



Payment Systems Today: Latest Legal and Regulatory Challenges

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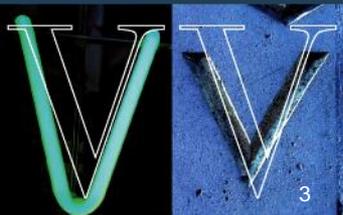
Agenda

- Growth and Diversity of Payment Systems
 - Faster, more efficient, safer clearing & settlements
 - Electronic payments & end of checks
 - Mobile banking
 - Virtual currencies
- Growth of Payment System Regulation
 - Focus on consumer protection
 - Higher compliance standards
 - Aggressive enforcement
- Best Practices, Preparedness, and Red Flags



Growth and Diversity of Payment Systems: Faster, more efficient, safer clearing & settlements

- Information is transferred before value
- Information travels end to end, value does not
- How does information flow?
 - International Financial Information
 - SWIFT
 - Credit/debit card networks & processors
 - Cash & Next GEN: Virtual currencies



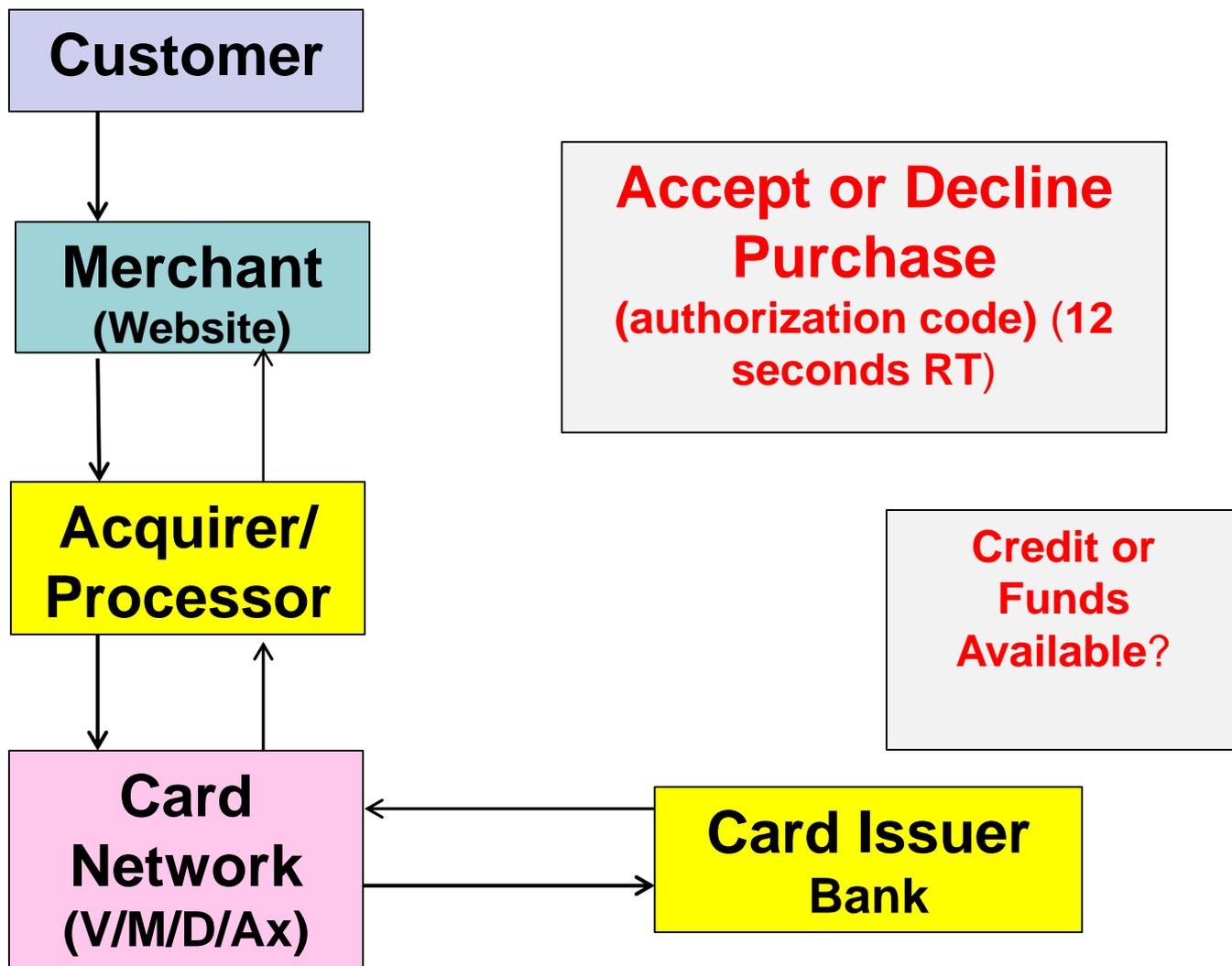
Growth and Diversity of Payment Systems: Faster, more efficient, safer clearing & settlements

