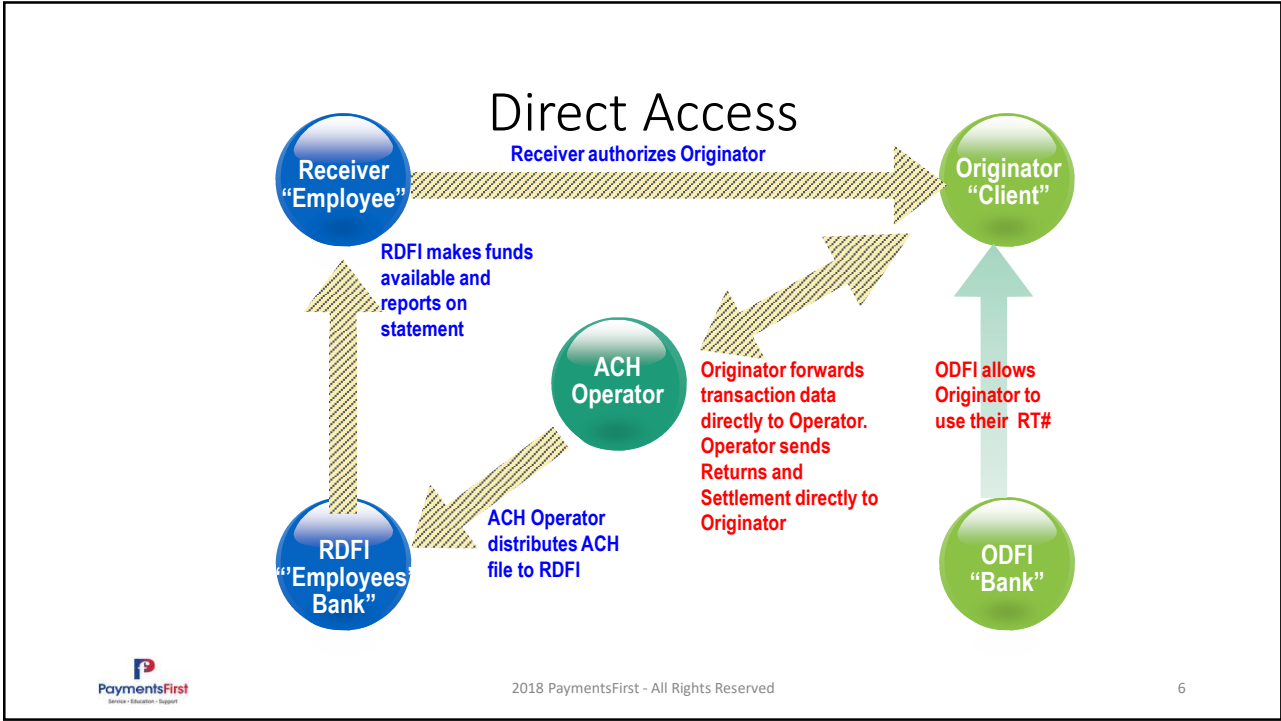
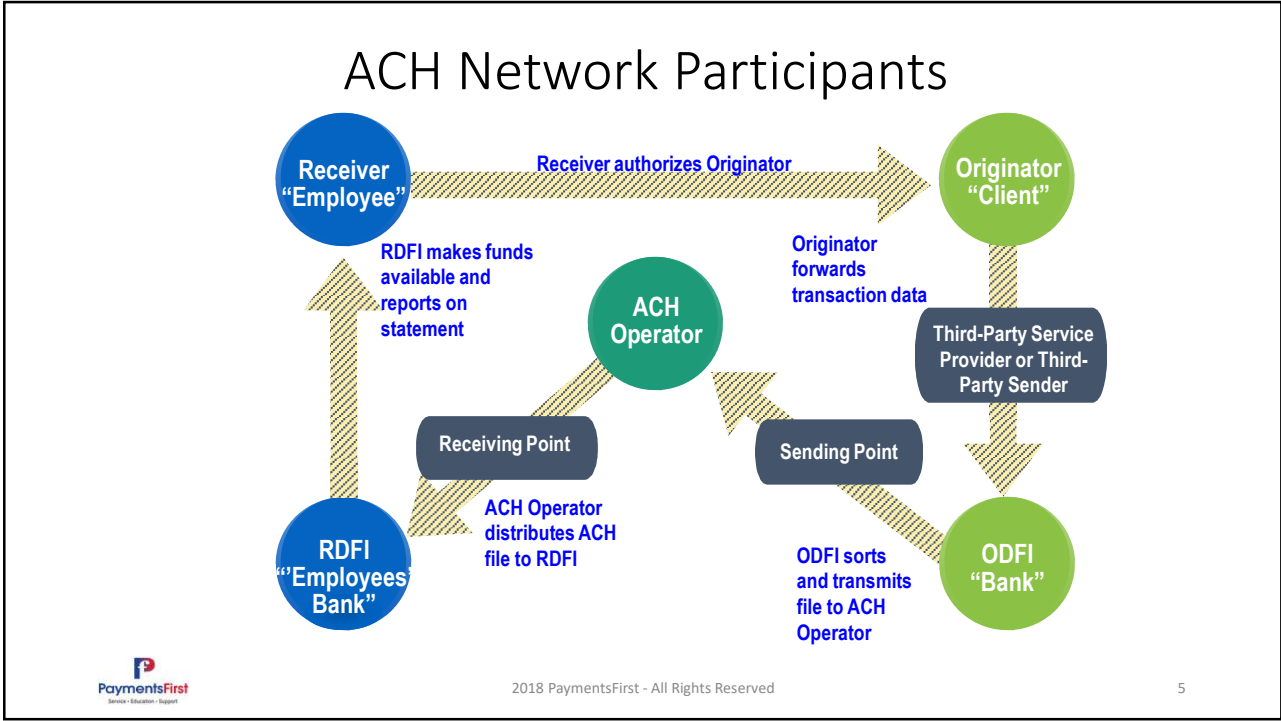
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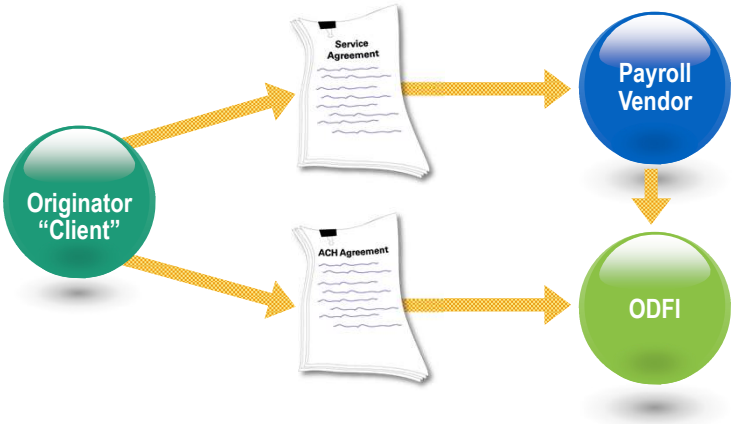
## Terms & Definitions

