

Managing Disputes Through COVID-19: Government Prohibition and Dispute Processing Guidelines

Global | Acquirers, Issuers, Processors, Agents

Visa, Interlink, Plus Networks; V PAY; Europe Processing



Overview: Visa is providing additional information on best practices to manage dispute processing as a result of the COVID-19 outbreak.

As a follow up to "Managing Disputes Through COVID-19: Additional Best Practices," published in the 21 April edition of the *Visa Business News*, Visa is providing additional information to support clients with managing and responding to disputes.

Visa has not changed its dispute rules in response to this event. Visa expects our clients to act in good faith and make every effort to be flexible when resolving disputed transactions involving cardholders and merchants. Our expectation is that cardholders work directly with the merchant to resolve their issue, ahead of initiating a dispute with their issuer.

The following outlines the measures and temporary accommodations Visa is taking to help support clients with dispute processing. It is intended to assist clients with managing day-to-day cardholder and merchant dispute inquiries and includes processing guidelines regarding government prohibitions on the merchant's ability to provide services.

Clients are reminded to ensure they adhere to all government regulations and/or laws within their respective jurisdictions. The client's obligations under the Visa Rules are avoided only to the extent of a direct and explicit conflict with applicable law and/or regulation (including COVID-19 related government orders and decrees).

Dispute Response and Pre-Arbitration Processing Guidelines

Visa recognizes government laws and restrictions are being enacted in many countries and localities to address the COVID-19 situation. Acquirers must provide evidence of such laws and restrictions as evidence to support their claim. In order to support clients in these COVID-related dispute processing examples, Visa is making the following temporary accommodations to dispute processing **effective immediately** for Dispute Condition 13.1: Merchandise / Services Not Received.

Pre-Arbitration Responses Processed Through 31 May 2020: For acquirers that have already responded to an incoming dispute for Dispute Condition 13.1: Merchandise / Services Not Received with insufficient evidence from the merchant (e.g., a verbal statement that a government prohibition on

providing services was in place), they are now allowed to respond to the issuer's pre-arbitration case with the required evidence of the asserted government prohibition. Note: If the acquirer has already processed their pre-arbitration response prior to this publication and the issuer has submitted an arbitration case, the acquirer will be permitted to supply evidence of government prohibition within seven calendar days of the arbitration acknowledgment date.

Effective for Dispute Responses processed on or after 1 June 2020, the temporary accommodation dispute processing guidelines will be retired and the acquirer must provide its evidence of the government prohibition at the dispute response stage.

Government Prohibition and Restrictions

Visa is providing further interpretation and guidance for clients regarding government prohibitions for their cardholders and merchants. Government prohibition is defined as a law, regulation, government order or decree that the merchant would have violated by proceeding to provide its services to the cardholder during the COVID-19 crisis. Laws or regulations that restrict the merchant's customers as opposed to the merchant itself do not negate the issuer's dispute rights. An acquirer has the burden of proof to determine if something qualifies as government prohibition and must provide evidence of the law or regulation that must **explicitly** prohibit the merchant from offering the service.

The cases of government prohibition superseding the Visa Rules are very limited and in most scenarios, issuers will continue to have dispute rights. Visa is providing examples to assist clients in understanding what would be **considered a valid** government prohibition.

Border is closed and a government expressly prohibits an airline from flying into the country.

Example: Effective 22 March 2020 at 11:59 p.m., international flights to St. Maarten are prohibited for two weeks and airlines are not allowed to bring any passengers into the country, including residents / nationals. The only flights allowed are cargo flights or ferry flights to pick up passengers to return them to their homes. No restriction applicable for crew (cargo and ferry flights).

Non-essential business closure on order of the government (e.g., gym, golf membership, camps, indoor and outdoor recreational and cultural facilities).

Example: Effective 24 March 2020 the country enacts declaration of emergency to protect the public by requiring the closure of non-essential businesses. Gyms are not on the list of essential services and are therefore mandated to remain closed under this regulation.

Visa is providing the following example to assist clients in understanding what would **not be considered** a valid government prohibition.

Business is still able to operate without violating the law, but makes a business decision to close.

Examples:

- Advisory regarding risks of traveling to a specific destination.
- Recommendations against gatherings of a certain size.

- Guidance or best practices by government agencies or industry groups.
- Non-essential public event advisory for voluntary closure (e.g. concerts).
- Mandated maximum number of people allowed to gather (e.g., impacting large events like concerts, theatres, weddings, galas).
- Restrictions impacting the merchant's passengers or other customers from showing up to receive services.

Brazil Dispute Processing Guidelines

The following information outlines the dispute processing guidelines based on Brazilian Law MP 925 (*Medida Provisoria No. 925*). The law does not take away the dispute rights of the cardholder, as they are still able to choose a refund for cancelled flights. However, the law does provide some flexibility to the acquirer by providing merchants with the right to delay issuing a refund for 12 months. As such, Visa has developed the following guidance for issuers to accommodate this Brazilian law when a cardholder attempts to initiate a dispute.

Before Initiating a Cardholder Dispute

Brazilian issuers **should not** process disputes for cancelled flights or credit not received¹ by the cardholder from Brazilian airlines on or after 18 March 2020. The law requires that the cardholder wait 12 months to receive a credit refund from the Brazilian airline. If the cardholder contacts the issuer after the 12-month period and states the merchant has not issued a credit refund, the Visa Rules will allow the issuer to process a dispute within 120 days from when the credit refund was expected from the merchant.

What to Do If An Issuer Dispute Has Already Been Initiated

Brazilian issuers who may have initiated a cardholder dispute for cancelled flights or credit not received¹ on or after 18 March 2020 should either reverse their dispute if they are within the time frames for reversal, or immediately accept the acquirer's dispute response if the issuer is past the time to reverse the dispute.

If the cardholder contacts the issuer after the 12-month period to state that the merchant has not issued a credit refund, the Visa Rules will allow the issuer to process a dispute within 120 days from when the credit refund was expected from the merchant. Visa will lift the Visa Resolve Online edits for a temporary period of time to allow the issuer to initiate a dispute.

¹ This does not apply to fraud disputes.

For More Information

Merchants and third party agents should contact their acquirer.

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