



got fraud?

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Agenda

- Altered and Forged Checks
- Fraudulent Wire Requests
- Unauthorized ACH
- Card Fraud & Disputes
- Credit-Push (P2P, RTP, FedNow)



Alterations UCC 3-407 – Definition

- An unauthorized change in an instrument that purports to modify in any respect the obligation of a party, or an unauthorized addition of words or numbers or other change to an incomplete instrument relating to the obligation of a party
 - Changing the payee name or changing number or relations of parties
 - Any increase or reduction in amount
 - Backdating date of a postdated check
 - Completing an incomplete check other than as authorized
 - Any other unauthorized addition or deletion which would change contract between parties



Return

- UCC = requires you make the determination to pay or dishonor the item by midnight of the day following presentment
- Reg CC = requires items to be returned, to be handled expeditiously
 - Return must reach depository bank by 2:00 p.m. (local time) two days after presentment

Duty to Report

UCC 4-406 Customer's Duty to Discover and Report Unauthorized Signature or Alteration

(c) If a bank sends or makes available a statement of account or items pursuant to subsection (a), the customer must exercise **reasonable promptness** in examining the statement or the items to determine whether any payment was not authorized because of an alteration of an item or because a purported signature by or on behalf of the customer was not authorized.

(f)...a customer who does not within **one year** after the statement...discover and report the customer's unauthorized signature or any alteration on the item is precluded from asserting against the bank the unauthorized signature or alteration

Alterations – General Rules

Paying Bank is liable to its account holder for paying altered check

- Unless maker is negligent, ratifies transaction, or is precluded from asserting claim;
- Unless check is paid according to its original (unaltered) terms, or for an incomplete check altered by unauthorized completion, according to its terms as completed

Depository Bank is responsible for the loss

- Warrants to Paying Bank check has not been altered

Depositor is liable to Depository Bank for damages arising from alteration

- Based on account/deposit agreement

Altered Check Scenario

Paying Bank received a call from their customer Sue Smith. Sue indicates that she wrote a check payable to Stanley Jones in the amount of \$500. The check processed from her account as \$5,000 because the amount was changed on the face of the check. What happens now?

Altered Check

- Rules that apply:
 - UCC: Transfer & Presentment Warranties (UCC 4-207 & 4-208)
 - Paying Bank warrants the drawer's signature is authorized
 - Depository Bank warrants the item is not altered

Altered Check

- Loss & Liability:
 - Paying Bank is responsible to their customer (timeliness of reporting)
 - Must credit customer according to account disclosures
 - Depository Bank is responsible for the loss
 - Warrants to Paying Bank check has not been altered
 - Depositor is liable to Depository Bank

Altered Check

- Resolution:
 - Paying Bank:
 - If timely, return as altered, no affidavit required
 - If after return timeframe, deal direct with BOFD
 - Obtain an affidavit from account holder
 - Send a breach of warranty claim letter with copy of the check and affidavit – Can be payable for correct amount
 - Depository Bank:
 - If timely return, accept return and charge back to depositor
 - If deal direct claim is received:
 - Reimburse Paying Bank if check has been altered
 - **What if the Depository Bank doesn't respond??**

Forged Indorsements

Check is payable to multiple parties

- One party forges the indorsements of all payees and negotiates the check
- Check payable to a merchant or consumer
 - Check stolen and payee indorsement forged to negotiate the check

Breach of UCC Transfer & Presentment warranties

- Person transferring and/or presenting the item for payment is “entitled to enforce” the item
- Liability lies with the Bank of First Deposit

Forged Indorsement Scenario

On November 5, Paying Bank's customer calls in stating that a check they made payable to Glenda Good cleared their account on October 15, but Glenda Good is stating she never received the check. Upon review, the check is signed on the back with a scribbled illegible signature, and Glenda clearly spells out her name as her signature. What happens now?

