UniTeller
INSTANT MONEY TRANSFER

By Electronic Delivery

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

Re: RIN 1506-AA85-Provision of Banking Services to Money Services Businesses

Dear Director Werner:

WHY ARE THERE NO COMMENTS FROM THE BIG NATIONAL BANKS?

The financial services industry once looked to the nation's largest banks in order to facilitate the transmission of funds. It is just those banks with the largest number of retail locations that are best situated to handle the volume, geographic diversity and technological sophistication of licensed remittance companies ("LRC's) and their operations. Oddly enough, although the request from FinCEN for comments has now been pending for many months as to this critical banking issue facing the LRC's, not one of the top eight largest financial institutions in the country has offered any response. We believe that is a telling fact and best exemplifies the need for regulatory action.

The denial of bank accounts to the LRC's by most of the large national banks ignited the problem. These banks continue to choose to ignore the responsibilities that come with the privileges granted to them in their licenses by the federal banking authorities. Since Congress long ago recognized the need to require banks to serve the neglected neighborhoods through the Community Reinvestment Act (the "CRA"), it would be a derogation of duty (as well as a breach of the spirit, if not the letter, of the CRA) if federal authorities with power over the national banks (such as FinCEN in conjunction with the FFIEC) do not categorize bank access for LRC's as critical and necessary assistance to underprivileged neighborhoods which have the largest number of persons using LRC services.

Before we examine the comments of the smaller banks, let us consider why the largest national banks are remaining quiet. First, these banks would be in a difficult position if they were to maintain that the requisite oversight of LRC accounts is too onerous for them. These large banks manage to perform their AML review over many other equally large financial service businesses (brokerage houses, insurance firms, hedge funds, etc.) that run just as many transactions (of much larger dollar amounts) for their customers through their bank accounts (as would an LRC). It would be awkward for a bank to explain why it refused to service LRC's from among these other non-bank financial institutions when the average transaction size for LRC's is less than $400. Which of these other non-bank financial institutions has the experience and expertise in applying AML programs as LRC's? Second, these banks presume if they remain quiet the LRC's will continue to dwindle while these banks will benefit from the elimination of competition in the funds transmission market and will increase their own market share.

UniTeller Financial Services, Inc. • 218 Route 17 North, Rochelle Park, NJ 07662 • 1.201.345.2000

Unfortunately, the opposite is more likely to occur and the unbanked will go underground, defeating the purpose of the BSA and PATRIOT Act to improve transparency and reporting of funds transmissions. While a joint cooperative effort between LRC's and banks could best accomplish ushering the unbanked into the banking community (leaving the LRC's to do what they do best and leaving the banks to do what they do best), it seems the large national banks do not accept that LRC's fit their image of a working partner. Regulations that would reward a bank (through CRA credits or otherwise) for working with an LRC should both send the right message to the banks and improve cooperative compliance. Third, these banks prefer not to be obliged to explain why they will not rely on state licenses and independent AML reviews of LRC's (often by the same reviewers that examine the banks for AML compliance). Since these banks are not to be de facto regulators, why are these banks not being directed that they can accept such licenses and AML reviews as sufficient to satisfy the bank's due diligence requirement? Clarifications to the current regulations to recognize the value of such long standing authorities seem a ready solution to remedy that concern. If FinCEN leaves the large banks any excuse to deny access to LRC's, they will continue to deny the LRC's access.

Since the facts of the denial of access to banking services are well documented in the published comments, we will instead suggest some solutions to the comments of the smaller banks. First, observing that those banks primarily worry how they can serve the agents of the LRC's (as opposed to any concern about serving the LRC's themselves), we believe the regulations should allow the LRC, the principal of the agent, to be the monitor of the agent for those banks and provide reports of such monitoring to those banks. Given that current federal law exempts agents of LRC's from registering as MSB's because the LRC's handle that function, one solution might be to allow the agent to piggyback onto the balance of the respective LRC's compliance, provided the agent's activities in the funds transmission arena were limited to its acts as an agent of that LRC (or modest check cashing services with a threshold higher than the current $1,000). Since the agent is obliged to follow the Anti-Money Laundering ("AML") Program of its principal, the LRC, what is the benefit of imposing the cost and effort on an agent of an LRC to comply with the other major elements of the law (i.e. to have its own AML program, its own compliance officer, its own training program and its own independent review which are all essentially copies of the LRC)? It amounts to duplication of effort without any significant discernable benefit. In addition, to give these banks greater comfort levels, the regulations should limit these agents to offering the services of only one LRC each year. This would make it practical for each LRC to monitor all the money transmission activities of such agent which the bank could rely upon, would stop the structuring of transactions by senders at the same agent among various LRC's, and would relieve the smaller banks from the need to monitor each such store while recognizing the realities of the entity controlling the funds transmission. At the end of each year, the agent could choose whichever LRC best fit the needs of its customers.

It bears underscoring that LRC's are experts at pattern detection because they are transaction driven companies. LRC's examine each individual transaction because there are no accounts akin to what banks provide. Banks, on the other hand, are account driven. They look for different patterns in total account activity to detect anomalies, but do not generally look at the underlying individual checks or wire transfers. LRC's fill in the gaps left by the banks. Since this type of compliance by the LRC's (and their oversight of their agents) is working (as we can find no record of a bank being held accountable by the authorities for the misconduct of an LRC or its agent), it behooves FinCEN, in its purpose of improving detection of financial crimes, to give the banks relief from liability if the LRC's are licensed and have satisfactory reviews from the AML examiners.

UniTeller Financial Services, Inc.

By: Ronald Schwartzman, General Counsel and VP