

# 3

# Non-Receipt Claims

## Overview

This chapter describes the role(s) of the financial institution in resolving a claim of non-receipt for a federal payment.

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## A: General Information on ACH Non-Receipt Claims

It is imperative that Receiving Depository Financial Institutions (RDFI) review procedures for posting payments and funds availability to ensure compliance with 31 CFR part 210 and NACHA Operating Rules (See Chapter 2, Availability of Funds, for specific information about federal ACH funds availability). Any RDFI can be held liable for ACH payments not processed timely or correctly. If the federal government sustains a loss as a result of the financial institution's improper handling of an entry, the financial institution is liable to the federal government for the loss, up to the amount of the entry.

It is extremely important that all RDFI personnel, especially branch, teller, and customer service representatives are properly trained to locate payments, specifically those which are "memo posted" or post prior to the settlement date. Close to 75 percent of "missing" federal payments are at the RDFI when the recipient calls to inquire. Thorough research will limit misinformation and subsequent unnecessary non-receipt claims and simultaneously increase confidence in Direct Deposit as a payment method.

If the RDFI determines that it did not receive a payment, the benefit recipient may contact the issuing agency to open a claim of non-receipt. The issuing agency in turn notifies the Fiscal Service. Fiscal Service will initiate contact with the RDFI in an attempt to locate or resolve a claim of non-receipt.

**Note:** *Some federal payments may be reduced, in whole or in part, to pay a delinquent debt owed by the payee to a federal or state agency. For more information about the Treasury Offset Program, visit <https://www.fiscal.treasury.gov/top/>.*

### RDFI of a Direct Deposit Federal Payment

*Role in response to customer inquiry on the status*

The RDFI should make every reasonable attempt to locate a payment prior to redirecting a recipient to the authorizing federal agency. RDFI employees should have an understanding of the various posting techniques utilized to assist customers who are concerned with the status of their direct deposit. RDFIs should be aware of the following situations that often result in unnecessary non-receipt claims:

- 1. Determine if the payment was posted late,**
  - RDFI should be able to explain why there was a delay.
- 2. Determine if the payment was memo posted,**
  - RDFI customer service personnel may sometimes be unaware of, or do not check for "memo posted" items. "Memo-posting" is a temporary credit applied to a payee's account during the day. Memo-posted transactions are finalized in the RDFI's end of day processing.
- 3. Determine if the payment was posted early,**
  - Due to volume and processing considerations the RDFI may receive ACH payment files a few days prior to their settlement dates. "Early posting" occurs when an RDFI posts a payment to a recipient's account prior to the settlement date.
- 4. Determine if a third-party processor is used and confirm funds availability through the processor,**

- RDFI should confirm if the funds were made available to the recipient.
5. **Determine if the payment was an exception item,**
    - The RDFI should be aware that a payment may have been posted incorrectly, manually posted, or returned due to incorrect account information.
  6. **In some instances, the RDFI may never receive a payment for the recipient. Determine if the recipient has:**
    - Changed financial institutions,
    - Revoked the Direct Deposit authorization,
    - Verified entitlement with the authorizing federal agency, and
    - A delinquent debt owed to a federal or state agency, which may have been submitted to Fiscal Service for collection.

**Note:** The RDFI should process a NOC entry if they are responsible for the change information. The RDFI may request the benefit recipient to update their information with the issuing agency if the customer has a closed account, new account, etc.

Title 31 CFR 210.8(b)(2) specifically addresses the liability placed on RDFIs for the correct preparation of ENRs and NOCs.

## B: Initiating a Formal Claim of ACH Non-Receipt

If all efforts to locate the payment(s) have failed, the RDFI should instruct the recipient to file a non-receipt claim directly with the authorizing federal agency. The table below lists federal agencies by types of payments.

<i>Type of Payment</i>	<i>Action</i>
Federal Salary and allotments (including military and civilian pay) Military Active Duty allotments	Advise recipient to contact their payroll office. <b>Note:</b> Coast Guard Active Duty and Allotments (785) 339-3506.
Military Retirement/Annuity/Allotments	Advise recipient to contact the appropriate military branch. Refer to Contacts, Chapter 7.
Travel Payments TreasuryDirect	Advise recipient to contact their finance/ travel office Refer to Contacts, Chapter 7
Vendor, Miscellaneous, and All Other Payment Types	Advise recipient to contact the federal agency that authorized the payment. Refer to Contacts, Chapter 7.

## C: Non-Receipt Process

Upon notification from the recipient that a payment has not been received, the authorizing federal agency will notify the Fiscal Service. Fiscal Service will research the claim by either the ACH Non-Receipt claim process, or by using the traditional FS Form 150.1, Trace Request Form, to determine the status of the claim.

