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How Payments Law Landscape Will Evolve In 2026

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Since the change in administration last year, much has changed in the payments law landscape. Federal regulators have been busy rescinding agency guidance, advisory opinions, interpretive rules and policy statements.

Here, we look at 2025 developments in payments regulation, investigation, rulemaking and enforcement, and what's to come in 2026.

Looking Back at 2025

CFPB Updates

After years of delay and litigation, the compliance deadline for the Consumer Financial Protection Bureau's final rule on payday, vehicle title and certain high-cost installment loans was set for March 30, 2025.

However, the CFPB announced two days before the compliance deadline that "it will not prioritize enforcement or supervision actions with regard to any penalties or fines associated with the" rule.

It also has noted its intent to undertake a rulemaking to reconsider the remaining provisions of the rule, but no public details have been made available.

The CFPB also withdrew a number of advisory opinions and interpretations. Through the Congressional Review Act, Congress repealed the CFPB's final rule defining larger participants of consumer-use digital payment applications, which attempted to bring certain nonbank digital payment and digital wallet companies under the CFPB's supervisory regime.

On Jan. 10, 2025, the CFPB issued a proposed interpretive rule seeking to broaden the scope of the Electronic Fund Transfer Act and Regulation E to cover emerging digital payment mechanisms, including cryptocurrencies, stablecoins and digital reward points.

On May 15, after the administration change, the proposed interpretive rule was rescinded.

Earned Wage Access

On Dec. 23, the CFPB **issued** an advisory opinion that earned wage access, or EWA, products with the following characteristics are not "credit":

- The amount a user can access cannot be more than the wages they have already earned, based on payroll data (and not estimates or information from the worker);
- The provider recoups funds through a payroll deduction the next payday, not by debiting from the user's regular bank account after wages are paid;
- Before the transaction, the EWA provider discloses it has no legal or contractual claim or remedy against the user if the payroll deduction is insufficient to cover the full amount of the EWA transaction and will not send any amounts to debt collection or report to a credit reporting agency;
- The provider does not assess the credit risk of individual workers, through either credit reports or credit scores.

The advisory opinion also states that expedited delivery fees and tips are not finance charges so long as the options are not required and can be easily avoided.

A handful of states, including, but not limited to, California, Connecticut, Nevada, South Carolina, Missouri and Wisconsin, have enacted laws surrounding EWA. Some of these laws require a company to register with the state and pay fees.

Some state regulators have targeted companies in this space. These actions allege that EWA products are illegal payday lending schemes or that fees and tips constitute interest or finance charges in excess of state civil and criminal usury caps.

FDIC Proposed Rules

The Federal Deposit Insurance Corp. withdrew its proposed rule related to brokered deposits, which was generally seen as positive news for financial institutions.

Also, the FDIC did not proceed with its deposit insurance recordkeeping rule to require reconciliation for for-the-benefit-of accounts. Reconciliation remains important for bank-fintech relationships, and the FDIC may propose a rule or issue guidance on related expectations.

Merchant Cash Advance

On June 20, the Texas Legislature passed H.B. 700, which introduces several new regulatory requirements for providers and brokers of commercial sales-based financing operating within the state.

The law applies to merchant cash advance transactions and loans with payments that vary based on the borrower's sales.

Most significantly, the new law prohibits the establishment of automatic debit mechanisms from a merchant's deposit account unless the finance company holds a validly perfected security interest in the account.

This requirement poses a substantial operational challenge, because obtaining a security interest in a deposit account requires a control agreement with the merchant and the merchant's bank.

Convenience Fees and Surcharges

States have enacted laws that regulate fees, including convenience fees and surcharges. A patchwork of state laws, along with card network rules, govern these fees, although some have recently been amended or overturned by federal courts.

Regardless, plaintiffs have continued filing class actions against lenders and servicers for assessing convenience fees.

Some lawsuits allege that the fees are prohibited under state consumer protection statutes or that the entities are debt collectors under state debt collection laws such that they are not permitted to charge any fees that are not in the underlying loan agreement or otherwise expressly permitted by applicable state law.

Money Transmission

Money transmission continues to be a focus of state regulators. Thirty-nine states recognize the agent of the payee exemption, which generally requires the following: a written agreement between the agent and the payee directing the agent to collect payments on the payee's behalf; the payee must hold out the agent to the public as accepting payment; and payments must be treated as received by the payee upon receipt by the agent so there is no risk of loss to the payor.

Thirty-five states recognize the agent of the bank exemption, which generally requires the following: that the agent is engaging in money transmission on behalf of a federally insured depository institution (or some other financial entities) pursuant to a written agreement that sets forth the specific functions of the agent, and that the financial institution assumes all risk of loss and legal responsibility for outstanding money transmission.

Since there are no uniform exemptions applicable to most financial technology companies, many fintechs partner with financial institutions to conduct money transmission.

In doing so, fintechs negotiate agreements with financial institutions for the financial institutions to hold for-the-benefit-of accounts where the account is held in the financial institution's name and tax identification number.

Some states have recognized that a money transmission license is not needed if an entity is removed from the flow of funds such that the financial institution is conducting all money transmission.

National Trust Banks and the Genius Act

In 2025, the Office of the Comptroller of the Currency received 14 national trust bank charter applications and conditionally approved five, consisting of two de novo national trust bank charters and three conversions from state trust companies to national trust banks.

All five institutions are focused on digital asset and cryptocurrency-related services, including digital asset custody and stablecoin operations.

National trust banks generally do not accept deposits and are not subject to legal requirements to maintain FDIC deposit insurance.

