The State of State Money Service Businesses Regulation and Supervision

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Money services businesses (MSBs), and specifically money transmitters, play a vital role in providing financial services to consumers and small businesses across the country. Countless Americans use MSBs every day to pay bills, purchase items online or send funds to family members and friends domestically and abroad. MSBs are especially integral to those less likely to use traditional banking services. Over one-quarter of U.S. households use non-bank financial institutions, including money transmitters.

However, MSBs, including money transmitters important to the global flow of remittances, are losing access to traditional banking services. State regulators recognized this phenomenon through the examination of MSBs. Similarly, the Financial Crimes Enforcement Network (FinCEN) has acknowledged that banks are indiscriminately terminating the accounts of MSBs, or refusing to open accounts for any MSBs, thereby eliminating them as a category of customers.2 Further, there is evidence MSB agents are unable to acquire or maintain bank accounts, eliminating the capability to perform many of the activities performed for licensed entities. This may be partially the result of concerns about regulatory scrutiny, the perceived risks presented by MSB accounts, and/or the costs and burdens associated with maintaining such accounts.3 Regardless, such a wholesale approach runs counter to the expectation that financial institutions can and should assess the risks of customers on a case-by-case basis.

Loss of banking services to these companies does not eliminate the demand for services provided by MSBs. Instead, transparent, legitimate transactions are converted into opaque, illegitimate transactions. Illicit actors are attracted to these opaque structures, seeking the opportunity to obscure avenues for the movement of illegal funds. The lack of access to banking services by MSBs may also be partially rooted in a misunderstanding of the degree to which MSBs are licensed, regulated and supervised by state and federal regulatory agencies.

The purpose of this paper is to outline the state system of supervision of MSBs in order to make clear the existence, structure and degree of an established regulatory system for MSBs. These state regulatory requirements are focused on customer protection, safety and soundness and adherence to Bank Secrecy Act and Anti-Money Laundering (“BSA/AML”) requirements and enforced through state supervisory programs.

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