Forged Indorsement

- Rules that Apply:
 - UCC: Transfer & Presentment Warranties (UCC 4-207 & 4-208)
 - The Depository Bank warrants:
 - It is entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft
 - All signatures on the item are authentic and authorized

Forged Indorsement

- Loss & Liability:
 - Depository Bank is liable to the Paying Bank for a forged indorsement
 - BOFD is in the best position to verify the payee's identity/signature
 - The Depositor is liable to the Depository Bank

Forged Indorsement

- Resolution:
 - Paying Bank:
 - Too late for a return
 - Obtain an affidavit from the account holder OR payee
 - Send a breach of warranty claim letter to BOFD with copy of check and affidavit
 - Depository Bank:
 - Reimburse Paying Bank if check contains a forged payee signature or is deposited into an account other than that of named payee
 - Deny claim if check was deposited into named payee's account

Forged Maker Signature/Counterfeit Checks

Forged drawer/maker signature

- Unauthorized signature under UCC

Counterfeit Check

- Printed with names and addresses of legitimate financial institutions.
- Even though the bank and account and routing numbers may be real they can still be a fake

Forged Maker Signature Scenario

On November 10, Paying Bank's customer notifies them that their check book was stolen, and an unauthorized check cleared their account on October 25 for \$500. What happens now?

Forged Maker Signature

- Rules that apply:
 - UCC: Transfer & Presentment Warranties (UCC 4-207 & 4-208)
 - Depository Bank warrants it has no knowledge that the signature of the purported drawer of the draft is unauthorized
 - Paying Bank warrants the drawer's signature is authorized

Forged Maker Signature

- Loss & Liability:
 - Depository Bank is not liable
 - Warrants to Paying Bank they had no knowledge the drawer's signature was unauthorized
 - Paying Bank is liable to its account holder for paying an unauthorized draft
 - Drawer's signature does not match the signature card

Can the Paying Bank ask the Depository Bank for the funds??

Forged Maker Signature

- Resolution:
 - Paying Bank must credit customer back in the amount of unauthorized check
 - Send a Hold Harmless letter to Depository Bank requesting return of funds
 - If both financial institutions are ECCHO members, submit a Rule 9 claim
 - Both FIs must not be opted out of Rule 9

Demand Letter

- Not all claims have an associated adjustment type
 - Altered Check
 - Forged Indorsement

Some claims must be handled bank to bank through a demand letter or court proceeding

- Letter should state
 - Identification of Check
 - Warranty breached
 - Provide location for respondent to send settlement



Wire Transfer Fraud



Types of Wire Fraud

- Scams
 - Romance Scams
 - Real Estate Scams
 - Family Emergency Scams
- Compromise
 - Business Email Compromise
 - System Compromise
- Bad Actors
 - Interlopers
 - Client or FI employees

Liability

Liability of loss due to fraudulent or erroneous wire transfers should be assigned by agreement.

For example:

- Compromise or alteration at the FI level, or failure of FI employee(s) to follow proper procedures would fall to the FI.
- Compromise or alteration at the client level, or failure of client employee(s) to follow proper procedure would fall to the client.



