

# The Three-Level IdM Legal Rules Environment

## *Clarifying the Role of the IDESG*

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**EDWARDS**  
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# Initial Questions

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- ♦ What is a Trust Framework?
- ♦ What is the Identity Ecosystem Framework (to be developed by the IDESG)?
- ♦ How do they relate to each other? (and to the EU)?

# Two Types of Rules

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- ◆ Public
  - ◆ Written by governments
  - ◆ Laws, statutes, regulations, case law
  
- ◆ Private
  - ◆ Written by private parties
  - ◆ Contracts
  - ◆ Must comply with public rules (i.e., law)

# All Online Identity Systems Require Privately Developed, System-Specific, Rules

## ♦ Purpose of Rules

- ♦ Make it work – from a functional perspective
- ♦ Make it trustworthy – willingness to participate
- ♦ Define & govern the legal rights and responsibilities of the participants

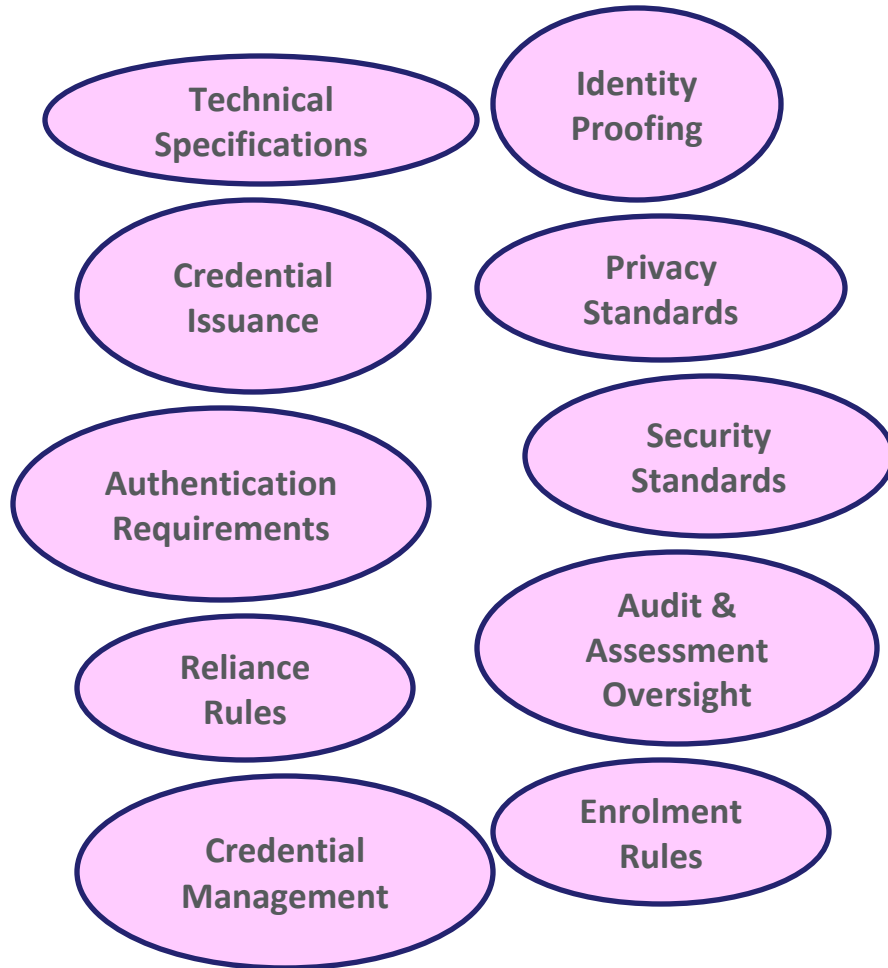
## ♦ Content of Rules

- ♦ Technical specifications
- ♦ Business processes and standards
- ♦ System policies and operational procedures
- ♦ Role performance obligations and requirements
- ♦ Assessment criteria
- ♦ Private legal rules – e.g., warranty, liability, dispute resolution
- ♦ Etc.

# Those Private Rules Go By Various Names

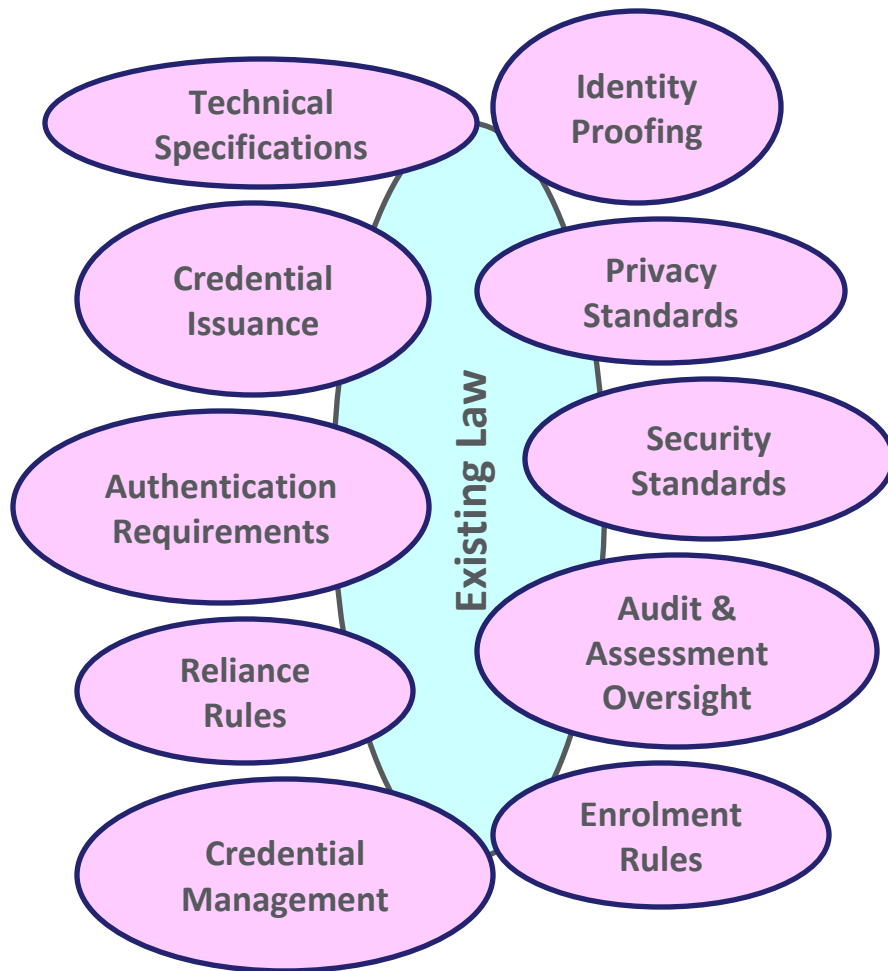
- ◆ **Trust Framework** – NSTIC / Kantara / OIX
- ◆ **Scheme Rules** – UK IDAP
- ◆ **Operating Policies** - SAFE-BioPharma
- ◆ **Federation Operating Policies and Practices** - InCommon
- ◆ **Operating Rules** – FIXs / CAHQ (health info exchange)
- ◆ **Operating Rules and System Documentation** - IdenTrust
- ◆ **Common Operating Rules** - CertiPath
- ◆ **Guidelines** – CA/Browser Forum
- ◆ **Operating Regulations** - Visa (credit)
- ◆ **Operating Rules** – NACHA (electronic payments)
- ◆ **Operating Procedures** – Bolero (e-bills of lading)

