

CREDIT + LEGAL MAKE RISK ENFORCEABLE



AN OPINION ON PARTNERSHIP IN PAYMENT SERVICES

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Weitl Enterprises LLC

Break the Paradigm

Credit and Legal: Make the Contract Carry the Risk

How two disciplines can turn merchant exposure into clear, workable rights

Peter Weitl | Founder and CEO, Weitl Enterprises LLC | September 24, 2026 | Opinion

A payment service provider (PSP) can measure a merchant's potential losses precisely and still lack a practical right to recover them. It can also negotiate broad contractual rights that offer little protection if no one understands when or how to use them. At Weitl Enterprises LLC, our view is that Credit and Legal do their best work when they begin with the same exposure and design a response that the merchant can understand and the PSP can administer.

Begin with the path to loss

Credit should explain the business before asking Legal for a clause: what the merchant sells, when the customer pays, when delivery occurs, how refunds and disputes arise, when funds leave the PSP, and what happens if the merchant cannot perform. The analysis should distinguish normal from peak volume and identify the exposure that may remain after the last transaction settles. Legal can then test which entity owes the obligation, which agreements govern the money, and which proposed remedies may actually be available.

That shared map matters especially when multiple entities are involved. A parent company's financial strength is not automatically the operating subsidiary's obligation. A guarantee, reserve, security interest, or right of setoff has different conditions and practical value; counsel should assess the relevant agreements, jurisdictions, priorities, and enforceability before Credit counts it as support. Credit, in turn, should not treat a strong clause as a substitute for cash flow or a workable operating model.

Translate risk appetite into terms people can execute

The contract should answer operational questions, not merely announce that the PSP may act in its "sole discretion." A useful joint review asks: Which event triggers a reserve review or payout change? How is the amount calculated? Which funds may be applied, for which obligations, and for how long? Who sends notice, and what evidence lets the merchant return to ordinary terms? The right answer depends on the transaction flow, the applicable agreements, and law; Credit supplies the exposure logic while Legal makes the terms precise and workable.

A reserve provision earns its place when Credit states the likely refund, chargeback, and non-delivery exposure and Legal tests the mechanics, permitted deductions, release schedule, notice, and



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amendment rights. Settlement teams must be able to calculate and explain the requirement. A template number without a loss path is as weak as an exposure estimate unsupported by an effective agreement.

Check the full stack of promises

A PSP's merchant agreement does not stand alone. Sponsor-bank and processor arrangements, network obligations, and merchant-facing promises may allocate responsibility differently. Before an exception, Credit and Legal should ask who bears chargebacks or negative balances; who may suspend processing or delay payout; and what notice, reporting, or termination duties follow. Bank guidance describes oversight from diligence and contract negotiation through monitoring and exit. It is directed to banks, but offers a useful discipline for PSP partners. [1]

Data protection also requires accurate allocation. Outsourcing does not erase a merchant's PCI DSS responsibilities; scope depends on services and access. Legal and Credit should know which commitments affect underwriting, while Security and Compliance own specialist decisions. [2]

Work together when the facts change

Consider an illustrative subscription merchant that begins taking a much larger volume of annual payments and changes its cancellation policy. Credit recalculates the possible refund exposure and asks whether the existing reserve still covers it. Legal checks the merchant agreement, any required notice or amendment, the entity responsible for those refunds, and applicable partner obligations. The joint answer may be a staged volume increase and a negotiated reserve change. If the contract does not authorize a unilateral hold, the answer is to seek a valid agreement or another authorized measure—not to assume the funds can simply be frozen.

In distress, Credit quantifies remaining exposure and alternatives; Legal preserves evidence, tests remedies, and coordinates notices and partner duties. The escalation route should name the decision maker, messenger, and review date.

Use AI as a drafting and comparison aid

Automation is most useful when it brings relevant facts to both teams sooner. It should never turn a plausible-sounding summary into an unreviewed legal conclusion. NIST identifies risks including inaccurate generated content, data privacy, and vendor oversight; the ABA's guidance to lawyers also emphasizes competence and confidentiality. [3, 4]

Candidate use	Benefit	Pitfall	Required control
Agreement comparison	Spot deviations from approved merchant, bank, and processor terms more quickly.	A model can miss an exception in an exhibit or misread who owes the duty.	Link every flag to exact language; counsel confirms meaning and hierarchy.



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COMMENTARY

Candidate use	Benefit	Pitfall	Required control
Clause and playbook drafting	Prepare consistent starting language for reserves, notices, and escalation.	Generic clauses can be unenforceable or inconsistent with the actual product.	Use approved templates; Legal owns final text and jurisdictional review.
Entity and obligation mapping	Surface guarantees, affiliates, and cross-references across files.	Similar names or incomplete records can create false counterparty certainty.	Verify legal entities, signatures, and operative documents before reliance.
Dispute chronology	Assemble dated events, approvals, and communications for faster response.	Missing records, invented citations, and privileged-data exposure.	Preserve originals, check citations, restrict access, and let counsel direct use.

A sensible pilot uses approved documents, keeps privileged and sensitive material in authorized systems, records the model's version and sources, and tests errors against human review. Neither an AI system nor Credit should deliver a final legal interpretation or merchant notice without counsel's approval.

Make partnership routine

Credit and Legal should review new products, unusual merchants, material exceptions, and deteriorating relationships together. Their shared record should state the exposure, the supporting contract, the chosen measure, the decision maker, and the date for reconsideration. Legal should be involved before a promise is made or a crisis leaves no good options; Credit should bring quantified risk rather than a generic request for stronger language.

Credit identifies the risk the PSP is willing to carry. Legal makes the rights and obligations clear enough to support that decision. Neither discipline can do the other's job, and the strongest merchant relationships are built when both are present from design through resolution.

This commentary expresses the perspective of Weitl Enterprises LLC and is not legal advice.

Selected references

- [1] OCC, Interagency Guidance on Third-Party Relationships: Risk Management (2023), directed to banks. [Official guidance](#)
- [2] PCI Security Standards Council, FAQ on merchant outsourcing and written provider responsibilities. [Official FAQ](#)
- [3] NIST, AI Risk Management Framework: Generative AI Profile (2024), voluntary guidance. [Official publication](#)
- [4] American Bar Association, Formal Opinion 512 (2024) on lawyers' use of generative AI. [ABA summary](#)