



Bureau of Consumer Financial Protection
1700 G Street NW
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May 13, 2020

**Statement on Supervisory and Enforcement Practices Regarding Regulation Z
Billing Error Resolution Timeframes in Light of the COVID-19 Pandemic**

The Bureau of Consumer Financial Protection (Bureau) recognizes the serious impact the COVID-19 pandemic is having on the financial well-being of many consumers and on the operations of many supervised entities, including creditors subject to TILA (15 U.S.C. 1601 *et seq.*), which is implemented by the Bureau's Regulation Z (12 CFR part 1026). Affected entities include a wide variety of businesses that accept credit cards, which vary in size and sophistication and can range from small retailers to very large firms, each of which will face unique challenges due to the COVID-19 pandemic.

The Bureau is aware that some creditors and entities such as merchants—and especially merchants that are small businesses—that provide information to facilitate creditors' investigation of consumers' billing error notices may face significant operational disruptions as a result of the COVID-19 pandemic. For example, some creditors and merchants may be unavailable or face significant staff reductions, and may have difficulty in handling unusual volumes of error notices or in accessing necessary information systems. These disruptions would render it more difficult for merchants to respond to creditors' inquiries and thus for creditors to accurately and timely resolve consumers' billing error notices. The Bureau emphasizes that if creditors were to make decisions on those notices without access to information from merchants, the merchants might be damaged by owing chargebacks for transactions that creditors would have deemed not errors if the merchant had been available to provide information to the creditor, and consumers might also be damaged by incorrect decisions based on insufficient information.

In light of these considerations, the Bureau is issuing this statement to inform creditors of the Bureau's flexible supervisory and enforcement approach during this pandemic regarding the timeframe within which creditors complete their investigations of consumers' billing error notices. Specifically, in evaluating a creditor's compliance with the maximum timeframe for billing error resolution set forth in Regulation Z, the Bureau intends to consider the creditor's circumstances and does not intend to cite a violation in an examination or bring an enforcement action against a creditor that takes longer than required by the regulation to resolve a billing error notice, so long as the creditor has made good faith efforts to obtain the necessary information and make a determination as quickly as possible, and complies with all other requirements pending resolution of the error. Good faith efforts that creditors may show include obtaining a reasonable estimate from the merchant of when it will be able to respond or determining reasonably that the merchant is unable to respond to the creditor's request for information for the time being.

The Bureau does not expect, however, that current circumstances would prevent any creditor from fully complying with the requirements of § 1026.13(d), as described in more detail below.

Requirements for Billing Error Investigation and Resolution

TILA generally requires that creditors investigate and resolve consumers' billing error notices within specified maximum timeframes. As set forth above, this statement provides notice to creditors that the Bureau intends to take a flexible supervisory and enforcement approach with respect to those timeframes where creditors demonstrate a good faith effort to comply with their statutory and regulatory obligations. The Bureau emphasizes, however, that this flexibility does not extend to certain required actions that creditors must take, nor does it extend to certain prohibited actions that creditors must not take, during the pendency of consumers' billing error claims. A more detailed discussion follows.

In the context of open-end credit, including credit card accounts, Regulation Z § 1026.13 and its commentary set forth a creditor's billing error investigation and resolution obligations when the creditor receives a billing error notice from a consumer regarding a billing error.¹

¹ Reg. Z § 1026.13(a) defines "billing error" for purposes of § 1026.13. A creditor that is a "card issuer," which is defined in § 1026.2(a)(7), should keep in mind that § 1026.12(b) specifies the liability of a credit cardholder for unauthorized use of a credit card and § 1026.12(c) specifies the right of a cardholder to assert claims or defenses against a card issuer. The protections afforded to cardholders in § 1026.12 do not depend upon the cardholder's

