FiSCA

FINANCIAL SERVICE CENTERS OF AMERICA, INC.
A NATIONAL TRADE ASSOCIATION

Via Email (regcomments@fincen.treas.gov)
August 21, 2006

Robert W. Werner, Director
Financial Crimes Enforcement Network
P.O. Box 39
Vienna, Virginia 22183

Re: RIN 1506-AA86
FiSCA Response to Advance Notice of Proposed Rulemaking

Dear Director Werner:

These comments are submitted on behalf of Financial Service Centers of America ("FiSCA"), the national trade association representing more than 6,000 community financial service providers throughout the United States. FiSCA's members provide non-traditional financial services including check cashing, money orders, bill payment services and funds transfers as agents of regulated money transfer companies. We serve hundreds of thousands of customers, banked and un-banked, who use us for the advantages that we provide: convenient access, service and the ability to obtain instant liquidity. We serve customers from all walks of life, including urban communities and the under-banked, groups that the Financial Crimes Enforcement Network (FinCEN) and the federal banking agencies have stressed as being underserved by more traditional financial institutions.

We appreciate this opportunity to comment on the potential effect of lowering or eliminating the present threshold amount for collecting and retaining information under 31 CFR 103.33 applicable to funds transfers.

The majority of FiSCA's regular members are funds transfer agents of Western Union®, MoneyGram®, and other regulated money transmitters. In our capacity as agents, we are generally not in a position to respond to issues raised in the Advance Notice relevant to the potential burdens on our money transmitter principals, or the potential impact upon pricing, that may result from a lowering or elimination of the applicable threshold. On these issues, we defer to the comments submitted on behalf of the above-named money transmitters. Nonetheless, inasmuch as the issue of point-of-sale customer data collection does affect the business operations and compliance responsibilities of FiSCA's members in their role as agents, we felt it appropriate to submit these comments on behalf of the community financial services industry.

The great majority of funds transfers conducted at our locations are domestic funds transfers, electronic bill payments, and low dollar remittances by workers sending money home to their families in other countries, primarily Latin America and the Caribbean. Depending on member area demographics, approximately 90% of remittances conducted through community financial service providers are under $350, with the average remittance at approximately $240. We estimate that less than 2% of funds transfers conducted at check casher locations are in excess of $3,000.

Due to current industry practices, a reasonable reduction of the applicable threshold would not likely have a significantly detrimental affect on agent funds transfer activity. In this regard, there has been a movement among regulated money transmitters towards the voluntary recording of originator information at levels significantly below the current $3,000 threshold amount. At present, the two largest money transmitters require their agents to obtain government issued identification documentation from originators at the $900 and $1000 level, respectively.

As such, the majority of the check casher/community financial services industry is currently obtaining and recording detailed identification information from originators at these lower levels. Moreover, with respect to community financial services providers and check cashing transactions, generally, the industry norm is to collect detailed information to ensure customer identity and protect against potential losses.

Elimination of the threshold, however, would likely constitute an undue burden on both money transmitters and their agents, while potentially vitiating the goals of law enforcement. At present, in our capacity as agents, we collect on all funds transfers a significant level of originator information, including name, address, and telephone number, and like information on beneficiaries. In addition, many remitters are moving towards data systems that create electronic files on each originator/customer, including an ongoing customer transaction history. These systems permit funds transfer companies and their agents to detect potential structuring patterns at levels well under the $3000 threshold. As such, even on low dollar transactions, information on the originator is generally available. Eliminating the threshold altogether, however, may dissuade some customers, particularly those engaged in questionable activities, from conducting funds transfers, and may drive those transactions towards undetectable means including money orders or stored value products sent by post or courier, or unregulated informal value transfer systems.

Additionally, the burden at point-of-sale in collecting and recording the additional information presently required under 31 CFR 103.33 on all transactions would likely impede customer service, adversely impacting legitimate commerce. For example, many FiSCA members provide electronic bill payment services whereby customers can pay telephone and utility bills via funds transfers initiated through their local check casher/community financial services provider. Electronic bill payments are fast, convenient and inexpensive, and are usually low dollar transactions. These transfers do not typically involve cross-border activity, and have virtually no relevance to potential money laundering. Elimination of the reporting threshold would greatly impede convenient delivery of these consumer services, while serving no clear law enforcement purpose.

Moreover, requiring detailed information on low dollar transactions may be viewed as overly invasive to some customers, again having an adverse impact on business. Some customers simply do not feel comfortable in disclosing taxpayer identification numbers or other private information when conducting small, consumer-based transactions. In the balance, the value to law enforcement in collecting originator information on transactions at the $50 or $100 level, for example, appears to be rather questionable, whereas the detrimental impact on legitimate commerce may be substantial.

In sum, due to prevailing industry practices, a reduction of the applicable threshold under 31 CFR 103.33 would not likely have a significantly detrimental affect on the operations of community financial service providers in their capacity as funds transfer agents. Elimination of the threshold, however, would be viewed as unduly burdensome and would likely have a detrimental impact on our ability to deliver low dollar consumer-based transactions, including electronic bill payments. Although there is a potential for an abuse of funds transfers, the vast bulk of money laundering occurs through tried and true methods, including bulk cash smuggling, off-shore banking, trade pricing schemes and unregulated cash intensive businesses. The utility in eliminating the threshold on all transactions does not appear to outweigh the potentially detrimental impact on our members and legitimate commerce.

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We appreciate the opportunity afforded us to comment with respect to this issue. We hope that FinCEN will consider favorably our recommendations, and we are committed to continuing to work with all interested parties in this regard.

Please contact the undersigned if you should require any further information.

Thank you.

Very truly yours,

Gerald Goldman, Esq.
General Counsel
Financial Service Centers of America, Inc.