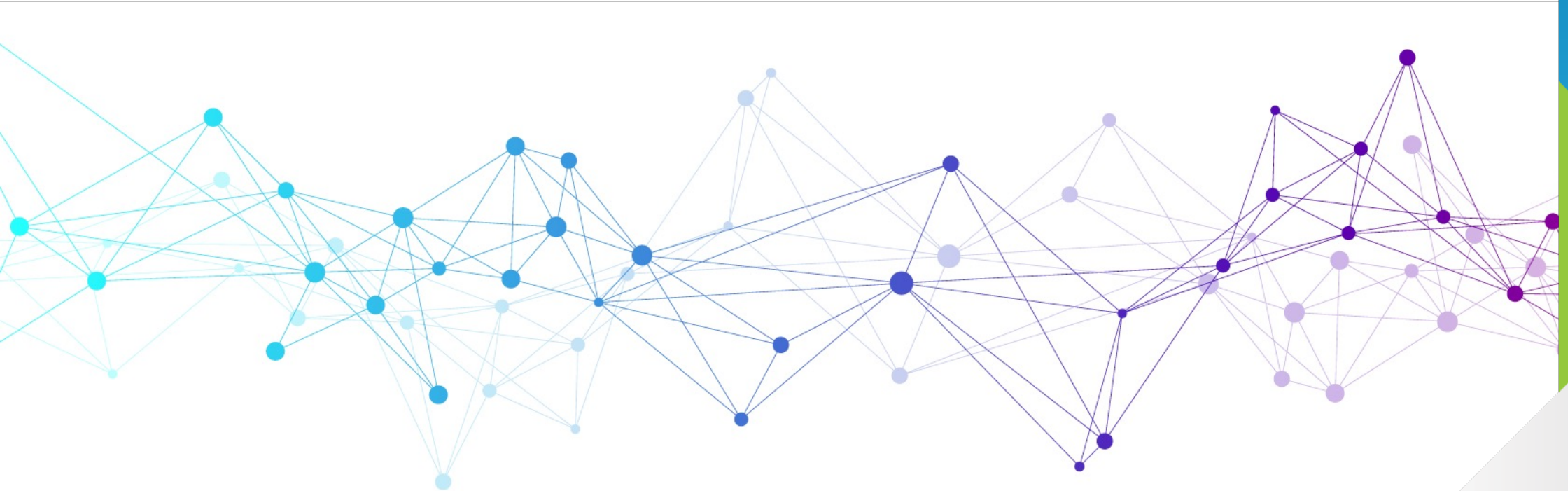


# Compliance Essentials

## Debit and Credit Card Disputes



# Overview



# Regulations/Rules

- Regulation E:
  - Procedures for resolving errors [12 CFR 1005.11](#)
  - Liability of consumer for unauthorized transfers [12 CFR 1005.6](#)
- Regulation Z:
  - Billing Error Resolution: [12 CFR 1026.13](#)
  - Liability of cardholder for unauthorized use: [12 CFR 1026.12 \(b\)](#)
- Visa: [Visa Core Rules and Visa Product and Service Rules](#)

# Big Reminders

- Visa rules, timeframes and conditions have NO bearing on a financial institution's obligations under Regulation E and Regulation Z
- NACHA's rules don't affect Reg E and Reg Z obligations either
- You may not modify by contract a consumer's protections afforded by Regulation E or Regulation Z



# Big Reminders



# Covered Transactions

Regulation E	Regulation Z	Visa
<p>All electronic funds transfers (EFTs) including:</p> <ul style="list-style-type: none"><li>• ATM transfers</li><li>• Direct deposit or withdrawals</li><li>• Debit card transactions</li><li>• Telephone transfers</li><li>• ACH transfers</li><li>• Bill payment transfers</li><li>• Peer to Peer (P2P) transfers</li></ul>	<p>Transactions conducted on consumer open-end lines of credit including:</p> <ul style="list-style-type: none"><li>• Credit card accounts</li><li>• Overdraft lines of credit</li><li>• HELOCs</li></ul>	<ul style="list-style-type: none"><li>• Transactions processed over the Visa network (zero liability)</li><li>• Transactions made with Visa branded cards (dispute rights)</li></ul>