# Business & Technical Rules: (Components Necessary to “Make it Work”)



Partial listing of  
Business & Technical  
Rules

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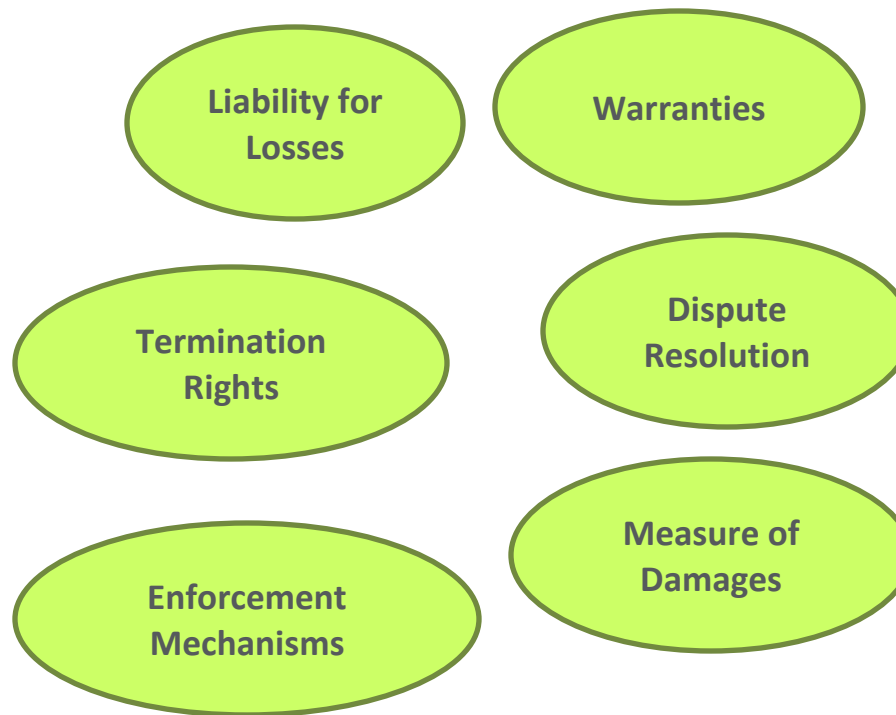
Partial listing of  
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# Legal Rules (contract-based) (To Govern Legal Rights of the Parties)

## Existing Law as Supplemented and/or Modified by Private Legal Rules

Partial listing of  
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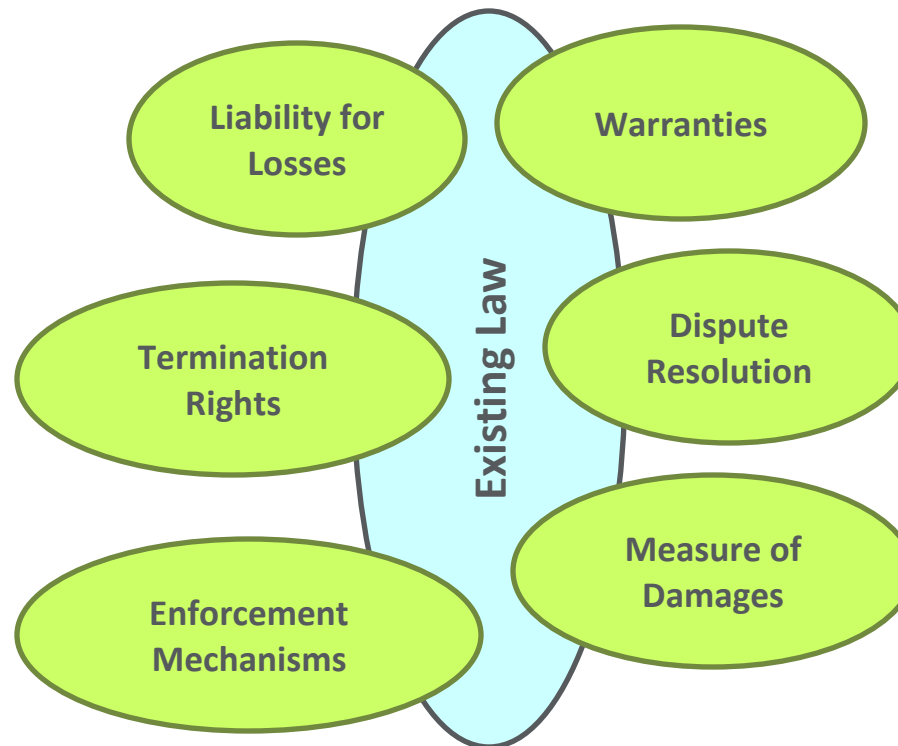




