



**December 10, 2003**

**(A MAJOR PROPOSAL)**

## **ACH Return Entry Fees**

### **EXECUTIVE SUMMARY**

- NACHA-The Electronic Payments Association has issued a request for information on the idea of charging fees to originating depository financial institutions (ODFIs) when they return certain automated clearing house (ACH) entries.
- If this system were established, fees would automatically be assessed to ODFIs for all Unauthorized (R07, R10, and R29) and Invalid Account (R03 and R04) ACH debit return entries and these fees would be distributed to receiving depository financial institutions (RDFIs).
- The fee that the RDFI receives would be discounted by the percentage of times that the RDFI causes the return. For instance, if an RDFI causes 20% of its Unauthorized returns, then the RDFI would only receive 80% of the fee. The ODFI also would be charged for only 80% of the fee.
- Currently, the ACH system does not charge ODFIs fees for returns. NACHA will use the responses from this request for information to decide whether or not it should proceed with the idea. Therefore, it is critical for credit unions to submit their opinions on this issue.

Please send your comments to CUNA by December 30, 2003. Please feel free to fax your responses to CUNA at 202-638-7052; e-mail them to Associate General Counsel Mary Dunn at [mdunn@cuna.com](mailto:mdunn@cuna.com) and Assistant General Counsel Michelle Profit at [mprofit@cuna.com](mailto:mprofit@cuna.com); or mail them to Mary and Michelle c/o CUNA's Regulatory Advocacy Department, 601 Pennsylvania Avenue, NW, South Building, Suite 600, Washington, D.C. 20004.

In addition, CUNA recommends that all credit unions respond directly to NACHA because NACHA tabulates responses to its surveys. Based on these results, NACHA will determine how to proceed with this concept. If you would like to respond directly to NACHA and copy CUNA you may do so by using the NACHA survey form at [http://www.nacha.org/ACH\\_Rules/Rule\\_Making\\_Process/Rules\\_Work\\_Groups/RFC-52/rfc\\_52.htm](http://www.nacha.org/ACH_Rules/Rule_Making_Process/Rules_Work_Groups/RFC-52/rfc_52.htm). Comments sent directly to NACHA should be sent to Maribel Bondoc,

Network Services Assistant, NACHA, 13665 Dulles Technology Drive, Suite 300, Herndon, VA 20171, fax: (703) 787-0996 or email: [mbondoc@nacha.org](mailto:mbondoc@nacha.org), no later than Friday, January 9, 2004. Please provide CUNA a copy by sending your comments to Mary Dunn at [mdunn@cuna.com](mailto:mdunn@cuna.com) or Michelle Profit at [mprofit@cuna.com](mailto:mprofit@cuna.com).

## **DISCUSSION**

According to NACHA, this proposal would reduce exception processing since it would provide financial incentives to motivate ODFIs to improve their authentication procedures. These improvements would lessen the costly exception processing that RDFIs must do when they receive returns.

According to NACHA, the current system is inadequate to handle return entries. Although ODFIs make warranties under this system that can be enforced through the National System of Fines, NACHA claims that the system is too slow and cumbersome to handle all violations. The National System of Fines is NACHA's dispute procedure resolution process, which provides warning letters and time to comply before it imposes fines on rule violators.

This Request For Information discusses the concept of modifying the current rules governing the National System of Fines to create an additional automated system for assessing Network Return Entry Fees.

The concept for the Network Return Entry Fees relies on the establishment of fees and the collection and disbursement of those fees. The concept is currently conceived to work as follows:

### ***Establishment of the Network Return Entry Fee amounts***

- A survey will be conducted of financial institutions to determine the RDFI costs associated with handling Unauthorized and Invalid Account returns. ODFIs will also be asked to update data regarding RDFI compliance related to Invalid Account and Unauthorized return entries. The survey will be conducted every two years.
- Based on the results of the survey, a fee would be established by an independent committee of the ACH Rules Enforcement Panel.
- It is anticipated that there would be separate fee amounts for Invalid Account returns versus Unauthorized returns.
- During the establishment of the fees, consideration would also be given to the ODFI for Invalid Account and Unauthorized returns that are caused by RDFIs. It is proposed that this consideration be in the form of a discount based on the overall percentage of instances where RDFIs cause the returns.

### ***Billing***

- The ACH Operators would track the number of Invalid Account and Unauthorized ACH commercial debit returns for all SEC codes that are originated by every RDFI and received by every ODFI.

- At the end of each monthly billing cycle, the Operators would provide NACHA with a report of each financial institution in the ACH Network with the total number of Invalid Account and Unauthorized returns originated and received by each financial institution.
- Based on billing account data (routing numbers and account numbers of each financial institution in the ACH Network) provided by the Operators, NACHA would initiate a debit or credit to each financial institution on the ACH Network based on each institution's net position.