# What is an "error" (Reg E) or a "billing error" (Reg Z)?

Error	Reg E	Reg Z
<b>An unauthorized transaction</b>	YES	YES
<b>An incorrect amount charged or credited</b>	YES	YES
Omission of a transaction from a periodic statement	YES	YES
A computational error	YES	YES
An incorrectly identified transaction on a periodic statement or a receipt	YES	YES
A request for additional information or documentation regarding certain transactions	YES	YES
<b>An extension of credit for property or services not accepted by the consumer or the consumer's designee, or not delivered to the consumer or the consumer's designee as agreed.</b>	NO	YES
<ul style="list-style-type: none"> <li>• The appearance on a periodic statement of a purchase, when the consumer refused to take delivery of goods because they did not comply with the contract.</li> <li>• Delivery of property or services different from that agreed upon.</li> <li>• Delivery of the wrong quantity.</li> <li>• Late delivery.</li> <li>• Delivery to the wrong location.</li> </ul>		
Failure to deliver a periodic statement	NO	YES
<b>A dispute relating to the quality of property or services that the consumer accepts.</b>	NO	Sometimes
<b>Routine inquiries about a consumer's account balance</b>	NO	NO
A request for information for tax or other recordkeeping purposes	NO	NO
A request for duplicates copies of documents	NO	NO

# Notification of Error

## Reg E

- Oral or in writing
- 60 days
- Adequate account info
- Error information
- Can require written confirmation within 10 business days

## Reg Z

- Written
- 60 days
- Adequate account info
- Error information



# Timeframe for Resolution

## Reg E

- 10 business days
- Can extend investigation time to 45 days by providing provisional credit
- Longer timeframes under certain circumstances

## Reg Z

- Written acknowledgement at 30 days unless investigation is completed before
- Two billing cycles to complete investigation (90 days max)

# Late Notice by Consumer

## Reg E

- Investigation is not required.
- Visa dispute rights may still exist
- Provisions on liability for unauthorized transfers still applies

## Reg Z

- No investigation is required
- Visa dispute right may still exist
- In regards to unauthorized transactions, a “late notification” does not exist. Cardholders can notify the issuer of unauthorized transactions at any time.

# Investigation Procedures - Reg E

- The investigation may be limited to a review of the credit union's own records.

# Investigation Procedures - Reg Z

- No paying of the disputed amount
- No adverse credit reporting
- No account restrictions or closure due to billing error notice
- Allowed actions:
  - Taking action to collect any undisputed portion of the item or bill
  - Deducting any disputed amount and related finance or other charges from the consumer's credit limit on the account
  - Reflecting a disputed amount and related finance or other charges on a periodic statement, provided that the creditor indicates on or with the periodic statement that payment of any disputed amount and related finance or other charges is not required pending the creditor's billing error resolution requirements

# Resolution - An error occurred

## Reg E

- Within one business day: correct the error, credit any interest, and refund any charges
- Provide the member with an oral or written report of the correction within three business days after the investigation has been completed
- If applicable, notify the member that a provisional credit has been made permanent

## Reg Z

- Correct the billing error and credit the consumer's account with any disputed amount and related finance or other charges, as applicable
- **Mail or deliver** a correction notice to the consumer

# Resolution - there was no error

## Reg E

- Provide the member a **written** explanation within three business days after concluding the investigation.
- The notice must inform the member of his right to request the written documentation relied upon by the credit union in making the determination that an error did not occur.

## Reg Z

- **Mail or deliver** to the consumer an explanation with the reasons for the creditor's belief that the billing error alleged by the consumer is incorrect.
- Furnish copies of documentary evidence of the consumer's indebtedness, if the consumer requests it.
- If a different billing error occurred, correct the billing error and credit the consumer's account with any disputed amount and related finance or other charges, as applicable



# Credit Union Duties After Resolution – Reg E

Upon debiting a provisionally recredited amount:

- Provide the member the date and amount of the debit
- Inform the member that share drafts and preauthorized debits will be honored for five business days if they are payable to third parties

# Credit Union Duties After Resolution – Reg Z

If the consumer owes all or part of disputed amounts:

- Promptly notify the consumer in **writing** of the time when payment is due and the portion of the disputed amount and related finance or other charges that the consumer still owes.
- Allow the consumer a grace period (if the account contains a grace period) during which the consumer can pay the amount due without incurring additional finance or other charges.
- Not report an account or amount as delinquent unless the amount due after resolution is not paid by the due date.