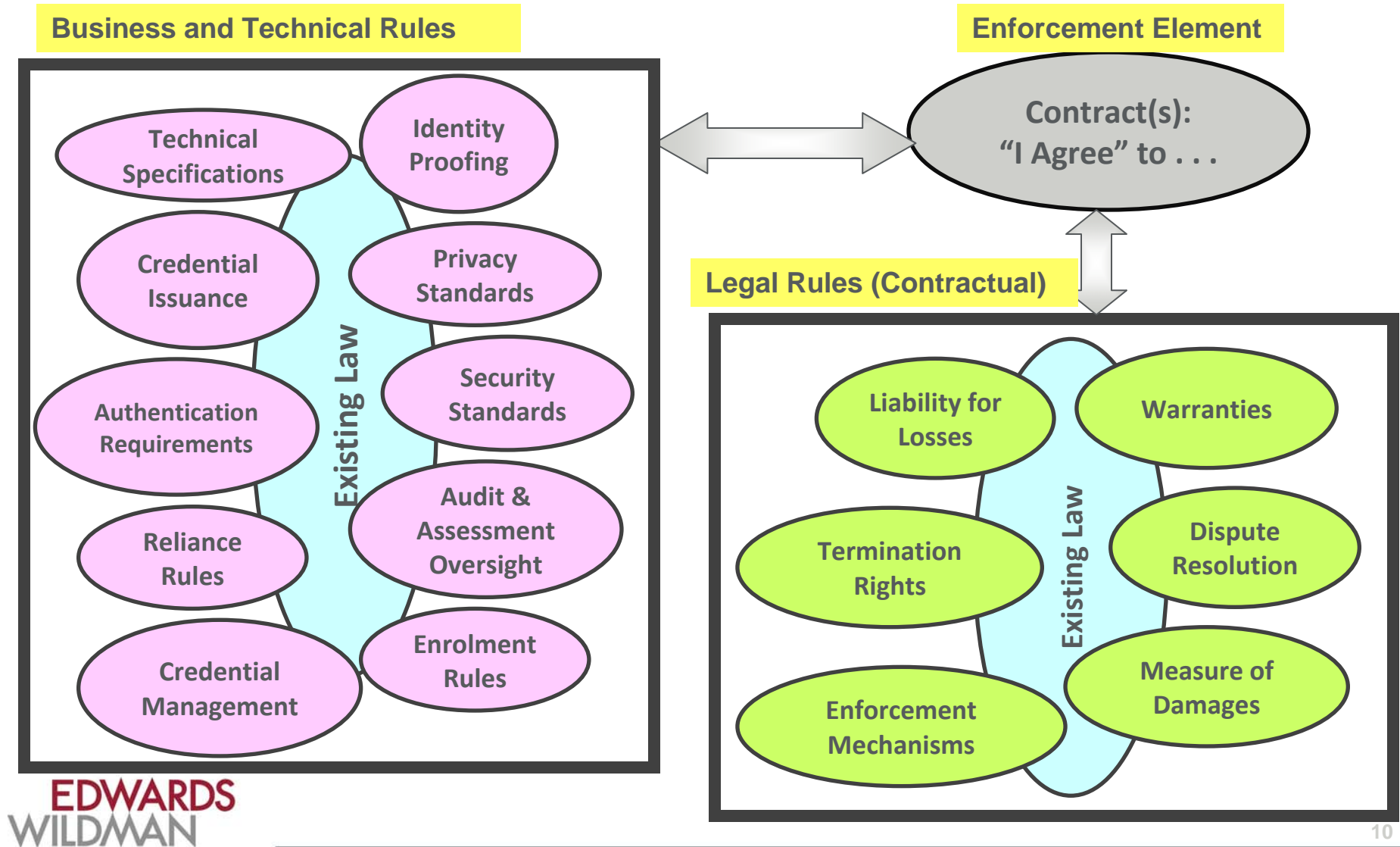
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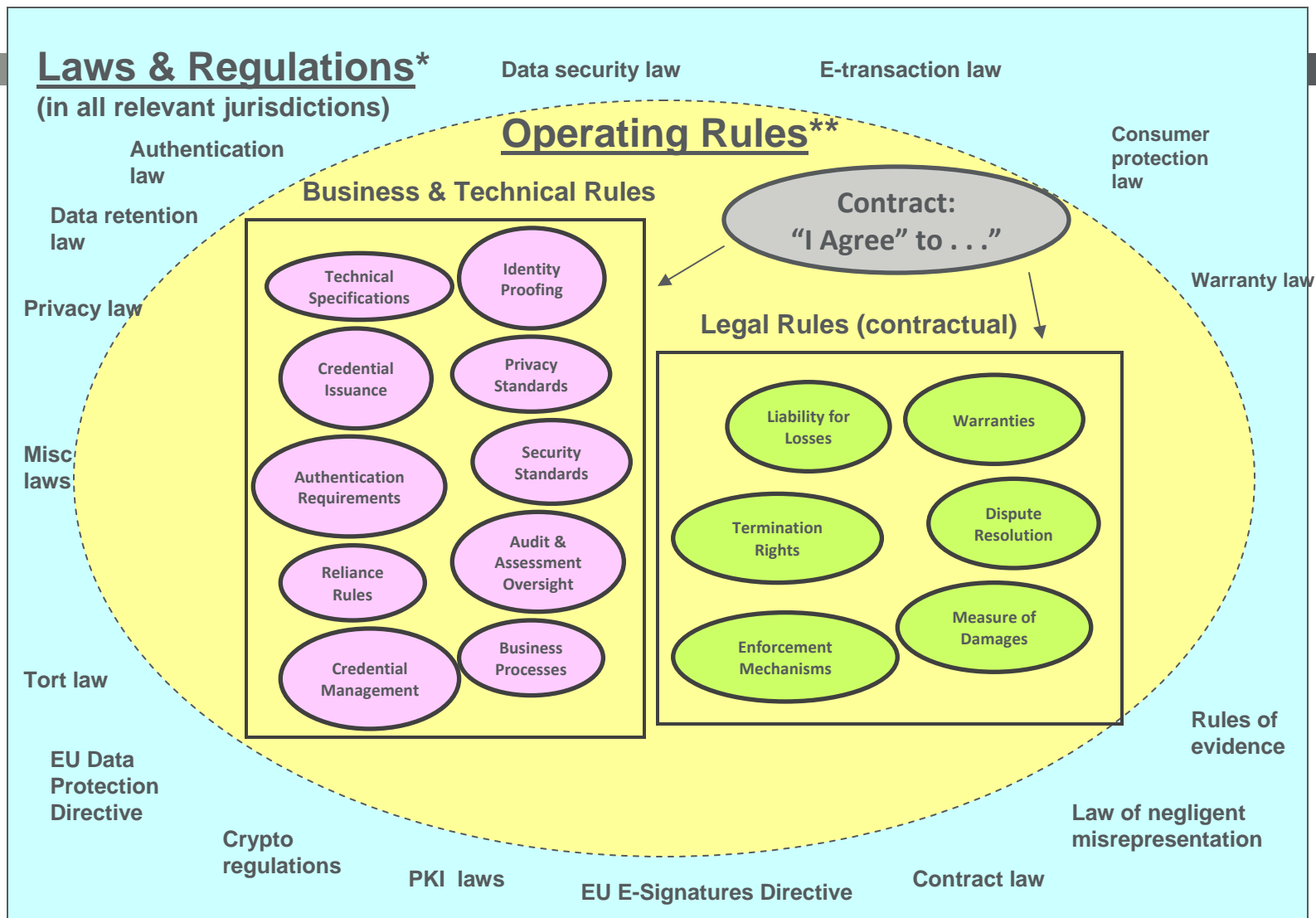
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# Putting It All Together to Form Enforceable “Operating Rules”



