

OVERVIEW

Regulation E and EFTA

COMPLIANCE
PROFESSIONALS FORUM

iA insideARM



Published by insideARM LLC
6010 Executive Blvd, Suite 802, Rockville, Maryland, 20850
editor@insideARM.com | 240.499.3834 | www.insideARM.com

Copyright © insideARM LLC and Compliance Professionals Forum
All rights reserved
Printed in the United States of America

This publication is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, resold, hired out, or otherwise circulated without the publisher's prior consent.

Reprint licenses are available for an additional fee.

The scanning, uploading, and distribution of this publication via the Internet or via any other means without the permission of the publisher is illegal and punishable by law. Please purchase only authorized editions.

Legal Disclaimer

This information is not intended to be legal advice but simply informed opinions from our panel, and may not be used as legal advice. Legal advice must be tailored to the specific circumstances of each case. Every effort has been made to assure this information is up-to-date. It is not intended to be a full and exhaustive explanation of the law in any area, nor should it be used to replace the advice of your own legal counsel.

The views and opinions expressed herein are solely those of the Compliance Professionals Forum. The information and any materials provided “as is” and the CPF along with its parent organization expressly disclaim all warranties, conditions, representations, indemnities and guarantees whether express or implied, arising by law or custom. In no event will the CPF be held liable for any claim or action arising from or related to your failure to comply with any laws or regulations. Your use of the materials constitutes full and sufficient consideration for, and acceptance by you, of the above terms.

Contributors



Rozanne Andersen serves as Ontario Systems' Vice President of Business Development and Chief Compliance Officer. She is responsible for leading Ontario Systems' corporate efforts and response to the Consumer Financial Protection Bureau's launch of compliance examinations in the ARM industry.



John Bedard is the managing attorney of Bedard Law Group, P.C., located in Atlanta, Georgia. John represents creditors, asset buyers, and debt collectors, helping them stay in compliance with state and federal law. He also manages the nationwide litigation for several collection agencies and focuses his litigation practice on FDCPA, TCPA, and FCRA defense. John's practice also focuses on defending regulatory actions including CFPB investigations, and travels the country performing CFPB readiness assessments for the collection industry.

Table of Contents

Legal Disclaimer	2
Contributors	3
Table of Contents.....	4
How to Use This Guide.....	5
Introduction: The Times They Are a-Changin’	6
Electronic Payments	6
EFTA and Regulation E	7
Sources of Authority	7
EFTA Requirements.....	7
E-Sign Act (Electronic Signatures in Global and National Commerce Act)	8
NACHA and ACH Transactions:.....	9
PCI-DSS	9
CFPB Requirements	9
Potential Civil Penalties.....	10
Q&A from the Webinar.....	11
Appendices	13
Appendix A: Webinar Slide Deck	13
Appendix B: Webinar Script	33

How to Use This Guide

Our guide synthesizes best-practice information from our webinar, **Regulation E and EFTA: A Guided Tour of the Complex World of Consumer Payments**. As a companion to this report, you can watch the full video of the webinar here:

[Regulation E and EFTA](#)

As appendices, you will find the slide deck from the webinar, as well as the transcript.

Introduction: The Times They Are a-Changin’

These days, the paper check is quickly going the way of the dodo, and many collectors are giving debtors the option to pay via electronic payments. But this practice, which should theoretically make life easier on everyone, is creating new challenges and confusion for the ARM industry. The legal framework surrounding the collection and regulation of electronic payments is constantly changing, thanks in no small part to the guidance of the Consumer Financial Protection Bureau. So what is it that you need to know about collecting payments electronically?

In this guide, we’re going to give you the knowledge you need on a wide variety of electronic payments – what they are, how they differ, and how they’re regulated.

Electronic Payments

Many people think of electronic payments as strictly referring to a payment that you make through an online portal, but the term really refers to a much wider variety of payments. Additionally, there are many different regulations that come into play here, such as:

- [The Electronic Funds Transfer Act \(EFTA\)](#)
- [Payment Card Industry Data Security Standards \(PCI-DSS\)](#)
- [The CFPB’s November 2015 Guidance Bulletin](#)
- [National Automated Clearing House Association \(NACHA\) Rules](#)
- State Laws and Regulations

What are some common electronic payments, and which regulations are relevant to each?

Electronic Payment	Regulation
Credit Cards	PCI-DSS
Debit Cards	EFTA / PCI-DSS
Bank Transfers	EFTA / NACHA
Internet Website Transactions	EFTA / NACHA
Electronic Checks	EFTA
NSF Fees	EFTA / NACHA

We’re going to go in-depth on the vast world of overlapping regulations that govern electronic payments, because they all differ in various ways.