



ACH Operations Bulletin #1-2023

Update to Sample Written Statement of Unauthorized Debit

March 27, 2023

Summary

Nacha is updating the sample Written Statement of Unauthorized Debit (WSUD) to include language alerting consumers of the risks of making false claims of unauthorized ACH debits to their financial institutions.¹

Discussion

Fraud involving consumer payments has been getting increased attention in the media and from Congress. In connection with this and especially in light of several high-profile bankruptcy cases involving cryptocurrency providers and exchanges, Nacha has become aware that some consumers have received advice that could lead them to unknowingly violate federal law when seeking to recover investment losses. For example, a consumer might authorize one or more ACH debits to transfer funds to an investment account or cryptocurrency wallet. Subsequently, after the investment or cryptocurrency has lost value, the consumer might be advised to make a claim to his or her financial institution that the debits were not authorized in an attempt to recover lost amounts.

Nacha has seen (and in at least one case, has prompted the retraction of) media reports and advice posted on the internet that advises consumers to file claims with their financial institutions in inappropriate cases. As a result, consumers may report duly authorized ACH debits as unauthorized and, at the request of their financial institutions, complete and sign Written Statements of Unauthorized Debit (WSUDs). These consumers may not realize that by making false statements about whether they authorized transactions, they could be committing bank fraud, which could result in civil liability or criminal penalties.

In an effort to educate consumers, and as an anti-fraud measure, Nacha is amending its sample form WSUD² to include a disclosure, similar to those found on other widely used banking forms, informing consumers of the possible penalties that could result from making false representations to a financial institution. Nacha's goal is to alert well-meaning consumers to federal laws and help them avoid violating such laws, based on misguided advice they may have received.

¹ This ACH Operations Bulletin is not intended to provide legal advice. RDFIs should consult their own legal counsel regarding the content of their WSUD forms.

² A Sample Written Statement of Unauthorized Debit (ACH) is published annually in the Nacha Operating Rules & Guidelines. In the 2023 Rules & Guidelines, the sample form is included in the Guidelines in Section VII, Appendix I on Page OG366.

Sample WSUD

Nacha is adding the following language to its sample form WSUD, and advises RDFIs that they may want to consider including similar language on the forms that they use:

Any intentional attempt to obtain money from a financial institution by misrepresenting whether a transaction was authorized may result in the imposition of fines up to \$1,000,000, or imprisonment up to 30 years, or both under the provisions of Federal law (18 U.S.C. §1344).

A sample WSUD follows that includes the new disclosure. This updated sample WSUD will be published in the next edition of the annual Nacha Operating Rules & Guidelines.

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Sample Written Statement of Unauthorized Debit (ACH)

RDFIs: Your legal department should review any written statement you develop to ensure that it meets the needs of your organization and is in compliance with the Nacha Operating Rules.

[FINANCIAL INSTITUTION NAME]

SAMPLE WRITTEN STATEMENT OF UNAUTHORIZED DEBIT (ACH)

1. Account/Transaction Information

Name _____
Account Number _____
Amount of Debit _____
Date of Debit _____
Party Debiting the Account _____

2. Statement

I (the undersigned) hereby attest that (i) I have reviewed the circumstances of the above electronic (ACH) debit to my account; (ii) the debit was not authorized, or did not conform to the terms of my authorization; and (iii) the following, to the best of my ability to identify, is the reason for that conclusion.

I did not authorize the debit to my account.

- I do not know or did not authorize the party listed above to debit my account.
- The signature of a check that was processed electronically is not my signature.

I authorized the party listed above to debit my account, but the entry does not conform to the terms of my authorization.

- My account was debited before the date that I authorized.
- My account was debited for an amount different than I authorized.
- My account was debited by an authorized third party, but that third party failed to make my payment as instructed.
- My check was improperly processed electronically.
- A debit to my account that was previously returned was improperly reinitiated.
- A debit to my account was an improper reversal.

I authorized the party listed above to debit my account, but:

- I revoked the authorization I had given to the party to debit my account before the debit was initiated.
- Other (must specify) _____

3. Signature

I am an authorized signer, or otherwise have authority to act, on the account identified in this statement. I attest that the debit above was not originated with fraudulent intent by me or any person acting in concert with me.

I have read this statement in its entirety and attest that the information provided on this statement is true and correct.

Any intentional attempt to obtain money from a financial institution by misrepresenting whether a transaction was authorized may result in the imposition of fines up to \$1,000,000, or imprisonment up to 30 years, or both under the provisions of Federal law (18 U.S.C. §1344).

Signature _____ Date _____