When a consumer reasserts the same claim, a creditor is not required to repeat the procedures described above. But if the creditor has reported the account to a credit reporting agency as delinquent, it must:

- Inform the agency that the amount is in dispute.
- Mail a notice to the consumer stating the name and address of any reporting agencies to which the creditor made a report.
- Promptly report any subsequent resolution of the dispute to all such agencies.

# Member Liability for Unauthorized Transfers - Reg E

An unauthorized EFT includes any EFT from a member's account:

- Initiated by a person without actual authority to do so and
- From which the member does not benefit.

An unauthorized EFT does not include:

- A credit union employee making a transfer requested by the member, even though an error may result.
- **Transactions made by an individual authorized by the member to use the access device unless the member has alerted the credit union that the individual is no longer authorized.**
- A transaction initiated with fraudulent intent by the member or any person acting together with the member.
- The reversal of a direct deposit when it involves any of the following:
  - A credit to the wrong member's account
  - A duplicate credit to a member's account
  - A credit for the wrong amount

# Reg E Unauthorized Transaction Consumer Liability Limits

Circumstance	Limit	Additional Rules
<ul style="list-style-type: none"> <li>Member discovers card was lost or stolen</li> <li>Member notifies credit union within two business days of discovering missing card</li> </ul>	Lesser of: <ul style="list-style-type: none"> <li>\$50</li> <li>The amount of money or property obtained through the unauthorized use before the credit union was notified.</li> </ul>	<ul style="list-style-type: none"> <li>The two-business day period does not include the day the member discovers the loss or theft or any day that is not a business day.</li> <li>The member must receive two full 24 hour periods to report the loss or theft.</li> <li>An extension can be made to the two-day period under special circumstances:               <ul style="list-style-type: none"> <li>The member is in the hospital</li> <li>The member is away from home and does not discover the loss or theft until returning</li> </ul> </li> <li>Visa \$0 liability rules may apply</li> </ul>
<ul style="list-style-type: none"> <li>Member discovers card was lost or stolen</li> <li>Member notifies credit union more than two business days after discovering missing card</li> </ul>	Lesser of: <ul style="list-style-type: none"> <li>\$500 OR</li> <li>The sum of:               <ul style="list-style-type: none"> <li>\$50 or the amount of the unauthorized transfers that occurred within the first two business days (whichever is less)</li> <li>The amount of unauthorized transfers that occurred after the two business days and before the credit was notified if the credit union can establish that it would have prevented additional losses if the member provided timely notification.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Visa \$0 liability rules may apply</li> </ul>

# Reg E Unauthorized Transaction Consumer Liability Limits

Circumstance	Limit	Additional Rules
<ul style="list-style-type: none"> <li>Card is not missing, member does not know card is missing, or transactions were done without a card</li> <li>Unauthorized transactions are reported to the credit union within 60 days of transmittal of the periodic statement on which the disputed transaction first appeared</li> </ul>	\$0	
<ul style="list-style-type: none"> <li>Card is not missing, member does not know card is missing, or transactions were done without a card</li> <li>Unauthorized transactions are reported to the credit union more than 60 days after the transmittal of the periodic statement on which the disputed transaction first appeared</li> </ul>	<ul style="list-style-type: none"> <li>\$0 for transactions that occur before the close of the initial 60-day reporting period</li> <li>Unlimited liability for transactions that occur after the close of the initial 60-day reporting period and before notice to the credit union.</li> </ul>	

# Member Liability for Unauthorized Transfers - Reg Z

## *Unauthorized Use*

- The term “unauthorized use” means the use of a credit card by a person, other than the cardholder, who does not have actual, implied, or apparent authority for such use, and from which the cardholder receives no benefit
- If a cardholder furnishes a credit card and grants authority to make credit transactions to a person (such as a family member or coworker) who exceeds the authority given, the cardholder is liable for the transaction(s) unless the cardholder has notified the creditor that use of the credit card by that person is no longer authorized.
- An unauthorized use includes, but is not limited to, a transaction initiated by a person who has obtained the credit card from the consumer, or otherwise initiated the transaction, through fraud or robbery.



