

# PAYMENTS INSIDER

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# ACH Rules Update for Corporate Originators

As an Originator of ACH entries it is very important for you to stay current with the *ACH Rules*, including how updates and changes might impact your business.

Same Day ACH debits, ACH quality and risk management and ACH Audit changes are the three major changes on tap for 2019; are you up-to-speed on these revisions?

Download the **2019** *ACH Rules* **Update for Corporate Originators** for an overview of the *ACH Rules* changes that will affect companies in 2019. If you have any questions about how these changes may pertain to your existing Origination activities, contact your financial institution. •

# Do ACH Rules Audit Requirements Impact Your Business?

by Larry Matteson, AAP, APRP, CCM, Vice President, Risk & Third-Party Programs

If your company transmits ACH credits or debits through your financial institution, you are considered an ACH Originator and the *NACHA Operating Rules (ACH Rules)* audit requirements ultimately impact you, even if you aren't required to conduct an audit of your own. Let's look at what the *Rules* say so you can be mindful of your responsibilities and help ensure the security and integrity of transactions being sent through the ACH Network. But, before we get started, let's

define what it means to be an Originator.

If your company requests payment to be made for its electric bill through your electric supplier's website or call center, you are not considered an Originator in that transaction—the electric company is the Originator and your company is the Receiver of the debit. However, if this situation were reversed and you contacted your financial institution to send an ACH credit to the electric company to pay your bill, then you would be the Originator—the electric company would be the Receiver of the credit payment. Clear as mud? Basically, if your see AUDIT on page 4

## How GDPR Applies to Y-O-U

by Karen Nearing, AAP, CAMS, CRCM, NCP, Director, Compliance Education

There's a new ingredient in the big pot of alphabet soup that belongs to your business. And, even though at first glance you may think it won't impact us in the United States, that's not entirely true. The General Data Protection Regulation (GDPR) was designed by member nations of the European Union (EU) to create a uniform standard of consumer data privacy protection for all companies that do business within the EU. Think of this as data protection with a few added features. The regulation concerns itself with the privacy of EU citizens' data and has similar goals as other data protection regulations.

GDPR applies to entities physically located within the EU member countries, but the regulation could, under certain circumstances, reach "across the pond." In theory, this COULD include your business, even if you're in Small Town, USA.

see GDPR on page 2

#### GDPR continued from page 1

It really boils down to this: do you have any EU citizens, or dual U.S./EU citizens, on your list of clients? If the answer is "no," then you can likely rest easy, unless you are actively marketing to EU citizens.

Today, businesses practice basic privacy and security principles that will lead to compliance with most of the EU regulations under GDPR. Here are a few key areas where GDPR takes things a step further than what most U.S. companies normally practice:

1. Right to be Forgotten/Right to
Erasure—EU citizens covered by
GDPR have a right to request that any
and all personal data you have on file
for them be corrected if inaccurate
or deleted entirely. It's important to
note that this is only required if the
individual makes such a request. And,
even then, the organization has 30 days
to respond. If you use a third party to

- store or process your client's data, you may want to check in on their GDPR compliance efforts.
- 2. 72-hour Breach Notification—If your business experiences a breach, you'll have 72 hours from that point to notify the supervisory authority in the state in which your client resides. This is one place where GDPR and U.S. state laws differ. U.S. state law may require notification within three to thirty days.
- 3. Explicit Opt-In Requirements—This is the biggest difference between GDPR and U.S. law. Per GDPR, EU citizens must both opt in to what information will be collected from them and agree to every way in which that data is used, prior to those actions taking place. U.S. regulations are generally more reactive in this regard and allow organizations to default to an opt-in position, requiring notification to opt-out.
- 4. Contracts—Contracts with third parties transmitting, processing or storing EU citizen data should spell out how the exchange and use of data will work with data processors and for what each party is responsible. In practice, this would just become a deeper dive during due diligence/ongoing monitoring of your technology service providers.
- 5. Enforcement—The EU supervisory authority has the right to impose enforcement for lack of coverage of GDPR. This enforcement may be as much a 20 million euros or 4% of the annual turnover (sales). These fines may be enforced via U.S. and EU treaties.

If you'd like more information on GDPR, EPCOR will be hosting a webinar later this year explaining the ins and outs of this requirement. You can also visit eugdpr.org.