- Third-Party Service Provider - An intermediary between an Originator and an ODFI or an ODFI/RDFI and the ACH Operator (also known as a Sending Point or a Receiving Point respectively)
  - Third-Party Sender - An intermediary between an Originator and an ODFI when there is not a signed ACH Origination Contract between the ODFI and the Originator
    - Direct Access - An Originator or a Third Party that transmits **ACH debit transactions** directly to an ACH Operator using a financial institution's routing number and settlement account



# Understanding the Difference

Is the Payroll Vendor a Third-Party Sender?  
NO - ACH agreement is between Originator and ODFI



# Understanding the Difference

Is the Payroll Vendor a Third-Party Sender?  
YES – Originator and ODFI do not have ACH agreement.



## Tuition Processing

- A University enters into an agreement with a Tuition Processor to act as the University's exclusive provider for the processing of online tuition payments.
- Is this a Third-Party Sender?

Yes



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9

## Homeowners Association Dues Processing

- A Homeowners Association enters an agreement with a Property Manager to collect Homeowners' dues
- Is this a Third-Party Sender?

Yes



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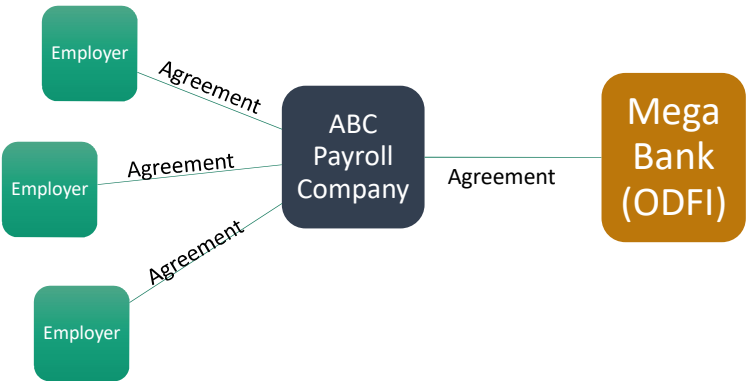
10