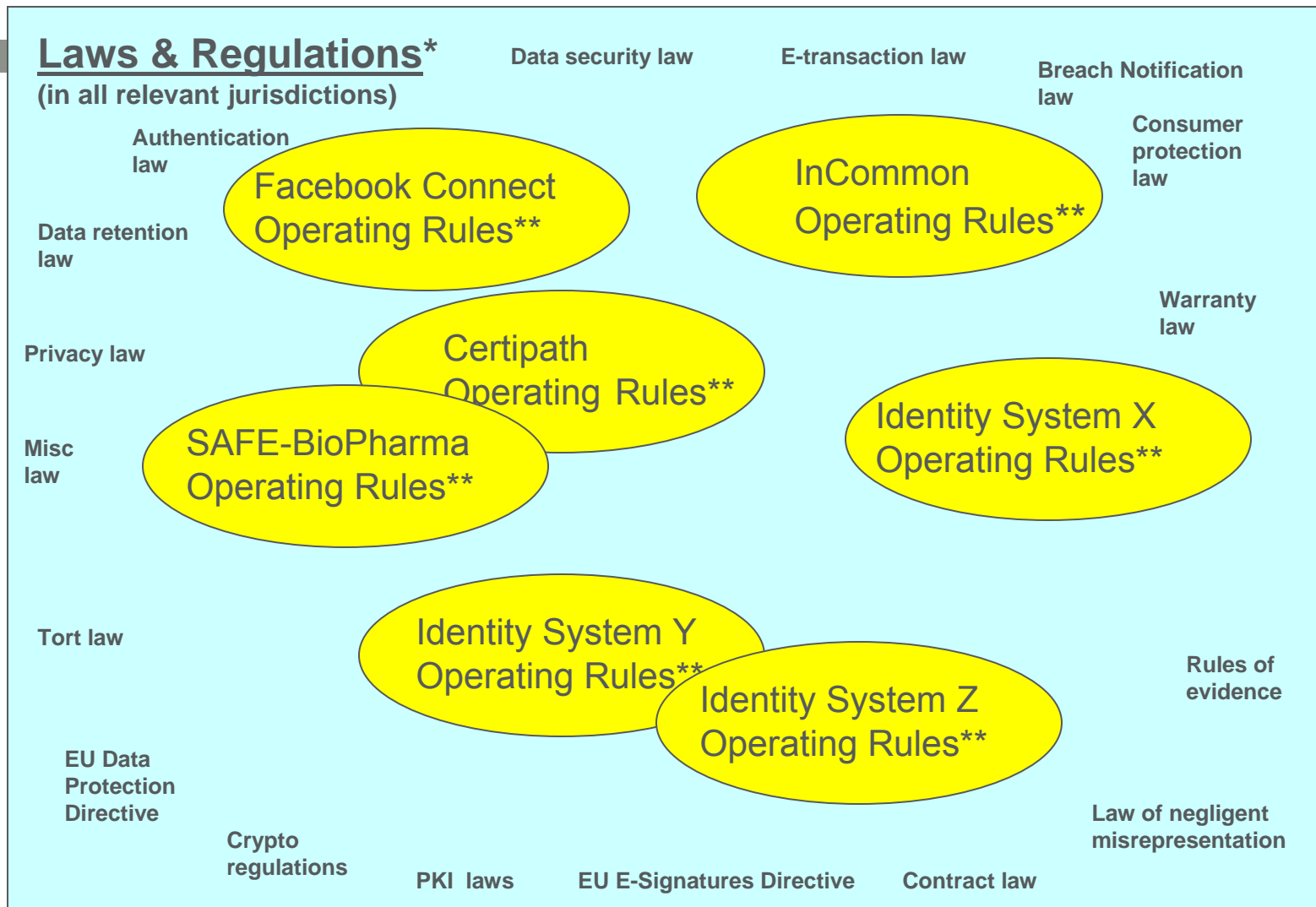
# Operating Rules Are Governed By Existing Laws



