

# Regulation E and Regulation Z Disputes

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## 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](#) (13 April 2024)

## Big Reminders

1. Visa rules, timeframes and conditions have NO bearing on a financial institution's obligations under Regulation E and Regulation Z
2. NACHA's rules don't affect Reg E and Reg Z obligations either
3. You may not modify by contract a consumer's protections afforded by Regulation E or Regulation Z
4. Much of the time, consumer is gonna win. Get used to it.

# Regulation E and Regulation Z Disputes

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## What Transactions are Covered?

| <b>Regulation E</b>  | <b>Regulation Z</b>  | <b>Visa</b>   |
|--|--|---|
| All electronic funds transfers (EFTs) including: <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> | Transactions conducted on consumer open-end lines of credit including: <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>• Transaction made with Visa branded cards (dispute rights)</li></ul> |

### Small Takeaways

- ALWAYS first determine whether an error involves a share account (Reg E) or a loan (Reg Z) before determining error resolution obligations. This is especially critical for card-based transactions.
- Don't overlook the "lesser known" open-end loan accounts that trigger Reg Z error resolution obligations (ODLOCs and HELOCs)

# Regulation E and Regulation Z Disputes

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> <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> | NO    | YES       |
| 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        |

## Small Takeaway

With respect to claims by consumer purchasers against merchants, federal law and regulation provides superior protection where a credit card is used for the transaction. Unlike the Reg Z, Reg E does not give consumers a legal right to assistance from their financial institution with respect to issues with products or services.

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## Notification of Error

### Regulation E

- The member's notice of an error may be oral or in writing
- The notice is timely if it is received by the credit union within 60 days of the first transmittal of a periodic statement that reflects the error. (Certain events such as loss or theft or being out of the country may trigger slightly different timing rules)
- The notice must include enough information to enable the credit union to identify the member's name and account number and, to the extent possible, the type, date, and amount of the error.
- Where the notification of the error is made orally, the credit union may require written confirmation within 10 business days. If confirmation is not received, then the credit union need not provisionally recredit any amount claimed but must still investigate the error, report the results of the investigation to the member, and correct the error, if actually found.

### Regulation Z

A billing error notice is a **written** notice from a consumer that:

- Is received by a creditor no later than 60 days after the creditor transmitted the first periodic statement that reflects the alleged billing error
- Enables the creditor to identify the consumer's name and account number; and
- To the extent possible, indicates the consumer's belief and the reasons for the belief that a billing error exists, and the type, date, and amount of the error

### Small Takeaway

The above is ALL that a consumer has to do to file a Reg E or Reg Z error resolution notice. Consumers **do not** have to work it out with the merchant first, file a police report or provide additional documentation. The credit union can ask that the consumer do so, but cannot delay the start of an investigation for lack of assistance from the consumer.

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## Timeframe for Resolution

### Regulation E

- After receiving notification of an EFT error, the credit union must promptly investigate the error and report the results within 10 business days
- If the investigation cannot be completed within this time frame, the credit union may take up to 45 calendar days to complete the investigation on condition that it:
  - Provisionally credits the funds to the member's account within 10 business days of receipt of the error notice
  - Advises the member of the provisional recrediting within two business days of the recrediting
  - Gives the member full use of the provisionally recredited funds during the investigation
- The following chart outlines additional error investigation timelines:

| Circumstance  | Timeline   |
|---|--|
| New Accounts (initial deposit within the last 30 days)  | <ul style="list-style-type: none"><li>• 20 days to investigate before providing provisional credit</li><li>• 90 days total for investigation</li></ul> |
| <b>Point-of-sale debit card transactions</b> (includes transactions made a merchant's POS terminals, including mail, telephone <b>and internet transactions</b> . It does not include ATM transactions) | 90 days total for investigation  |
| Transaction not initiated in the U.S.   | 90 days total for investigation  |

### Reg Z

#### *Initial Acknowledgment*

A creditor must mail or deliver **written acknowledgment** to the consumer within 30 days of receiving a billing error notice, unless it has completed the investigation and has complied with notification requirements within that time.

#### *Investigation Completion*

The creditor must complete the appropriate resolution procedures (including consumer notification) within two complete billing cycles (but in no event later than 90 days) after receiving a billing error notice.

