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Chairman Bachus, Ranking Member Sanders, and distinguished members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss initiatives that the Financial Crimes Enforcement Network is implementing under the Bank Secrecy Act relating to the money services business sector. Your leadership and commitment to understanding and publicly discussing the issues confronting this industry is critical not only to the safety and soundness of our financial system, but also to our nation`s security.

I am pleased to be here today with Eileen Mayer, Director of the Small Business/ Self Employed Division of the Internal Revenue Service; Ann Jaedicke, Deputy Comptroller for Compliance Policy at the Office of the Comptroller of the Currency; and Superintendent Diana Taylor from the New York State Banking Department. Each of these agencies plays a vital role in implementing Bank Secrecy Act requirements. I am happy to say we have forged a strong working relationship in our united effort to regulate the money services business industry.

The Financial Crimes Enforcement Network (FinCEN) has regulated the money services business industry under the Bank Secrecy Act since the 1990s. Issues surrounding the money services business regulatory regime, including the need to identify unlicensed and unregistered money services businesses, conduct robust federal Bank Secrecy Act compliance examinations, and ensure access to banking services, continue to be at the forefront of our agenda.

As you may already know, the term ``money services businesses`` under our regulations refers to five distinct types of financial services providers: (1) currency exchangers; (2) check cashers; (3) issuers, sellers, or redeemers of traveler`s checks, money orders, or stored value; (4) the United States Postal Service; and (5) money transmitters.

Bank Secrecy Act regulations require money services businesses to: establish written anti-money laundering programs; file Currency Transaction Reports and Suspicious Activity Reports (certain money services businesses only); maintain certain records with regard to customers who purchase monetary instruments with cash; record certain

information about funds transfers; and include certain information in the transmittals of orders for such funds transfers. In addition, certain money services businesses are required to register with FinCEN and maintain a list of agents.

Money services businesses provide various financial products that have traditionally been provided at banking institutions. For example, a money services business customer can take his or her paycheck to a check casher and convert it into cash. Customers can also purchase money orders or transfer the funds, both within the United States and abroad, using the services of a money transmitter. All such services are available without requiring the customer to establish an account relationship.

Access to Banking Services

As you are aware, there has been mounting concern among FinCEN, financial regulators, and the money services business industry regarding the ability of money services businesses to obtain and maintain banking services. Many banks have stated their uncertainty as to the appropriate steps that they should take under the Bank Secrecy Act to manage potential anti-money laundering and terrorist financing risks. At the same time, the money services business industry has expressed concern that misperceptions of risk may be unfairly labeling them as ``unbankable.``

Individual decisions to terminate account relationships, when compounded across the U.S. banking system, have the potential to result in a serious restriction in available banking services to an entire market segment. The money services business industry provides valuable financial services, especially to individuals who may not have ready access to the formal banking sector and require bank accounts. Consequently, it is important that money services businesses that comply with the requirements of the Bank Secrecy Act and applicable state laws remain within the formal financial sector, subject to appropriate anti- money laundering controls. Equally important is ensuring that the money services business industry maintain the same level of transparency, including the implementation of a full range of anti-money laundering controls as required by law, as do other financial institutions. If money services business account relationships are terminated on a widespread basis, we believe many of these businesses could go ``underground.`` This potential loss of transparency would, in our view, significantly damage our collective efforts to protect the U.S. financial system from money laundering and other financial crime - including terrorist financing. Clearly, resolving this issue is critical to our achieving the goals of the Bank Secrecy Act.

In March 2005, the Non-Bank Financial Institutions and the Examination subcommittees of the Bank Secrecy Act Advisory Group jointly hosted a fact-finding meeting to solicit information from banks as well as money services businesses on issues surrounding the provision of banking services to the money services business industry. Subsequently, in April 2005, FinCEN and the federal banking agencies issued interagency guidance to the banking industry on regulatory expectations when providing banking services to domestic money services businesses. FinCEN issued a companion advisory providing guidance to

money services businesses on what they should expect when obtaining and maintaining banking services.

Guidance, Education & Regulation

Currently, based upon what we learned at the March 2005 meeting, and in subsequent discussions with other federal and state regulators, law enforcement, and the industry, we have developed and are implementing a three-point plan for addressing these issues:

1. Guidance -- That outlines with specificity Bank Secrecy Act compliance expectations when banks maintain accounts for money services businesses.

In March 2005, FinCEN and the federal banking agencies took the first step toward addressing the concerns expressed by banks and money services businesses by issuing a Joint Statement on Providing Banking Services to Money Services Businesses. The purpose of the Joint Statement was to assert clearly that the Bank Secrecy Act does not require, and neither the Federal Banking Agencies nor we expect, banking institutions to serve as de facto regulators of the money services business industry. The Joint Statement also made it clear that banks that open or maintain accounts for money services businesses are expected to apply the requirements of the Bank Secrecy Act to money services business customers on a risk-assessed basis, as they would for any other customer, taking into account the products and services offered and the individual circumstances.

Shortly after issuing this Joint Statement, we issued the more specific guidance that I mentioned earlier in my testimony on the compliance expectations for both banks and money services businesses. Since that time, we have issued additional guidance to banks and money services businesses, addressing issues ranging from development and implementation of anti-money laundering programs to registration and de-registration of money services businesses and record keeping obligations. We strongly believe that this guidance has assisted in further clarifying Bank Secrecy Act requirements and supervisory expectations as applied to accounts opened or maintained for money services businesses.