\* Written by governments; applies to all identity systems

\*\* Written by private parties; applies to a specific identity system

# Identity Systems Use Private Operating Rules that Operate Within the Public Legal System



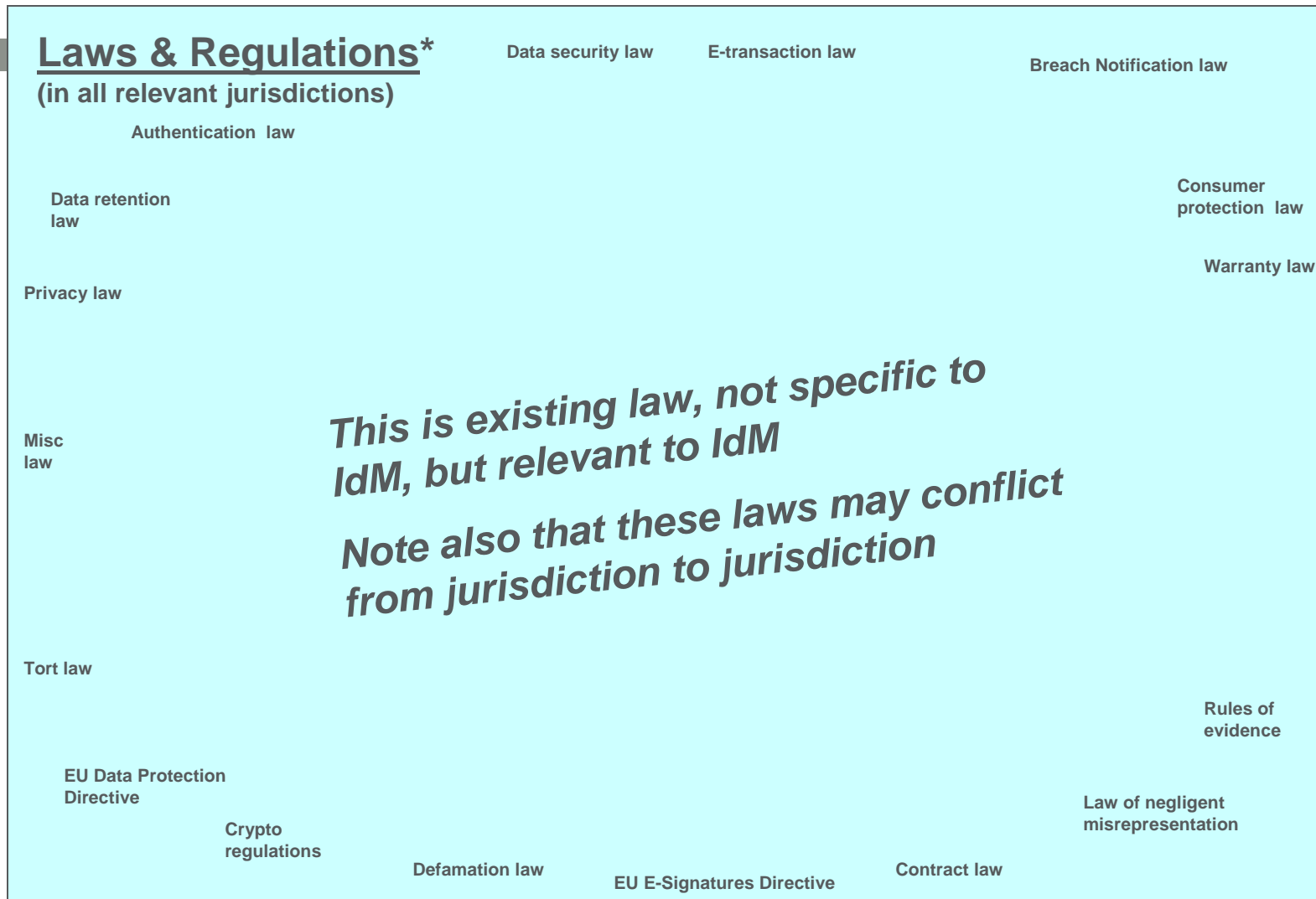
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# Three Levels of Law/Rules Governing ID Systems

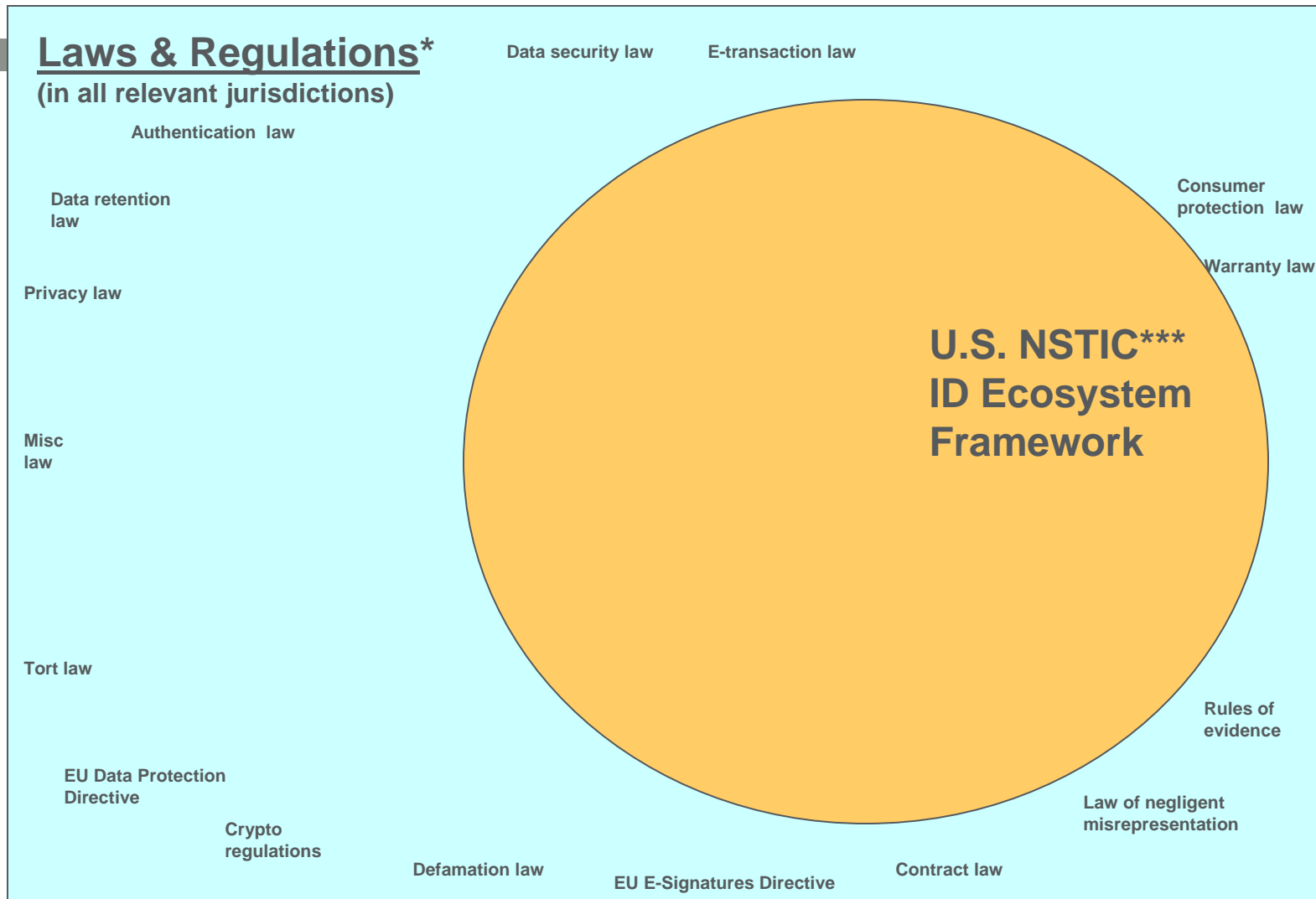
- ♦ Level 1 - Existing law, regulations, and common law
  - ♦ Public law
  - ♦ Enacted and enforced at the state and/or country level
  - ♦ Typically not specific to identity – e.g., negligence law, contract law
  - ♦ Not always clear how applies to identity
- ♦ Level 2 - Identity-specific law or voluntary frameworks
  - ♦ Public or private law
  - ♦ Applies to multiple identity systems
  - ♦ E.g., NSTIC – IDESG Identity ecosystem framework
- ♦ Level 3 - Individual identity system operating rules
  - ♦ Private law – typically contract-based
  - ♦ Developed specifically for a particular identity system

