



Small Business Specialists

Credit Card Liability

Traditionally, merchants have been liable for chargebacks due to fraud when a transaction is disputed by the card holder. So in the event of a fraudulent transaction, the card holder would get a refund and the payment would have been charged back from the merchant. However, new technology has led to liability shifts away from merchants to card issuers and there are three basic types of card payments:

- Card-holder present
- Card holder not-present:
 - Mail Order Telephone Order
 - Internet Order

Card Holder Present

Since January 1 2005, if a retailer does not have a **Chip and PIN** acceptance device, and the use of such a device could have prevented the fraud from occurring, the retailer may bear the cost of a fraudulent transaction. This will depend upon the terms and conditions between that retailer and its acquiring bank. However,

- Where a retailer has a Chip and PIN terminal but a customer asks to sign instead, either because they have an old card or have forgotten their pin, the merchant will not be held liable for card fraud.
- Where a merchant rents a terminal from a bank, and through no fault of their own has not yet had it upgraded, they will not be held liable for card fraud.
- **Note that chargebacks can occur for reasons other than fraud, e.g. non-delivery of goods, disputes on what was agreed/ordered, quality, etc.**

Card Holder Not Present - MOTO

The responsibility lies with the merchant to spot potentially fraudulent transactions – use AVS & CSC.

Very high risk – make sure you get something in writing and document all telephone orders with time & date and name – check details – subscribe to something like Early-Warning.org.

Card Holder Not Present - Online Internet

Similar to MOTO, except that **3-D Secure** has been introduced by Visa & Mastercard.

This can be thought of as an online version of [Chip & Pin](#). **Verified by Visa** and **MasterCard SecureCode** are the two versions currently in use. These systems invite cardholders to register when using a Visa or MasterCard to make a purchase on a website whose payment system supports 3-D Secure. Cardholders specify a user id and password. Once registered, if a card is used on a merchant site that support 3-D Secure, an extra window pops up requesting the card holder to enter four randomly selected characters from their password.

It brings the benefit of liability shift which means that the liability for the chargeback loss shifts from the merchant to the Issuer for e-commerce transactions that are deemed fraudulent, (i.e. those transactions where the cardholder has denied involvement in the transaction). The issuing bank, in most cases, is no longer allowed to pass such chargebacks back to the merchant.

Liability shift is dependent on various factors, such as the type of card (personal or commercial), the authentication result, as well as the card issuing and merchant countries. For example, with transactions involving personal cards Visa and MasterCard offer global protection for non-enrolled cardholders/issuing banks.



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It is a complex area and merchants really need to check with their Acquirer to be certain. However, the liabilities as we currently understand them are set out below:

3-D Secure only applies to Visa, MasterCard & Maestro - other types of card are not covered.

A merchant that is enrolled in 3-D Secure is generally not liable if:

- ✚ **Cardholder Authenticated** - (i.e. the card is registered for 3-D Secure and the password was entered correctly by the card holder). The card Issuer becomes responsible for the chargeback for Visa, MasterCard and Maestro.
- ✚ **Cardholder/Issuer not Enrolled for Authentication (or card holder opts out of registration during checkout)** - Because full enrolment is not yet universal, Visa and MasterCard offer global protection for **personal cards** where authentication has been attempted even if the issuing bank is not participating or the cardholder is not enrolled in 3-D Secure. However, **Commercial cards** are only covered if issued in the EU, while Maestro only offers protection for personal cards issued in the UK.
- ✚ **Cardholder Authentication System not available and card is Personal MasterCard (issued anywhere) or is a Commercial MasterCard issued in the EU, or is a Maestro card issued in the UK**

Merchants enrolled in 3-D Secure are liable when:

- ✚ **Cardholder Authentication System not available and card is Visa (issued anywhere) or Maestro issued outside the UK, or is a Commercial MasterCard issued outside the EU**
- ✚ **Cardholder Authentication fails but the merchant accepts the transaction**
- (i.e. authentication was attempted, but failed).
- ✚ **All other circumstances!**

Merchants not enrolled in 3-D Secure are always liable

Note 1: If the brand is Visa and either the enrolled or status indicators are returned as Unknown this means that the merchant is not covered by the 3-D Secure scheme. In this case the merchant is still liable for any fraudulent transactions.

Note 2: There are some cases where the liability is not covered by the Card Issuer; for example non-European commercial cards under both brands. For more information please contact your acquirer.

Note 3: Even if a transaction meets the criteria, the issuing banks can still chargeback for other reasons, such as non-delivery of goods or faulty goods.

From the 1st July 2008 MasterCard and Visa are **mandating** 3-D Secure, preventing Merchants from accepting Maestro (formerly Switch) payments online legitimately after this time. Without 3-D Secure Merchants will be breaking card scheme rules and could be liable to pay heavy fines.

All of this means that you need to be very careful when you check the responses to online card authorisations. It is good practice to set up a default delay before transactions are captured for settlement so that you have time to validate the transaction and reject it if it fails the criteria, (or if your normal checks on the order show it to be suspicious).

Of course, it would be very difficult for small businesses to implement 3-D Secure themselves to a standard that would meet card industry requirements. So if you are not already using an online Payment Services Provider that provides 3-D Secure, you really need to think about moving to one that does.

We are a SecureTrading Partner, so if you would like to discuss switching to a fully compliant supplier using 3-D secure, please [contact us](#).