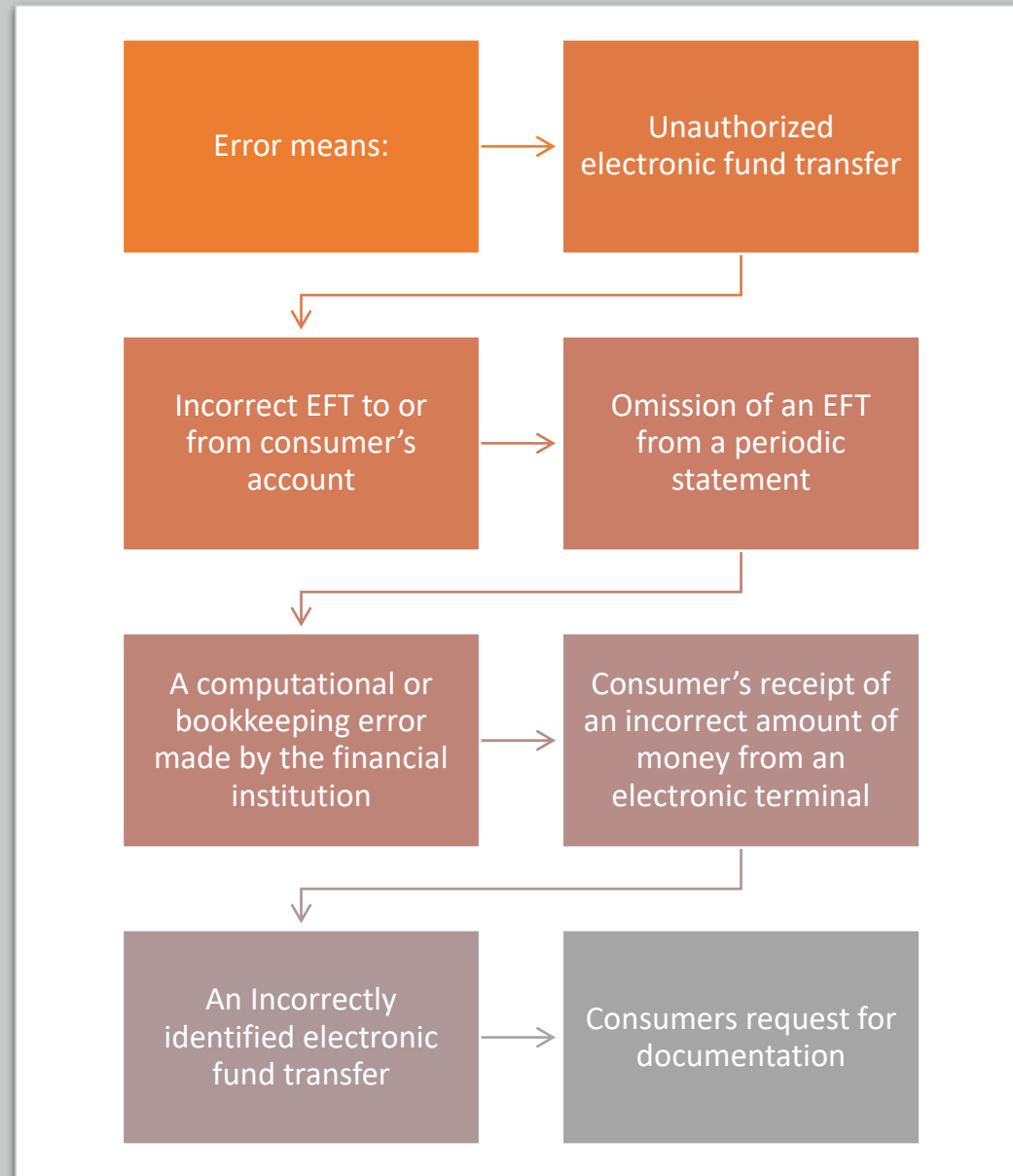
Best Practices for Handling Wire Transfer Fraud

- Contact Beneficiary FI as soon as you have knowledge of the fraudulent/erroneous wire
- Request full or partial return of funds
 - Should be willing to indemnify beneficiary FI
- Address issues surrounding fraudulent wire initiation
 - Secure compromised email accounts
 - Investigate bad actors
 - Change system access credentials
 - Alter or update out of band authentication/verification methods

Unauthorized Transactions

Regulation E Perspective

Error Resolution 1005.11



Errors Do NOT
Include:

Routine inquiry about
account balance

A request for tax or other
bookkeeping purposes

A request for duplicate
copies of documentation

Error Resolution

- **Regulation E** provides rules that protect consumers in regard to “errors” in electronic transactions.
- If a consumer claims that an error has occurred, the financial institution is required to:
 - Take **ACTION** by:
 - **INVESTIGATING** the error
 - Providing a **RESOLUTION** to the consumer and,
 - **COMMUNICATING** the resolution to the consumer



