



Rethinking Payments Law

A symposium sponsored by the Federal Reserve Bank of New York, Brooklyn Law School, Columbia Law School, Hofstra University School of Law, New York University School of Law, and St. John's University School of Law

Friday, April 27, 2007 • Federal Reserve Bank of New York

8:15 A.M. – 8:30 A.M.

Welcome

Thomas C. Baxter, Jr., General Counsel and Executive Vice President
Federal Reserve Bank of New York

8:30 A.M. – 9:30 A.M.

The Current State of Payments Law

The opening panel will explore the current state of payments law, using check conversion to ACH, stored-value-card products, and PayPal as examples of payments mechanisms.

Stephanie Heller, Counsel and Vice President
Federal Reserve Bank of New York

Stephanie Martin, Associate General Counsel
Board of Governors of the Federal Reserve System

John D. Muller, Vice President of Legal and General Counsel
PayPal, Inc.

Judith Rinearson, Partner
Bryan Cave LLP

MODERATOR

Stephanie Heller

9:30 A.M. – 11:00 A.M.

Source of Law and Ability to Contract Out

Speakers will address certain foundational questions, such as the degree to which U.S. payments law should embrace the principle of freedom of contract, including the proper role of system rules and the continued need for a set of baseline consumer protections. The impact of technology on, and the need for interoperability in, the development of payments law will also be considered.

Peter A. Alces, Rita Anne Rollins Professor of Law
The College of William & Mary School of Law

Richard Field
Law Office of Richard Field

Thomas A. Fox, Partner
Schwartz & Ballen LLP

Richard Fraher, Assistant General Counsel
Federal Reserve Bank of Atlanta

Gail Hillebrand, Senior Attorney
Consumers Union

Karen Nash-Goetz, Vice President and Associate Legal Counsel
T. Rowe Price Associates, Inc.

Norman I. Silber, Professor of Law
Hofstra University School of Law

MODERATOR

Steven L. Harris, Professor of Law
Chicago-Kent College of Law

11:00 A.M. – 11:15 A.M.

Break

11:15 A.M. – 3:30 P.M.

What Might a Uniform Law Look Like?

A series of three panels will examine the substantive rules that allocate risks in payments systems, including rules on finality, unauthorized payments, mistakes in processing, and general obligations of care.

11:15 A.M. – 12:30 P.M.

Part I: Payment Finality

The first panel will focus on the contours of a payment finality rule, the relationship between payment finality and restitution principles, and the effect of intermediary failure on payment finality.

Jeanette H. Blanco, Assistant General Counsel
Bank of America

Molly Carpenter, Senior Vice President
and Associate General Counsel
JPMorgan Chase

Benjamin Geva, Professor of Law
Osgoode Hall Law School of York University

Andrew Kull, Paul M. Siskind Research Scholar and Professor of Law
Boston University School of Law

Robert H. Ledig, Partner
Fried, Frank, Harris, Shriver & Jacobson LLP

James Steven Rogers, Professor of Law
Boston College Law School

MODERATOR

Linda J. Rusch, Frederick N. and Barbara T. Curley Professor
of Commercial Law
Gonzaga University School of Law

12:30 P.M. – 1:30 P.M.

Lunch, Liberty Room, 1st Floor

What Might a Uniform Law Look Like? (Continued)

1:30 P.M. – 2:30 P.M.

Part II: Risk of Unauthorized Payments

Participants will discuss risk allocation rules for forged payments, alterations, and agent misconduct across payments products for consumer and nonconsumer users.

Jeanette H. Blanco, Assistant General Counsel
Bank of America

Francis J. Facciolo, Professor of Legal Writing
St. John's University School of Law

Gail Hillebrand, Senior Attorney
Consumers Union

Karen Nash-Goetz, Vice President and Associate Legal Counsel
T. Rowe Price Associates, Inc.

Linda J. Rusch, Frederick N. and Barbara T. Curley Professor
of Commercial Law
Gonzaga University School of Law

MODERATOR

Linda J. Rusch

2:30 P.M. – 3:30 P.M.

Part III: Mistakes in Processing and Duty of Care

This session will look at risk allocation rules for mistakes in the processing of payments, such as misrouted payments, garbled messages, and other nonfraudulent errors. Discussants will also consider the duty of care imposed on payments intermediaries.

Amelia H. Boss, Professor of Law
Temple University School of Law

Molly Carpenter, Senior Vice President
and Associate General Counsel
JPMorgan Chase

Sarah Jane Hughes, University Scholar and Fellow
in Commercial Law
Indiana University School of Law

Karen Nash-Goetz, Vice President and Associate Legal Counsel
T. Rowe Price Associates, Inc.

Anita Ramasastry, Associate Professor of Law and
Director, Shidler Center for Law, Commerce & Technology
University of Washington School of Law

MODERATOR

Steven L. Harris, Professor of Law
Chicago-Kent College of Law

3:30 P.M. – 3:45 P.M.

Break

3:45 P.M. – 5:15 P.M.

Optimal Level of Uniformity

Panelists will examine the issue of the optimal level of uniformity in payments law, taking into account cost structures, transparency, and technological change.

Clayton P. Gillette, Vice Dean and Max E. Greenberg Professor of Contract Law
New York University School of Law

Oliver I. Ireland, Partner
Morrison & Foerster LLP

Ronald J. Mann, Ben H. and Kitty King Powell Chair in Business and Commercial Law and Co-Director, Center for Law, Business, and Economics
The University of Texas School of Law

Linda J. Rusch, Frederick N. and Barbara T. Curley Professor of Commercial Law
Gonzaga University School of Law

Hal S. Scott, Nomura Professor of International Financial Systems and Director, Program on International Financial Systems
Harvard Law School

Steven D. Walt, Professor of Law and Sullivan & Cromwell Research Professor
University of Virginia School of Law

MODERATOR

Linda J. Rusch

5:15 P.M. – 5:30 P.M.

Closing Observations

5:30 P.M.

Reception, East Corridor, 1st Floor