- Value moves bank-to-bank
 - Currency and alternatives exception
- How?
 - FedWire
 - CHIPS (“Clearing House Interbank Payment System”)
 - ACH (“Automated Clearing House”)
 - Credit/debit card
 - Alternative currencies



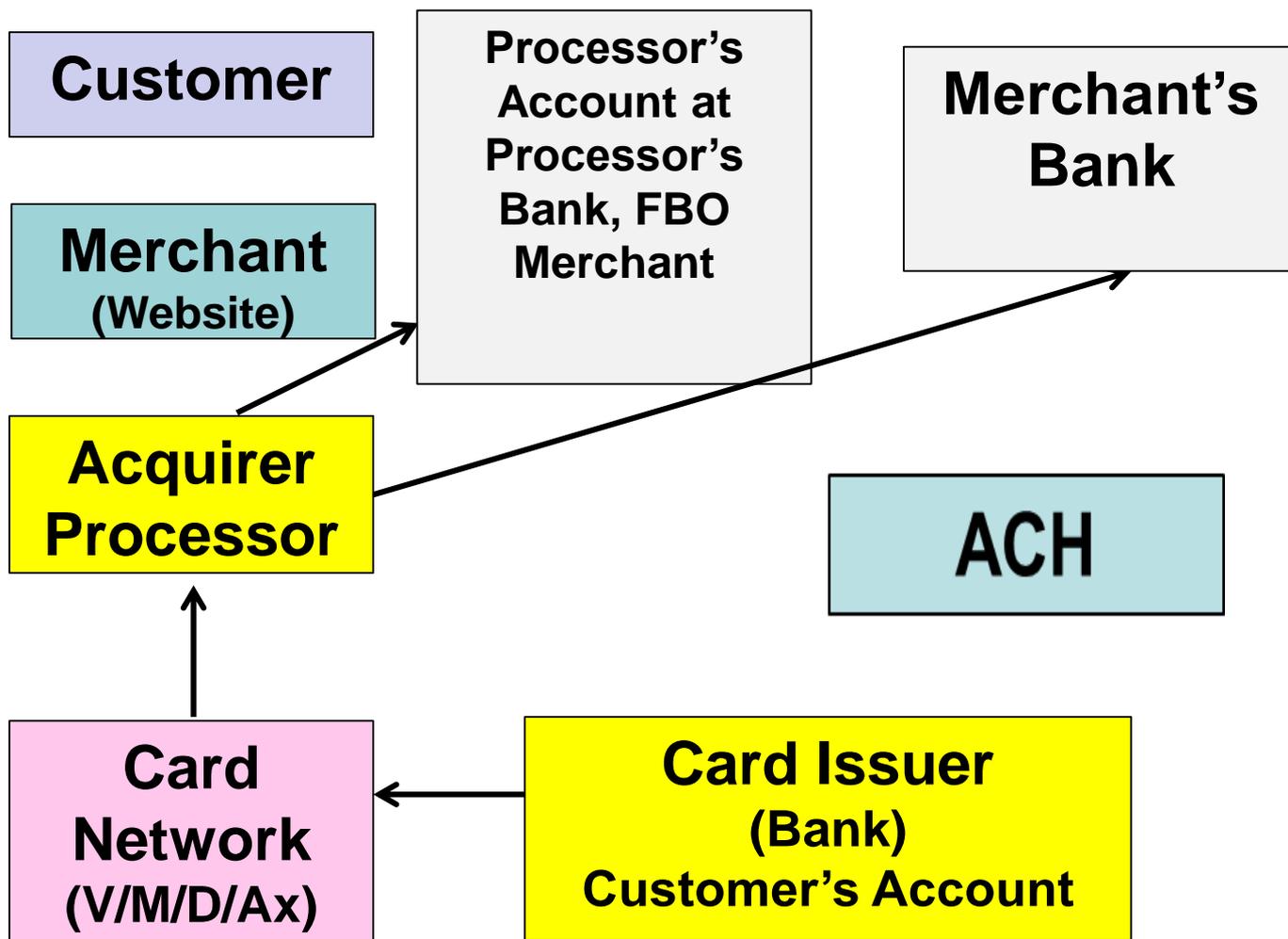
Growth and Diversity of Payment Systems:

Credit Card Example: Information



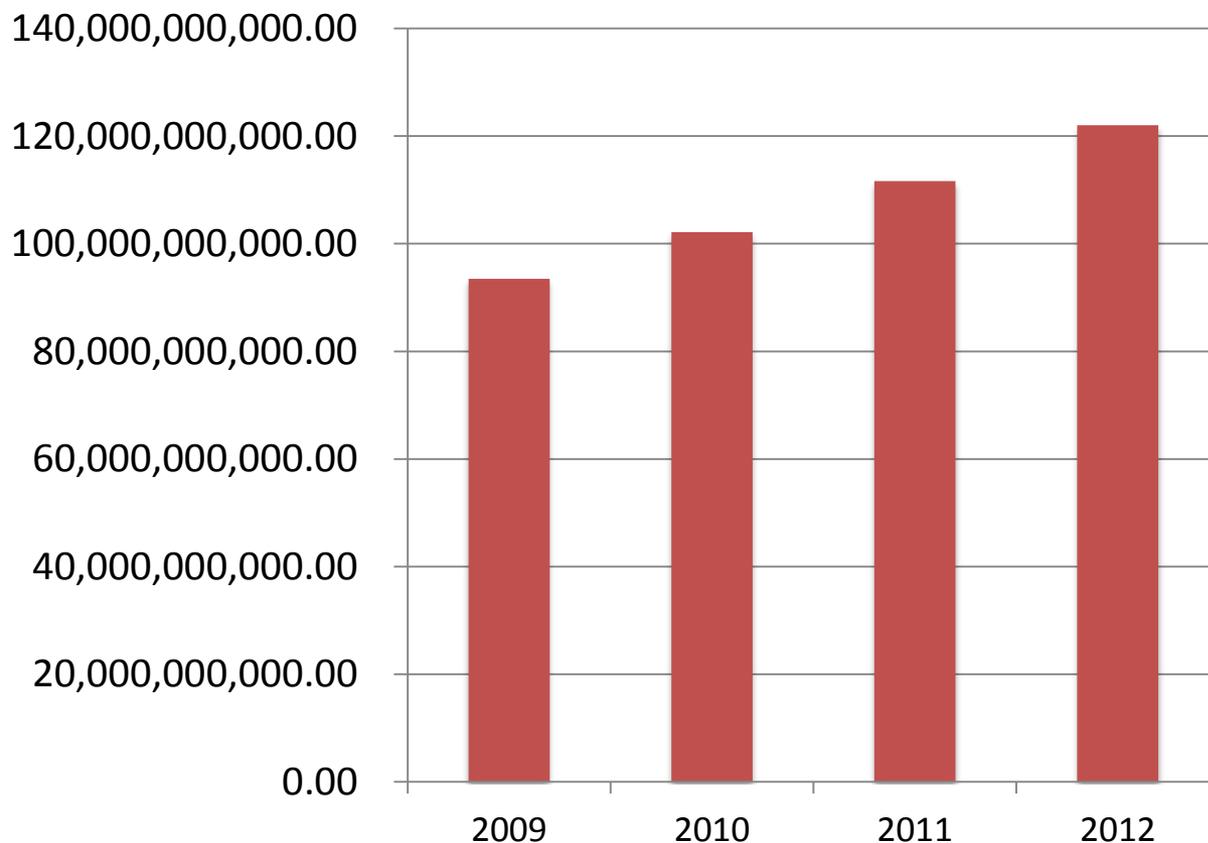
Growth and Diversity of Payment Systems:

Credit Card Example: Information



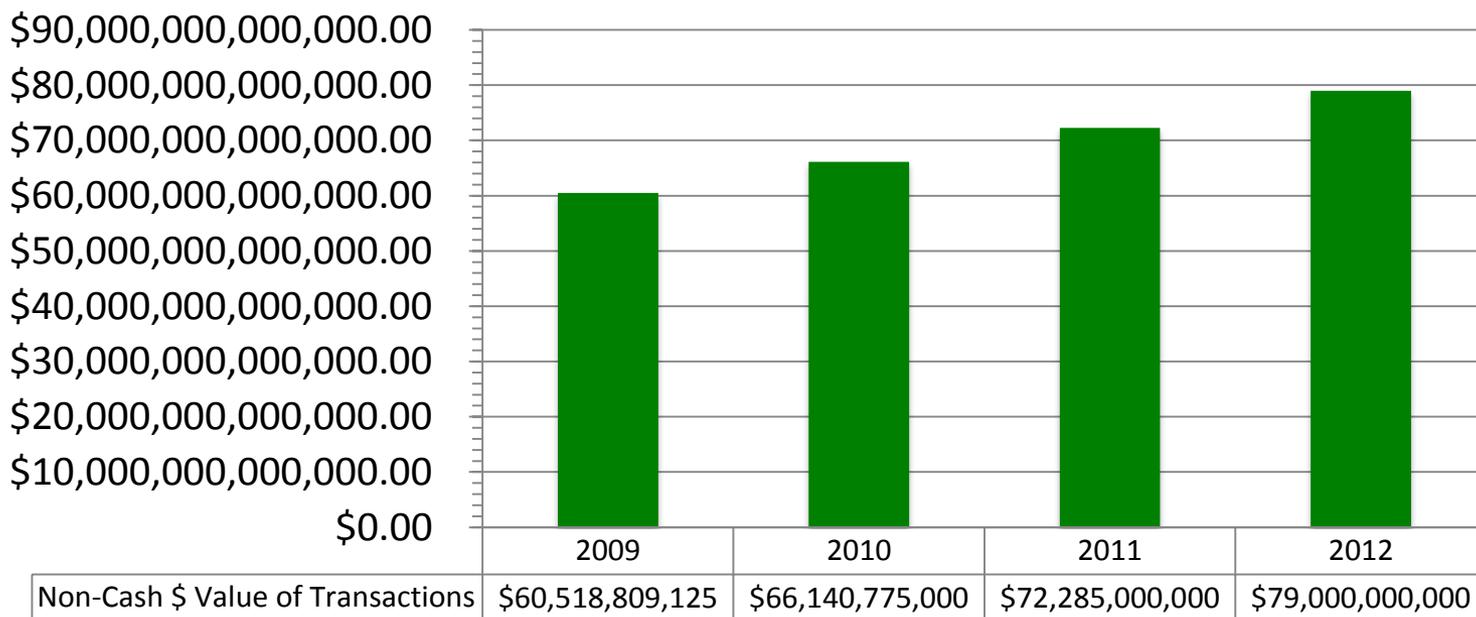
Growth and Diversity of Payment Systems: Electronic Payments & End of Checks

