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Statement of David Landsman
Executive Director of the National Money Transmitters Association
Before the United States House of Representatives Committee on Financial Services'
Subcommittee on Financial Institutions and Consumer Credit
Hearing Entitled "Bank Secrecy Act's Impact on Money Services Businesses"
June 21, 2006

I am David Landsman, Executive Director of the National Money Transmitters Association. The NMTA was founded in 1999 to voice the concerns of the state-licensed remittance companies (or LRCs) of the United States. Currently, we have 43 member companies, which collectively handle over $17 billion a year in migrant worker remittances.

I would like to thank the Subcommittee on behalf of our members, for allowing me to appear before you today. I would also like to express our gratitude to Congressman Charles Rangel, who has consistently shown his concern for the negative impact these account closings are having on our customers and their families, on the many countries that depend on remittances for their survival, and on the effectiveness of our nation's anti-money laundering (or AML) strategy.

No one knows the exact amount, but we estimate that outbound remittances from the US total at least $60 billion annually. The approximately 620 American LRCs that handle these remittances have never faced more peril than we do today. Banks are crucial to the operation of our business, and they are no longer willing to work with us, citing regulatory concerns.

These regulatory concerns are well-founded, but not because of any real money laundering risk. Banks get into trouble for having us as customers because Federal banking regulators have incorrectly classified all Money Services Businesses (or MSBs) as 'high-risk' and make no distinction within that stereotype between licensed and unlicensed remittance companies. Regulators think that banks must detect potential evil-doers in advance, no matter how much time and expense it requires and, if the bank stumbles at any point along the way, the bank itself deserves condemnation as if it were a direct failure of the bank's own AML program. Although none of the compliance fines we have seen levied against banks involved any LRC, the atmosphere has been supercharged due to the severity of those fines.

Now, these attempts to 'protect' the banking system from the 'risk' LRCs pose have backfired badly by threatening to destroy the best ally law enforcement has in the fight against money laundering. If financial institutions are the 'first line of defense' in our nation's war against terrorist funding, then we LRCs are the Special Forces. No sector of the financial industry has better compliance programs, a cleaner record, or is more central to our nation's AML efforts than LRCs. The average remittance we send is approximately $243, hardly a size conducive to money laundering.

Although regulators say they do not hold banks responsible for our supervision, that is exactly what is happening. Under such conditions, it does not make sense for any bank to keep us as customers, no matter how profitable our accounts are for them.

In her May 8th comment on FinCEN's Advance Notice of Proposed Rulemaking, New York Banking Superintendent Diana Taylor reports that, according to her Department's own survey, 42% of New York LRC banking relationships hang by a thread, and are concentrated at only two banks. If this situation is not remedied, and soon, then the ranks of LRCs all across the country will be decimated. Unscrupulous, unlicensed operators will no doubt fill the void left by our departure.

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Regulators, without legislative guidance, have steadfastly refused to grant any sort of protection that would allow banks to rely on our state licenses. Whose liability should it be then, if 'something' goes wrong with an LRC, the banks'? Why then have licenses at all? No, the truth is it should not be anyone's liability, except the MSB's. It is exactly this type of 'guilt-by-association' thinking that has caused the situation we face today: too much due diligence responsibility imposed on the banks, and drastic consequences to the banks for any failure, no matter how technical. Regulation is the job of government, and cannot and should not be delegated to banks.

In order to solve this problem, we recommend the following steps:

1. Remove the onus of supervising us from the banks' shoulders, by law, as soon as possible. This may be done by officially recognizing some or all state licenses, defining *all* measures a bank is expected to take when opening our accounts, and making those measures practicable. Banks would still have to verify our licenses and remain alert for red flags, as usual. The LRC may be required to sign a self-certification form similar to the one used in foreign correspondent banking relationships.

2. Start regulating LRCs at the federal level with a voluntary, non-preemptive federal AML certification that would involve initial application and vetting, published rules and standards that must be followed to maintain certification, and regular examinations and reports. The current regulation of MSBs we have at the federal level is not good enough. Create an MSB supervision department at FinCEN and end the unfortunate division of AML responsibilities that currently exists between FinCEN and the IRS. Let the MSB registration program gradually be replaced by something more meaningful that would give those firms that so desire, a pathway to the credentials that it takes to get bank accounts. Regulate the agent population through us licensees, rather than trying to herd over 200,000 retail locations, most of which are mom and pop shops.

3. Our industry needs to take the first steps toward self-regulation. This would involve industry-driven training, standards-setting, certification and disciplinary procedures. While this is something that we ourselves need to do, government can help by encouraging LRCs to join together.

I thank the Subcommittee once again for the opportunity to have our opinions heard.

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