Notice of Error from Consumer 1005.11(b)

- Must be received no later than 60 days after the institution sends the periodic statement on which the alleged error is first reflected to avoid liability for subsequent transactions
- Must identify the consumer's name and account number
- Must indicate why the consumer believes an error exists
 - Type, date, and amount of the error



Investigating Alleged Errors 1005.11(c)

Ten Days:

A financial institution must determine whether an error occurred within 10 business days of receiving a notice of error

- Investigation

Have 3 business days to report results to consumers after completing investigation

Must correct error within 1 business day after determining that an error occurred

Unauthorized Transactions

ACH Perspective

ACH Return Timeframes

General Returns

- Available to the ODFI on the morning of the second banking day following the settlement date of the original entry

CCD & CTX

- “2 day” return time frame with exceptions

Improper or Unauthorized Returns

- 60 days from settlement date

Nacha's

Definition of Error/Unauthorized Debit

The Receiver does not know the Originator or has no relationship with the Originator

Authorization not obtained in accordance with the rules (SEC codes defines how the entry is to be authorized)

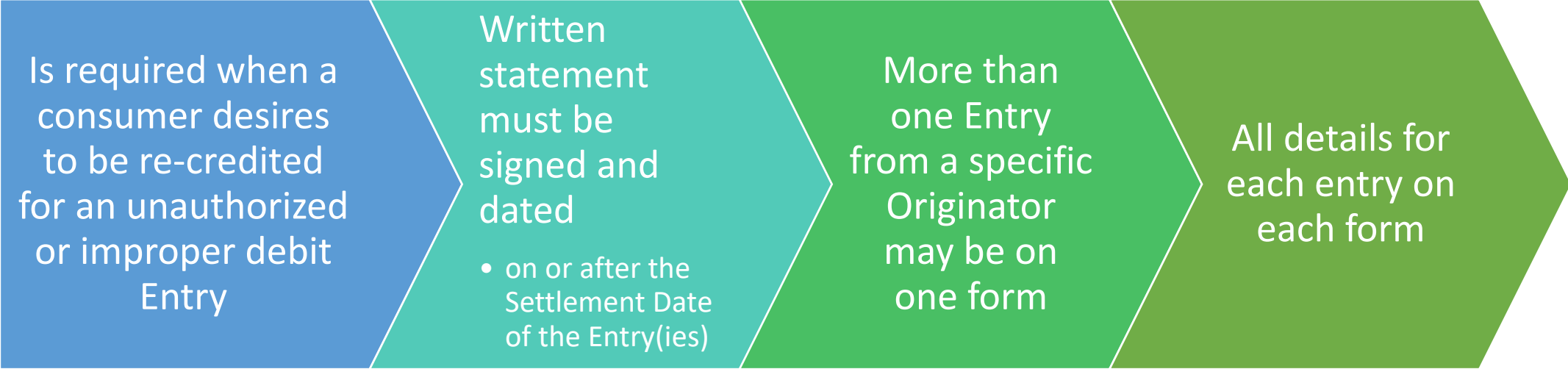
Amount different than what was authorized

