

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2561 Rayburn House Office Building
Washington, DC 20515-6315

Memorandum

To: Members, Committee on Small Business
From: Committee Staff
Date: October 21, 2015
Re: Hearing: “The EMV Deadline and What it Means for Small Businesses: Part II”

On Wednesday, October 21, 2015 at 11:00 a.m. in Room 2360 of the Rayburn House Office Building, the Committee on Small Business will hold a hearing to further examine the implications of the Europay, MasterCard, Visa (EMV) chip deadline for small businesses to transition from the current magnetic stripe credit cards to the new EMV credit cards beginning on October 1, 2015. Failure to transition would shift liability for fraud from the card provider to the merchant if the customer was using a credit card with the EMV chip, but would maintain the current allocation of liability if the merchant had adopted the new technology or if the customer was using a credit card without the chip. The upgraded technology is designed to protect against cybercrime and fraud. Small businesses that have not installed the new technology will be more vulnerable to cyber threats and they will be held liable for certain incidents of fraud. A July 2015 study observed that less than 49 percent of small businesses are aware of the October 1 date and liability shift.¹

On October 7, 2015, the Committee heard from financial transaction providers on EMV chip payment system and the ongoing nationwide implementation. This second hearing on the shift to EMV chip technology will allow the Committee to receive testimony from small businesses about the challenges and implications of the transition. For background information on the migration to EMV chip technology, the adoption process and related barriers to implementation, and small business concerns about the technology and liability shift, an in-depth overview is available in the Committee’s October 7, 2015 background memorandum.² Therefore, this document will only provide a summary of the prior hearing.

Summary of the October 7, 2015 Hearing

During the first hearing, the Committee heard from witnesses representing four different sectors of the financial transactions industry: Visa, Inc., the Electronic Transaction Association, a small bank issuing credit cards, and the National Association of Federal Credit Unions.³ Across the board, their testimony

¹ WELLS FARGO/GALLUP, SMALL BUSINESS SURVEY TOPLINE 3RD QUARTER, JULY 10, 2015, [hereinafter “WF Survey”], available at <https://wellsfargoworks.com/File/Index/btDsu4gv9UqK07hpFKVbgw>.

² Committee Memorandum, *The EMV Deadline and What it Means for Small Businesses* (2015), available at http://smbiz.house.gov/uploadedfiles/10-7-2015_memo_final.pdf.

³ Committee on Small Business, Witness List for October 7, 2015 Hearing, available at http://smbiz.house.gov/uploadedfiles/10-7-15_final_witness_list.pdf.

noted the importance of strengthening protections for consumer and small business data.⁴ Witnesses also highlighted additional steps financial transaction providers are taking to erect further barriers to cyber theft and credit card fraud; they stated that EMV technology is a key component of these efforts.⁵

Likewise, witnesses observed that small businesses would adopt the EMV technology at different rates based on the business' own assessment of the risk of fraud.⁶ All agreed that the education of small businesses is a top priority.⁷ The Committee also received testimony that financial transaction providers are partnering with terminal providers to make chip technology more accessible to smaller firms, with some members of the payment industry providing financial assistance or other support during the transition.⁸

Conclusion

The implementation of EMV chip technology brings both benefits and burdens. Small businesses that adopt the EMV technology will receive some level of protection from fraudulent activity and data theft, but small businesses that fail to adopt the new payment system may find themselves at even greater risk. Thus, the Committee looks forward to receiving testimony from small business owners who will be able to explain the opportunities and challenges inherent in the transition.

⁴See, e.g., Statement of Jan Roche before the Ctte on Small Business 12-14 (Oct. 7. 2015), available at http://smbiz.house.gov/uploadedfiles/10-7-2015_roche_testimony.pdf.

⁵See, e.g., Statement of Scott Everett Talbot before the Ctte on Small Business 8-9 (Oct. 7. 2015), available at http://smbiz.house.gov/uploadedfiles/10-7-2015_talbott_testimony.pdf.

⁶Id. at 5 (“[S]ome small business merchants will lag behind other businesses, especially if a small business merchant is the type where the likelihood of fraudster using a fraudulent card is low due to the low dollars involved in an average transaction -- like at a dry cleaner or a car wash – and the resulting financial exposure to the merchant from the fraudulent transaction is, therefore, low.”)

⁷See, e.g., Statement of Stephanie Erickson before the Ctte on Small Business 5-6 (Oct. 7. 2015), available at http://smbiz.house.gov/uploadedfiles/10-7-2015_ericksen_testimony.pdf.

⁸Id. at 6.