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Testimony Before the Subcommittee on Financial Institutions and Consumer Credit of the House
Committee on Financial Services
“Regulation of Money Services Businesses”
March 10, 2010

1. Money Services Businesses, known as MSBs, generally include money transmitters and remitters, check cashers, currency exchanges, stored value, bill pay services, and other similar services. They are among the most heavily regulated businesses in the United States. Almost every state requires licensure (similar in scope to banking licenses) in order to engage in money services businesses, especially money transmittal. The state regulators are usually the same regulators as the state banking regulators. These regulators conduct examinations, and are empowered to impose a wide range of sanctions on non-compliant MSBs; they have revoked licenses, imposed fines, made criminal referrals, and imposed civil sanctions, cease and desist orders, and other penalties. I have interacted with many of these state regulators over the years, and can attest they are extremely dedicated and take their responsibilities for protecting the public very, very seriously. During the last few years they have become even more diligent in their examinations, many of which can last several weeks. For some of the larger MSBs, this means they may undergo examinations from several states during the course of the year—in other words, they can be subject to examination by various examiners for several months each year. Although there are some variations in the depth of experience among the state regulators, in my view, they have become much more sophisticated over the last few years. In some cases, they even conduct joint, multi-state examinations. Similarly, the Financial Crimes Enforcement Network (FinCEN), the Office of Foreign Assets Control (OFAC), the Federal Reserve, the Federal Trade Commission (FTC), the Internal Revenue Service (IRS), and other federal regulators are very dedicated and experienced, and I believe we should be proud of their oversight of MSBs. I highly regard all of the regulators and law enforcement agencies who oversee MSBs, and believe they should be commended for their oversight and commitment.
2. In addition to the state regulators, the IRS is empowered under the Bank Secrecy Act (BSA) to examine MSBs, and it regularly conducts such examinations. Additionally, the FTC has regulatory oversight of non-bank financial services companies, and has used such powers as well. Moreover, FinCEN and OFAC also are empowered and on an ongoing basis do enact new regulations, as well as impose sanctions on MSBs who fail to comply.
3. I believe additional regulatory oversight is not appropriate. There have been very few reported incidents of an MSB failure that caused harm to any consumer or other customers. Moreover, under most state laws, licensed MSBs must maintain surety bonds or permissible investments (up to 100 percent) to protect consumers in the event the MSB faces financial difficulties or bankruptcy. Licensed MSBs are required to provide audited financials, usually annually, and in many cases, must provide quarterly reports to their regulators.
4. MSBs provide a tremendous service to the un-banked and underbanked. I am aware of estimates that between 10-15 percent of individuals in our country are either un-banked or underbanked. MSBs allow many such individuals access to the financial systems in the United States, in a way that is safe and convenient. There are hundreds of thousands of MSB locations throughout the United States; such locations are known as authorized delegates of the licensees, and as such, they, too, are already subject to regulatory oversight (for example,

they are subject to examination by both the state regulators and the IRS). Most authorized delegates are also fully subject to the Bank Secrecy Act, the PATRIOT Act and the economic sanctions overseen by OFAC. Like banks, they must file Suspicious Activity Reports, Currency Transaction Reports, and other BSA required reports, and comply with the recordkeeping requirements under the BSA's Fund Transfer Rule, Monetary Instrument Sales, NACHA's new IAT requirements, etc.

5. Additional regulations and oversight would likely cause a number of authorized delegates (such as certain retailers) to withdraw from the business. Such entities will do a cost-benefit analysis and may conclude that, in light of the increased risk they face if they fail to comply with every applicable law and regulation, it is simply not worthwhile for them to engage in such activity. One thing on which law enforcement, regulators, and the industry can all agree is that no one wants to cause such transactions to go underground. If such transactions go underground, the ability of law enforcement and the regulators to identify illegal transactions will become much more difficult. Like law enforcement and the regulators, the industry does not want to see increased risk of misuse.
6. I believe that we also all agree that we should have a mutual objective of making sure that MSBs remain as respected financial services providers. Much of the growth in the past few years in financial services has involved such entities, and they provide needed services, along with banks, to millions and millions of U.S. consumers.
7. Banks need to have additional protections in terms of banking MSBs. Today, very few banks are willing to bank MSBs as customers. The banks cannot be criticized for such reluctance, as MSBs have been, by and large, identified as high risk, and the banks can potentially be held liable for illicit activity engaged in by an MSB banked by the bank. The banks need a safe harbor that allows them to bank MSBs without incurring undue risk—for example, banks should be allowed to rely on an MSB's representation that it has an appropriate anti-money laundering program in accordance with BSA and PATRIOT Act requirements. Banks should not be expected nor required to double check such representations.
8. Although there have been a limited number of reported cases of illegal activities by MSBs, many of the reported cases have involved offshore entities or businesses that are not readily subject to U.S. jurisdiction. For example, there have been very few reported cases of misuse of prepaid cards issued by U.S. entities domestically.
9. Imposition of additional burdensome regulations that impose increased obligations on MSBs or their authorized delegates will result in services being withdrawn, in many cases, from those who need it the most—the unbanked and underbanked. I think this is contrary to our mutual goal, which is to increase access to such financial services to the unbanked and underbanked. For example, prepaid cards, issued by U.S. banks or licensed MSBs, may be one of the best tools in recent years to expand access to financial services to the unbanked and underbanked, and have given millions of individuals ready access to financial networks and, in general, safe financial services. We should take care to nurture such efforts by banks and MSBs, not undermine them.