Pursuant to § 1026.13(c)(1), a creditor must mail or deliver written acknowledgment to a consumer within 30 days of receiving a billing error notice from the consumer (unless the creditor has fully complied with the appropriate resolution procedures set forth in §§ 1026.13(e) and (f), as applicable, within the 30-day period). Furthermore, section 1026.13(c)(2) requires the creditor to comply with the appropriate billing error resolution procedures set forth in §§ 1026.13(e) and (f), as applicable, within a maximum timeframe of two complete billing cycles but in no event later than 90 days after receiving the billing error notice.²

As stated above, in evaluating a creditor's compliance with the maximum timeframe for billing error resolution set forth in § 1026.13(c)(2), the Bureau intends to consider the creditor's circumstances and does not intend to cite a violation in an examination or bring an enforcement action against a creditor that takes longer than required by § 1026.13(c)(2) to resolve a billing error notice, so long as the creditor has made requisite good faith efforts to obtain the necessary information and make a determination as quickly as possible.

The Bureau does not expect, however, that current circumstances would prevent any creditor from fully complying with the requirements of § 1026.13(d). Specifically, and until a creditor resolves a billing error in compliance with the requirements of §§ 1026.13(e) and (f),³ the following requirements of § 1026.13(d) apply to the creditor—

- 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).⁴
- The creditor or its agent shall not (directly or indirectly) make or threaten to make an adverse report to any person about the consumer's credit standing, or report that an

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. *See* comments 12(b)(3)-3 and 12(c)-1. Nothing in this statement alters the Bureau's supervisory or enforcement expectations regarding the consumer protections that are set forth in § 1026.12.

² *See* § 1026.13(c)(2) (“The creditor shall comply with the appropriate resolution procedures of paragraphs (e) and (f) of this section, as applicable, within 2 complete billing cycles (but in no event later than 90 days) after receiving a billing error notice.”). This regulatory language mirrors the requirements specified in TILA for a creditor to take appropriate action “not later than two complete billing cycles of the creditor (in no event later than ninety days) after the receipt of the notice.” 15 U.S.C. 1666(a)(1)(3)(B).

³ A creditor must conduct a reasonable investigation before it determines that no billing error occurred or that a different billing error occurred from that asserted. *See* comment 13(f)-3.

⁴ *See* § 1026.13(d)(1).

amount or account is delinquent, because the consumer failed to pay the disputed amount or related finance or other charges.⁵

- A creditor shall 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 § 1026.13.⁶

Other Considerations for Consumers

Like creditors and merchants, some consumers may also face significant disruptions as a result of the COVID-19 pandemic, which may include challenges to health, travel, and income, or delay in receiving periodic statements. Further, many consumers may discover that merchant or creditor locations are closed, and that hold times for telephone calls to merchants or creditors are extensive because of increased call volumes. In light of these considerations, the Bureau encourages creditors to show flexibility when deciding whether to apply the 60-day timeline the regulation affords consumers to provide a billing error notice after it appears on the first periodic statement.

Many creditors have already taken action to assist consumers during the pandemic. Such assistance includes late fee waivers or refunds and repayment forbearance or deferral, in some cases without interest accrual or with temporary interest rate reductions. The Bureau encourages creditors to consider whether they also want to provide consumers with these types of relief options during this time, especially as many consumers are facing temporary income loss.⁷ Creditors can also help consumers take advantage of online and mobile self-service tools, which can be faster and more convenient for both the creditor and the consumer than a telephone call with a customer service representative.

⁵ See § 1026.13(d)(2).

⁶ See § 1026.13(d)(3).

⁷ Such payment accommodations will avoid the reporting to consumer reporting agencies of delinquencies resulting from the effects of COVID-19. The Bureau supports furnishers' voluntary efforts to provide payment relief, and it does not intend to cite in examinations or take enforcement actions against those who furnish information to consumer reporting agencies that accurately reflects the payment relief measures they are employing. For additional information on furnishing consumer information impacted by COVID-19, see the Bureau's April 1, 2020 "Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act." The statement is available at: https://files.consumerfinance.gov/f/documents/cfpb_credit-reporting-policy-statement_cares-act_2020-04.pdf.