



July 3, 2006

Financial Crimes Enforcement Network
PO Box 39
Vienna, VA 22813

**Re: RIN 1506-AA85 Advance Notice of Proposed Rulemaking:
Provision of Banking Services to Money Services Businesses**

Dear Director Werner:

I appreciate the opportunity to comment on this very important issue that is facing the entire MSB industry. My comments are filed on behalf of both Envios De Valores La Nacional Corp., a licensed MSB in 15 states, of which I am President and Chief Executive Officer and also on behalf of the National Money Transmitters Association of which I am the member elected president. The NMTA currently has 41 member companies which collectively handle over \$17 billion a year in migrant worker remittances.

When Bank of America (the largest bank in the country, whose Senior Compliance Officer is your direct predecessor at FinCEN) exits the MSB industry, it is a clear sign that the current regulatory regime is not working. Bill Fox was gracious enough to have a senior executive of the Bank contact me and explain the Bank's rationale for exiting the industry. His explanation boiled down to three succinct points:

1. Intense Regulatory pressure
2. Potential Damage to the Brand Image
3. The overall risk to the Bank was not worth the potential rewards

My comments and suggestions to solve Bank of America's and other Banks' issues with MSB's follow:

Intense Regulatory Pressure

To end regulatory pressure in my considered opinion is very simple. *Licensed Money transmitters are simply not "high-risk" as categorized in last year's guidance.* Licensed MSB's are the only licensed and regulated industry singled out as "high-risk".

Why?

Annex A to my submission contains a summary of the basic elements of almost all state money transmitter license applications (in addition to the application and bonding requirement many states require approval of agents.) Additionally, we are audited by our own independent auditor, and this



year by 3 of the states in which we conduct business. My company is in complete compliance with all appropriate acts, rules and regulations and I believe that our Compliance System is second to none. To the best of my knowledge there has not been one instance where any of my members have ever been accused of any form of money laundering or drug trafficking. In point of fact, our members aid all types of law enforcement in trying to ferret out these types of people who may want to use our industry as a conduit for these types of transactions. My own company's average transaction size is under \$250.

Does this seem like a "high-risk" operation? My recommendation to FinCEN is to immediately remove the "high-risk" designation from licensed MSB's.

Potential Damage to the Brand Image

This issue is also very easy to solve. Banks are very risk-averse and do not like to see their institution mentioned in a negative light in the Wall Street Journal. If neither the BSA nor the regulatory agencies "expect banking institutions to serve as the de facto regulator of money services businesses" why are they held accountable by the regulators for the actions of an MSB or an agent of the MSB? If banks are not the regulator of MSB's *why not have a clear statement by FinCEN and the regulators that banks are not expected to police the customers of the MSB or those of its agents? Why not go a little bit further and exempt banking institutions from criminal prosecution for the acts of their customers?*

I believe that the above 2 actions by FinCEN and the federal regulators would be enough to encourage all banks to resume banking MSB's.

Risk-Reward Ratio

The few banks that are still banking licensed MSB's all require "enhanced due diligence" such as sending their own audit team to review the MSB, reviewing the MSB's compliance manual and operations manual, reviewing the independent compliance report, as well as reviewing the compliance system of the MSB. In addition, some banks have asked for a listing of our agents, and their volume for each of the last twelve months. One bank has requested that we hire an accounting firm to do our compliance audit in order to open a bank account. If you accept the premise that licensed MSB's are not "high-risk" and that banks are not the de facto regulators of the MSBs, why are the banks doing this, other than to placate the federal regulators who are still, regardless of what Washington is saying, telling banks to close the accounts of licensed MSB's?

All a licensed MSB should have to do to open a bank account at any bank is to show its corporation papers, its license and its FinCEN registration. Why should a licensed MSB be treated any different than any other corporation in America?

Without banks Licensed MSB's cannot exist. Without MSB's the government's OFAC list is practically worthless. The hundreds of thousands of transactions that licensed MSB's and their agents process each month will not go to banks themselves, but will go underground. What do you



think will happen to drug money and terrorist financing? Licensed MSB's are the government's first line of defense in the war on terror. Does anyone want to destroy that first line of defense?

The banking crisis is real. As of this date we do not have a bank account in 7 states in which we are licensed. The states that regulate us, license us and charge us fees, are powerless to counteract the influence of the federal regulators who audit the vast majority of banks. I strongly believe that the federal bank examiners do not respect a state-issued license. Perhaps it is high time for the government to issue a federal, nation-wide MSB license, if that will finally provide a respected certification that banks may rely on.

Sincerely,

Alan H. Friedman
President & CEO



Appendix A to July 3, Letter to FINCEN

Information need for a Money Transfer License

1. Corporate Information and Documents

- EIN #
- Certified copy of Certificate of Incorporation
- Copy of By-laws
- Certificate of Good Standing
- List all shareholders
- List all officers and directors
- Provide compliance officer
- Certificate of Authority to Conduct Business as Foreign Corporation
- Copy of IRS MSB registration acknowledgment letter
- Audited Financial Statements for last 3 years
- Recent unaudited financial statement not less than 60 days old
- Pro-forma financial statement for 1st year of operation
- Corporate history from inception to present
- Business plan for jurisdiction applying to
- List of all agent and branch locations in jurisdiction
- List of all services to be provided
- Operations Manual detailing all normal business procedures
- Agent Procedures manual
- BSA/AML Compliance manual
- OFAC Compliance procedures
- Corporate Bond - amount varies between \$25,000 up to over \$1,000,000 per state
- Net Worth requirement - amount varies between \$25,000 up to over \$1,000,000 depending on state calculation methods.
- Permissible Investment requirement - amount varies depending on state calculation methods.
- Copy of receipt to be issued.
- Copy of authorized delegate agreement to be used.
- Information regarding any formal or informal regulatory proceedings, past or present.
- Information regarding any material litigation, past or present.
- Disclose and describe businesses of all corporate parents, subsidiaries and affiliates.
- Provide list of all jurisdictions where licenses already held and bonds provided therein.

2. Personal information required for all Officers, Directors and Shareholders

- Biographical Information forms
 - Prior Addresses, SSN, Education and Employment history, criminal history, bankruptcy history, immigration status, tax history, litigation history, regulatory history.
- Personal Financial Statements
 - Full balance sheets showing all assets and liabilities.
 - Full Income and expense statements showing all income and expenses.
- Background Investigation Report

Personal credit reports
Fingerprinting
Photographs

3. Bank Account information

Name, address, account number and contact person at all banks
where transmission funds will be deposited.

4. Foreign Correspondents

Proof of licensing or no licensing required in all foreign jurisdictions where located.
Copies of all agreements with Foreign Correspondents

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