

**Risks of Early Funds Availability**

**Request for Information**

***May 21, 2021***

**Responses Due by Friday, July 16, 2021**

Nacha requests that industry stakeholders provide comments and perspectives on the risks of early funds availability, and whether the Nacha Rules should support the ability or provide an opportunity for an ODFI to recover funds in limited circumstances when an RDFI has made funds available prior to the settlement date. Comments may be provided through the industry questionnaire or by comment letter. Responses are due by **Friday, July 16, 2021**.

The survey may be completed online at <https://www.nacha.org/rules/proposed> by **July 16, 2021**. For convenience, the survey questions are also provided within this document to assist respondents in gathering information from within their organizations.

Please provide responses to the respondent information section at the end of the survey. If responding to the online survey, this information will be gathered at the start of the survey. All respondent information will be kept confidential.

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**Section 1 - Information Requested**

|  |  |  |
| --- | --- | --- |
| 1. Does your organization think that the existing Rules fairly balance risks between origination and receipt as it exists prior to settlement?
 |  | Yes |
|  | No |
|  | Don’t know |
| If no, please explain: |

Questions for ODFIs and Originators

|  |  |  |
| --- | --- | --- |
| 1. As an ODFI or Originator, how frequently does the scenario occur in which a reversal submitted before the settlement date is returned for insufficient funds?
 |  | Daily |
|  | Weekly |
|  | Monthly |
|  | Less often than monthly |
|  | Never |
|  | Unsure/don’t know |
| If you indicated a time period, what is a typical dollar amount in this scenario? |

|  |  |  |
| --- | --- | --- |
| 1. As an ODFI or Originator, how frequently does the scenario occur in which an RDFI was contacted before settlement to hold or return funds, but funds were no longer available?
 |  | Daily |
|  | Weekly |
|  | Monthly |
|  | Less often than monthly |
|  | Never |
|  | Unsure/don’t know |
| If you indicated a time period, what is a typical dollar amount in this scenario? |

|  |
| --- |
| 1. Please describe similar scenarios, and typical dollar amounts, in which a loss was incurred due to early funds availability:
 |

|  |
| --- |
| 1. Please provide other information on the scope of this issue:
 |

Questions for RDFIs

|  |  |  |
| --- | --- | --- |
| 1. As an RDFI, do you make funds from ACH credits available to consumer account holders prior to the settlement?
 |  | Yes |
|  | No |
|  | It varies |
|  | Unsure/don’t know |
| If yes or varied, please describe: |

|  |  |  |
| --- | --- | --- |
| 1. As an RDFI, do you make funds from ACH credits available to non-consumer account holders prior to the settlement?
 |  | Yes |
|  | No |
|  | It varies |
|  | Unsure/don’t know |
| If yes or varied, please describe: |

|  |  |  |
| --- | --- | --- |
| 1. As an RDFI, do you currently have plans to change your funds availability practices?
 |  | Yes, for consumer accounts |
|  | Yes, for non-consumer accounts |
|  | No |
|  | Unsure/don’t know |
| If yes, please describe: |

|  |  |  |
| --- | --- | --- |
| 1. As an RDFI, if you make funds from ACH credits available early (or have plans to), what is the primary reason?
 |  | We cannot warehouse future-dated credits |
|  | There is no risk to us |
|  | Early availability is a customer benefit |
|  | Necessary due to market competition |
|  | Other |
| If Other, please describe: |

|  |  |  |
| --- | --- | --- |
| 1. As an RDFI, would a re-allocation of risk cause you to change your funds availability practices?
 |  | Yes |
|  | No |
|  | Unsure/Don’t Know |
| If Yes, please describe: |

|  |  |  |
| --- | --- | --- |
| 1. As an RDFI, how frequently does the scenario occur in which a reversal submitted before the settlement date is returned for insufficient funds?
 |  | Daily |
|  | Weekly |
|  | Monthly |
|  | Less often than monthly |
|  | Never |
|  | Unsure/don’t know |
| If you indicated a time period, what is a typical dollar amount in this scenario? |

|  |  |  |
| --- | --- | --- |
| 1. As an RDFI, how frequently does the scenario occur in which an ODFI contacted you before settlement to hold or return funds, but funds were no longer available?
 |  | Daily |
|  | Weekly |
|  | Monthly |
|  | Less often than monthly |
|  | Never |
|  | Unsure/don’t know |
| If you indicated a time period, what is a typical dollar amount in this scenario? |

Questions for all respondents

|  |  |  |
| --- | --- | --- |
| 1. Does your organization think that the Rules should support the ability of an ODFI to recover funds in limited scenarios when an RDFI has made funds available prior to settlement?
 |  | Yes |
|  | No |
|  | Don’t know |

|  |  |  |
| --- | --- | --- |
| 1. Regardless of your answer to Question 13, do you think that any of these Rules approaches would be effective in enabling ODFIs to recover funds from RDFIs? Check all that apply.
 |  | Prohibit an RDFI from returning a reversal for insufficient funds (R01 and R09) if it is received before settlement |
|  | Make RDFI liable to the ODFI for the amount of a credit if it made funds available prior to settlement, and the ODFI could have corrected an error or recovered the amount of the credit |
|  | Other |
| If Other, please describe |

|  |  |  |
| --- | --- | --- |
| 1. Please indicate which one of the following statements best describes your organization’s position on the issues described in the RFI on the risks of early funds availability.
 |  | Early funds availability is not a significant problem on the ACH Network, and in fact is a benefit because it gets account holders their funds earlier. No Rule change is needed. |
|  | Early funds availability is a problem, but a Rule change would not be effective in addressing it |
|  | Early funds availability is a problem, and a Rules proposal should be developed to address it |
|  | Early funds availability should be prohibited by the Rules |

|  |
| --- |
| 1. Please provide any other comments on this issue:
 |

**Section 3 - Respondent Information**

***All Respondents***

|  |  |
| --- | --- |
| Name |  |
| Title |  |
| Organization |  |
| City, State |  |
| Phone:  |  | Email:  |  |

|  |
| --- |
| Please indicate your organization’s role(s) in the ACH Network: |
|  | ODFI |  | Payments Association |
|  | RDFI |  | Nacha Direct FI Member |
|  | ACH Operator |  | Government |
|  | Non-FI end-user |  | Third Party Service Provider |
|  | Industry association |  | Software/Technology provider |
|  | Other:  |

|  |
| --- |
| What areas of your organization provided input for the responses to this survey? |
|  | Operations |  | Retail/online banking |
|  | Product management |  | Customer service |
|  | Legal |  | Compliance |
|  | Information Technology/software |  | Wholesale/corporate banking/treasury mgt |
|  | Executive/strategy |  |  |
|  | Other:  |

***Financial Institution Respondents***

|  |  |  |
| --- | --- | --- |
| Asset Size |  | less than $500 million |
|  |  | $500 million - $5 billion |
|  |  | $5 billion - $25 billion  |
|  |  | $25 billion - $100 billion |
|  |  | Greater than $100 billion |