The Guiding and Establishing National Innovation for U.S. Stablecoins, or Genius, Act was signed into law last summer and established a regulatory framework for payment stablecoins in the U.S.

The Genius Act defines “payment stablecoins” as digital assets designed to maintain a stable value relative to a fixed amount of U.S. dollars or similarly liquid assets and intended for use as a means of payment or settlement.

Only entities designated as “permitted payment stablecoin issuers” will be legally authorized to issue payment stablecoins in the U.S. The act also makes it unlawful for a digital asset service provider to offer or sell a payment stablecoin that is not issued by a permitted payment stablecoin issuer to a person in the U.S.

There are three categories of permitted payment stablecoin issuers:

- Subsidiaries of insured depository institutions, subject to approval by their primary federal regulator;
- Federally qualified payment stablecoin issuers, which include nonbank entities (other than a state qualified payment stablecoin issuer), OCC-chartered uninsured national banks, and federal branches that have been approved by the OCC; and
- State-qualified payment stablecoin issuers, subject to approval by a state payment stablecoin regulator.

Permitted payment stablecoin issuers would be limited to the following activities:

- Issuing payment stablecoins;
- Redeeming payment stablecoins;
- Managing related reserves, including purchasing, selling, and holding reserve assets or providing custodial services for reserve assets;
- Providing custodial or safekeeping services for payment stablecoins, required reserves or private keys of payment stablecoins;
- Undertaking other activities that directly support any of the permitted activities; and
- Other activities authorized by the primary federal or state regulator.

Permitted payment stablecoin issuers would be prohibited from paying interest to stablecoin holders.

Digital asset companies began seeking national trust bank charters because they can use the charter to provide custody of crypto-assets, potentially get access to a Federal Reserve master account so they can facilitate automated clearinghouse and wire transactions and, once regulations are created under the Genius Act, have a permitted payment stablecoin issuing vehicle.

Special Purpose Payments Charter

Subsequently, on Dec. 16, the Fed **issued** a request for information on a new special purpose “payment account” prototype, which is essentially a stripped?down Federal Reserve Bank account designed for institutions focused on payments innovation.

The goal with this specialized or “skinny” access is to give legally eligible, payments?centric institutions a more predictable and lower?risk path to access key Fed payment services, without changing who is legally eligible for Fed master accounts.

A payment account would be separate from a traditional master account and used solely to clear and settle the account holder’s own payment activity. It would be subject to tight structural limits: capped overnight balances (the Fed is considering the lesser of $500 million or 10% of total assets), no interest on overnight balances, no discount window access, and no intraday credit (meaning any transaction that would create an overdraft would be automatically rejected).

The account could be used to settle Fedwire Funds, FedNow, the National Settlement Service, and free?of?payment Fedwire Securities transfers, but not automated clearinghouse, check, FedCash or delivery?versus?payment securities transfers.

Payment account holders also could not act as correspondents or settle for other institutions.

For payments?focused institutions — including some fintechs and special purpose banks that are legally eligible but have faced long, uncertain master account reviews — a payment account could provide a practical, albeit constrained, way to gain direct access to some Federal Reserve payment rails while reducing reliance on correspondent banks.

At the same time, the inability of a payment account holder to process automated clearinghouse transactions and the payment account’s tight limits on balances, services, credit and correspondent activity mean it is not a full substitute for a traditional master account, but rather a narrowly tailored access model aimed at limiting risks to the Reserve Banks, the payment system and monetary policy.

What to Expect in Payments in 2026

In 2026, we expect more innovation and pushing of regulatory boundaries. However, state regulators and litigation will continue to challenge financial services companies.

States will continue to enact laws, such as EWA laws, that require financial services companies to comply with a patchwork of rules, making it increasingly difficult for smaller players to enter the market.

The states will also likely enact laws targeted at so-called junk fees and setting parameters around convenience fees and surcharges.

Financial institutions will continue to adopt FedNow and Real Time Payments, and institutions will move from receive-only transactions to both send and receive transactions.

While many have said, “faster payments, faster fraud,” artificial intelligence will be used as a tool to help combat fraud in instant payments and beyond.

Implementation of the Genius Act is underway as we look forward to the July 18, 2026, deadline for multiple

agencies to issue rules and provide reports to Congress.

As required by Section 9(a), the U.S. Department of the Treasury met the first deadline of Aug. 17, 2025, by issuing a request for comment on innovative methods to detect illicit finance involving digital assets.

Then in September, the Treasury Department kicked off its rulemaking process with an advance notice of proposed rulemaking to solicit public comment on potential regulations that may be promulgated by the Treasury, including Bank Secrecy Act/anti-money laundering and sanctions obligations.

In December, the FDIC issued the first proposed rule under the Genius Act that would establish procedures to be followed by FDIC?supervised institutions, state nonmember banks and state savings associations that want to issue payment stablecoins through a subsidiary, with comments currently due no later than Feb. 17.

We expect companies will become permitted payment stablecoin issuers and begin issuing stablecoins under applicable rules. There will likely be an increase in the use of stablecoins in a variety of use cases, in particular for cross-border payments.

Fed Gov. Christopher Waller previously stated the goal was to have payment accounts “up and operationalized by the fourth quarter of 2026,” but this aggressive timeline is likely not going to be met. Instead, comments on the payment account prototype are due 45 days after publication in the Federal Register.

The board specifically seeks input on whether the payment account’s design meets real?world payments needs, which use cases it best supports, how it affects risk (including anti-money laundering, Bank Secrecy Act and countering-the-finance-of-terrorism risks), and whether the proposed balance caps, service set, and no?interest/no?credit structure are appropriate.

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