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May 31, 2002

SENT VIA ELECTRONIC MAIL AND US MAIL
FinCEN
Attn: Section 352 MSB Regulations
P.O. Box 39
Vienna, VA 22183

Ladies & Gentlemen:

American Payment Systems, Inc. ("APS") submits the following comments about the interim final rule in 31 CFR §103.125.

APS is a processor of walk-in bill payments provided through a network of over 9000 independent retail payment locations. The average amount of each of these bill payment transactions is about $100. The customers of this service are generally families without checking accounts, many of them dependent upon public transportation, who need a reliable way to pay their bills. Almost all of the payments are made to public utilities (including cable companies) and department stores that are established businesses within the United States. In many cases, public utilities are required by state laws to make walk-in bill payment available in low-income areas.

The APS network does not consist solely of APS-owned equipment, and there are no APS employees at the retail locations. APS contracts with independent retailers to act as agents of APS. APS installs APS terminals or software to personal computers in the retail stores. The retail agents usually scan the bill information into the terminals and electronically transmit the payment information to APS. The retail agents then deposit collected funds into specially designated accounts established at local, federally insured depository institutions. APS sweeps these agent accounts daily and electronically forwards payment information to the billing entities. APS then forwards the bill payment funds either directly to the billing entity or indirectly to the billing entity through a third party.

The personnel who actually receive the payments and interact with the walk-in customers are clerks in the agent retail locations. To keep the service affordable, the compensation to the agent retailers is modest – about 26 cents per transaction. The clerks are not highly trained; if they are required manually to record the identity of the person presenting the payment to them, a high error rate would be likely. In the absence of a national identification card with a machine-readable barcode or similar device, the time required for the retail clerk to record the identification of the sender of the payment is likely to cause the retailer to charge significantly more for its role in the transaction, or more likely to abandon the service in order to keep long lines from forming in its retail outlets.

Moreover, system modifications and new equipment to permit an identity to be recorded by the retail agents would likely cost APS about 8 to 10 million dollars. The APS system to which the terminals are connected is not capable of recording an identity other than the account number to which the bill payment is made. In almost all cases, we believe the identity of the person presenting the bill payment is the same as the person in whose name the account is held.

APS believes, and is in the process of confirming, that it will be able to obtain from the public utility or other billing entity the identification of the person in whose name the account is held. As noted above, in almost all cases that

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person will also be the person who presents the payment to the retail agent. In the few cases in which the person presenting the payment and the account holder are not the same, it will be, for the reasons set out above, virtually impossible to record and retain the identification of the person presenting the bill payment.

As noted in the Federal Register notice of the Interim Final Rule, Section 5318(a)(6) of the Bank Secrecy Act authorizes the Secretary to exempt any financial institution from requirements of the Bank Secrecy Act. The Secretary has declined to exempt money services businesses generally from the anti-money laundering program requirement, but Treasury and FinCEN have determined that the exact nature of an effective anti-money laundering program for money services businesses must be commensurate with the risks posed by the size and location of the particular money services business, and the nature and volume of the financial services it offers.

Therefore, APS recommends that the final rules adopted by FinCEN in regard to anti-money laundering and other aspects of money services businesses contain a provision permitting case-by-case exemptions from portions of the requirements where the risks of illegal activity are low and the burdens of full compliance would be high.

Paul A. Rocheleau, President of APS, or I would be pleased to discuss this matter with you in greater detail, if that would be helpful. Please feel free to contact me at (203) 407-4061 or Mr. Rocheleau at (203) 407-4055.

Thank you for your consideration in this matter.

Very truly yours,

/s/ Donna M. Estelle
Vice President of Finance, CFO
American Payment Systems, Inc.