



NOTICE OF AMENDMENT
TO THE
2016 NACHA OPERATING RULES

February 17, 2016
SUPPLEMENT #1-2016

Establishment of the Unauthorized Entry Fee
Effective Date: October 3, 2016

Supplement #1-2016 to the *NACHA Operating Rules*

On October 3, 2016, the Rule establishing the Unauthorized Entry Fee becomes effective in the *NACHA Operating Rules (Rules)*. This supplement contains the amount of the Unauthorized Entry Fee, as well as information on the determination, collection and distribution of the fee. Additional information on the Unauthorized Entry Fee Rule can be found at <https://www.nacha.org/rules/improving-ach-network-quality-unauthorized-entry-fee>.

To ensure compliance with the most current rules, this Supplement should be used in conjunction with the 2016 edition of the *Rules*.

Unauthorized Entry Fee

SUMMARY

The Unauthorized Entry Fee is part of a *Rules* initiative to improve ACH Network quality by reducing the incidence of ACH debits that are returned as unauthorized. Effective October 3, 2016, an ODFI will pay a fee to the RDFI for each ACH debit that the RDFI returns as unauthorized. Unauthorized Returns are those that are returned to the ODFI with a Return Reason Code of R05, R07, R10, R29, or R51. (International ACH Transactions are not covered by the fee at this time.) The initial amount of the Unauthorized Entry Fee will be \$4.50 per unauthorized return.

The Unauthorized Entry Fee will provide a broad-based incentive for all ODFIs and their Originators and Third-Party Senders to improve ACH Network quality. At the same time, the fee will contribute to a more balanced value proposition for RDFIs by shifting some of the costs for unauthorized transactions in the ACH Network to ODFIs, which are in the best position to address the reasons for the returns.

BACKGROUND

An unauthorized debit involves a Receiver customer whose account has been debited, and who is disputing the validity of the debit, resulting in a customer contact with his/her financial institution, and, in the case of consumer Receivers, the attendant Regulation E dispute resolution procedures. All this results in costs for the RDFI to handle the customer's dispute, and in a dissatisfied customer as well. An unauthorized return always represents an underlying dispute between an Originator and a customer with which it chooses to do business. The RDFI is never a party to this dispute, and is rarely in the position of being able to prevent such a dispute. However, the RDFI is always bears the customer service costs associated with the consumer disputing the transaction.

The Unauthorized Entry Fee will encourage steps to reduce such transactions. Additionally, fees passed through to RDFIs will provide some cost recovery for a portion of RDFIs' costs for handling and returning unauthorized Entries, and will shift this cost to the ODFIs that are responsible for the origination of unauthorized transactions.

There are instances in which an unauthorized return is due to consumer fraud; i.e., a consumer repudiates a transaction he previously authorized. Because this type of fraud does occur, among other things, the Unauthorized Entry Fee is set at an amount that is lower than the RDFI's full cost recovery. A partial cost recovery takes into account the fact that there is some portion of unauthorized returns that is due to consumer fraud, which an ODFI cannot reasonably prevent.

METHODOLOGY FOR ESTABLISHING AMOUNT OF THE FEE

The *Rules* define a methodology by which NACHA staff will set and review every three years the amount of the Unauthorized Entry Fee. In setting the amount of the fee, NACHA staff will apply the following principles:

- NACHA will conduct a representative survey of RDFIs of various types and sizes to determine the expense incurred in handling and returning unauthorized entries.
- The amount of the Unauthorized Entry Fee will be set at a level that is less than the weighted average cost determined by such a survey.
- The Unauthorized Entry Fee will be set at a level that NACHA staff reasonably believes will provide an incentive for Participating DFIs to improve the quality of ACH processing without unduly discouraging

participation in the ACH Network.

- In re-evaluating the amount of the Unauthorized Entry Fee, NACHA staff will consider the extent to which the existing fee amount has had an effect on return rates.

The amount of the Unauthorized Entry Fee initially will be \$4.50 per unauthorized return, based on the results of an RDFI cost study performed by an independent third-party on behalf of NACHA. This amount is below the weighted average cost revealed by the cost study, as required by the Rule, and is at the midpoint of the originally estimated range for the fee. The new fee will become effective beginning with return entries that have a Settlement Date of October 3, 2016. According to the Rule, this initial fee amount will be effective for three years, and then will be re-evaluated for any potential adjustment.

COLLECTION AND DISTRIBUTION OF THE FEE

By rule, all ODFIs agree to pay the Unauthorized Entry Fee, and ODFIs and RDFIs authorize debits and credits to their accounts for the collection and distribution of the fees. The charges and credits for these fees will be reflected on a Participating Depository Financial Institution's statement from its ACH Operator. Unauthorized Entry Fees are separate and distinct from charges by an ACH Operator for any product or service that they may provide.

The RDFI of the original debit will receive the entire Unauthorized Entry Fee. No portion of any Unauthorized Entry Fee will be passed to NACHA for NACHA's benefit.

EFFECTIVE DATE

The Unauthorized Entry Fee will become effective beginning with applicable return entries that have a Settlement Date of October 3, 2016 (a Monday and the first banking day of the fourth quarter). ODFIs should be aware that fees applied to return entries as of October 3, 2016 will relate to forward entries initiated as early as August 1, 2016.

Unauthorized Entry Fee

Effective October 3, 2016, the *NACHA Operating Rules* require each Originating Depository Financial Institution (ODFI) to pay an Unauthorized Entry Fee to the respective Receiving Depository Financial Institution (RDFI) for each ACH debit Entry that is returned as unauthorized. The Unauthorized Entry Fee applies to any returned debit Entry with a Return Reason Code of R05, R07, R10, R29, or R51. International ACH Transactions are not covered by the fee at this time.

By rule, all ODFIs agree to pay the Unauthorized Entry Fee, and ODFIs and RDFIs authorize debits and credits to their accounts for the collection and distribution of the fees. The charges and credits for these fees will be reflected on a Participating Depository Financial Institution's statement from its ACH Operator. The RDFI will be the beneficiary of each fee paid by the ODFI. No portion of any Unauthorized Entry Fee will be passed to NACHA for NACHA's benefit.

NACHA staff sets and reviews every three years the amount of the Unauthorized Entry Fee. In setting the amount of the fee, NACHA staff applies several stated principles, including the review of RDFI cost surveys.

The accompanying chart provides information on the Unauthorized Entry Fee, effective October 3, 2016.

National Automated Clearing House Association Unauthorized Entry Fee

The Unauthorized Entry Fee has been established by NACHA staff effective October 3, 2016 in accordance with the requirements of the *NACHA Operating Rules*, Article One (General Rules), Section 1.11 (Unauthorized Entry Fee).

- Unauthorized Entry Fee (Effective October 3, 2016) . . \$ 4.50