

Cash can leave a paper trail,  
but electronic payments could be  
an effective means of laundering  
money from illegal activities

# Crime and prevention: a Treasury viewpoint

**N**ew technologies have emerged that have the potential to change many fundamental principles associated with a cash-oriented society—indeed, the whole way we conduct all kinds of financial transactions and operate all payment systems.

As things stand, law enforcement agencies around the world recognize that “following the money” leads to the top of criminal organizations. Criminals have to move funds through the financial system to hide and use the proceeds of their crimes. Currency is anonymous, but it is difficult to hide and transport in large amounts. New electronic payments systems may well alter this. The speed that makes these systems efficient and the anonymity that makes them secure are desirable characteristics to both the public and law enforcement agencies. Yet the same characteristics make these systems equally attractive to those who seek to use them for illicit purposes.

Legitimate uses of these technologies are easy to illustrate. A shoe store in the United States could accept smartcards for purchases. As the store’s revenues increased, it could transfer the value of its revenues to another smartcard or download the value into a computer. This sum could in turn be transferred through the Internet to financial institutions, businesses, or people around the world and used to pay invoices, to order materials, and to pay suppliers—stimulating commerce, making trade less expensive, and providing benefits to consumers.

But now suppose that the retailer is a group of narcotics traffickers. Consider the invoices they might pay, the supplies they might order, and the transactions they might undertake successfully if they could download an unlimited

amount of value from a smartcard to a computer and then transmit those funds to other smartcards or to computers in locations around the world. Again, all this would happen anonymously, without an audit trail, and without any need to use traditional financial institutions.

Historically, law enforcement and regulatory officials have relied upon the intermediation of banks and other types of financial institutions to provide “choke points” through which funds must generally pass. In fact, many regulations, such as the Bank Secrecy Act enacted in 1970 and repeatedly amended, have been designed specifically to require financial institutions to file reports and keep certain records, ensuring the existence of a paper trail for law enforcement investigations. In an open environment like the Internet, exchanges of financial value could occur without the participation of a financial intermediary, thus, eliminating the choke point.

New systems will also diminish the effectiveness of traditional investigative techniques, which have typically relied on the analysis of financial documents. The ability—or inability—of financial institutions to know their customers in a potentially anonymous, paperless payment system is also a concern. Another challenge facing law enforcement is the fact that these payment systems are being designed to operate internationally in multiple currencies, so it will become harder to determine the correct jurisdiction.

Because of these potential vulnerabilities, the Financial Crimes Enforcement Network (FinCEN), a branch of the U.S. Department of the Treasury, has been meeting with developers of advanced electronic payment systems, our law enforcement and regulatory partners in the United States and abroad, and representatives of the financial services industry to examine how criminals might use these new systems to move and launder the proceeds of their illegal activities.

Too often, the government has attempted to thwart

---

STANLEY E. MORRIS  
*Financial Crimes Enforcement Network  
Department of the Treasury*



MARC YANKUS

potential threats by imposing a regulatory burden that does not reflect their true nature or the business practices of the industries affected. We cannot make the same mistakes with cyberpayment systems. The technology is developing too rapidly, and the potential efficiencies and other benefits are too important.

Yet if law enforcement concerns do not receive thoughtful and balanced consideration now, the prospect for abuse by organized crime, money launderers, and other financial criminals could be great. Moreover, we need to look beyond our borders to ensure both the integrity of these systems and fair competition in the global market. The secretary of the treasury has accordingly designated Eugene Ludwig, comptroller of the currency, as coordinator of Treasury's efforts in this area. Working with him are the U.S. Customs Service, Internal Revenue Service, Secret Service, Bureau of Alcohol, Tobacco, and Firearms, the Office of Foreign Assets Control, and FinCEN.

Clearly, electronic payment systems are still in their infancy. How they develop will depend on their effectiveness and the market's response. Therefore, it is necessary to consider prescriptive solutions to theoretical

problems. Still, it would be a disservice to the public and to the developers of cyberpayment systems for law enforcement and regulators to put off framing the issues that must be addressed as markets and technologies mature. Our goal is to inoculate these new systems against crime and misuse to the greatest extent possible, and to permit their healthy growth into the next century. ♦

#### **About the author**

Stanley E. Morris has been director of the Financial Crimes Enforcement Network (FinCEN) since 1994. FinCEN is the U.S. Treasury Department's organization that has primary responsibility for setting, overseeing, and implementing policies against money laundering and for administering the Bank Secrecy Act. He has served in the Federal government for more than 28 years in a variety of positions, including chief of staff for the under secretary of the Treasury for enforcement, deputy director for supply reduction in the White House Office of National Drug Control Policy, director of the U.S. Marshals Service of the U.S. Department of Justice, and associate deputy attorney general of the Department of Justice.