The receiver was debited earlier than what was authorized

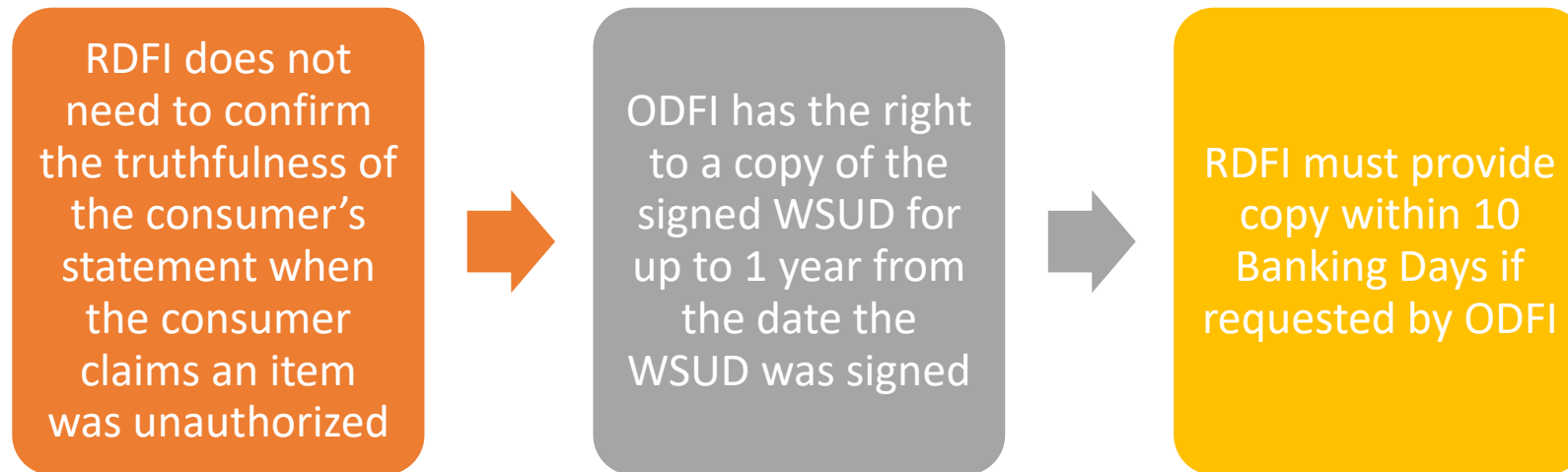
The authorization was not clear and conspicuous

The company failed to credit the agreed upon account

Written Statement of Unauthorized Debit



Written Statement of Unauthorized Debit



Unauthorized Returns



Consumer SEC Only, Not
CCD or CTX

- 60 days from Settlement
- WSUD

Consumer did not
authorize the debit
either in writing,
verbally or electronically
with the Originator

Improper Item
(RCK/ARC/BOC
transactions only)