### FAQs About ISO 20022

by Jen Kirk, AAP, Vice President, Education

Fedwire Funds Service, the service most financial institutions use to send wire transfers, is learning a new language! In a three-phase approach, beginning November 23, 2020, the Federal Reserve Bank will begin preparation to enable all Fedwire Funds Service participants to send ISO 20022 messages with optional enhancements. The specific date for this full conversion to be completed is still to be determined; however, it is expected to be sometime in the fourth quarter of 2023.

#### What is ISO 20022?

Essentially, ISO 20022 is an International Standard that allows payment systems all

over the world to speak in the same language. Today, each country or region in the world



operates under their own payment systems that are coded in their native 'language'. ISO 20022 allows all countries in the entire world to speak the same payment systems language through code.

#### **Impact to Businesses**

First, if you are sending wires now

(domestically or internationally), the 'look' of the application you use to send the funds may change in the near future. While you won't be asked to know the coding language of ISO 20022, the interface you use to send Fedwire Funds may use some different terminology to ensure all the ISO 20022 fields are completed to send the appropriate information. Finally, if you receive Fedwire transfers, your accounting software may have a way to

electronically reconcile the information presented in the ISO 20022 format.

Stay tuned for more information about ISO 20022 during the implementation phases. You can also visit <a href="http://ow.ly/HGS350p0mhJ">http://ow.ly/HGS350p0mhJ</a> for more information. ©

# New Wire Fraud Scam Sends Paychecks to Criminal Accounts

Around two or three times per month, KVC Health Systems, a midsize nonprofit agency for child welfare based in Kansas City, receives phishing emails from criminals with the goal of rerouting an employee's paycheck via direct deposit.

The emails look legitimate at first, as though they come from the CEO, CFO or payroll director.

The scammer is trying to convince human resources personnel to change the bank account and routing information

the employee uses to have paychecks direct-deposited. Once routed to the criminal's account, the company is on the hook for replacing the stolen funds and the employee faces the inconvenience of a late paycheck.

It's a new version of wire fraud scams that have devastated businesses in recent years, and a more focused version of a series of payroll

fraud crimes that the IRS warned late last year were on the rise. The fraud is growing, experts said, because it easily bypasses many existing technical controls, and the small sums stolen are inoffensive enough that they can be folded into the cost of doing business.

"The fake emails defy many existing controls for malicious communications," said Erik Nyberg, director of information technology at KVC. "They are usually well written, cordial and lack the misspellings, grammar mistakes and exclamation points that would trigger many popular email filters that search for spam or phishing attempts.

"They might just say, 'I need to update my direct deposit information," said Nyberg. "Or they start with, 'Hey, do you have a second?' and if that target person responds, then they go from there." KVC has had a few near misses, Nyberg said, but has not transferred any paychecks to scammers.

#### A New Scam with a Convincing Pitch

The scam has only emerged in the past month, according to Adrien Gendre, chief solutions architect at email security company Vade Secure.

Many companies "have put processes in place to validate big wire transfers, so now [criminals] want to stay under the radar. It's a new approach, and every day we have more customers reporting it," he said.

Gendre said a dozen Vade companies have reported attempts to change direct deposit information.

The scam not only bypasses some email controls, but it also bypasses warnings companies may have already issued to their employees about wire fraud, because scammers aren't asking for money or an invoice transfer—they're simply asking to change a bank account number.

The fraudsters typically impersonate the company's higher-value employees, like the

CFO or CEO, Nyberg said. The emails are usually brief, polite and lightly urgent, and often ask HR personnel to change the direct deposit information quickly, "before the next paycheck."

Others try to discourage the target from calling, by writing "I am going into a meeting now."

The spoofing doesn't require the criminal to hack into anyone's email account, as it

often does with bigger-ticket wire fraud.

The scammers generate the fake emails with free services like Gmail—the scammer simply opens a new Gmail account and fills in the employee's name—which allows them to get around tools meant to detect hacking attempts on employee email, Nyberg explained. Employees may not notice, either because they are working quickly and they

see SCAM on page 5

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#### **AUDIT** continued from page 1

company utilizes your financial institution to send bill payments, payroll files, debits to collect payment from your clients or any other type of debit or credit entry through the ACH Network, you are an Originator.

If your company is an Originator, the ACH Rules (Subsection 2.2.2, f) require that your financial institution enters into an ACH Origination Agreement with you that covers, among other items, the institution's right to audit your company's compliance with that agreement and the ACH Rules. This means that your financial institution can request documentation from your company or even request an onsite visit to verify you are compliant with the Rules.