# Member Liability for Unauthorized Transfers - Reg Z

## *Cardholder Liability*

- The liability of a cardholder for unauthorized use of a credit card shall not exceed the lesser of \$50 or the amount of money, property, labor, or services obtained by the unauthorized use before notification to the card issuer

# Member Liability for Unauthorized Transfers - Reg Z

## *Notification to Card Issuer*

- Notification to a card issuer is given when steps have been taken as may be reasonably required in the ordinary course of business to provide the card issuer with the pertinent information about the loss, theft, or possible unauthorized use of a credit card, regardless of whether any particular officer, employee, or agent of the card issuer does, in fact, receive the information.
- Notification may be given, at the option of the person giving it, in person, by telephone, or in writing.
- Notification in writing is considered given at the time of receipt or, whether or not received, at the expiration of the time ordinarily required for transmission, whichever is earlier.

# Member Liability for Unauthorized Transfers - Reg Z

## *Late Notification*

- There are NO time limits for cardholders to report unauthorized credit card transactions to the issuer.
- There are NO consumer liability limits (except the \$50 limit above) for unauthorized credit transactions regardless of how long it takes the cardholder to report them
- Some issuers think the obligation of a consumer to take steps “as may be reasonably required in the ordinary course of business to provide the card issuer with the pertinent information about the loss, theft, or possible unauthorized use of a credit card” means the issuer can limit their liability for seriously late notifications of unauthorized credit card transactions. But this is by no means spelled out in Reg Z.

# Member Liability for Unauthorized Transfers - Reg Z

## *Business use of Credit Cards*

- Unauthorized use rules apply if fewer than 10 credit cards are issued for use by employees of an organization
- Higher liability for organizations with 10 or more cards must be agreed to by the issuer and the organization

# Right of cardholder to Assert Claims or Defenses Against Card Issuer

## General Rule

- When a person who honors a credit card fails to resolve satisfactorily a dispute as to property or services purchased with the credit card in a consumer credit transaction, the cardholder may assert against the card issuer all claims (other than tort claims) and defenses arising out of the transaction and relating to the failure to resolve the dispute.
- The cardholder may withhold payment up to the amount of credit outstanding for the property or services that gave rise to the dispute and any finance or other charges imposed on that amount.

# Right of cardholder to Assert Claims or Defenses Against Card Issuer

## Limitations

- A consumer can assert claims against the card issuer for unresolved merchant disputes only if:
- The cardholder has made a good faith attempt to resolve the dispute with the person honoring the credit card
- The amount of credit extended to obtain the property or services that result in the assertion of the claim or defense by the cardholder exceeds \$50, and
- The disputed transaction occurred in the same state as the cardholder's current designated address or, if not within the same state, within 100 miles from that address.



# VISA Zero Liability

- A credit union's contract with Visa makes them subject to Visa's zero liability rules for fraudulent transactions.
- Visa's Zero Liability Policy does not apply to:
  - Certain commercial card transactions
  - Anonymous prepaid card transactions
  - Transactions not processed by Visa (Visa dispute protections may still apply)
- Issuers are required to **replace** funds taken from a consumer's account as the result of an unauthorized credit or debit transaction within **five business days** of notification.
- Cardholders must review monthly periodic statements and report authorized transactions "immediately." (Visa does not define "immediately")
- Replacement funds may be withheld, delayed, limited, or rescinded by the credit union based on gross negligence or fraud, a delay in reporting unauthorized use, an investigation and verification of a claim, and account standing and history.

\*\*Neither Reg E or Reg Z conditions consumer liability on gross negligence or account standing and history.

# Visa - Responsibilities to Cardholders for Dispute Resolution

An issuer of a Visa branded card (Issuer) must resolve Cardholder disputes under the Visa Rules by extending to Cardholders all protections provided on any Visa Card under applicable laws or regulations and by utilizing the Issuer's customary practices to resolve Cardholder disputes, regardless of which type of Visa Card was used.