Fees would be discounted if RDFIs caused Invalid Account returns. For instance, that might occur when the Originator bases its ACH entry on the account information taken directly from the MICR line of the check but that information cannot be used to actually deliver an ACH entry to the RDFI. To account for these occurrences, a determination is needed as to the percentage of instances where the RDFI is at fault. For instance, if 10% of the Invalid Account problems are created by RDFIs, then the Network Return Fee would be discounted 10% for each transaction.

Likewise, return fees would be discounted for Unauthorized returns that are caused by the RDFI. Some RDFIs may not obtain an affidavit or written statement on penalty of perjury. Again, if it is determined that of the Unauthorized returns a total of 15 percent are either authorized and/or do not have an attached affidavit/written statement on penalty of perjury, then the Unauthorized Network Return Entry Fees would be discounted 15 percent. The attached survey will help determine the percentage of instances where the RDFIs are the cause of both of these types of return entries.

In many cases, Receivers are responsible for Invalid Account and Unauthorized return entries. This can be the result of keying errors, misrepresentation, or even fraud. According to NACHA, in these instances, RDFIs should be compensated for these exception items because it is the responsibility of the ODFIs to ensure that their institutions originate accurate, authorized, and authenticated ACH entries. Therefore, it is not proposed that consideration be given to ODFIs for discounting the Network Return Entry Fees that result from problems created by obtaining inaccurate or unauthorized information from Receivers.

The proposed implementation date for Network Return Entry Fees is March 12, 2004. This date is largely dependent upon the ability of the ACH Operators to provide the necessary reports to NACHA for tracking these types of return entries. Input from financial institutions will also help determine the appropriate date.

NACHA provided the following information on ACH returns:

**Invalid Account Returns**  
3<sup>rd</sup> Qtr 2003

	Volume	R03	R04	Total Invalid Account
All ACH Debits	874,152,194	2,215,745	1,191,789	3,407,534
CCD Debit	96,355,399	109,775	40,645	150,420
CTX Debit	473,510	546	175	721
PPD Debit	498,669,760	1,083,586	569,958	1,653,544
ARC	43,715,839	92,325	48,234	140,559
POP	38,474,901	62,588	42,309	104,897
RCK	5,811,707	82,834	32,694	115,528
TEL	36,670,765	401,566	252,615	654,181
WEB	135,207,656	372,597	205,316	577,913

**Unauthorized Returns**  
3<sup>rd</sup> Qtr 2003

	Volume	R07	R10	R29	Total Unauthorized
All ACH Debits	874,152,194	217,294	412,131	66,341	695,766
CCD Debit	96,355,399	9,338	9,444	31,820	50,602
CTX Debit	473,510	80	49	426	555
PPD Debit	498,669,760	192,238	218,240	11,910	422,388
ARC	43,715,839	1,024	4,541	6,956	12,521
POP	38,474,901	269	12,357	9,422	22,048
RCK	5,811,707	2,768	2,082	375	5,225
TEL	36,670,765	4,071	53,778	1,819	59,668
WEB	135,207,656	7,464	111,371	3,279	122,114

**QUESTIONS REGARDING THE PROPOSAL**

1. Does your credit union believe that there is a problem within the ACH Network regarding the amount of Invalid Account (R03, R04) returns? Yes \_\_\_ No\_\_\_

Please explain below:

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2. Does your credit union believe that there is a problem within the ACH Network regarding the amount of Unauthorized (R07, R10, R29) returns?

Yes \_\_\_ No \_\_\_

Please explain below:

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3. Does your credit union agree with the concept to charge ODFIs Network Return Entry Fees for Invalid Account (R03, R04) returns that are received? Yes \_\_\_ No \_\_\_

Please explain below:

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4. Does your credit union agree with the concept to charge ODFIs Network Return Entry Fees for Unauthorized Account returns that are received? Yes\_\_\_\_\_ No\_\_\_\_\_

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5. Does your credit union believe this concept should apply to all Standard Entry Class Codes or only specific ones? Please mark all that apply.

- \_\_\_\_\_ All Standard Entry Class Codes  
\_\_\_\_\_ ARC  
\_\_\_\_\_ CCD  
\_\_\_\_\_ PPD  
\_\_\_\_\_ POP  
\_\_\_\_\_ RCK  
\_\_\_\_\_ TEL  
\_\_\_\_\_ WEB

6. Does your credit union believe that Network Return Entry Fees should be:

- \_\_\_\_\_ Cost-based  
\_\_\_\_\_ Penalty-based  
\_\_\_\_\_ Other, please specify:

7. Does your credit union believe that a number of RDFIs are returning entries for which the RDFI or Receiver is responsible for the problem? \_\_\_\_\_y \_\_\_\_\_n

Please explain below:

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8. When your credit union receives Invalid Account returns, what percentage of these are caused by the RDFI or Receiver?

Please explain below:

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9. What percentage of the Unauthorized returns that your credit union receives back from RDFIs does your credit union believe are the responsibility of the RDFIs or the Receiver?

Please explain below:

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10. What is the cost to Originators of these returns for which the RDFI or the Receiver is responsible?

Please explain below:

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11. What percentage of the Unauthorized returns that your credit union returns back to ODFIs does your credit union believe are the responsibility of the ODFI or the Originator?