# The Identity Legal Framework -- Start with Level 1 – Existing Country Laws and Regulations



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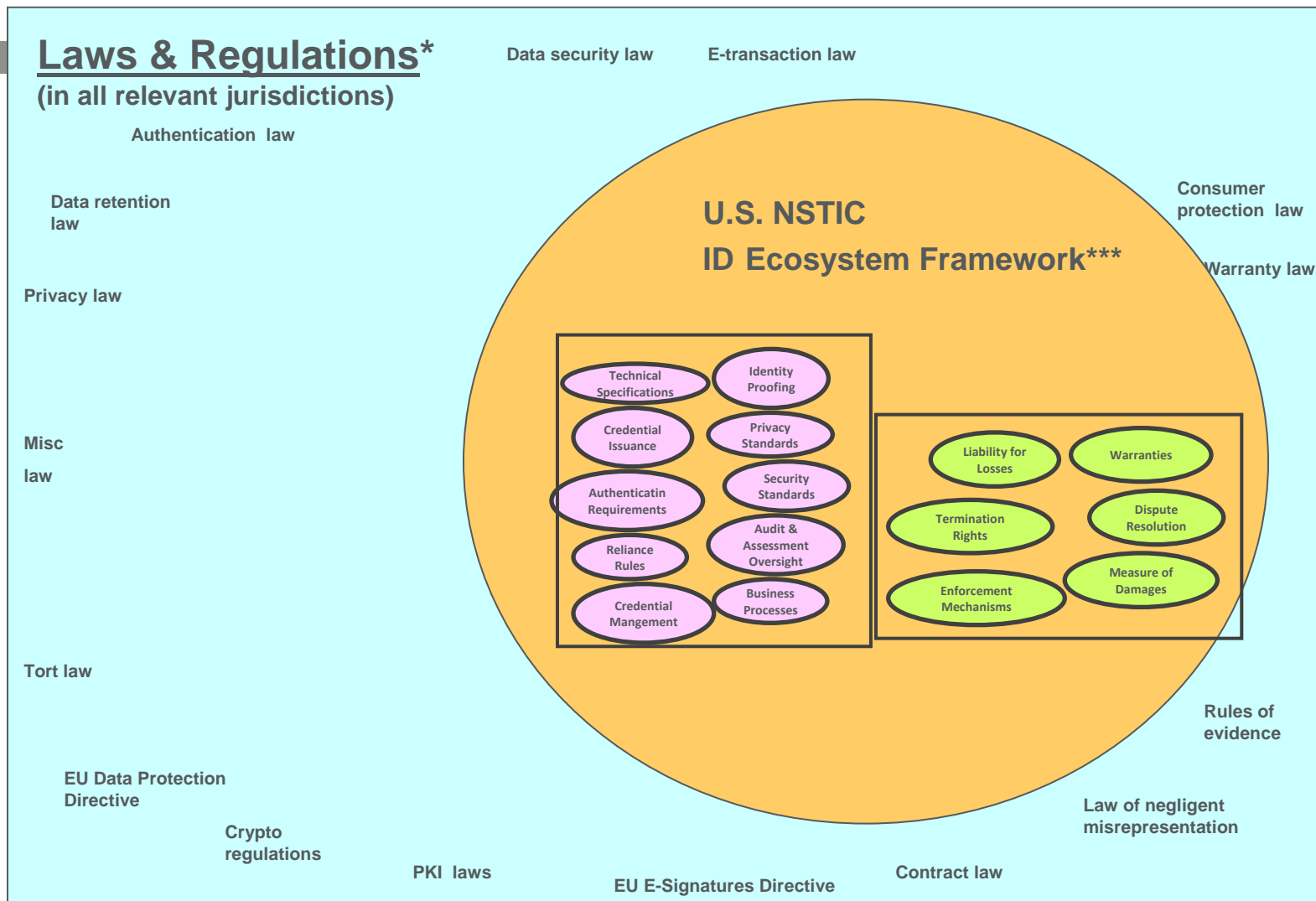
# Add Level 2 – in the U.S., Voluntary ID-Specific Rules Called the Identity Ecosystem Framework