However, we neither believe that this guidance can solve all issues of concern relating to money services businesses nor that it will repair all relationships between money services businesses and banks. Nonetheless, we are committed to continue working with the federal banking agencies and other federal and state partners, law enforcement, banks, and money services businesses to do everything we can to clarify expectations.

Education - That provides banks and bank examiners enhanced education on the operation of the variety of products and services offered by money services businesses and the range of risks that each may pose.

As the regulatory regime for money services businesses has developed, FinCEN has taken a number of steps to reach out to this historically unregulated industry in order to

educate it about the Bank Secrecy Act and applicable regulatory requirements. We have developed a website devoted solely to money services businesses (www.msb.gov) and provided Bank Secrecy Act compliance materials to the industry in a nationwide outreach program and through ongoing regulatory guidance. We are also in the process of updating and publishing our educational materials in seven foreign languages.

3. Regulation - That strengthens the existing federal regulatory and examination regime for money service businesses, including coordinating with state regulators to better ensure consistency and leverage examination resources.

Within the last year, we have proposed to revise, simplify, and shorten the money services businesses Suspicious Activity Report form. Our expectation is that this will enhance the ease of completing and filing the form while still obtaining critical information needed by law enforcement. We will also reexamine our registration requirement for money services businesses and ensure that it is achieving the purpose intended in the law; that is, to identify the universe of lawfully operating money services businesses so that law enforcement can focus on those businesses that are operating outside the law. With respect to the issues surrounding the provision of banking services to money services businesses, we are considering additional actions, guidance, and outreach necessary to address this issue. For example, in March 2006 we published an advance notice of proposed rulemaking to seek additional information from the banking and money services business industries on this issue. We will be receiving comments through July 10th and giving those comments our serious consideration. We are also continuing to work closely with our colleagues at the Internal Revenue Service, to enhance the examination regime through the development of revised Bank Secrecy Act examination procedures, information sharing, and examination targeting. Additionally, as noted previously, we will continue to work closely with the Conference of State Bank Supervisors and state regulators on these issues. Executing individual agreements with state banking agencies will ensure better coordination and synergy with state-based examiners and improve consistency in examination processes.

We also intend to continue working on developing indicators for law enforcement and financial institutions to help identify unlicensed and unregistered money services businesses. By providing law enforcement, banks, and other financial institutions with indicia of illicit activity, they will be better able to help us identify money services businesses that choose to operate outside the regulatory regime. It remains vital that we strike the appropriate balance between education and outreach, and criminal enforcement. We will continue to reach out to those businesses that remain uninformed about the regulatory requirements, while at the same time, support aggressive criminal enforcement of those businesses that do not intend to operate within the law and are engaged in furthering potential underlying criminal activity.

Registration with FinCEN

As noted, identification of money services businesses subject to Bank Secrecy Act requirements is an essential first step in effective regulation. Our effort to identify money

services businesses begins with the Bank Secrecy Act requirement to register with FinCEN and maintain lists of agents. However, the industry is largely composed of small, unsophisticated businesses whose primary business is often something other than the money services that they provide - frequently, to the poor and unbanked. Additionally, due to language barriers within certain ethnic communities, there may be confusion regarding the applicable regulations.

Undoubtedly, our efforts to identify money services businesses have not been entirely effective. First, there are a substantial number of money services businesses that are not required to register, and many money services businesses required to register have not done so. Second, the current registration requirement is confusing and unwieldy, requiring a principal money services business to register - but not the principal`s agents.

For example, the regulation requires that Western Union register with FinCEN as a money services business and keep accurate records of its 70,000-plus agents, but it does not require those agents to register (unless they provide money services business services as a principal in addition to those provided solely as an agent for Western Union). Notwithstanding that they do not have to register, these same agents are still defined to be money services businesses and thus have an independent obligation to comply with all other applicable Bank Secrecy Act requirements. Furthermore, these agents often provide other services unrelated to their agency relationship, such as check cashing, which - often unbeknownst to the independent agent - gives rise to an independent duty to register with FinCEN. Moreover, the regulation does not require the principal money service business to identify its agents to FinCEN or any appropriate law enforcement organization absent a specific request. This has created a significant gap in our efforts to identify the number of money services businesses currently operating.

We recognize that the complexity of our current approach to MSB registration may be contributing to a lack of registration and we are working on solutions to provide a more efficient and reliable method for identifying money services businesses.

Additionally, we plan to better leverage our state information sharing agreements. Most states require certain money services businesses (mostly money transmitters or check cashers) to be licensed; additionally, although most state requirements are geared toward consumer protection interests, more and more states are incorporating anti-money laundering requirements into their licensing regimes. We have executed information sharing agreements with 41 state regulatory agencies, including those responsible for licensing and examining money services businesses. As a result of these agreements, we will be better able to compare and use our respective examination findings and other information to identify money services businesses and ensure their compliance with the Bank Secrecy Act. We are also developing internal analytical products as well as working closely with the Internal Revenue Service and with law enforcement, in particular the Federal Bureau of Investigation and Immigration and Customs Enforcement, in our effort to identify possible unregistered money services businesses. Once we identify unregistered entities, we have developed outreach procedures for educating these

businesses as to their obligations under the Bank Secrecy Act, and refer for prosecutorial investigation those entities that fail to register after appropriate outreach.

In conclusion, Mr. Chairman, we are grateful for your leadership and that of other members of the Subcommittee on this issue and stand ready to assist in your continuing efforts to ensure the safety and soundness of our financial system. Thank you for the opportunity to appear before you today. I look forward to any questions you have regarding my testimony.