Please explain below:

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12. What percentage of the Invalid Account returns that your credit union returns to ODFIs does your credit union believe are the responsibility of the ODFI or the Originator?

Please explain below:

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13. Does your credit union believe there are instances when a single error can cause multiple returns?

Please explain when that would happen below:

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14. If your credit union originates pre-notification entries, what percentage of those pre-notification entries is for Invalid accounts? \_\_\_\_ %

Please explain below:

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15. Does your credit union believe that the Network Return Entry Fee concept should take into account instances where the returns of Invalid Account entries are the result of errors of responsibility of the RDFIs or the Receivers?

Please explain below:

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16. Does your credit union believe that the Network Return Entry Fee concept should take into account the following instances where the returns of Unauthorized Account entries are the result of errors or the responsibility of the RDFIs or the Receivers? \_\_\_\_\_yes \_\_\_\_\_no

Please explain below:

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17. Does your credit union agree with the concept of “discounting” the Network Return Entry Fees charged to the ODFI by the percentage of Invalid Account returns that are the responsibility of the RDFI/Receiver? \_\_\_\_yes \_\_\_\_no

Please explain below:

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18. Does your credit union agree with the concept of “discounting” the Network Return Entry Fees charged to ODFIs by the percentage of Unauthorized returns that are the responsibility of the RDFI/Receiver?

Please explain below:

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19. Does your credit union believe that the Network Return Entry Fees charged to ODFIs should be “discounted” by the percentage of Dishonored Returns Transmitted in response to returns for Invalid Accounts?

Please explain below:

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20. This concept paper states that for all returns for Invalid Account or Unauthorized, Network Return Entry Fees would be applied. Does your credit union believe that a threshold of returns should be set and these fees should only be assessed for amounts over that threshold?

Yes       No

If yes, how does your credit union suggest that a threshold be set so that the system of fees can be run efficiently? Please be as specific as possible.

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21. This concept paper offers the “discount” concept in lieu of a dispute resolution procedure. Originators would still retain their option to request a copy of the Written Statement Under Penalty of Perjury and submit the issue under the National System of Fines if they believe the RDFI violated a rules provision. Does your credit union agree with the “discount” concept in lieu of a dispute resolution procedure?

Please explain below:

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23. Would your credit union request a copy of the Written Statement Under Penalty of Perjury more often from the RDFI if the Network Return Item Fees were in place?

\_\_\_ Yes                      \_\_\_ No

How often? \_\_\_\_\_

Under what circumstances?

Please explain below:

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24. Does your credit union believe that adequate cost information is available to calculate the cost of handling Invalid Account and Unauthorized Returns accurately?

Please explain below:

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25. Should NACHA establish a method for determining how costs are calculated for handling returns?

Please explain below:

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26. If your credit union is an RDFI, please quantify the variable costs of your institution handling the following entries.

a. Returns that need to be sent for Invalid Account (R03, R04)? \_\_\_\_\_  
\_\_\_\_\_

b. Returns that need to be sent for unauthorized entries to consumer accounts (R07, R10)?  
\_\_\_\_\_  
\_\_\_\_\_

c. Returns that need to be sent for unauthorized entries to corporate accounts (R29)?  
\_\_\_\_\_  
\_\_\_\_\_

27. What types of returns should RDFI be reimbursed for handling?

- Invalid Account
- Unauthorized Returns
- No Returns

Please explain below:

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28. Who does your credit union believe should collect and disburse fees and administer this program?

- NACHA
- ACH Operators
- Other party: \_\_\_\_\_

29. Does your credit union believe this party should be reimbursed for collecting and disbursing fees and administering the program?

Please explain below:

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30 Does your credit union believe that the Originator of the original entry(ies) should be identified when return fees are assessed?

Please explain below:

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31. Does your credit union agree with the process by which Network Return Entry Fees would be established and fees would be collected and disbursed as outlined in this concept paper?

Please explain below:

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32. Does your credit union believe it can reduce the number of Invalid Account and Unauthorized return entries that it originates?

Please explain below:

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33. As an ODFI, or Originator, would your credit union change its behavior if this concept were implemented?

Please explain below:

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34. As an RDFI, would your institution change its behavior if this concept were implemented?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, how?

- \_\_\_\_\_ a) Stop sending NOCs
- \_\_\_\_\_ b) Stop posting ACH debits with incorrect account information and just return
- \_\_\_\_\_ c) Other (please specify)

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35. What are the perceived benefits and drawbacks of the concept to charge ODFIs Network Return Entry Fees for Invalid Account and Unauthorized return items?

Please explain below:

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36. Please identify any other specific issues that you may have concerning this concept that have not been addressed elsewhere in this ACH Participant Survey:

Please explain below:

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37. Does your credit union believe there is a better way to address the issue of Invalid Account and Unauthorized returns in the ACH Network?

Yes \_\_\_\_\_ No \_\_\_\_\_

Please explain below:

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Please submit your name, address, and phone number.

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