

**POLICY FOR DEALING WITH INCIDENTS OF FREQUENT DISHONOUR OF
CHEQUES AND FAILED NACH (NATIONAL AUTOMATED CLEARING
HOUSE)/ECS (ELECTRONIC CLEARING SERVICE)**

**A. PROCEDURE FOR DEALING WITH INCIDENTS OF FREQUENT DISHONOUR
OF CHEQUES OF VALUE RS.1 CRORE AND ABOVE AS WELL AS BELOW Rs. 1
Crore.**

(i) Returning time for dishonoured cheques

The dishonoured instruments are required to be returned / dispatched to the customer promptly without any delay, in any case within 24 hours of dishonour.

(ii) Procedure for return/dispatch of dishonoured cheques

- a) The payee branch should return dishonoured cheques presented through clearing houses, strictly as per the return discipline prescribed for respective clearing house in terms of Uniform Regulations and Rules for Bankers' Clearing Houses. The collecting branch on receipt of such dishonoured cheques should dispatch it immediately to the payees/ account holders within 24 hours of receipt of the instruments.
- b) In relation to cheques presented directly to the payee branch across the counter for settlement of transaction by way of transfer between two accounts of the same branch / inter – branch, branch should return such dishonoured cheques to the payees/ holders same day/or next day, in case of dishonour due to insufficiency of fund.
- c) Cheques dishonoured for want of funds in respect of all accounts should be returned along with a memo indicating therein the reason for dishonour as "insufficient funds".

(iii) Dealing with incidents of frequent dishonour

- a) With a view to enforce financial discipline among the customers, branch should introduce a condition for operation of Savings Bank/ Current Account (SB/CA) account with cheque facility that in the event of dishonour of a cheque/NACH/ECS due to lack of funds/insufficient funds drawn on a particular account of the drawer on 4 occasions during the financial year, no fresh cheque book would be issued and branch may close the account after issuing 30 days notice to the customer on subsequent dishonour.
- b) The branch may consider closing Savings Bank account/Current account at its discretion, after proper notice to the customer recording the reason of closure of account. However, in respect of advances accounts such as cash credit account, overdraft account, the need for continuance or otherwise of these credit facilities and the cheque facility relating to these accounts should be reviewed by appropriate authority, i.e., the sanctioning authority.
- c) If a cheque is dishonoured for a 3rd time during a financial year in respect of cheques mentioned in para (a) above on a particular account of the drawer during the financial year, branch should issue a Cautionary Advice to the concerned constituent drawing his/her/their attention to aforesaid conditions and consequential stoppage of cheque facility in the event of cheque being dishonoured on next occasion on the same account during the financial year.
- d) If an account is having cheque book facility and NACH/ ECS mandate is also registered, then the incidents of dishonour will be taken into account for both dishonour of cheque and failed NACH/ECS for computing the number of dishonour of cheques and failed NACH/ ECSs.

- e) Branch may consider for closing the account after serving 30 days-notice to the customer in the event of subsequent dishonour of cheque/ NACH/ECS mandate in the account.

B. DISHONOUR OF NACH/ECS (DEBIT) MANDATE: SECTION 25 OF THE PAYMENT AND SETTLEMENT SYSTEM ACT, 2007

i) ECS (Debit) is a scheme under which an account holder with a bank can authorize an ECS user to recover an amount at a prescribed frequency or otherwise by raising a debit in his account. The ECS user has to collect an authorization which is called ECS mandate for raising such debits. These mandates have to be endorsed by the bank branch maintaining the account.

ii) National Automated Clearing House (NACH) is a payment system operated by National Payments Corporation of India (NPCI) on the lines of ECS, where Corporations and Banks are members. The physical mandates are obtained by Corporates/ Sponsor Banks and sent to NPCI through Mandate Management System (MMS). The destination Banks receive the mandates through MMS and authorise the same in their CBS. On the strength of the mandates, the future debits are raised by Sponsor Banks. Acceptance of ECS mandates is now stopped by Banks and only NACH mandates are accepted. ECS system is now being migrated to NACH by RBI.

iii) As per Section 25 of the Payment and Settlement Systems Act, 2007, where an electronic funds transfer initiated by a person from an account maintained by him cannot be executed on the ground that the amount of money standing to the credit of that account is insufficient to honour the transfer instruction or that it exceeds the amount arranged to be paid from that account by an agreement made with a bank, there is provision to prosecute such person as per the above act.

iv) Procedure for handling failed NACH/ ECS

a) If a Destination Branch (the bank branches where the Destination Account holders maintain their bank account from which NACH/ ECS utility payments are debited.) is not in a position to debit a particular transaction for insufficiency of funds, it should report the same with a Return Memo to the Main Branch on the same day with the details of failed NACH/ ECS, in any case not later than 24 hours of the returned /undebited ECS processed in the Clearing House.

b) NACH transactions are presently processed centrally at Main Branch Dehradun. In case of return of NACH transaction, a return file is generated at NPCI and the Sponsor Bank will give the return memo to customer on the strength of return reason code in return file.