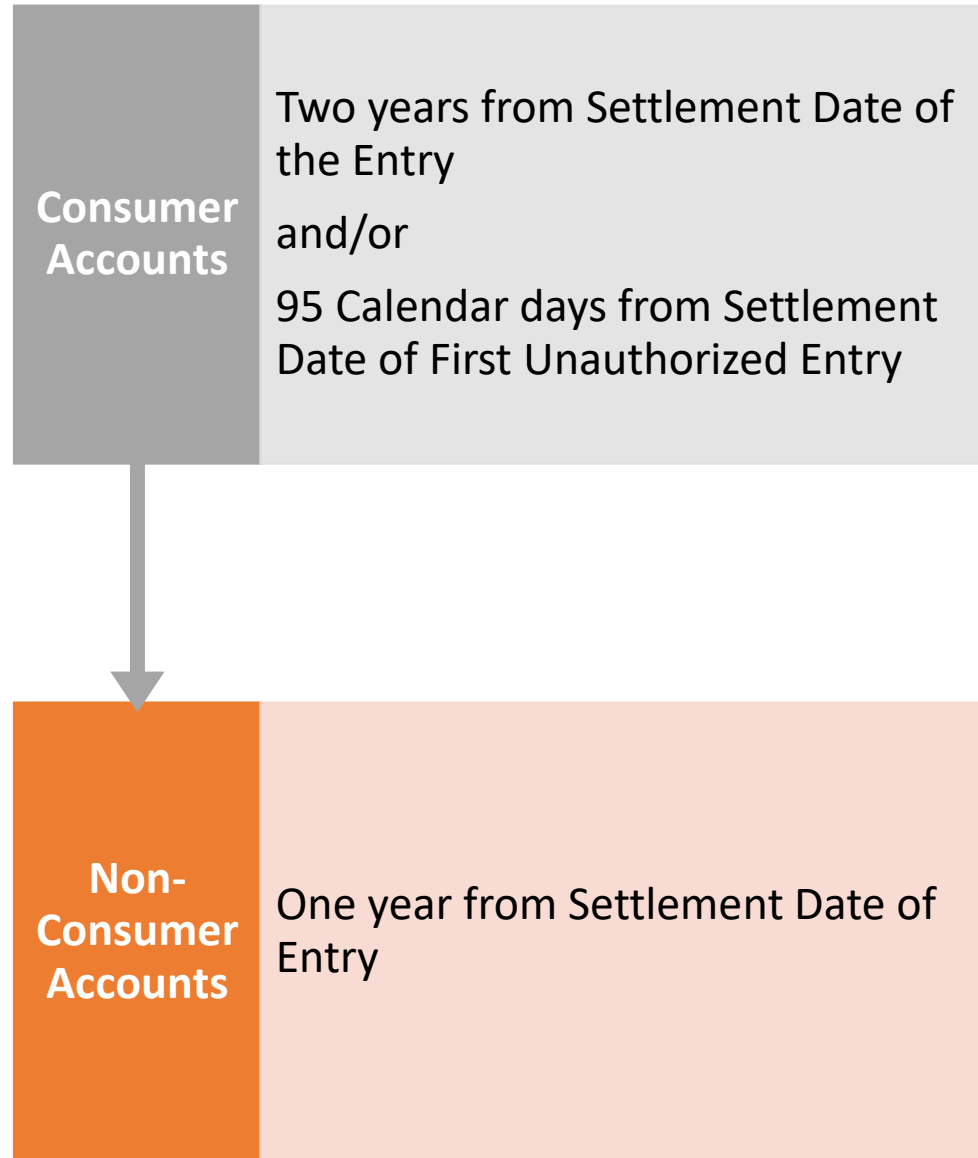
Different amount or date

The company failed to
credit the agreed upon
account

**60 day ACH Return Vs.
60 day Regulation E
Dispute**

- What can the RDFI do?

Limitation of Claims Based on Unauthorized Entries



Limitation– Consumer Account

- **Claim Date: October 1, 2024**
 - Consumer reports 7 years worth of recurring debits as unauthorized
 - RDFI likely able to return at least “2” entries – within the last 60 days
 - RDFI can make claim for payments within the **first 95 days** – 1 – 4 entries
 - RDFI can make claim for payments in the ***most recent 2 years*** – October 2021 – October 2024
- **Claim Date: October 7, 2024**
 - Consumer reports **3** debits as unauthorized
 - August 1, September 1, October 2
 - RDFI returns – September 1 and October 2 as unauthorized per the ACH Rules
 - RDFI can make claim for August 1
 - 2 years and/or
 - 95 days
 - Falls into either category