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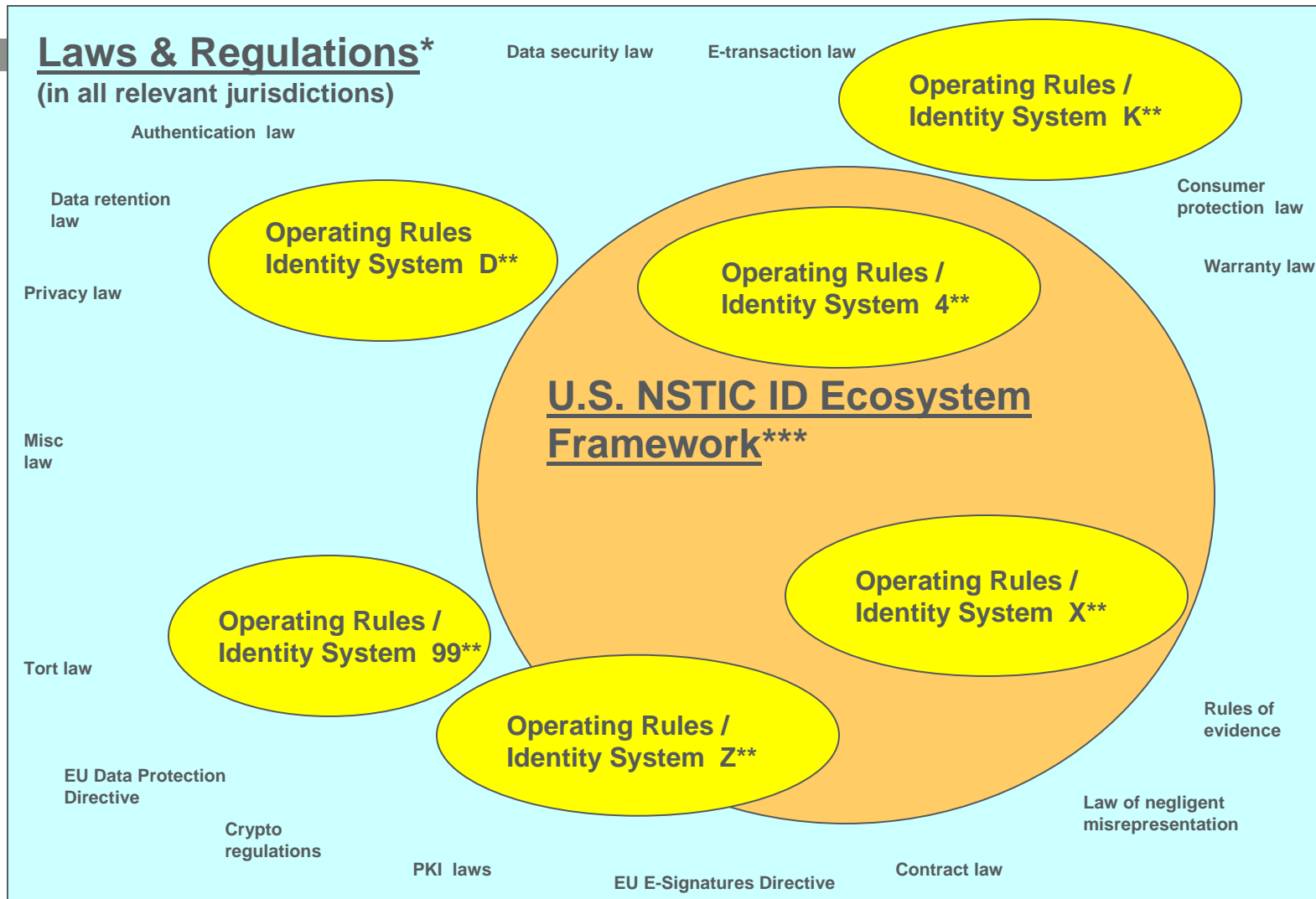


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# Add Level 3 – Individual Identity System Operating Rules (May or May Not Conform to Level 2 Rules)



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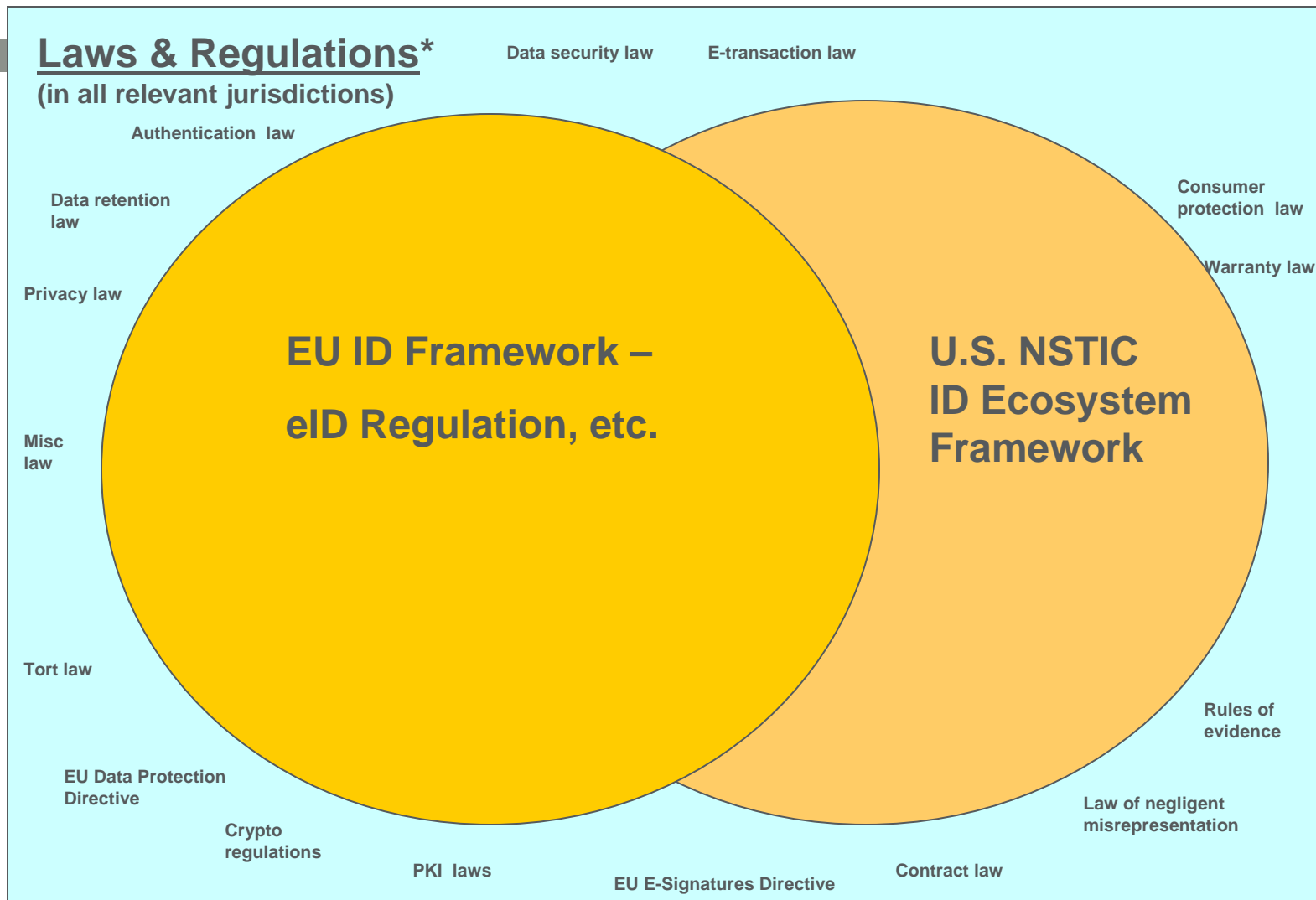
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# Challenges Include . . .