# Property Management Rental

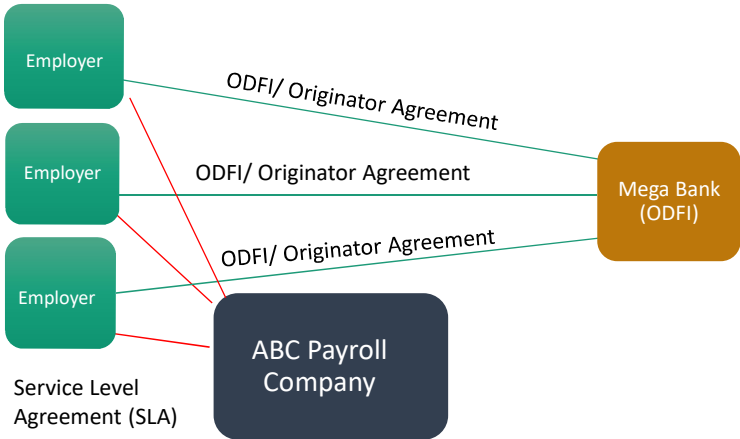
- A Property Manager has an agreement with an Owner of a vacation property to rent the property
- Is this a Third-Party Sender?

No

# Third-Party Sender (TPS) Definitions



# Third-Party Service Provider



# Third-Party Sender Risk Management

- ODFI must define risk appetite
  - Board-approved policy
  - Procedures for due diligence
  - Define processing environment
  - Procedures for on-going monitoring

## Third-Party Sender – Enhanced Risk

- Strategic
- Credit
- Compliance
- Transaction
- Reputational
- Consider Regulatory Guidance:
  - OCC 2008-12 Payment Processors: Risk Management Guidance
  - FDIC: FIL- 3-2012 Payment Processor Relationships: Revised Guidance

## Third-Party Sender – Possible High Risk Activity

- More than one Originator debiting same Consumer
- SEC Code usage outside of agreement
- High return rates
- Inability to produce authorizations upon request
- Movement to Remotely Created Checks (RCCs)
- *NACHA Operating Rules* violations
- Significant variance in volume
- Frequent over limits
- Use of multiple financial institutions



## Third-Party Sender - Exposure Limits

- Develop procedures to monitor TPSs origination activity across multiple Settlement Dates
- Enforce restrictions on types of ACH transactions
- Monitor and enforce exposure limit

## Third-Party Sender - Exposure Considerations

- Creditworthiness
- Industry type
- Geographic location
- Settlement (effective date vs. prefunded)
- Application type
  - collections vs. disbursements
  - consumer vs. corporate
  - recurring vs. one-time

## Third-Party Sender - Ongoing Review

- Conduct annual credit review
- Risk-based monitoring
  - Data analysis and trends on volume, returns and variances
  - High return rates
  - *NACHA Operating Rules* violation notices
- Review Originator list provided by Third-Party Sender
- Review company names and business types
- Random sample background check of Originators
- Report to Board, or committee
- Investigate complaints



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19

## Third-Party Sender - Operating Controls

- Third-Party Sender (TPS) Risk Assessment
  - TPS due diligence
  - TPS uses a credit screening process
  - TPS has sound agreements
  - Types of transactions allowed by TPS
  - Authorization process (obtaining and retrieving)
  - Notification process (if applicable)
  - Education provided to Originators/*NACHA Operating Rules* changes
  - TPS self-assessment



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20

## Credit Risk

- Creditor/Lender review of creditworthiness
- Potential Operating Exposure (POE) limit
  - Link to financial institution's credit scoring system
- Consider Third-Party Sender's funds management
  - Type of investment programs
  - Segregation of operating funds from settlement funds

## Reputational Risk

- Know Your Customer Assessment
  - Nature of business
  - Volume and dollar value of transactions
  - Financial institution's strategic plan and policies

## Third-Party Sender - Advanced Operating Controls

- **Dynamic Limits-** ODFI uses adjustable limits instead of static
  - Previous day's collections (i.e. limit assigned today based on money collected yesterday)
- **Escrow/Invest Funds**
  - Modified "pre-fund" model
  - Settlement funds are invested on behalf of TPS and redeemed when needed for settlement
- **Disbursement Restrictions**
  - For debit originations, limit transfer of collected funds to known endpoints



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23

## Third-Party Sender - Advanced Operating Controls

- **Originator Information Exchange**
  - Model to store and update Originator information
- **Account/service termination reserves**
  - Reserve funds when an Originator disengages
  - Cover returns and adjustments that could occur after original transactions

