

PAYMENT INNOVATIONS

In the past, electronic payments have been dependent on Electronic Funds Transfer (EFT) between banks and have been utilized by consumers through the Automated Clearing House (ACH) network or through bank-issued payment cards linked to card networks such as MasterCard, Visa, Discover, or American Express. Though the fundamental EFT technology has remained unchanged, consumers' actual means of payment have evolved and now encompass credit, debit, prepaid, RFID¹ and more. With the rise of the Internet, however, and the increasing ubiquity of e-commerce, new payment systems have become available to consumers and are facilitating Internet-based payments, particularly through mobile devices such as smart phones.

PayPal², which was previously fully owned by eBay and split as of July 20, 2015, was among the first of these new systems to become widespread in the USA. It allows payments and money transfers to be made through the Internet. Online money transfers serve as electronic alternatives to paying with traditional paper methods, such as checks and money orders. In fact, PayPal is an acquirer, performing payment processing for online vendors, auction sites, and other commercial users, for which it charges a fee. It may also charge a fee for receiving money, proportional to the amount received.

Bitcoin³ is seen by many as a next generation payment system, though it is, in effect, a digital currency with peer-to-peer payment functionality. Alternative "currencies" have existed in games, apps, and stores for some time now (e.g. Amazon Coin, Facebook credits etc.), but Bitcoin is one of the first crypto-currencies, so-called because it uses cryptography to control the creation and transfer of money. Users send payments by broadcasting digitally signed messages to the network. Participants known as miners verify, timestamp, and record transactions into a shared public database called the block chain, for which they are rewarded with transaction fees and newly minted bitcoins.

Other payment technologies, such as Square⁴ are designed to give vendors easy ways to accept network branded payment cards through an online application.

All of these new technologies: new kinds of acquirers like PayPal, digital currency options like Bitcoin, and Internet-based payment solutions like Square, have forced policymakers to look at

¹ Radio Frequency Identification (RFID) is a means to pass payment information across a very short distance between transmitter and receptor.

² www.PayPal.com

³ www.bitcoin.com

⁴ <https://squareup.com/>

new laws and regulations to protect consumers. As technologies have evolved, regulation has begun to evolve alongside them, focusing on their probity, as well as paying close attention to data security and privacy issues for users. PayPal, along with Amazon and Google, is licensed at the state-level as a money transmitter on a state-by-state basis. These entities are not classified as banks in the United States, despite their status as acquirers, though they are subject to some of the rules and regulations governing the financial industry, including Regulation E consumer protections.

Regulating crypto-currencies like Bitcoin is proving more difficult to work through. As a newer technology, debate is currently ongoing in Washington D.C. as to the best way to regulate something that is so much more than a payment system. The SEC is reviewing whether Bitcoin should be treated as a security, and the Department of Homeland Security (DHS) has expressed significant concerns about this and other crypto-currencies in the wake of the Silk Road online marketplace shutdown.⁵ On March 18, 2013, the U.S. Treasury's Financial Crimes Enforcement Network (FINCEN) went the furthest of any agencies, producing two rules that define how exchanges should handle Bitcoin and other virtual currencies. The Bitcoin Foundation protests these rules as too onerous, as they force Bitcoin exchangers to register state-by-state as money transmitters – much like PayPal and its ilk. There is little doubt that we have not heard the last of these regulatory efforts.

AFSA'S POSITION

The American Financial Services Association (AFSA) welcomes the increased competition among providers of payment services that new technologies deliver. As a representative body for card networks, we keep a close eye on any attempts to regulate new technologies that risk inadvertently affecting the ability of AFSA members to do business. We will continue to monitor the development of innovative payment technologies and the regulatory attention that is paid to them.

⁵ The Silk Road was a clandestine website that allowed people to trade in illicit commodities such as drugs. Bitcoin was the currency used to facilitate transactions. The website was shut down by the FBI in October 2013.