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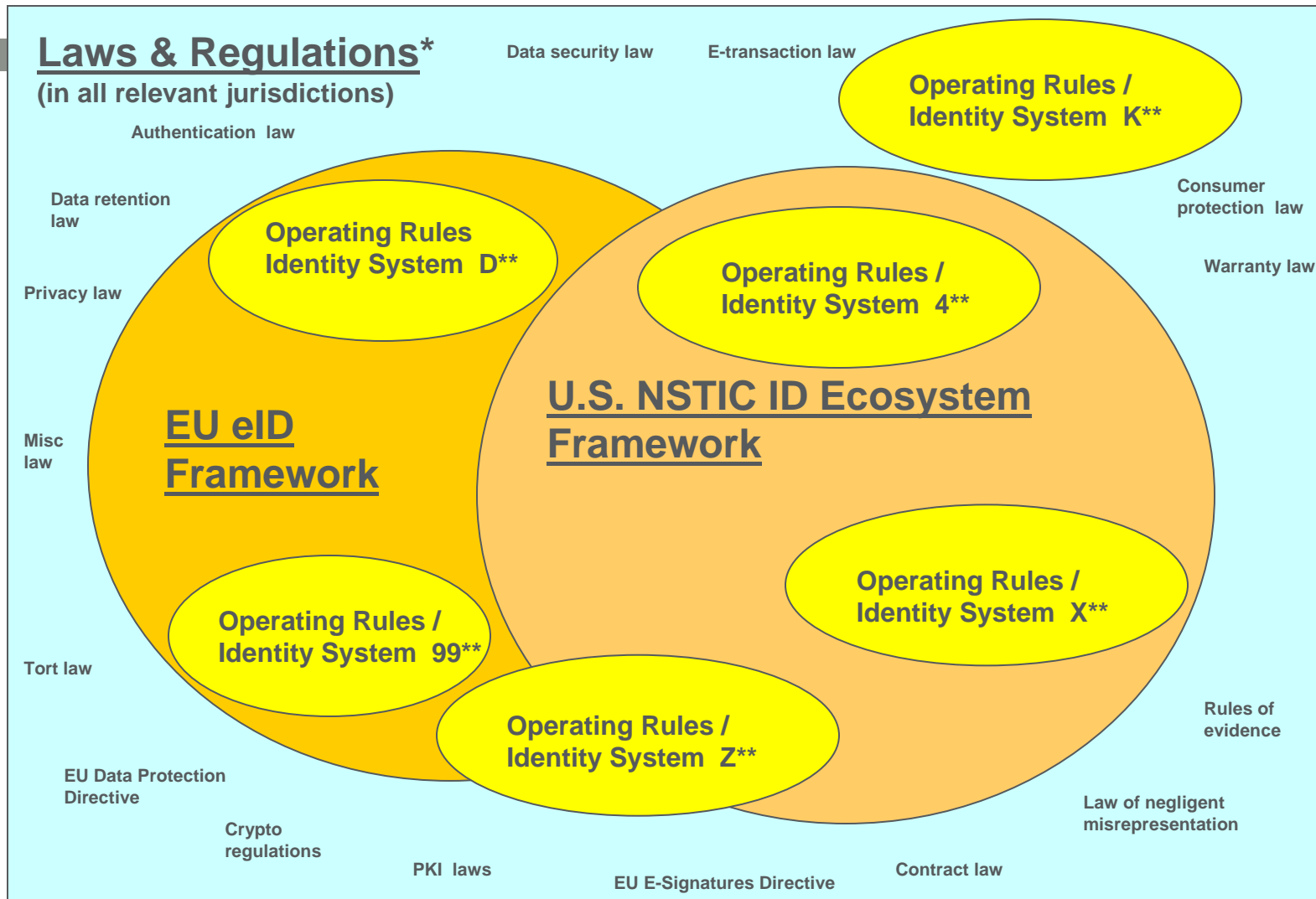
- ♦ What should IDESG cover in Level 2?
- ♦ To what level of detail should it be covered?
- ♦ How will IDESG level 2 fit with EU level 2?

## Level 2 – in the EU, Mandatory (??) ID-Specific Rules Called the eID Regulation or ??



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# Further Information

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