## Legal References Supporting Treasury Non-Receipt Investigation

### 1. 12 USC 3413(k)(2): Disclosure Necessary for Proper Administration of Programs of Certain Government Authorities

12 USC 3413 (k)(2) of the Right to Financial Privacy Act provides: “Nothing in this title shall apply to the disclosure by the financial institution of information contained in the financial records of any customer to any government authority that certifies, disburses, or collects payments, where the disclosure of such information is necessary and such information is used solely for the purpose of ... the investigation or recovery of an improper federal payment...”

### 2. Title 31 CFR part 210.3(c): Federal Government Participation in the Automated Clearing House (ACH)

Specifically, Title 31 CFR part 210.3(c) provides: “Any person or entity that originates or receives a government entry agrees to be bound by this part and to comply with all instructions and procedures issued by the Service under this part including the Treasury Financial Manual and the Green Book.” This regulatory provision also points out that the Green Book is available on the Fiscal Service website.

### 3. Green Book, Chapter 4 Returns

The Green Book chapter on Returns states that: Unpostable payments must be returned so that they are received by the government disbursing office ODFI no later than the opening of business on the second banking day following the settlement date of the original entry. Under no circumstances should a financial institution hold payments indefinitely in a suspense account, or by any other means, nor should payments otherwise be held if any of the conditions apply on when to return a payment. Holding payments may constitute a breach of the financial institution’s warranty for the handling of federal government ACH payments under regulations codified in 31 CFR part 210.

## ACH Non-Receipt Claims Process

Fiscal Service has partnered with several federal agencies to research Direct Deposit ACH non-receipt claims. Fiscal Service representatives will contact the RDFI directly by telephone, email, or facsimile to resolve claims of non-receipt. Fiscal Service has access to all the payment information and will seek assistance in identifying the following checklist of items:

#### 1. Verification of payment status (posted, funds held, returned, etc.),

**Question:** Did the item in question post to the account number provided on the date of payment?

#### 2. Verification that the intended payee received the payment,

**Question:** Does the payee’s name appear on the account?

#### 3. Situations where the recipient’s name is not on the account (If it is determined that an item has posted to an improper account Fiscal Service will make a request for the return of those funds subject to availability),

**Question:** Can you provide the date the funds were returned, and the reason code used? Do you require an R06 (Returned per ODFI Request) letter from Treasury to return these funds?

#### 4. Situations where the recipient did not receive the payment on settlement date, and

**Question:** Were the funds posted early or late, can the RDFI provide a reasonable explanation as to why?

### 5. Payments posted manually, due to account closure or invalid account information.

RDFIs should originate a Notification of Change (NOC) entry if corrections are needed for future payments. See Chapter 6, Notification of Change, and the Nacha Operating Rules & Guidelines for detailed instructions.

**Note:** *Fiscal Service may also request the name, mailing address and telephone number of the improper recipient under the authority of 12 USC 3413(k) (Right to Financial Privacy Act of 1978).*

When the reason for non-receipt has been determined, Fiscal Service will mail the recipient a letter informing him/her of the resolution.

Keep in mind that RDFIs can be held liable for ACH payments not processed timely or correctly. If the federal government sustains a loss because of a financial institution's improper handling of an entry, the financial institution is liable to the federal government for the loss, up to the amount of the entry.

### Payment Trace Requests: Manual Non-Receipt Claims Process

A sample FS Form 150.1, Payment Trace Request Form, is available in Chapter 9, *Forms*.

The FS Form 150.1 is used to trace all payments other than benefit payments. Upon receipt of a FS Form 150.1, the RDFI should follow these steps:

1. Verify the status of the payment in question, by making all attempts to locate the payment at the RDFI,
2. Credit the payment immediately if the payment was not previously credited or returned,
3. Return the payment by ACH if it cannot be credited for any reason,
4. Complete the FINANCIAL INSTITUTION ACTION section within three (3) business days of receipt of the form by the RDFI,
5. Return the DISBURSING OFFICE COPY to the government disbursing office identified on the form, and

The RDFI must respond to Fiscal Service within three business days by completing and returning the FS Form 150.1 to Fiscal Service as indicated on the form. Fiscal Service will verify acceptance of the return.

- If no reply is received, Fiscal Service will contact the financial institution and will pursue the case until it is resolved. If Fiscal Service still receives no reply, a letter will be sent to the President of the RDFI.
- The authorizing federal agency may also contact the RDFI to resolve payment problems.

Keep in mind that the RDFIs can be held liable for ACH payments not processed timely or correctly. If the federal government sustains a loss as a result of a financial institution's improper handling of an entry, the financial institution is liable to the federal government for the loss, up to the amount of the entry.