Non-Cash Transactions Per Year - 8.5% per year increase



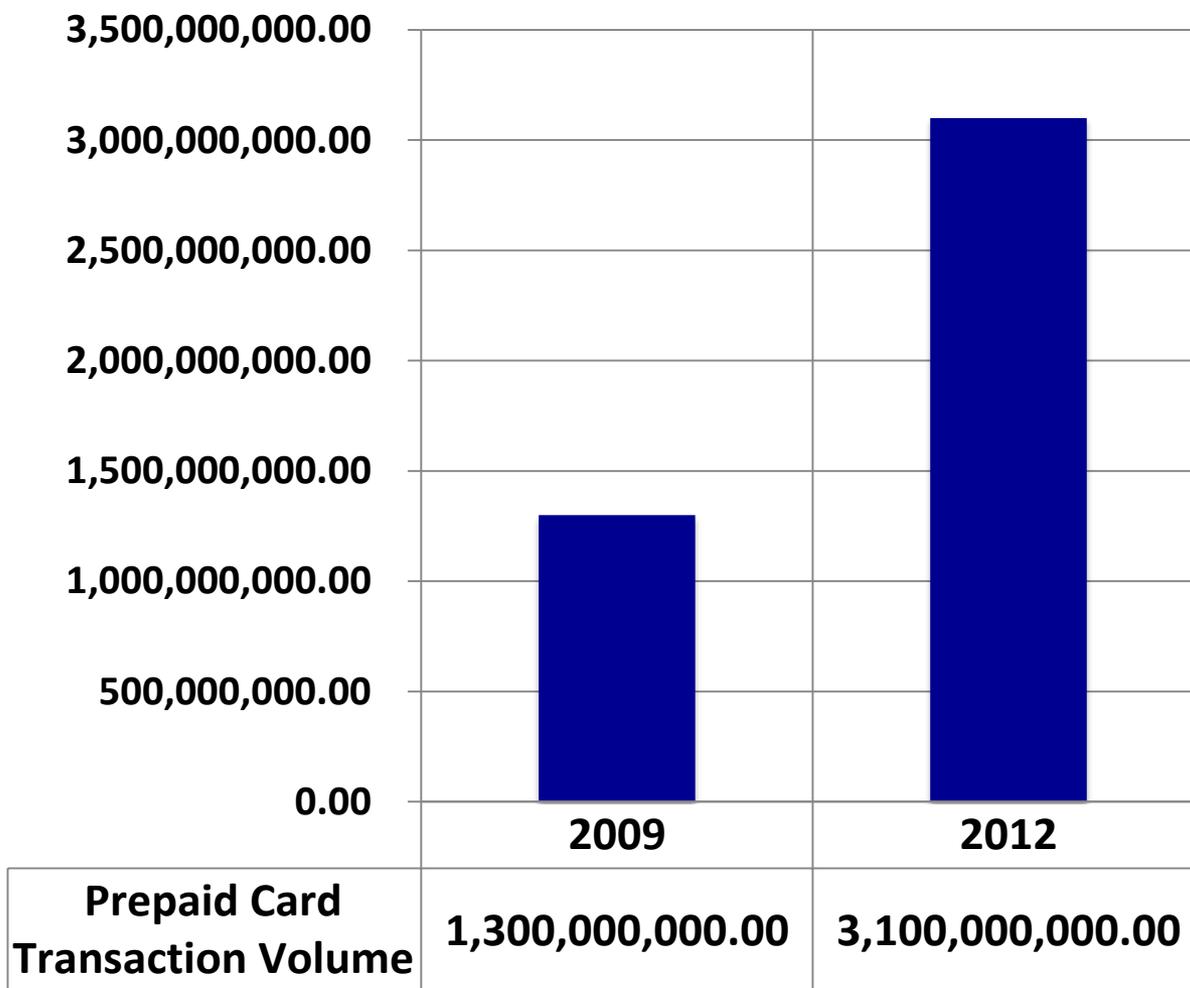
Growth and Diversity of Payment Systems: Electronic Payments & End of Checks

