

Frequently Asked Compliance Question

April 15, 2015

Question

Our card vendor (Master Card or VISA) requires us to obtain a written form from the customer before it will proceed with processing a Regulation E error resolution claim. Are we permitted to delay or decline the claim when the customer does not provide us with something in writing?

Short Answer

A financial institution must begin and finish without delay an error resolution claim within the timeframes established by Regulation E, even if it never receives a signed or written affidavit from the customer.

Answer Details

Within Section 1005.11 of Regulation E, the Official Staff Interpretations state, "While a financial institution may request a written, signed statement from the consumer relating to a notice of error, it may not delay initiating or completing an investigation pending receipt of the statement."

Within the Master Card and Visa chargeback guides, when there is language stating that supporting documentation such as a signed affidavit is needed before beginning the investigation, it is only related to Master Card and Visa procedures. In order to remain compliant with Regulation E, financial institutions need to begin their investigation as soon as the customer provides notification of the error (oral or written).

In terms of providing provisional credit, a financial institution can require that a signed written affidavit be provided within ten business days of oral notification. If the financial institution does not receive signed written confirmation of the error from the customer, then the institution need not provisionally credit the customer while it continues to perform the investigation. The institution would need to credit the customer at the conclusion of the investigation unless it is determined that an error did not occur. The institution cannot delay the conclusion of the investigation beyond the forty-five or ninety day timeframe established by the regulation.

If you are interested in discussing your institution's Regulation E Program or if you are in need of a Regulation E audit, please contact Brian Shea, CRCM, Regulatory Compliance Manager, at 617-261-8133 or bshea@wolfandco.com, or Erica Torres, CRCM, Regulatory Compliance Manager, at 617-261-8121 or etorres@wolfandco.com.