Faster Payments and the Regulatory Landscape

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Panelists

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Moderator

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Importance of Faster Payments – Pandemic

- Acceleration of Move to Digital
  - Groceries Ordered Online, Paying Bills + Others
- Need for Fast Funds
  - Payment Protection Program, Unemployment Benefits
- Work of Regulatory Group
  - First Deliverable: List of Laws and Regulations
    - Purpose
    - Process
    - Design
“Financial Integrity” refers to the obligation of originating and receiving FIs to ensure that the faster payments system is not used for unlawful purposes or by government-prohibited persons.

### Relevant Laws/Regs + Requirements

**Bank Secrecy Act of 1970 (BSA)**
- Imposes anti-money laundering (AML) program, recordkeeping and reporting requirements on financial institutions, all designed to prevent and detect money laundering and other crimes.
- Specifies what an AML compliance program must include (internal controls, independent testing, responsible person, and training).

**Suspicious Activity Report (SAR) - OCC Regulation**
- Requires banks to file SARs when suspicious activity is detected.

**Office of Foreign Assets Control (OFAC) Laws**
- Requires screening for and blocking Specially Designated Nationals & Blocked Persons – determined by the U.S. government.

### Purpose of the Law/Reg + Relevance to Faster Payments

- **Bank Secrecy Act**: The purpose is to prevent criminals from using FIs to hide or launder money, including for financing terrorism. *Most or all faster payments FI participants will be subject to this law (and related regulations).*
- **SAR OCC Regulation**: Promulgated to implement the BSA. Same purpose and *faster payments relevance* as the BSA.
- **OFAC Laws**: These economic and trade sanctions are in support of U.S. national security and foreign policy objectives, designed to prohibit “bad actors” from using the U.S. financial system. *Faster payments transactions may require screening.*

### Compliance Obligation; Affects Consumers and Businesses?

- **BSA**: FIs required to comply; affects *businesses* and *consumers*.
- **SAR OCC Regulation**: FIs required to comply; affects *business* and *consumers*.
- **OFAC Laws**: *FIs and others* required to comply; affects *businesses* and *consumers*. 
Phase 2: Analysis of the Laws and Regulations

- Key Questions to Consider
  - Need for Change...or Not?
    - Alternatives to Changing Laws or Regulations
- What Will Merit Most Discussion?
- Potential Points of Impasse?
Regulatory Landscape

- Effect of Regulatory Landscape on Ability to Compete
- Impact of Pandemic
  - Changes to Laws and Regulations?
  - More Encouragement of FinTechs?
    - Example – OCC Payments Charter
- Other Developments, Trends?
  - State Laws
Faster Payments Initiatives

- Legal Support of Faster Payments Initiatives
  - Advise Within and Advocacy
- Strategy for Engagement with Regulators
  - Education
Final Thoughts

- Regulatory Landscape – Complex and Dynamic
- Projections – Faster Payments in the Market and Regulations