Non-Cash \$ Value of Transactions

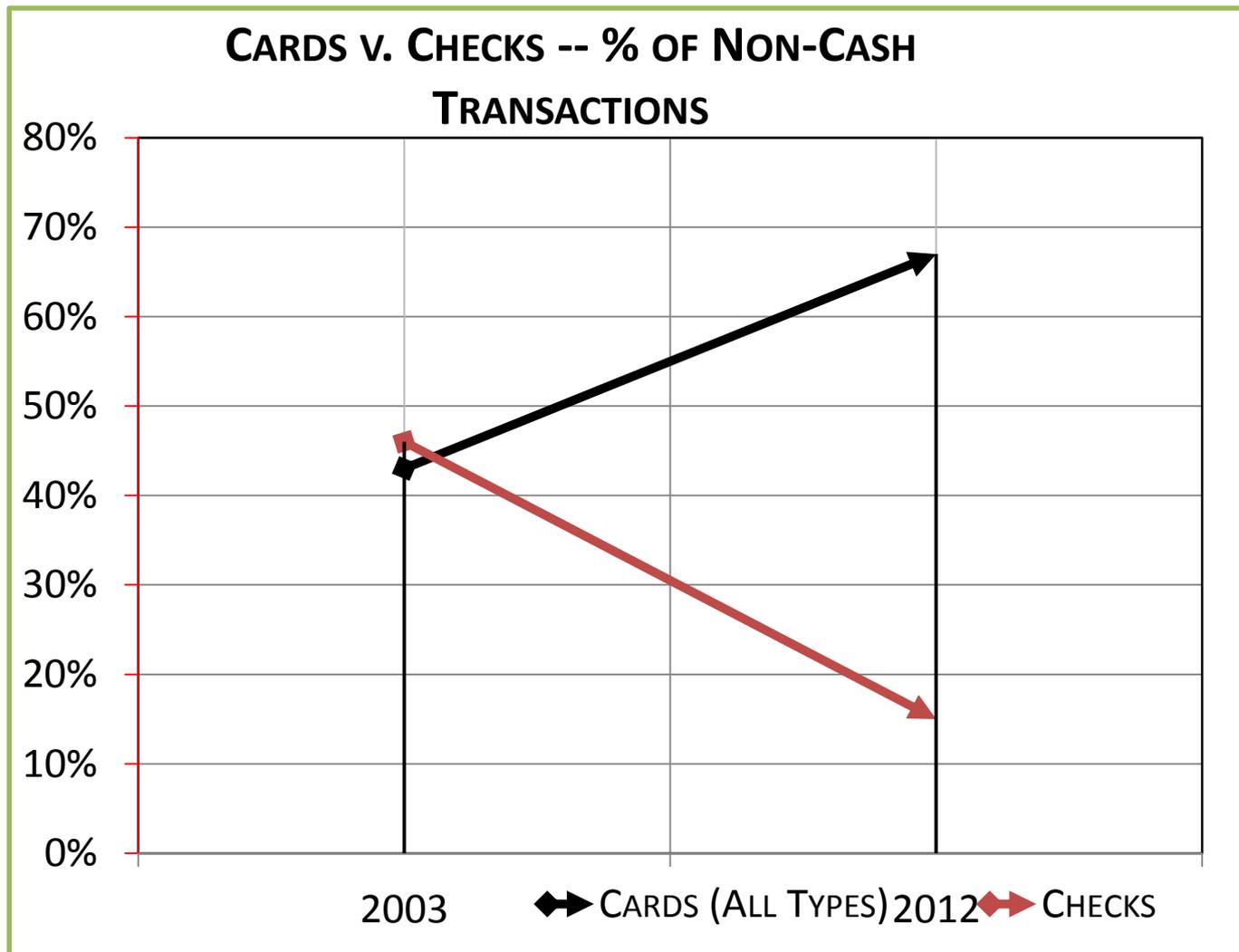


Growth and Diversity of Payment Systems: Electronic Payments & End of Checks

Prepaid Card Transaction Volume



Growth and Diversity of Payment Systems: Electronic Payments & End of Checks



Growth and Diversity of Payment Systems: Mobile Banking, Payments & VCs

- Mobile Banking
- Mobile Payments
- Virtual Currencies
- Spotlight on Payment Processing Industry
 - Why is the government scrutinizing the payments industry?
 - What are the specific concerns?
 - What are you expected to do?
 - What happens if you don't do them?

