

Retailers and Restaurants Beware: Liability Shift for EMV Chip Credit Cards

By Dave Robinson on November 16, 2015



As of October 1, 2015, a liability shift has occurred between credit card companies and retailers/restaurants with regard to EMV chip cards. EMV, which stands for Europay, MasterCard and Visa, is a global standard for cards equipped with chips and the reader technology used to authenticate chip card purchases. In the wake of widely publicized data breaches, the credit card companies themselves have raised the standard for credit card transactions by “shifting” liability to retailers if they do not accept EMV credit cards.

What does this mean for retailers and restaurants?

Before October 1, 2015, any time a credit card was copied and used for improper purchases, the credit card company would refund the fraudulent purchases to the store. This was based on the understanding that the credit card company could and should do more to verify the card holder's identity.

After October 1, 2015, if a customer provides an EMV credit card and the retailer/restaurant does not have the appropriate EMV reader, then the liability for fraud shifts to the retailer/restaurant. The rationale is that the credit card issuer has done what it can to verify the consumer identity (by creating the EMV credit card) and the store failed to do what was necessary to protect the consumer. Accordingly, all parties are incentivized to upgrade to EMV.

The switch to EMV means that retailers and restaurants must add EMV terminals and processing system to comply with new liability rules. While the cost of upgrading will be significant, the losses incurred could potentially be far greater where EMV chip cards were used and the retailer has not upgraded. Accordingly, it is recommended that retailers upgrade to EMV as soon as possible. As a way to potentially defray the costs, companies should reach out to their credit card processors who may participate in the costs of upgrading to EMV.

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