c) It would be the responsibility of the Sponsor Bank (Branch) (refer to the bank/branch which had agreed to act as the agent of the User company i.e. utility-companies, insurance/corporations/Collection Service Provider/ Govt. departments, or any institution receiving/collecting payments from a large number of branches/ credit banker etc) to advise the User regarding failed NACH/ ECS debit.

d) If a User makes use of NACH/ ECS mechanism for receiving payment from the same set of beneficiaries every quarter/month or at more frequent intervals, and there is frequent return of debit NACH/ ECS, in such cases, after return of the NACH/ECS, the Sponsor Bank has the responsibility to intimate the User in addition to the Destination Account Holders regarding termination of NACH/ ECS mandate.

e) In case of failed NACH/ECS due to insufficiency of funds, a communication from the Destination branch is to be sent to the customer (Destination Account Holder) intimating him that in case of failed NACH/ ECS for 4 times in a financial year or otherwise, the branch at its sole discretion may advise the sponsor bank/branch for cancellation of all mandates given for the particular account in case of SB/CA, whereas for Cash Credit accounts, a review may be put up to appropriate authority higher than the sanctioning authority in the matter. The branch should also send the caution memo after 3rd NACH/ ECS failure in a financial year to the concerned User of NACH/ ECS for whom the NACH/ ECS was registered.

f) If an account is having cheque book facility in addition to NACH/ ECS mandate, then the incidents of dishonour will be taken into account for both dishonour of cheques and failed NACH/ECS for computing the number of dishonour of cheques/NACH/ ECS mandate. On reaching the threshold, no cheque book will be issued from any channels and no NACH mandate will be allowed to be registered in the CBS.

g) Branch may consider for closing of account after serving 30 days notice to the customer after subsequent NACH/ ECS failure, even though the account is not having any cheque book facility and only NACH/ECS has been registered.

h) The Controller of the branch has to ensure compliance of above procedure so that no laxity is allowed in delayed reporting of such failed NACH/ECS. In case of any findings of such circumstances and non- compliance / non-adherence of instructions/ guidelines stated hereinabove, suitable disciplinary action will be initiated against the erring staff as per the service conditions governing to them.

i) Information / documentary proof of failed NACH/ECS should be provided, if requisitioned by any court/consumer forum.

C. INFORMATION ON DISHONOURED CHEQUES/FAILED NACH/ ECS

(i) Data in respect of each dishonoured cheque for amount of Rs.1 crore and above, and below Rs.1 crore should be made part of bank's MIS on constituents and concerned branches should report such data cheque wise & account wise to their respective controller separately.

(ii) Data in respect of all failed NACH/ECS should be made part of Bank's MIS on constituents and concerned branch should report to their respective controllers.

D. FRAMING APPROPRIATE PROCEDURE FOR DEALING WITH DISHONOURED CHEQUES

(i) The appropriate procedure for dealing with dishonoured cheques have been devised with inherent preventive measures and checks to prevent any scope for collusion of the staff of the bank or any other person, with the drawer of the cheque for causing delay in or withholding the communication of the fact of dishonour of the cheque to the payee/ holder or the return of such dishonoured cheque to him.

(ii) For the purpose of recording dishonour status of the cheque, every cheque received at the paying branch /clearing branch must be recorded in the system, whether balance is available in the account or not and in no case, it should be returned without referring cheques to the "Cheque referred & returned Register" where cheque is being returned for insufficient balance in the account.

(iii) In no case, the cheques at paying branch/Clearing Branch should be withheld to ensure deposit of sufficient balance in the account by the account holder /party concerned to meet the fund requirement of the cheque.

(iv) The Controller of the branch has to ensure compliance of above procedure so that no laxity is adopted / no internal collusion of staff in concealing the dishonour of the cheque or delayed reporting/returning of the cheque. In the event of finding of any such circumstance, the internal guidelines for dealing with staff accountability for dereliction in duty by the staff will be dealt with. Accordingly, Officers and staff should be cautious enough to adhere to such guidelines and ensure strict compliance thereof to achieve aforesaid objective of effective communication and delivery of dishonoured cheque to the payee.

E. Recovery of Service Charges on dishonour of Cheque/NACH/ECS

Recovery of such charges will be ensured as per extant instructions on Service Charges enforce. Returning of Cheque over the counter will also be recorded in the system as rejected transaction and applicable service charges will be levied.

F. GENERAL

(i) For the purpose of adducing evidence to prove the fact of dishonour of cheque on behalf of a complainant (i.e. payee / holder of a dishonoured cheque) in any proceeding relating to dishonoured cheque before a court, consumer forum or any other competent authority, branch should extend full co-operation, and should furnish him/her documentary proof of the fact of dishonour of cheque(s).

G. REFERENCES

RBI Circular no. RBI/2013-14/589 RPCD.CO.RRB.BC.No. 100/03.05.33/2013-14 dated May 12, 2014

RBI Circular no. RBI/2016-17/33 DBR.No.Leg.BC.3/09.07.005/2016-17 dated 04th August, 2016