

The Electronic Transactions Association's

2022 State Legislative and Regulatory Policy Priorities

The digital payments industry is one of the most innovative, dynamic, competitive and highly regulated industries that exists today, leveraging a sophisticated, interconnected infrastructure to deliver financial products and services that benefit consumers, businesses, and the American economy. These products and services are safe, highly secure, and promote financial inclusion by allowing consumers — including low-and-moderate income consumers who have historically not had full access to the financial system — to conduct their everyday financial transactions.

ETA and its member companies support state policies that foster a competitive business climate, which fuels the ongoing innovation that is making financial inclusion a reality.

Artificial Intelligence/Machine Learning — ETA members have developed advanced tools to combat fraud, improve access to credit, and reduce operational costs, all of which help consumers and small businesses. ETA supports policies that encourage the appropriate use of Artificial Intelligence and Machine Learning.

Buy Now Pay Later (BNPL) — BNPL has seen quick uptake among consumers interested in the option of spreading a purchase over several installments. BNPL is one example of innovation in payments that, when adopted carefully and thoughtfully, provides additional payments choice. ETA supports a regulatory approach that fosters innovations and encourages the development and deployment of new products and services that benefit consumers.

Cryptoassets — Cryptoassets have the potential to change how commerce happens. An appropriate regulatory framework is essential if that potential is to be realized in a manner that protects consumers and fosters continuing innovation. That framework should not be prescriptive but should instead carefully consider the use to which the cryptoassets are being put and tailor regulation to the risk profile presented.

Specifically, ETA supports public policies that advance the following the [5 guiding principles](#) which we believe are critical to ensuring the appropriate regulatory balance is struck:

- Properly Defining Cryptoassets,
- Tailoring Regulations to the Risk Profile of the Participant/Activity,
- Ensuring Consumer Protection,
- Harmonizing With Existing Regulatory Frameworks, and
- Encouraging Responsible Innovation

Freedom of Contract — ETA supports policies that protect and promote the ability of ETA's membership to freely contract for their services without burdensome mandates or unnecessary government intrusion.

Gift Cards — ETA supports policies of ensuring consumers have access to gift card products that are easy to use and understand but is opposed to legislation that imposes unduly burdensome regulations on customers and that, perversely, incentivizes fraud.



Lending (Commercial and Consumer) — ETA members are continuously working to expand access to credit by developing and deploying new online financing products tailored to the diverse needs of small businesses. Using sophisticated, data-driven algorithms to assess the creditworthiness of potential small businesses, online small business financiers use non-traditional underwriting data inputs to give a full picture of the credit worthiness and assess the credit risks of small businesses to provide critical funding, and in some cases within minutes, to businesses.

Money Transmission — ETA opposes legislative proposals that would harm consumers who count on money transmitters for a number of services including, but not limited to, bill payment, online and app-based peer-to-peer transfers, domestic and international remittances, stored value (prepaid) cards, and other devices which can serve as a substitute or supplement for holding funds in a bank checking account.

Additionally, ETA opposes legislation that would jeopardize law enforcement efforts as money transmission is subject to an extensive regulatory framework designed to root-out and stop money laundering as well as document individuals who use money transmitters and ensure those records are preserved for use by law enforcement, as necessary.

- **Model Money Transmission Modernization Act** — ETA supports the enactment of the Conference of State Bank Supervisors' Model Money Transmission Modernization Act ("Money Transmitter Model Law") across the U.S. states and territories. ETA commends the work of CSBS to help develop a model bill that will bring clarity and uniformity to the regulation of money transmission. ETA also acknowledges that the development of a national standard will be successful only if it is adopted by every state in a consistent form. Therefore, states should adopt the consensus model language as a whole and refrain from choosing to adopt some sections of the model bill while ignoring others, because doing so would undermine the stated goal of achieving nationwide uniformity.

Payment Processing (Direct Impact) — ETA opposes efforts to make payment processors provide information through the provisions of Congress's INFORM Act that potentially undermines consumer privacy, risks increasing fraudulent activity online, shifts enforcement burdens and liability to online marketplace operators, and discourages business growth of American online retailers.

Privacy — The payments industry has long been committed to protecting the privacy of consumers' data. That commitment, along with the industry's commitment to security, is at the core of the public's trust in the industry. ETA supports a strong federal privacy standard that is principles-based to ensure predictability and consistency for consumers. Because privacy and security are intertwined, any privacy regime must also ensure that data can continue to be used to further the industry's robust and effective fraud-protection efforts.

Smart Security — Protecting the payments industry, and the businesses and individuals who rely on it, from fraud is paramount. ETA supports policies that encourage the private sector to continue to develop the robust security measures that are critical to the security of the payments ecosystem.

- ETA opposes efforts to codify a specific technology as a payment's security measures.
- ETA encourages innovation for new technologies to be used in reducing fraud.
- ETA supports the usage of individual digital identities.

Taxation — ETA opposes the application of new or expanding existing taxes to the payments industry.



Regulatory Sandboxes – ETA supports state regulatory sandboxes that encourage continued innovation in new products and services while ensuring consumers are adequately protected.

Real Time Sales Tax (RTST) – ETA adamantly opposes any state proposal that would require payment processors to remit sales tax from their merchants to the state on a daily basis and opposes other similar tax collection/remittance schemes. If a state adopted RTST, it would create an entirely new system of sales tax and place redundant and unnecessary burdens on the payments industry.

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In supporting these policy positions, ETA is guided by the following principles:

A Regulatory Environment that Encourages Innovation – Regulations set the tone for innovation. ETA supports a positive regulatory environment that encourages continued innovation in new products and services while ensuring consumers are adequately protected. Examples include ETA’s support of:

- Fintech charters subjecting holders to supervision for safety & soundness and consumer protection based on the risk–profile of the charter holder.
- Innovation that has reduced banking deserts.
- The shift to a more digitized economy with current infrastructure.
- The strengthening of online small business lending by providing certainty and continuity to online, small business lending (Madden–fix/True lender).

Diversity, Equity, and Inclusion – ETA believes in a society that is equitable and inclusive. We know that to create the best payments industry – both as employers and participants – we must leverage the benefits of diverse skills and perspectives.

- ETA supports policies that encourage diversity, equity, and inclusion, and in our own businesses seek diverse perspectives and skills – all of which will lead to better outcomes for the payments industry and consumers and merchants who use it.