



# Regulations for All Payment Systems

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# Agenda

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Rule Makers

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Laws

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Regulations

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Rules

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Legal Structure of the US Payment Systems

# The Rule Makers

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Laws –  
Federal and  
State

Federal  
Reserve Banks

Federal  
Reserve Board  
of Governors

CFPB

Other Regulators

FDIC

OCC

NCUA

Private Sector Networks

Nacha

ECCHO

Cards/ATM

TCH

# Which One Wins?

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When it **Appears** there is a conflict between Rules/Laws and Regulations the Alphabet Wins!

Unless it works to the accountholder's favor

2 scenarios:

- Regulation CC funds availability on ACH Credits is next Day
- Nacha Operating Rules – funds availability is Settlement Date
  
- Regulation E – credit/provisional credit for “unauthorized entry” = 10 days
- Visa – requires Visa issuers to credit within = 5 days



# Laws

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# Bank Secrecy Act

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- Requires U.S. FIs to assist U.S. government agencies to detect and prevent money laundering
  - Anti-Money Laundering (AML) Act
  - All payment rails, including cash are governed by BSA
- 5 pillars to an effective BSA program
  - Internal written policies and controls
  - Designated compliance officer
  - Ongoing training for employees
  - Independent testing
  - Risk-based customer due diligence procedures
- Monitor for suspicious activity and recordkeeping requirements

# Check 21 Act

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- Regulation CC, Subpart C
- Facilitates truncation and image exchange but does not govern it
- Creates and governs the use of a negotiable instrument called a “substitute check” that can be used in place of the original without the agreement of the recipient
- Provides warranties and indemnities that flow with a substitute check and a copy or electronic representation of a substitute check
- Federal Law



# OFAC

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- Administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals
- Specially Designated Nationals and Blocked Persons (SDN) List
- Not a bank regulator, but may impose criminal and/or civil penalties for non-compliance
- OFAC requirements are separate and distinct from any other law, Act or agency requirements

# USA Patriot Act

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- Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001
- Combats international terrorism and money laundering
- Requires FIs to have a Customer Identification Program (CIP)

# Dodd-Frank Act

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- Dodd-Frank Wall Street Reform and Consumer Protection Act
  - Meant to limit risk and enforce transparency and accountability
  - Created the Consumer Financial Protection Bureau (CFPB)
    - Oversight for Regulations CC (Subpart B), E and Z
  - Established UDAAP
  - Includes the Durbin Amendment
  - Added protections for Whistleblowers

# UDAAP

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- Part of the Dodd-Frank Act
- Unfair, Deceptive or Abusive Acts or Practices
  - Also covers acts or practices that are misleading
- Applies to:
  - Any debt collection policies, including credit reporting and repossession
  - Deposit products
  - Lending activities

# Electronic Funds Law(s)

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- EFAA - Expedited Funds Availability Act:
  - Applies to making proceeds of deposits into bank accounts available to depositors
  - Applies to wires, checks, ACH
- EFTA - Electronic Funds Transfer Act
  - Covers electronic funds transfers
- Federal Law

# UCC 3 and 4

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- Uniform Commercial Code Articles 3 and 4 (UCC 3 and UCC 4)
- State law that applies to checks
- UCC 3 provides rules for negotiable instruments
- UCC 4 outlines check collection, payment, liabilities, timeframes and responsibilities of check participants

# UCC 4A

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- UCC Article 4A (UCC 4A) is state law governing “corporate wholesale credit entries,” including wire transfers and CCD/CTX credit entries
- Some provisions of UCC 4A may be altered through agreements while others cannot
  - Origination and deposit agreements
- Addresses commercially reasonable security

# Regulations

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# Regulation E

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- Establishes the rights, liabilities, and responsibilities of parties in electronic funds transfers and protects consumers when they use such systems
- Subpart B- “Remittance” under Dodd Frank section 1073 and Regulation E - an international funds transfer initiated by a consumer from the U.S. to a foreign receiver

# Regulation J

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- Federal regulation covering Federal Reserve Bank processing of checks and wires
  - Subpart A defines how checks will process and clear through the Federal Reserve
  - Subpart B governs the processing of wire transfers through Fedwire
  - Subpart C governs the processing of funds transfers through the FedNow Service

# Regulation Z

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- Implements Truth In Lending Act
- Federal regulation to promote the informed use of consumer credit by requiring disclosures about terms and cost
- Consumer credit includes:
  - Mortgage loans
  - Home equity lines of credit
  - Installment loans
  - Credit cards

# Regulation CC

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- Federal regulation implementing
  - Fed's authority over check collection under EFAA
  - Funds availability
  - Deposits in demand accounts
  - Collection and return of checks
  - Special warranties / indemnities for RCCs
  - Substitute checks
  - RDC

# Government Payments

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31 CFR 210: covers Government ACH transactions

- Green Book – resource for FIs

31 CFR 240: covers Treasury checks

31 CFR 212: covers garnishments

31 CFR 205: covers EFT

# Rules

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# Federal Reserve Rules

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- Federal Reserve Operating Circular 1 (OC1): Contains terms for opening, maintaining, and terminating a master account with a Federal Reserve Bank, as well as general provisions regarding Reserve Bank services applicable to institutions whether or not they maintain a Reserve Bank account
- Federal Reserve Operating Circular 3 (OC3): Covers exchange of items (paper, image and substitute checks) with the Federal Reserve
- Federal Reserve Operating Circular 4 (OC4): Covers ACH transactions sent through the Fed as Operator

