
From: Michael Pahr [MPahr@appleseeds.net]
Sent: Monday, July 10, 2006 1:42 PM
To: Comments, Regulation
Subject: Re: RIN 1506-AA85

Date: July 10, 2006

From: Linda Singer

To: regcomments@fincen.treas.gov

Re: RIN 1506-AA85

The Appleseed Foundation (“Appleseed”) appreciates the opportunity to comment on the issue of providing banking services to money services businesses (“MSBs”) such as money transmitters and check cashers. Over the past few years, it has become increasingly difficult for MSBs to find banking services as banks close accounts and/or refuse to open new ones because of concerns about the MSBs’ own compliance with their anti-money laundering obligations.

Appleseed, founded in 1993, is a national affiliate organization devoted to equal justice for all under the law, and works to effect change at the local level. Over the years, Appleseed has been involved in a variety of issues such as reforming the juvenile justice system, improving foster care conditions, and protecting the rights of low-income consumers.[1]

Among other projects, Appleseed is working to increase immigrant access to mainstream financial services. While that is our goal, we understand that when newly settled in this country, immigrants often turn to local money transmitters to send money to the families they left behind. Appleseed has been seeking to make the remittance process more transparent as to fees charged, hoping that transparency would result in lower cost remittances. Competition provided by a large number of transfer companies in the market (ranging from the small transmitter in the immigrant’s neighborhood to the large Western Union outlet) has increased the number of choices available to consumers and often has resulted in significantly lower costs.

If banks continue to close accounts because of their concern about being responsible for the MSB’s anti-money laundering compliance, consumers’ choices will be dramatically reduced and costs will rise with lack of competition. The burden of being unable to access the banking system will fall most harshly on the smaller, often ethnic neighborhood money remitters and their networks of small family-run businesses. As a result, it likely only will be the large remitter chains, which have more economic bargaining power (and corporate parent ownership), that will remain in business, with less incentive to be price-sensitive. It will be the consumers who (literally) pay the costs of fewer competitors in the market.

In addition, some immigrants may turn to underground alternative forms of money transmission which are unregulated, offer no consumer protections and could well exploit unsophisticated immigrants whose only concern is getting money home to their families. Higher costs will leave the immigrant, who has little money to begin with, either keeping less for himself or herself, or sending less home to people who need it. Either way, the only winner in the situation is the money transmitter who commands the higher non-competitive fee.

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Moreover, the fewer banks left that service MSBs, the more those banks can charge MSBs for maintaining the accounts. If MSBs pay higher service fees to maintain their bank accounts, they likely will pass those costs on to customers.

While their pricing procedures could be more transparent, MSBs nevertheless provide a workable alternative to those persons who, for many reasons, do not have bank accounts. The reasons range from fees associated with account ownership to language barriers and memories of a less than reliable banking system in the immigrant's home country. MSBs also are often more accessible than banks, with locations and hours that are convenient to immigrant consumers.

Unfortunately, past guidance from FinCEN and the banking regulators regarding banking services for MSBs has been less than comforting to the banks. While regulators in Washington, DC, have made statements indicating that MSBs are legitimate businesses deserving banking services, examiners in the field are either saying outright or implying strongly that banks should not maintain these accounts. The actions in the field must match the message from Washington. Otherwise, the banks will continue to look askance at Washington's "guidance" when concerned that examiners are going to find fault with banks that continue to provide banking services to MSBs.

FinCEN and the banking regulators should make it clear that a bank is not obligated to act as an MSB's anti-money laundering regulator. If there is concern that smaller MSBs are not aware of their anti-money laundering obligations, then it should be the state and federal regulators, not banks, which should be educating them and enforcing their compliance standards. Banks have their own anti-money laundering compliance to which to attend; they should not be forced to ensure that MSBs also comply with their obligations. While not intended, the guidance issued in 2005 that was supposed to end this perception only exacerbated the situation, with an increasing number of MSB account closures. FinCEN must do something to ensure a meaningful and effective compliance system for MSBs that enables businesses that meet regulatory standards to access banking services and does not stifle competition.

Thank you again for giving us the opportunity to comment. We would be happy to discuss these issues further and acquaint you with our Fair Exchange Project which seeks to make the remittance process, both price and terms, more transparent.

Sincerely,

Linda Singer
Executive Director

[1] More information on the Appleseed Foundation may be found at <http://www.appleseednetwork.org>.

Appleseed, a non-partisan and non-profit organization, is a network of independent public interest law Centers established across North America working to identify and address social injustices. Appleseed works to build a just society through education, legal advocacy, community activism and policy expertise by addressing root causes and producing practical, systemic solutions with broad national and international implications. For more information, visit: www.appleseednetwork.org.