While this may sound intimidating, playing by the *Rules* actually helps to protect your company from both monetary and reputational risk that can easily be avoided. It is in the best interest of you and your financial institution to do periodic checks to make sure that you are protecting yourself and your company's clients by keeping proper documentation, storing information securely and adhering to time restrictions and other requirements. If you are unsure about which rules apply to your company, you should reach out to your financial institution.

Some Originators may also be required to have their own separate ACH Rules Compliance Audit conducted, similar to the audit your financial institution is required to conduct (*ACH Rules* Subsection 1.2.2). However, this only applies to Originators that also qualify as a Third-Party Sender or Third-Party Service Provider. A Third-Party Sender is an intermediary between an Originator and the financial institution sending the entries into the ACH Network. The financial institution doesn't have a relationship with the Originator in this situation, while the Third-Party Sender does.

If your company sends ACH debits or credits to your financial institution on behalf of another company, you may be a Third-Party Sender. For example, if your company handles payroll files for local businesses and sends Direct Deposit payments to your financial institution for ABC Grocery and Local Hardware, you are a Third-Party Sender. If this is true, your company is in the best position to ensure that your Originators' (ABC Grocery and Local Hardware) ACH transactions meet all the requirements of the Rules and any applicable regulations or other legal responsibilities. If you are a Third-Party Sender, you have all the responsibilities of an ODFI as far as origination is concerned, and therefore, must perform an annual audit. If you think you might be a Third-Party Sender, but you aren't sure, contact your financial institution.

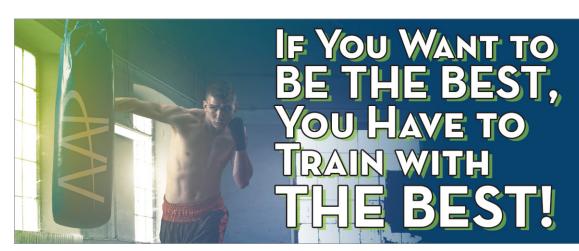
A Third-Party Sender can conduct its own audit or contract another party. Whoever performs the audit should be familiar with the ACH Network and the *ACH Rules* and ensure

the audit addresses the topics included in *ACH Rules Supplement #1-2019*. The results of the audit, including any inadequacies, should be documented in a formal report and reviewed by senior management of the Third-Party Sender.

Recent ACH Rules changes allow covered parties to perform a risk-based audit instead of the prescribed audits performed in previous years, which is good news for Third-Party Senders. If a Third-Party Sender has little or no risk in a particular area, they do not need to expend a great deal of time and energy addressing that risk. For example, if a payroll processor does nothing but issue Direct Deposit credits, its Return risk is very low, so less time may be spent auditing Returns.

It should also be noted that NACHA (the ACH Network administrator) randomly selects participating financial institutions, Third-Party Senders and Third-Party Service Providers to request proof that an annual ACH Rules Compliance Audit has been conducted. Not conducting an ACH Rules Compliance Audit annually is a violation of the *Rules* and participants could be subject to fines or other actions as described in *Appendix 10* of the *Rules*.

EPCOR's audit staff has conducted many Third-Party Sender audits and is ready to help your organization identify weaknesses and mitigate risk. If you do need to conduct an ACH Rules Compliance Audit, you can schedule one by calling 800.500.0100 or via email at <a href="mailto:memserve@epcor.org">memserve@epcor.org</a>.



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#### SCAM continued from page 3

don't notice the full email address, or they are working on a mobile device where only the person's name is displayed in the "from" field, he said.

Why would scammers target a nonprofit? Nyberg said he expects that the organization may be attractive in part because of its genial culture: "The nature of our work is helpful, people who are very literally here to help other people. They might also believe that our training isn't as rigorous as a Fortune 500 company," he said.

Despite the relatively low dollar figure associated with this scam—thousands of dollars compared with hundreds of thousands

in a typical wire scam—Gendre said it's so cheap to execute that he expects it to become more attractive for criminals.

"They have found a way to automate it, which means you can scale it. You may not make \$100,000 in one hit, but you may be able to make 20 hits staying in one company and be able to make your return [on investment]."

#### How to Combat the Scam

To fight the threat, Nyberg said the organization has focused on training people on a simple truth: "The CEO is never going to email you out of the blue and ask you for any deposit changes. And, if you have

any sliver of a doubt, call the person who is making the request."

Gendre said his company has used "natural language processing," which analyzes the language used in incoming emails to test for "urgency," then flagging those emails as potentially suspicious, especially if they come from a new email address.