# Federal Reserve Rules

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- Federal Reserve Operating Circular 5 (OC5): Covers managing electronic connection with Federal Reserve Bank
- Federal Reserve Operating Circular 6 (OC6): Covers FedWire services
- Federal Reserve Operating Circular 7 (OC7): Book Entry Securities Account Maintenance and Transfer Services
- Federal Reserve Operating Circular 8 (OC8): Funds Transfers Through the FedNow Service



# Nacha Rules

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- Nacha Operating Rules
  - Private governance for the ACH network
  - Outlines responsibilities for FIs, Third-Party Senders, & Third-Party Processors and Originators
  - Applies to ACH clearing through:
    - Federal Reserve
    - The Clearing House's Electronic Payments Network (EPN)

# ECCHO Rules

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- Private check clearing rules
- Applies to FIs using private clearing networks and who are ECCHO members
  - Rule 8 – Remotely Created Check
  - Rule 9 – Forged or Counterfeit Check
  - RDC Indemnity
  - Electronically Created Item (ECI) Indemnity

# RTP<sup>®</sup> Rules

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- Private governance
  - Operating Rules
  - Participation Rules
- Implemented by The Clearing House
  - Payment rail
  - Real-time, irrevocable credit transfer system
  - Rules establish security, reliability, and consumer protections

# FedNow Rules

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- Private governance
  - Operating Circular 8
  - Operating Procedures
- Implemented by The Federal Reserve
  - Payment rail
  - Real-time, irrevocable credit transfer system
  - Procedures establish operational details, expectations, requirements, & guidance for FedNow participants

# Card Network Rules

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- Private sector rules that are a condition of offering and accepting the specific card brand
- Rules include:
  - Honoring cards
  - Chargeback rights
  - Authorization
  - Advertising
- Visa / Mastercard

# SWIFT, CHIPS and Fedwire Rules

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- SWIFT
  - Non-profit communications / message system
  - Does not actually send funds
- CHIPS
  - Generally international wires
- Fedwire<sup>®</sup>
  - Governs wires sent through the Federal Reserve and any wires sent by the Federal Government

# Legal Structure of Automated Clearing House (ACH)

- Nacha Operating Rules
- 31 CFR 210 (Green Book)
- Federal Reserve Bank OC 4
- EFTA/Regulation E
- Regulation CC
- UCC 4A
- OFAC

# Legal Structure of Card

- Regulation E
- Regulation II (Durbin Amendment)
- Regulation Z (Truth in Lending)
- Private Sector Rules
  - Specific to Brand, i.e. Visa Rules and MasterCard Rules



# Legal Structure of Check (paper and electronic)

- UCC Article 3 & 4
- Regulation CC
- Regulation J, Subpart A
- Federal Reserve Bank OC3
- ECCHO Rules

# Legal Structure of Wire Transfer

- Regulation E, Subpart B
- Regulation J, Subpart B
- Federal Reserve Bank OC 1, 5 and 6
- UCC 4A
- Regulation CC
- BSA
- OFAC
- Private Sector Rules
  - Chips and SWIFT

# Legal Structure of Instant Payments

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## RTP

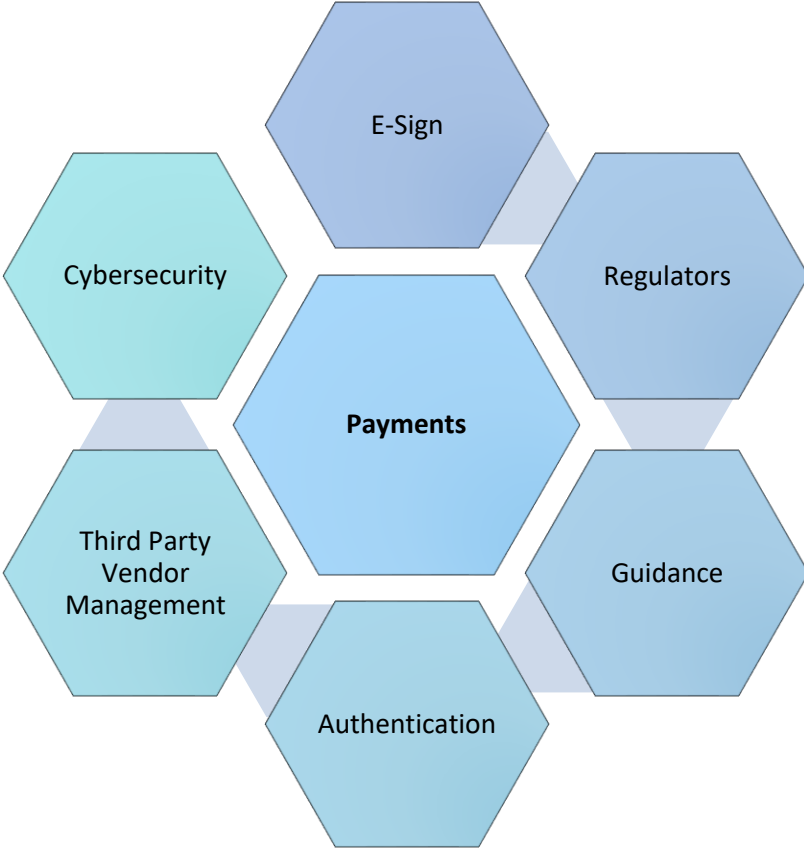
- Regulation E
- RTP Rules

## FEDNOW

- Federal Reserve Bank OC8
- Regulation J, Subpart C
- Regulation E
- FedNow Rules
- UCC4A

# More to Consider

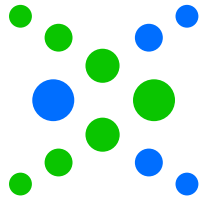
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# Questions

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