

Frequently Asked Question and Answer

November 2, 2015

Question

One of our customers can see via online banking that a pending preauthorization transaction has memo posted to his/her account. A merchant has put a hold on the account but has not fully processed the debit transaction. The customer claims that the transaction is not authorized, but was under the impression that he/she could not dispute the item until the charge actually posted to his/her account. Should we treat this as a Regulation E error resolution dispute even though it has not charged the account and may eventually drop off?

Short Answer

If the funds have not actually transferred from the account, then this is not considered a transaction that is covered under Regulation E. However once the funds have been transferred from the account, it would be subject to the error resolution rules. The institution has the option of voluntarily investigating the customer inquiry and may take steps to prevent the transaction from being processed.

Answer Details

Regulation E §205.3 states that coverage scope of the regulation includes any electronic fund transfer that authorizes a financial institution to debit or credit a consumer's account. The term "electronic fund transfer" means any transfer of funds that is initiated through an electronic terminal, telephone, computer, or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit a consumer's account. Given that the funds have not actually been transferred from the account, the hold would not be covered under Regulation E.

However, if the transaction ends up going through as a real transfer and is still considered unauthorized or incorrect by the customer, the financial institution would then consider it an error under Regulation E and should follow the relevant error resolution rules.

If you are interested in an audit or assistance with your Electronic Fund Transfers Act program, please contact Brian Shea at bshea@wolfandco.com or Erica Torres at etorres@wolfandco.com.