

Understanding Negotiable Instruments and Payment Systems

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Understanding Negotiable Instruments and Payment Systems

SECOND EDITION

William H. Lawrence

PROFESSOR OF LAW
UNIVERSITY OF SAN DIEGO, SCHOOL OF LAW



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For Mary Jean

—W.H.L.

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William H. Lawrence
September 2018

Organization of the Text

This text includes two parts. Part I—the predominant area of discussion—covers negotiable instruments. These instruments serve as a means to initiate a payment, as a means to evidence a grant of credit, or both. The law governing negotiable instruments is primarily Article 3 of the Uniform Commercial Code (U.C.C. or the Code). Many negotiable instruments enter into the bank-collection process, an event that initiates the applicability of Article 4 of the U.C.C. The discussion of negotiable instruments in this text thus focuses extensively on Articles 3 and 4. These articles, however, are not comprehensive statements of the law of negotiable instruments. The discussion also refers to additional relevant state and federal law.

Negotiable instruments by no means are the only method to initiate a payment in modern commerce. Furthermore, the U.C.C. is far from comprehensive in its coverage of payment systems. Articles 3 and 4 govern payments initiated through negotiable instruments. Article 5 covers payments initiated through a letter of credit. The Permanent Editorial Board of the U.C.C. promulgated a new Article 4A in 1989 and all but one of the states have enacted it. Other payments systems—including cash, credit cards, debit cards and certain electronic payment methods—are not governed by the Code at all. A variety of state and federal statutes and regulations provide the legal framework for payments through these systems. Part II of this text addresses all of these systems that provide alternatives to using negotiable instrument as the mechanism to initiate a payment.