# Visa - Cardholder Obligations (example - disputing merchandise/services not received)

Dispute rights are generally not triggered unless the cardholder performs certain actions. For instance, if the cardholder is disputing that merchandise/services were not received, all of the following pre-conditions for beginning a VISA dispute must be met:

- The Dispute amount is limited to the portion of services or merchandise not received
- The Cardholder must attempt to resolve the dispute with the Merchant or the Merchant's liquidator, if applicable
- The Merchant is responsible for merchandise held in a customs agency in the Merchant's country
- If merchandise was delivered late or to the incorrect location, the Cardholder must return or attempt to return the merchandise

# Visa - Cardholder Obligations (example - disputing merchandise/services not received)

An Issuer must have all of the following to process a dispute:

- Certification of the following:
  - Services were not rendered by the expected date/time
  - Merchandise was not received by the expected date/time
  - Merchandise was not received at the agreed location (Issuer must specify the address of the agreed location)
  - Cardholder attempted to resolve with Merchant
  - The date the merchandise was returned
- A detailed description of the merchandise or services purchased, unless prohibited by applicable laws or regulations. This description must contain additional information beyond the data required in the Clearing Record.
- A Cardholder letter, if both:
  - The Cardholder has disputed 3 or more Transactions for non-receipt of merchandise or services at the same Merchant on the same Card.
  - The disputed Transactions all occurred within the same 30-calendar day period.

# Visa - Types of Disputes

Similar cardholder dispute rights and obligations exist for:

- counterfeit or non-counterfeit fraud
- other cases of fraud (with or without card present)
- late presentment
- an incorrect transaction code, currency, account number, or amount
- duplicate processing
- merchandise not being received or received defective
- a canceled recurring transaction

# Dispute Processing Times

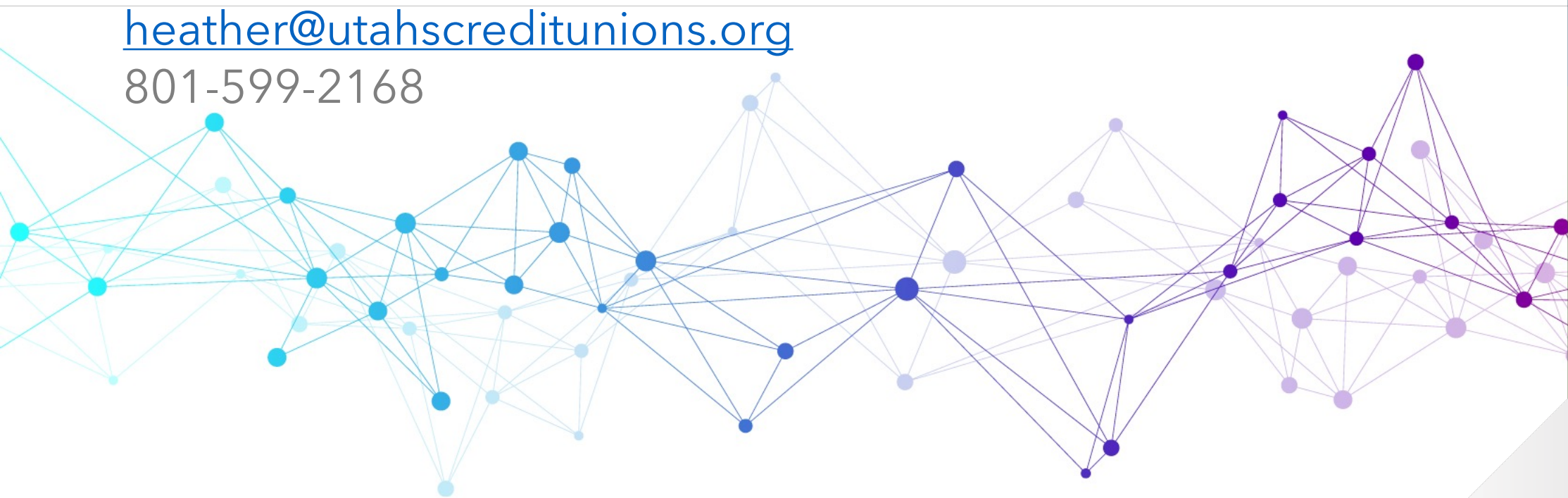
In most instances a dispute must be processed no later than **120 calendar days** from the transaction processing date. (other time frames exist depending on the type of dispute)

# Questions?

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# Coming Soon

- **Compliance Essentials Class #6: Overdrafts and Courtesy Pay**
- **June 22, 2023, 10:00 AM – 12:00 PM**
- **[Register here](#)**