

August 18, 2006

Honorable Robert Werner  
Director  
Financial Crimes Enforcement Network  
Department of the Treasury  
P.O. Box 39  
Vienna, VA 22183

Ms. Jennifer J. Johnson  
Secretary of the Board  
Federal Reserve System  
20<sup>th</sup> Street & Constitution Avenue, N.W.  
Washington, D.C. 20551

**Re: Advance Notice of Proposed Rulemaking -- Wire Transfer Threshold -- 1506 -- AA 86. Comments of the Money Services Round Table with Regard to the Threshold for the Requirement to Collection, Retain and Transmit Information on Funds Transfer and Transmittal of Funds**

Dear Director Werner and Ms. Johnson:

In response to the above-referenced notice of proposed rulemaking, set forth below are the comments of The Money Services Round Table ("TMSRT"). TMSRT is composed of the leading national non-bank funds transmitters in the United States including: Western Union Financial Services, Inc., MoneyGram International, Travelex Currency Services, Inc., Integrated Payment Systems, American Express Travel Related Services, RIA Financial Services, Comdata Network, Inc. and Sigue Corporation.

In the above-referenced ANPR (71 Fed. Reg. at 35564 (June 21, 2006)), the Board of Governors of the Federal Reserve System ("Board") and FinCEN sought comment on "the potential effect of lowering the threshold – or eliminating the threshold altogether – as a means of combating terrorism, money laundering and other illicit activities and protecting the United States financial system from these

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threats.” (71 Fed. Reg. at 35565) Both agencies also noted in the Notice that, in adopting the current \$3,000 threshold for wire transfers (see 31 C.F.R. §103.33), in 1995 “the agencies balanced the value of data on funds transfers and transmittals of funds with the burden to the financial system.” (71 Fed. Reg. at 35566). The agencies suggest that, since 1995, the advent of “advanced technology . . . may have reduced the incremental cost of obtaining, retaining and transmitting information on funds transfers and transmittal of funds in amounts below the current threshold.” (71 Fed. Reg. at 35566) However, notwithstanding the advent of new technologies, MSBs will incur increased costs in verifying and recording additional data. But, with all due respect, framing the issue merely in terms of cost “burden” for financial institutions such as MSBs fails to address the larger and far more important issue of the likely migration of funds from the nation’s financial system. The appropriate focus, therefore, is what will be the effect in terms of customer response at MSBs if the threshold is lowered.

The impetus for the prospect of lowering the wire transfer threshold to an amount less than \$3,000 appears to be based on law enforcement concerns identified in the context of the ANPR that “criminals are aware of the current threshold and conduct transactions in amounts under the threshold to avoid providing identification.” (71 Fed. Reg. at 35566) Of course, the same argument could be advanced with regard to any of the recordkeeping or reporting thresholds of the BSA. In addition, the Financial Action Task Force (“FATF”) in Special Recommendation VII has for some time been advocating a \$1,000 de minimus threshold for wire transfers. It appears also that the Draft Regulation of the European Parliament and of the Council on “transfers of funds” (12 June 2006) will endorse Recommendation VII.

**A \$1,000 WIRE TRANSMISSION THRESHOLD WITHOUT A REQUIREMENT TO CAPTURE A SOCIAL SECURITY NUMBER OR EIN, SHOULD BE ADOPTED.**

Many money services businesses (MSB’s) that provide money transmission services on behalf of retail customers are utilizing identification verification thresholds of about \$1,000. TMSRT believes that lowering the threshold for verification of identification to \$1,000 will achieve the proper balance, i.e., it will not discourage legitimate transactions and will provide additional information for use by law enforcement. The key issue, therefore, in establishing a threshold is to

recognize what FATF noted in its official "Interpretative Notice to Special Recommendation VII, 10 June 2005" that a delicate balance exists between the desire of law enforcement and regulators to obtain all information about all wire transfers against the possibility that lowered thresholds will, in the words of FATF, "risk ... driving transactions underground." TMSRT believes that FATF got it right -- the real issue is the potential impact on the financial infrastructure, rather than an attempt to quantify the increased costs associated with implementing a new regulation. In short, how a threshold will impact the flow of funds effects the critical issue of transparency of financial transactions and access to records by law enforcement.

- **Reducing the threshold below \$1,000 will drive funds underground**

For MSBs, there is a real risk that lowering thresholds to levels below \$1,000 will have the effect of driving significant volumes of retail funds transfers underground. It is widely known that many of the customers who deal with MSBs are recent immigrants and others who are using the efficient financial services afforded by MSBs to send money home. The vast majority of these transactions are single send transactions of relatively small amounts, and the customers are non-account holders. These customers compare prices, functionality and reputation among various MSBs for each transaction. Many will go to where the costs are less or the "burden" to the customer of transacting business is decreased.

Lowering the threshold below \$1,000 will create a disincentive for the use of legitimate money transmission companies since many recent immigrants and others are suspicious of governmental efforts to collect personal identification information regarding wire transfers. In short, having the threshold below the FATF recommended \$1,000 minimum will create an advantage for the "ask no questions" illicit transfer companies which will appear to many customers to be the "no hassle" way to send money to family and friends. In addition, since these illicit operators are neither licensed nor comply with the BSA, the transmission costs are less than those of legitimate MSBs. In this light, the "balance" between burden to the customer and the needs of law enforcement takes on another dimension. Neither the needs of law enforcement nor the public interest of the United States is advanced by providing any regulatory incentive for funds to migrate to illicit operators. Moreover, despite anecdotal evidence to the contrary,

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there is no hard evidence to support any contention that MSBs are disproportionately utilized by money launderers. Hence, any regulatory measure that would have the effect of channeling otherwise innocent MSB transactions into the underground transmission business is counterproductive from the standpoint of national security and law enforcement.

- **The requirement to record a customer's social security number should be deleted**

In recommending a \$1,000 threshold, consistent with FATF recommendations, the existing \$3,000 rule should not be "dropped down" to \$1,000 (the existing \$3,000 wire transfer recordkeeping requirements can remain in tact for transfers at or above that level). Rather, at \$1,000, an MSB should not be required to obtain from its customer a social security number or, in the absence of that, a passport number. Even at \$1,000, many MSB customers simply do not have or do not know their social security number. The other identifying information including verification of government-issued ID should suffice to provide a reasonable basis for the identity of the sender. Again, dropping the requirement for a social security or passport number is consistent with FATF Special Recommendation VII, where no such requirement exists. In sum, while recognizing the need to check and verify identification and record customer data, the rules should not be crafted to require information that MSB customers are not likely to have in their possession. Moreover, not only are social security numbers neither reliable nor verifiable by MSBs, in light of increasing concerns about identity theft, consumers are reluctant to disclose their social security numbers. Requiring such information will only provide another incentive for the customers to move their sums to the underground where no information need be provided.

- **The public interest requires a balanced approach**

The bottom line is that from the standpoint of law enforcement and for national security, it is far better for all financial transactions to be conducted through legitimate financial institutions rather than illicit operators who maintain no transaction records accessible to law enforcement, file no reports and have no BSA compliance costs. Therefore, neither law enforcement nor the overall security of the United States is served by promulgating regulatory requirements

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which have the effect, at least insofar as MSB customers are concerned, of driving funds underground by providing an unintentional incentive for customers to use these illicit channels. As indicated above, a proper balance of the competing interests can result in a lowered threshold which will serve the best interests of customers, MSBs and the national interest.

Sincerely,



Ezra C. Levine