

EMV deadline passes in US with many not migrated over

Non-compliant merchants may be liable for chargebacks

The 1 October 2015 deadline for merchants to become EMV-compliant or potentially face increased liability has come and gone. Yet, a significant number of both card issuers and merchants have not yet made the switch.

EMV is the acronym for the Europay, MasterCard, and Visa standard, sometimes referred to as 'chip-and-pin.' The standard was first introduced in Europe nearly 30 years ago, but the United States is just now making the transition. EMV cards contain microprocessor chips designed to make it more difficult to steal consumers' payment card information. Unlike magnetic stripe cards, the EMV cards create a unique code for each transaction. Even if a hacker obtains the code, it cannot be used again.

Card networks set 1 October 2015 as the deadline after which liability would shift for card-present chargebacks to the non-EMV compliant party in the United States. If a merchant has not implemented new EMV technology in its stores and a payment card with a new EMV chip is used to commit fraud in a card-present transaction, the merchant is now on the hook for the fraudulent transaction. In other words, a credit or debit card issuer that would normally be liable for a fraudulent transaction can now shift liability to the merchant if the issuer has upgraded its payment cards from magnetic stripe cards to EMV cards and the merchant has not yet upgraded its point of sale ('POS') card readers and software. If, however, neither the issuer nor the merchant are EMV-compliant, or if both are EMV-compliant, liability will remain the same as it was before the EMV standard became effective.

Despite the fact that the deadline has passed, the majority of merchants still have not upgraded their POS card readers and software to be EMV-compliant. Several larger merchants have already made the conversion, but smaller merchants have been slower to make the transition and some are not even aware of the liability shift. Other merchants have weighed the risk and determined that the cost of replacing equipment (each new card reader can cost between \$200 and \$1,000) outweighs the cost of liability for any potential fraud. The amount of time it takes to read an EMV-enabled card is longer than the amount of time it takes to read a magnetic stripe card, which is another reason merchants may be hesitant to make the switch.

Merchants that are aware of the shift may also be experiencing a delay in the delivery of updated POS equipment required to accept the EMV cards. Overwhelmed software vendors are struggling to provide the software that is

needed to communicate with the new EMV readers at the POS in a timely manner. The hardware that the majority of vendors are deploying to comply with the new EMV standard also contains contactless technology.

The EMV standard will not make every card transaction more secure. The standard applies only to card-present transactions, which means card-not-present transactions, such as those conducted online, will not be any more protected by cards with EMV chips than cards with magnetic stripes. The liability shift will also not be enforced for transactions made at automated fuel dispensers until October 2017. Nevertheless, credit and debit card issuers have a big opportunity to decrease fraud losses by making the switch, if they haven't already.

The Durbin Amendment has posed challenges to implementing EMV debit cards. The regulatory framework that resulted from the Durbin Amendment requires all debit cards to allow transactions to be routed on more than one network. Prior to the Durbin Amendment, debit card transactions were routed to a single network only. EMV was designed for transactions to route only to the network specific to the chip on that card though. Now the debit networks are working to develop a common Application Identifier ('AID') that can be shared by all debit networks. Without a common AID, debit cards cannot comply with both EMV and the Durbin Amendment.

Despite the 1 October timeline for the EMV liability shift, issuers, merchants, and consumers should expect an extended transition period as the various parties resolve lingering issues surrounding implementation.

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