Card Fraud

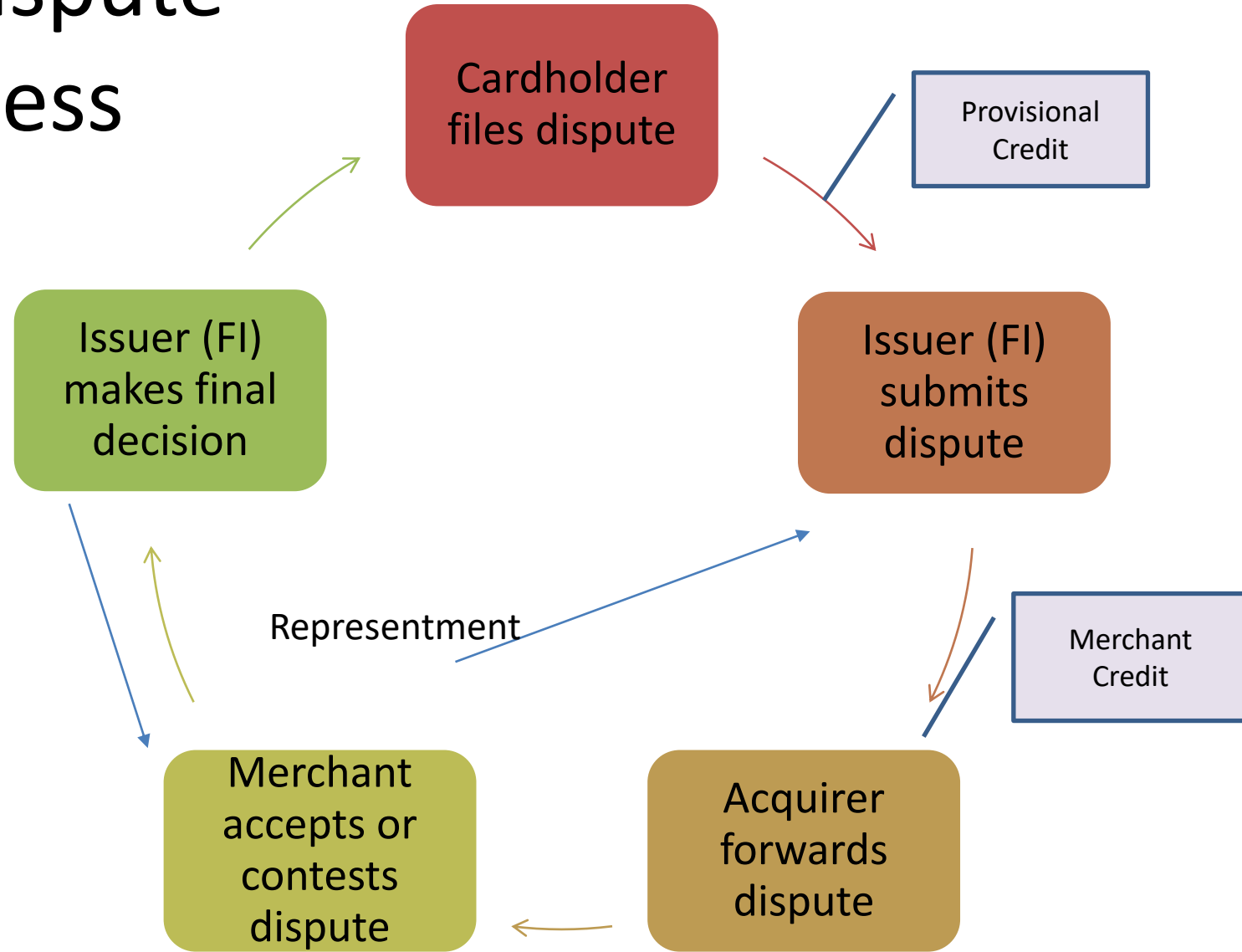
- Reporting – even low dollars!
- Zero liability



Card Fraud Example

- Your customer claims to have 10 fraudulent debit card transactions of \$50 each beginning on April 15, 2024. What happens now?

Card Dispute Process



What if the example was ACH instead?

- Your customer claims to have 10 fraudulent ACH transactions of \$50 each beginning on April 15, 2024. What happens now?
 - *Return most recent transactions as R10 (60 day right of return)
 - *Ask for proof of authorization for remaining transactions
 - *If ODFI doesn't have it, ask to submit late returns
 - *If ODFI does have it, provide information to customer, can deny rest of claim

Reg E time frames still apply!

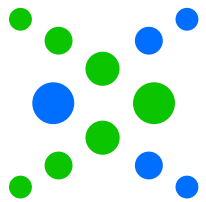
Credit Push – P2P/RTP/FedNow

- Credit Push – a credit was sent to another institution
- The account number is valid, but it is not the “correct” account
- Does the RDFI have to return it to you?
- What about if their device was stolen and unauthorized transactions were initiated? How does this change the situation?





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got fraud?

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