Nyberg also said they've asked executives to avoid using their personal emails when sending messages to staff. The company has also tweaked its email filters to pick up on common hallmarks of the request.



Source: CNBC

For more information, watch EPCOR's Did You Know? video on Business Email Compromise



## Kroger Extends Ban of Visa Credit Cards

Kroger has added another one of its store chains to its ban of Visa credit cards.

The supermarket giant announced on March 1st its Smith Food & Drug Stores division would stop accepting Visa credit cards beginning April 3rd. The ban includes 142 stores and 108 gas stations located in Utah, Nevada, New Mexico, Wyoming, Idaho, Montana and Arizona.

Last August, Kroger-owned Foods Co. Supermarkets said it would no longer take Visa credit cards. That ban covers 21 stores and five fueling centers in central and northern California.

Shoppers are still able to use Visa debit cards, as well as cards from other networks such as Mastercard, Discover and American Express.

Retailers pay card networks an interchange fee—also called a "swipe fee"—of about 2% or 3% of the purchase price each time a consumer uses a credit card. Experts say the costs of the swipe fees typically get passed on to the

consumer. Visa and Mastercard are reportedly planning to raise swipe fees in April.

"Visa has been misusing its position and charging retailers excessive fees for a long time," Kroger Vice President, Mike Schlotman,



said in a news release. "They conceal from customers what Visa and its banks charge retailers to accept Visa cards. At Smith's, Visa's credit card fees are higher than any other credit card brand that we accept."

A Kroger spokesman said in August the ban could be expanded to the parent company's stores. Kroger operates 2,782 grocery stores in 35 states under nearly two dozen brands, according to its website.

Retailers have fought the card networks in court over swipe fees in recent years. In 2014, Wal-Mart filed a lawsuit against Visa, alleging the latter used its dominant market position to jack up swipe fees. The lawsuit said retailers paid \$350 million in interchange and network fees from 2004 to 2012.

American Express has also faced pushback from retailers and corporate partners over its high swipe fees, which have kept it at a lower acceptance rate in the U.S. than chief rivals Visa and Mastercard. But Amex announced March 2018 it would cut its interchange fees to their lowest levels in nearly 20 years.

Source: CreditCards.com

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# Same Day ACH Helps Payroll at Companies Big and Small

"Same Day ACH gives payroll professionals a number of options for meeting their needs," said Michael Herd, Senior Vice President of the ACH Network administration at NACHA, which administers the ACH Network. "When they have missed deadlines or emergencies, they can use Same Day ACH to make payments faster."

Since debuting in September 2016, Same Day ACH has taken off. The fourth quarter of

2018 saw more than 51 million same-day debits and credits worth \$44.6 billion. It was the first quarter in which the number of Same Day ACH payments passed the 50 million mark.

Plus, enhancements are on the way. The current \$25,000-pertransaction limit for Same Day ACH

climbs to \$100,000 in March 2020. A third processing window for same-day transactions is also coming, but has been postponed for six months and cannot go into effect until the Federal Reserve Board of Governors (Fed Board) approves the initiative.

"We're making it even better because we know payroll professionals need to have later hours for Same Day ACH," Herd said. "They'll have more time to get their payrolls processed."

Same Day ACH is not just for big

firms in glass towers. In fact, the smallest of companies are some of its biggest beneficiaries.

#### **Small Business, Big Worries**

Wave Financial caters to what Les Whiting termed "the small end of small business."

"We build a number of different financial services specifically tailored for what we call 'micro-businesses.' These are true small

businesses," said
Whiting, Senior
Vice President,
Financial
Services, at
Toronto-based
Wave Financial.
"They're
designers,
they're
contractors.
They wear all
the hats."

While small businesses are often thought of as having ten employees or fewer, Whiting said "the vast

majority" of their customers "have one, two or three employees." And this can lead to a big problem.

"Arguably, the smaller you are, you typically have greater challenges with cash flow,"
Whiting said. "The faster you can get money to where you need it to be, the better off you are."

That's where Same Day ACH factors in.

"With Same Day ACH, it all comes down to speed," Whiting said. "If I can run a payroll today to pay my employees tomorrow, that's

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#### PAYROLL continued from page 6

much better than if I have to run it three or four days before."

While it might not be as much of a factor for salaried employees, Whiting noted, "as soon as you start to get into hourly workers, seasonal workers, compressing those windows is super crucial. And, frankly, the longer they can hold onto cash in their business, the more it's going to help them with cash flow."

