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# Electronic Payments Law

The electronic payments industry is complex and continually evolving. In today's click-of-a-button society, technology drives commerce and innovative payment methods. Payment laws and regulations are equally as complex and are also ever-changing.

Whether you are an established payments business or a business that offers payments as a feature of a non-payments core offering, our payments lawyers have the knowledge and experience to guide you through the murky regulatory landscape and advise you on crucial contractual relationships.

Jaffe's electronic payments attorneys have decades of experience with legal issues surrounding credit and debit card processing, merchant acquiring, money transmission, prepaid access, virtual wallets, mobile payments, ACH, and payment facilitation. Payments law is what we do.

### Advising on Regulatory Compliance and Payment Operations

It is imperative for payment providers to assess their legal and regulatory exposures so they can understand the risks and make critical business decisions. Often, operations can be restructured to mitigate the regulatory risks. Other times, exemptions to the regulatory burden can be utilized.

There is no one-size-fits-all solution that works for every payment provider or every transaction flow. Our lawyers are experienced in identifying potential exposures and advising clients on how to mitigate such risks, solve problems, and take maximum advantage of strategic opportunities to find a solution that is right for each client's business goals.

### Counseling on Strategic Relationships and Contracts

Payment related contracts and transactions are unique and require industry-specific provisions and considerations. Whether it's advising companies on the acquisition or sale of payments companies or assets, or drafting, reviewing or negotiating high-stake agreements for merchant acquirers, payment facilitators, Independent Sales Organizations (ISOs), processors, gateways, independent software vendors (ISVs), value-added resellers (VARs) or sales agents, the Jaffe team has the industry know-how to ensure the business and legal concepts are aligned.

### Navigating Legal Disputes

We pride ourselves on working with clients to proactively identify litigation and enforcement risks before they manifest. Where unavoidable, our legal team is uniquely suited to vigorously pursue and defend law suits and regulatory enforcement actions involving payment-related issues. We also regularly advise clients regarding pre-litigation issues such as violations of non-solicitation restrictions, imposition of reserve requirements, suspicious merchant activity, and minimum processing requirements.

### Impacting the Payments Industry

Steeped in the business, our electronic payment lawyers are frequently asked to write for industry publications, serve on national panels, and provide leadership as committee members and officers of industry trade associations (including the Electronic Transactions Association (ETA), Wnet (Women's Network in Electronic Transactions), Third Party Payment Processors Association (TPPPA) and the Money Services Business Association (MSBA)). We counsel both large and small clients on legal issues, as well as on strategic alliances, mergers and acquisitions, and corporate direction.

These contributions and connections give our payments team unique insight into the changing dynamics and emerging issues in the industry.

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## Services

- Federal and state money services business (MSB) and money transmitter regulatory compliance
- Agent-of-the-payee exemption
- Payment processor exemption
- Integral to sale of good or services exemption
- Authorized vendor exemptions
- Bank Secrecy Act compliance (including Anti-Money Laundering (AML) programs)
- Financial Crimes Enforcement Network (FinCEN) regulations and guidance
- BIN Sponsor Agreements
- Referral Agent Agreements
- Payment Facilitator Sponsorship Agreements
- Integration Agreements
- Processing Agreements
- Merchant Agreements
- Sub-Merchant Agreements
- ACH Origination Agreements
- Third Party Service Providers/Sender Agreements
- Mergers and acquisitions of payment businesses
- Sale of merchant portfolios and other payment assets
- Sale of residual income streams
- Prepaid access
- State escheat laws
- Surcharges, convenience fees, cash-discount programs
- Electronic Funds Transfers – Regulation E
- Truth in Lending – Regulation Z
- Remittance Transfer Rule – subpart B of Regulation E
- Federal Trade Commission Act (FTC) regulations
- Consumer Financial Protection Bureau (CFPB) regulations
- State consumer privacy acts and data security laws
- Card brand compliance
- ACH processing and NACHA compliance
- Mobile payments
- Digital Wallets
- Virtual Currency
- Cannabis, CBD, and Hemp related payment processing