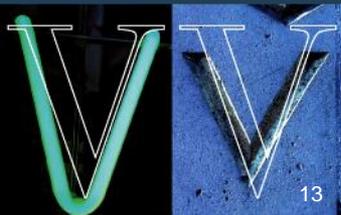
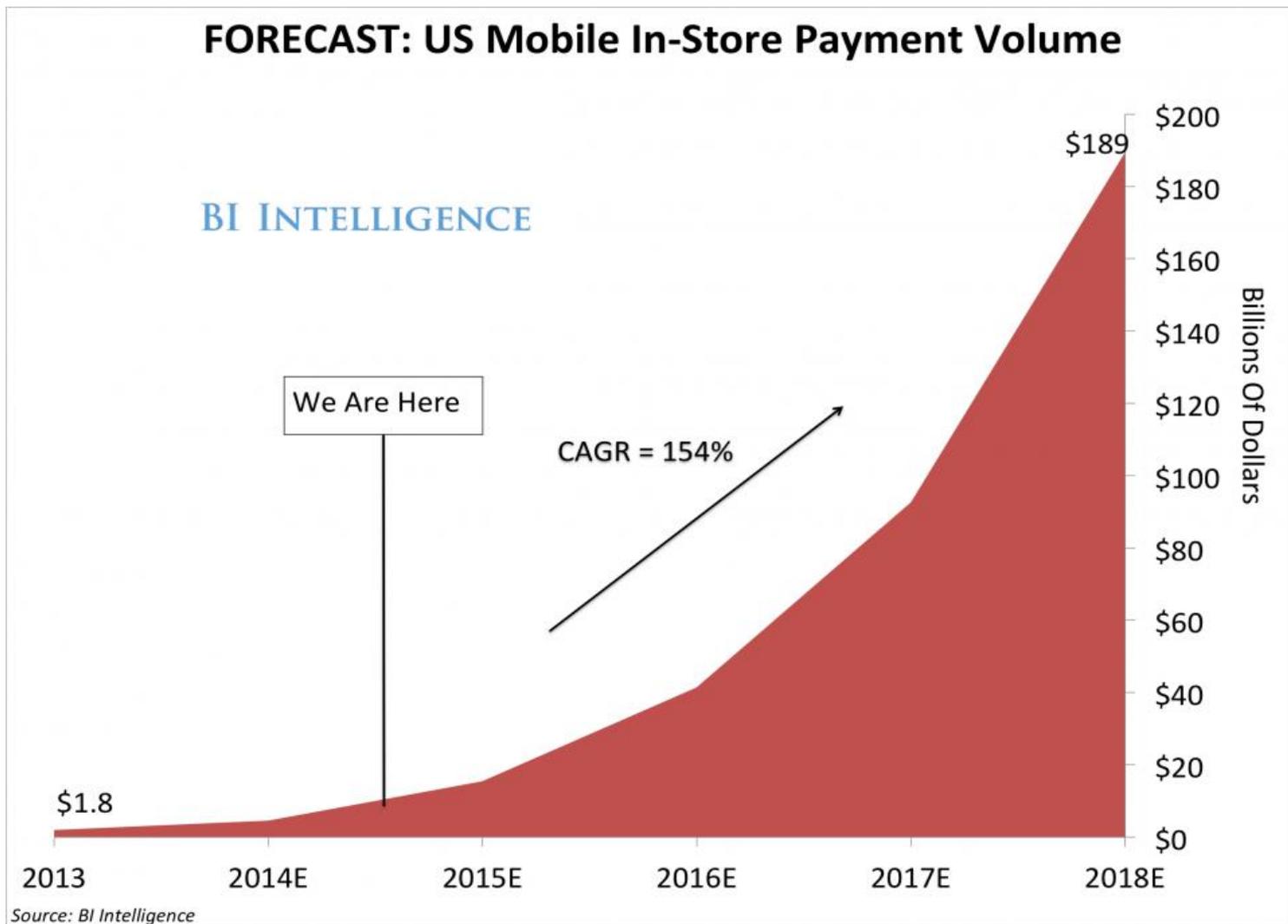


Growth and Diversity of Payment Systems: Mobile Banking & Mobile Payments

- Mobile Banking
 - 12 million people in 2009
 - 45 million by end of 2014
- Mobile Payments
 - Explosive Developments
 - Apple Pay
 - MCX
 - In-app payments
 - Explosive Growth Predicted