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## Late Notice by Consumer

### Regulation E

- An investigation is not required (Visa dispute rights may still exist)
- Provisions on liability for unauthorized transfers still applies (this will end up being a serious bummer)

### Regulation Z

- An investigation is not required (Visa dispute rights 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. (this will end up being an even bigger bummer)

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## Investigation Procedures

### Reg E

- The investigation may be limited to a review of the credit union's own records
- Information that may be reviewed as part of an investigation might include:
  - The ACH transaction records for the transfer
  - The transaction history of the particular account for a reasonable period of time immediately preceding the allegation of error
  - Whether the check number of the transaction in question is notably out of sequence
  - The location of either the transaction or the payee in question relative to the consumer's place of residence and habitual transaction area
  - Information relative to the account in question within the control of the institution's third-party service providers if the financial institution reasonably believes that it may have records or other information that could be useful
  - Any other information appropriate to resolve the claim

### Reg Z

Until a billing error is resolved, the following rules apply:

- The consumer need not pay (and the creditor may not try to collect) any portion of any required payment that the consumer believes is related to the disputed amount (including related finance or other charges).
- The creditor cannot make or threaten to make an adverse report to any person about the consumer's credit standing, or report that an amount or account is delinquent, because the consumer failed to pay the disputed amount or related finance or other charges.
- The creditor may not accelerate any part of the consumer's indebtedness or restrict or close a consumer's account solely because the consumer has exercised in good faith rights provided by this section.
- A creditor is not prohibited from:
  - 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

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## Resolution

### An Error Occurred

#### Reg E

- Within one business day: correct the error, credit any interest/dividends, 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

If the creditor determines that a billing error occurred as asserted, the following actions must be taken within the allowed time frame:

- 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.

### An Error Did Not Occur

#### Reg E

If no error occurred, or the error is different in manner or amount from the one the member described:

- 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

If the creditor determines that no billing error occurred or that a different billing error occurred from that asserted, the following actions must be taken within the allowed time frame:

- **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.

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## 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

### Reg Z

If, after complying with all of the requirements of this section, a creditor determines that a consumer owes all or part of the disputed amount and related finance or other charges, the creditor must take the following actions:

- 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.
- Do not report an account or amount as delinquent unless the amount due after resolution is not paid by the due date.

### *Re-assertion of Claim*

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.

# Regulation E and Regulation Z Disputes

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## 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

### Small Takeaways

- The [CFPB Reg E FAQs](#) make it clear that if a card holder is tricked in to sharing account access information by a fraudster (for example, by responding to a phishing email), any resulting transactions initiated by the fraudster are unauthorized.
- The CFPB Reg E FAQs also make it clear that if an unauthorized person gains access to a consumer's P2P payment credentials (for example by stealing or accessing the consumer's phone), any transactions made by that person are unauthorized. This is true even if the cardholder willingly gave the P2P provider their deposit account details and authorized the P2P provider to debit their account.
- If the card holder *initiates* a transfer and the underlying transaction turns out to be fraudulent, the card holder will be liable.

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## 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>       | <p>Lesser of:</p> <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> | <p>Lesser of:</p> <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>  |

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| 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> |                  |

## Small Takeaways:

- Although the credit union is not required to perform an error resolution investigation in the case of a late report of an EFT error that is discovered on a periodic statement, the credit union must still determine a consumer's liability if the error involved an unauthorized transaction.
  - Some investigation might be required to determine a consumer's liability
  - But timeframes, notifications and provisional credit won't apply
- A consumer's liability protections for unauthorized EFTs that are discovered on periodic statements can go back for years!

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## 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.

### *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

### *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.

### *Late Notification*

- [Straight from the horse's \(CFPB's\) mouth: Relationship to § 1026.13.](#) *The liability protections afforded to cardholders in § 1026.12 do not depend upon the cardholder's following the error resolution procedures in § 1026.13. For example, the written notification and time limit requirements of § 1026.13 do not affect the § 1026.12 protections.*
- What does this mean?
  - 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.

### *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

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## Reg Z - 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.

### 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.

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## Visa and MasterCard Rules

### 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
- 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.

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

### Issuer 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.

**\*\*Hint:** processing disputes through Visa is a contractual issue with Visa, not a law or regulatory requirement.

### *Cardholder Obligations*

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 (hint – card holders don't have to do this under Reg Z)
- 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 (cardholders don't have to do this under Reg Z)

### *Required Information from Issuer*

An Issuer must have all of the following to process a dispute (example – cardholder is disputing merchandise/services not received):

- Certification of the following:
  - Services were not rendered by the expected date/time

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- 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.

## *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)

## *Small Takeaways*

- Reg E or Reg Z dispute resolution timeframes must always be met regardless of any dispute resolution processes with Visa.
- You may have to finalize a dispute under Reg E or Reg Z before you receive a resolution through Visa.
- Reg E and Reg Z obligations to consumers must always be met even if you have no recourse through Visa.