Wave Financial recently launched a product enabling customers to take advances on invoices they have already generated but haven't collected.

"We've made it very simple for them in three or four clicks to be able to get access to capital," Whiting said.

And when it's in their customers' accounts later that day?

"That's a pretty magical experience that without Same Day ACH, in some situations, we would be looking at getting funds into accounts in two days," he said. "That makes a world of difference in the experience that our customers will have."

#### **Beyond the Payroll**

For businesses of all sizes, there's more work to be done than just on payday. This includes reimbursing staff for travel and other expenses, which Herd called "another great way to use Same Day ACH"—getting money to folks faster. "Employees will love it."

Many payroll departments also handle sending tax withholdings to federal, state and local government agencies, as well as remitting deductions for items such as health and life insurance.

"Same Day ACH can be a way to make sure you don't miss a deadline, or to get the money there faster if you do," Herd said.

But just as you wouldn't wait to come down with the flu before getting a flu shot, Herd said the time to look into Same Day ACH is now.

"You might never know you need Same Day ACH until you wake up in the morning with a problem," he said. "If you haven't set it up and tested it in advance, you might not have access to it. So, the time to prepare is before you need it."

The first question to ask is whether your bank or service provider offers the service.

"If your bank hasn't talked to you about Same Day ACH, don't wait until you have an emergency," he said.

Then again, if you're paying employees with paper checks, Herd sees another place to start.

"For those companies that still hand out paychecks, they need to use any kind of direct deposit," he said. "It's the way more than 90% of Americans get paid. Any direct deposit is better than no direct deposit."

Source: NACHA for American Payroll Association's PAYTECH magazine

## Five Tips for Implementing Sanctions Screening

OFAC screening is part of doing business for U.S. companies who transact with international customers. The process ensures compliance with U.S. law and protects the interests of the company by avoiding fines and unintentional contact with blocked parties.

Despite its importance, there are few guidebooks on how to do comprehensive and efficient OFAC screening. Companies are largely left to themselves, to both search publicly available information and interpret how the law applies to them. Thankfully, there are some easy-to-implement strategies that improve OFAC screening procedures to reduce the risk to companies.

## Tip #1: Know OFAC Compliance Involves Many Different Laws

Although the Know Your Customer guidelines are a relatively recent initiative, the U.S. government has put restrictions on trade and economic activity since the 1800s. OFAC compliance is in fact following U.S. Treasury laws that apply to many different countries, individuals and companies in order to support U.S. interests. OFAC barriers are in place to stop a range of activities, including terrorism, drug trafficking, money laundering and more. Because of the scope of these rules, it is wise not to assume that a new customer will not fall on the specially designated nationals (SDN) list and to always perform due diligence.

#### Tip #2: Get Informed of Updates

The SDN list is not a static, unchanging document. It is updated on a regular basis, so your new or existing customer may fall under its gambit without warning. It is a good idea to stay abreast of the latest version of the SDN so you can take appropriate action in case you are barred from doing business with a certain party. You can sign up to receive email

updates from the U.S. Treasury and receive alerts when the list is revised.

## Tip #3: Use an Automated OFAC Screening System

Many companies rely on a manual system to check for OFAC compliance. Unfortunately, this fails many companies who do not have the capacity to thoroughly ensure they are not doing business with blocked parties. Companies that operate with integrity and value transparency may find they inadvertently run afoul of U.S. Treasury law. To fully protect your company, it is best to use an automated system. Fortunately, you can adopt one that works seamlessly with your existing procedures.

#### Tip #4: Beware of False Positives

One drawback of manual, and some see TIPS on page 8

#### TIPS continued from page 7

automatic, OFAC sanctions screening systems is the potential for false positives. Many of your valued customers could have a name similar to, or the same as, a party on the SDN list. In order to prevent a challenging situation where you refuse to do business with a legitimate customer, consider a system with a computerized algorithm that identifies false positives based on such misleading cues as initials and acronyms.

#### Tip #5: Run a Self-Audit

As a business owner who transacts with international parties, OFAC screening is your obligation. You may have to demonstrate

your compliance. Keep accurate and detailed records of how your screening process works to fulfill your due diligence. Details about who you screened, when you screened them and the results of your screening should be kept on file.

