FOOD MARKETING INSTITUTE

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Financial Crimes Enforcement Network
Department of the Treasury
FinCEN
P.O. Box 39
Vienna, VA 22183

Re: Threshold for the Requirement to Collect, Retain, and Transmit Information on Funds Transfers and Transmittals of Funds; Regulation S, Docket No. R-1258. 71 Fed. Reg. 35564 (June 21, 2006).

Dear Sirs,

The Food Marketing Institute[1] is pleased to respond to the Advance Notice of Proposed Rulemaking (ANPR) published jointly by the Financial Crimes Enforcement Network (FinCEN) of the Department of the Treasury, and the Board of Governors of the Federal Reserve System entitled, "Threshold for the Requirement to Collect, Retain, and Transmit Information on Funds Transfers and Transmittals of Funds." 71 Fed. Reg. 35564 (June 21, 2006). The agencies issued the ANPR jointly to seek information on the potential impact that a lower threshold might have on financial institutions funds transfer or transmittal of funds practices.

Many supermarkets are categorized for purposes of these regulations as financial institutions and are subject to the same regulatory requirements as traditional financial institutions. A reduction in the threshold for recordkeeping relating to funds transmittal would result in significantly increased burdens on our members with little or no concomitant increase in useful information to enforcement authorities. Supermarkets initially entered the money services business (MSB) because of consumer demand for alternate banking services that are low cost, convenient, available for purchase or use in a safe environment, and accessible outside of the standard nine to five banking hours. Consumers have been satisfied with the services, and that satisfaction has led to a wider range of MSB services provided at supermarkets and a broader range of demographics of those customers utilizing these services.

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[1] FMI conducts programs in research, education, industry relations and public affairs on behalf of its 1,500 member companies — food retailers and wholesalers — in the United States and around the world. FMI's U.S. members operate approximately 26,000 retail food stores with a combined annual sales volume of $340 billion — three-quarters of all retail food store sales in the United States. FMI's retail membership is composed of large multi-store chains, regional firms and independent supermarkets. Its international membership includes 200 companies from 50 countries.

Supermarkets that offer funds transfer or transmittal services to their customers take the regulatory requirements this service entails very seriously. This includes recordkeeping for transmittals of $3,000 or above and filing Suspicious Activity Reports (SAR) for suspicious activity, particularly for transactions of $2,000 and above. A reduction in the recordkeeping threshold from $3,000 to $1,000 would increase the regulatory burden significantly. Based on 2005 figures we have been advised by our members that the number of transactions requiring recordkeeping would increase by more than ten-fold. A reduction in the reporting threshold to $2,000 would likely increase the number of transactions requiring recordkeeping four-fold, and $1,500 would increase the number of transactions requiring reporting six-fold.

This recordkeeping requirement for each transaction is quite extensive. It includes the following:

1. Name and address of the sender
2. The type of identification reviewed, the number of the identification document, and the issuing authority
3. The sender's taxpayer identification number (i.e. Social Security number or Employer Identification Number, or if none, alien identification number or passport number and country of issuance, or note if there is none);
4. Amount of the money transfer
5. Reference number for the transaction
6. Date of the money transfer
7. Sender's date of birth
8. Sender's occupation
9. Name and address of the receiver
10. Any other specific identification of the receiver
11. Any money transfer instructions received from the sender
12. A signed copy of the send form.

If the retailer knows that the person is sending on behalf of another party, then it must also obtain similar information for that other party. Before completing any "Send" or "Receive" money transfer the retailer must examine a document that contains the person's name, address and preferably photograph (e.g. driver's license, passport, alien identification card or other official document evidencing nationality or residence). It must verify the identity of the receiver the same way that it would verify a sender's identity and record the same information for the receiver. The records must be kept for five years.

In addition to these recordkeeping requirements for transmittals of $3,000 and above, a suspicious activity report must be filed for suspicious transactions of $2,000 and above that includes as much of this information as possible:

- Customer's name, address and telephone number
- Customer's birth date
- Customer's occupation, profession or business -- specific (i.e., "self employed carpenter" instead of just "self employed")
- Customer's Social Security Number, Taxpayer Identification Number, or Employer Identification Number (SSN, TIN, EIN)
- Dollar amount of the requested transaction
- ID type, issuer, number

These records must also be retained for 5 years.

The practical effect of this reporting is that law enforcement is currently receiving reports on all suspicious money transmittals of $2,000 and above and is already having difficulty reviewing and analyzing the number of documents it is receiving. Increasing the data collection and recordkeeping requirements for transactions between $1,000 and $3,000, beyond those transactions that have been deemed suspicious, will place very significant burdens on supermarkets, including labor and data storage challenges. It will also further "clog" the pipeline of pertinent information to law enforcement with volumes of unnecessary information. We can envision a scenario when actual suspicious and illegal activity goes without investigation because law enforcement is spending so much time sorting through legitimate transactions that happen to exceed a specific dollar threshold.

The bottom line is that lowering the recordkeeping threshold from $3,000 to $1,000 would represent a very significant burden on supermarket MSBs; substantially increase the number of transactions subject to recordkeeping in our industry; and likely provide law enforcement with an overwhelming amount of irrelevant data to analyze. We do not believe that there would be any substantial gain to law enforcement resulting from this reduction in the threshold for reporting.

Thank you for the opportunity to comment on this important issue. We hope this information is helpful to you in your review of the Threshold for the Requirement to Collect, Retain, and Transmit Information on Funds Transfers and Transmittals of Funds.

Sincerely,

/S/

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