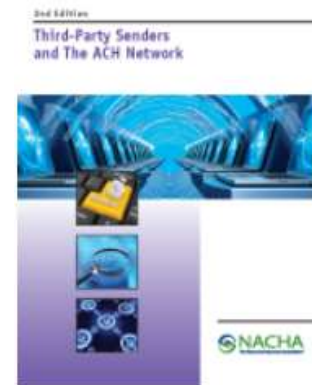


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24

## Resources

- *Third-Party Senders and The ACH Network*
  - Publication by NACHA



## Knowledge Check

All of the following are effective ways for an ODFI to manage its exposure to Third-Party Sender risk except:

- a) Approving Third-Party Sender clients for origination services in an ad-hoc manner based primarily off an account officer's recommendation
- b) Assigning an aggregate exposure limit to the Third-Party Sender as well as requiring the assignment of an individual exposure limits for each of the Third-Party Sender's Originators
- c) Conducting an annual credit review of the Third-Party Sender
- d) Investigating complaints against the Third-Party Sender, or its Originators, and monitoring levels of returns for claims of unauthorized

## Knowledge Check

Suzie's Cookie Company has a corporate account at First State Bank and an ODFI/Originator agreement. To meet the requirements of the *NACHA Operating Rules*, which of the following needs to be addressed within the agreement?

- a) ODFI will notify the Originator of the NOC within 2 business days of the receipt.
- b) ODFI right to terminate or suspend contract for non-compliance with The *Rules* or terms of agreement and right to audit for *Rules* compliance.
- c) ODFI has the right to pass on charges or fees to the Originator.
- d) Obligation to obtain, retain and provide copies of authorizations.



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27

## Knowledge Check

Steve's Bait and Tackle enters their payroll entries into a cash management system at Blue Sky Bank. Payroll is sent on Wednesday for Settlement Date of Friday. Thursday, the bank receives notice that Steve's Bait and Tackle has filed for Chapter 11 Bankruptcy and all the funds in their account are frozen. Blue Sky Bank is unable to debit Steve's Bait and Tackle account. What could Blue Sky Bank have done to help prevent this loss?

- a) Monitor exposure limits over multiple settlement dates.
- b) Set lower exposure limits for Originators.
- c) Review exposure limits annually.
- d) Require pre-funding.



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28

## Third-Party Sender Registration

## ODFI Obligations

- **All** ODFIs are required to either:
  - Register its Third-Party Senders, or
  - State that it has no Third-Party Senders
- Every ODFI needs to know whether it has Third-Party Senders in order to register accurately

## Initial Registration Information

- ODFIs are required to provide the following regarding each Third-Party Sender:
  - Name and principal location (city, state)
  - Routing number(s) used in Entries
  - Company Identification(s)



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31

## Initial Registration Timing

- ODFI required to register each Third-Party Sender within 30 days of transmitting Third-Party Sender's first Entry
- Grace period:
  - ODFI that determines it has an unregistered Third-Party Sender has 10 days to do so



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## Updates to Registration Information

- ODFIs must update registration info within 45 days of any change
- Allows ODFIs to provide regular updates within two weeks after the end of a calendar month



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## Supplemental Registration Info

- ODFIs required to provide supplemental registration info upon NACHA's request due to risk event
- Risk event defined as elevated risk of:
  - Financial loss to one or more Participating DFIs, Originators, or Receivers
  - Violations of Rules or other applicable law
  - Excessive levels of returns



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34

## Supplemental Registration Info

- NACHA requires ODFI to provide all of the following within 10 Banking Days of request:
  - Third-Party Sender's doing-business-as name, taxpayer ID, street and web addresses
  - Name, title, telephone number, and email for a Third-Party Sender contact
  - Name(s) and title(s) of the Third-Party Sender's principal(s)
  - Approximate number of Originators under Third-Party Sender Statement as to whether Third-Party Sender transmits debits, credits, or both



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35

## Third-Party Sender Info Required to Provide to ODFIs

- Third-Party Sender must disclose to ODFI the identity of any other Third-Party Senders for which it transmits Entries to the ODFI, prior to transmitting Entries for the other Third-Party Senders
- Third-Party Sender must provide the info necessary for the Third-Party Sender registration database upon ODFI's request within 2 Banking Days



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36

## Enforcement

- Use existing enforcement approach and procedures
  - Risk investigation and Rules enforcement communications always begin with ODFIs
  - ODFIs would have opportunity to respond, including whether alleged violation has been remedied
  - NACHA has authority to fine the ODFI for non-compliance
    - There are no automatic fines
    - Fines, if at all, occur at the end of the enforcement process



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37

## Additional Resources

- NACHA Third-Party Sender Identification Tool
  - <https://www.nacha.org/third-party-sender-identification-tool>
- Simplified Scenarios Involving Third-Party Senders
  - <https://www.nacha.org/content/simplified-scenarios-involving-third-party-senders#payroll>



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38

# Questions?



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39