Growth and Diversity of Payment Systems: Mobile Banking & Mobile Payments



Growth and Diversity of Payment Systems: Virtual Currencies

- Virtual currencies
 - Modern barter
 - Taxed in US as property, not currency
- Issues
 - Safety and Soundness
 - Storage
 - Money Laundering
 - Cost will increase as regulation catches up to product
 - NY State Rulemaking
 - Transaction speed:
 - Bitcoin: x **not less than** 5 minutes
 - Credit/debit: x between 2 & 12 seconds



Growth of Payment System Regulation

Spotlight on Payment Processing Industry

- Why Focus?
 - Regulators view processors as “gatekeepers”
 - Provides merchants and consumers with access to financial systems
 - The “means and instrumentalities” for merchants to extract money from consumer accounts
 - Processors viewed as “enablers” for fraudsters
 - New technologies (mobile, virtual currencies) and regulatory application of existing consumer protections standards
 - Data Security



Growth of Payment System Regulation: Focus on Consumer Protection

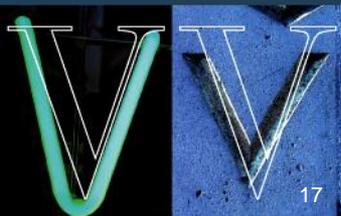
- Meet the regulators:
 - Federal Trade Commission
 - Consumer Financial Protection Bureau
 - Department of Justice
 - Office of the Comptroller of the Currency
 - Federal Deposit Insurance Corporation
 - Task Forces Made Up of All Five (at least)
 - State attorneys general
 - Money Laundering: FinCEN
 - Economic Sanctions: OFAC
 - Mobile Payments: FCC
 - Data Breach: USSS



Growth of Payment System Regulation

Higher Compliance Standards

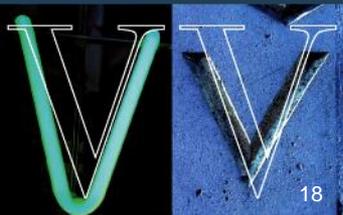
- Conducting due diligence on merchants, or ignoring strong signals of potential risk uncovered by due diligence
- Sustaining merchants with high return rates and chargeback rates
- Ignoring or failing to see other evidence of unauthorized charges
- Participating directly in a merchant's deceptive conduct
- Failing to act upon warnings from regulators and consumers
- Beneficial Owners – Coming Requirement?



Growth of Payment System Regulation

Aggressive Enforcement

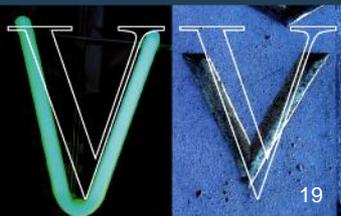
- Subpoenas, civil investigative demands, other investigative inquiries
- Third party defendant in a case against merchant
- Law enforcement action as a direct target
- Penalties
 - Financial – disgorgement of fees, consumer redress, civil penalties
 - Injunctive – restrictions or prohibitions on future conduct



Growth of Payment System Regulation

Aggressive Enforcement

- In re: Wachovia, N.A. (OCC) (2008)
- Older FTC cases focused on ACH processing
- Recent cases focus on credit/debit card processing
 - FTC v. CardFlex (2014)
 - FTC v. IRN (2014)
 - FTC v. Process America (2013)
 - CFPB v. Global Client Solutions (2014)
 - CFPB v. Meracord (2013)



Best Practices, Preparedness, and Red Flags

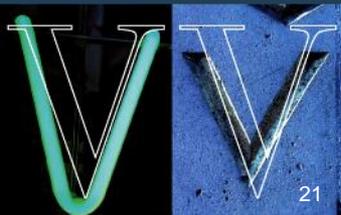
- Know your merchants
 - At the underwriting stage
 - While they continue to process with you
- Comply with the rules and regulations of the card networks
- Comply with the contractual requirements of your sponsoring banks
- Stay current with regulatory developments
 - Bank regulators
 - CFPB



Best Practices, Preparedness, and Red Flags

■ Resources

- Electronic Transaction Association, *Guidelines on Merchant and ISO Underwriting and Risk Monitoring & Mobile Payment Solutions Best Practices and Guidelines*, www.electran.org/professional-development
- Vantiv, *Insights & Resources*, www.Vantiv.com/insights



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