OFAC sanction screening is required by U.S. law. Doing so efficiently and accurately helps your business by allowing you to grow your customer base without worry. By automating your screening practices and staying up-to-date with changes to the law, you can ensure compliance without unreasonable constraints on your time. ©

Source: Lyons Commercial Data

# Three Strategies for Small Businesses to Fight Fraud

Despite advances in technology, fraud continues to be a major pain point in our modern society. Throughout the years, there have been many examples of the devastating consequences of fraud and how it affects small businesses. According to a recent study from the multinational professional service company, PricewaterhouseCoopers, nearly 50% of businesses around the world have been a victim of different types of fraud or economic crime.

There are many strategies that scammers use to separate you from your hard-earned savings. Aside from common frauds like identity theft, wire scams and cloned debit cards, check and Automated Clearing House fraud have been on the rise in the last few years. According to the latest report from the Federal Reserve, the combined value of ACH and check fraud rose from \$6.10 billion in 2012 to \$8.34 billion in 2015.

#### Small businesses are a prime target

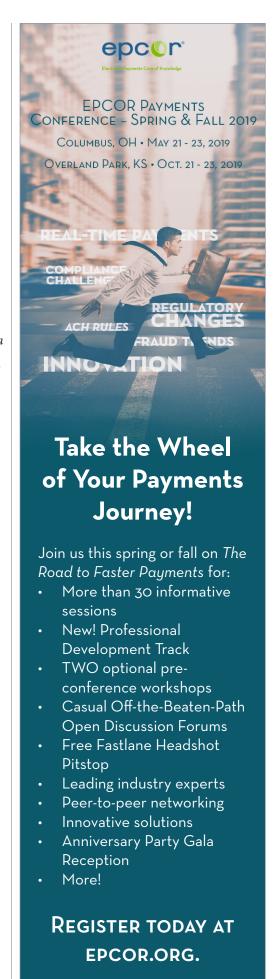
Small businesses can be especially

vulnerable to fraud. The Association of Certified Fraud Examiners reports that 30% of fraud cases occur in small businesses (those with fewer than 100 employees) and 60% of small-business fraud victims don't recover any of their losses. Fortunately, these risks can be managed.

Following are three fraud prevention strategies that small businesses should consider implementing:

- 1. General strategies
  - Get a locking mailbox and sign up for accounts with all mail service providers. One study from the U.S. Secret Service showed that the top two methods of non-technological identity theft were mail theft and rerouting of mail. Through creating a secure account, you will make it harder for someone to impersonate you and reroute your mail.

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#### FRAUD continued from page 8

- Sign up for electronic delivery of financial statements and bills.
   Unsecured letters from your financial institution or vendors provide information thieves can use to compromise your accounts.
- Obtain an identity theft protection service. This service alerts you when your personal information is being used in ways that generally don't show up on your credit report. These services can help you act immediately if your personal information is ever compromised.
- Work with employees to help prevent fraud
  - ◆ Create strong internal procedures that are easy to understand and implement. Although a suspected case of internal fraud may require confidentiality, a case of external fraud can be more straightforward. For example, if a cashier suspects a customer is using a stolen credit card, they should immediately notify a manager.

- Warn employees about types of fraud to watch out for, which commonly include:
  - New account fraud: Setting up accounts based on stolen identity or personal information.
  - Credit card fraud: Using credit cards without authorization.
  - Check fraud: Using checks without authorization or utilizing fake checks.
  - Identity theft: Using another individual's personal or financial information without his or her consent.
- Separate duties with checks and balances. Having more than one employee handle payroll, make deposits and reconcile bank statements provides oversight and acts as a fraud deterrent.
- Implement automated fraud prevention technology
  - Finally, your business can add another layer of protection through a sophisticated, automated system like Positive Pay from your financial institution. Positive Pay helps

- businesses identify and report fraudulent and unauthorized payments by verifying transactions before completing payment.
- Positive Pay uses a secure conduit to send the bank a daily list of authorized checks. After a transaction is submitted to the bank for payment, the system automatically compares it against the list. If an item is on record as having issues or has been altered, the system detects the mismatch and halts payment.

#### Banks Are a Valuable Ally Against Fraud

Despite the prevalence of fraud, you can help reduce your risk by implementing proven strategies and working with a financial institution that can support you. Financial institutions have experience with fraud management and want to help you manage risk in your business.

Source: East Idaho Business Journal



#### **Electronic Payments Core of Knowledge**

EPCOR is a not-for-profit payments association that provides timely and relevant payments education and support to member organizations to help them maintain compliance, improve operational processes, and mitigate risk and fraud.

Through our affiliation with industry partners and other associations, EPCOR fosters and promotes improvement of the payments systems which are in the best interest of our members.



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