

Modernizing Payments To and From America's Bank Account

For decades, the way money flows into and out of what we call “America’s bank account”—the U.S. Treasury—has been rooted in systems that were designed for a paper-based economy. Today, however, the rapid evolution of financial technology, combined with consumer expectations for speed and security, is forcing policymakers, regulators, and the legal profession to reconsider how the federal government pays and gets paid.

The Legacy Framework

Payments to and from the Treasury—whether Social Security checks, federal tax refunds, or procurement disbursements—have historically been processed through traditional banking channels. Even though the Electronic Funds Transfer Act and subsequent initiatives have reduced paper checks, legacy payment rails such as ACH (Automated Clearing House) remain slow compared to real-time systems. Settlement can take one to two business days, leaving gaps that create risk, inefficiency, and, at times, hardship for recipients who rely on immediate access to funds.

The Push Toward Real-Time Payments

The Federal Reserve’s new **FedNow Service**, launched in 2023, is intended to allow instant, 24/7 payments. Treasury officials and private-sector partners are exploring how to incorporate FedNow into government disbursements. A move toward real-time payments would allow benefits, refunds, and vendor payments to clear instantly, enhancing both efficiency and public trust.

However, modernizing the payment architecture raises legal and regulatory questions:

- **Data security:** Real-time payments reduce float but increase the impact of fraud. What obligations do financial institutions and government intermediaries have for verification?
- **Privacy:** Faster payments mean greater amounts of personally identifiable information moving across networks. Compliance with statutes like the Privacy Act of 1974 must be revisited.
- **Access and equity:** Will unbanked and underbanked Americans be excluded, or can digital wallets and prepaid instruments be deployed to ensure universal access?

Taxpayer Receipts and Digital Collections

On the inflow side, the IRS and other agencies still rely heavily on ACH debit and credit card payments. Expanding the acceptance of faster payment options could reduce delinquency, improve government cash flow, and give taxpayers more flexibility. Yet, there are compliance issues around fee structures, identity authentication, and reconciliation of real-time deposits with existing accounting frameworks.

The Role of Lawyers and Policymakers

Lawyers advising financial institutions, fintech firms, and government contractors must stay ahead of these developments. Key areas to watch include:

- **Rulemaking under the Electronic Funds Transfer Act** to address instant payments.
- **Contract negotiations with Treasury and Federal Reserve counterparts** as new rails are adopted.
- **Consumer protection litigation risk** as the shift to real-time payments creates new disputes over unauthorized transfers, error resolution, and liability.

Looking Ahead

Modernizing payments to and from America's bank account is not simply a matter of technology. It requires careful legal architecture to balance efficiency, security, and fairness. Just as the shift from paper checks to ACH required statutory and regulatory adaptation in the 1970s and 1980s, today's shift to real-time rails demands thoughtful guidance from both policymakers and practitioners.

Ultimately, the modernization of Treasury payments has the potential to transform the relationship between the government and its citizens, making it more transparent, efficient, and responsive—provided the legal framework keeps pace with the technology.