



FINANCIAL SERVICE CENTERS OF AMERICA, INC.
A NATIONAL TRADE ASSOCIATION

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July 22, 2011

Via Federal e-Rulemaking Portal

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Re: Docket No. R-1419
RIN 7100-AD76

Dear Secretary Johnson:

These comments to the Board's notice of proposed rulemaking are submitted on behalf of Financial Service Centers of America (FiSCA), the national trade association representing over 6,500 neighborhood financial service providers throughout the United States. Since its inception, FiSCA has been the leading voice on legislative, regulatory and business issues that affect its members and the rights of U.S. consumers to access basic financial services.

FiSCA's members, which we describe as "financial service centers" (FSCs), provide non-depository financial services including check cashing, remittance services (as agents), short-term loan products, prepaid card products, and many others. We serve millions of customers, both banked and un-banked, who use us for the advantages that we provide: convenient locations, friendly service and access to instant liquidity. We serve people from all walks of life, including urban communities and the under-banked, groups that various financial regulatory agencies have stressed as being underserved by more traditional institutions. Multiple independent studies have underscored that FSCs serve customer needs well in providing critical financial services to the local communities they serve.

FSCs and Remittance Transactions

FSCs primarily serve as the agents of remittance providers and are involved in remittance transactions at the point of sale with the consumer. Remittances are available directly at banks and other financial institutions. The majority of remittance transactions, however, are generated at neighborhood money transmitter agents, including FSC locations, due to convenient locations, extended hours of operation and competitive pricing.

As an organization, FiSCA advocates transparency in consumer transactions. We understand that our low and moderate-income customers are often required to manage tight budgets, and require accurate information to make sound financial decisions. We strongly believe that consumers should not be subjected to undisclosed fees or incomprehensible terms and conditions. We agree that consumers should be provided complete information to make informed choices, and that all fees associated with remittance services should be fully disclosed at the time of the transaction. We believe that our industry has a good track record in this regard. The majority of FiSCA's membership acts as agents for Western Union, MoneyGram, or other larger remitters, who make transactions fees and conversion rate information available either at agent locations or via Internet.

As remittance agents, FiSCA members charge processing fees on a per-transaction basis, which are disclosed at the time of the transaction, and have no ability to set or benefit from currency exchange rates or other charges. Generally, depending on the amount remitted and the contractual arrangement with the remittance provider, agents receive a couple dollars on the average transaction.

Comments to Proposed Rulemaking

Although FiSCA supports clear and complete consumer disclosures, we are concerned that some areas within the proposed rules may have an adverse impact on remittance providers, increasing operational costs to both remitters and agents, and ultimately increasing remittance costs to the consumer. Although we support the policies driving the Board's proposed rulemaking, we caution against overly burdensome requirements that may suppress industry growth. Many state jurisdictions already provide comprehensive regulatory frameworks, including consumer protections, covering remittance providers and agents. We are concerned that a further layer of regulation may create redundancies or inconsistencies within the regulatory scheme.

As we have previously seen in this industry, unintended regulatory consequences can have a dramatic and negative impact on business. Adoption of the USA Patriot Act, for example, drove many banks to terminate their remittance and FSC customers, and drove up banking costs industry wide. With regard to this proposed rulemaking, in addition to ramp-up and long term compliance costs, we are concerned that remitters and agents may experience other unforeseen factors that may negatively impact the industry.

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For example, the proposed rule would provide that a consumer has an absolute right to refund, which is effectively a right to cancel an order within the first day, and seek a return of all fees and costs associated with the transaction. It would appear that the right to a refund is applicable in all instances even where, for example, a customer seeks to cancel a transaction to take advantage of a marginally better exchange rate later that day. Processing of remittance transactions is time consuming and labor intensive. Agents typically operate on a very slim profit margin, receiving just a couple dollars on most transactions, resulting in very modest earnings after labor and overhead costs. Is it appropriate that remittance providers and agents should be required to refund fees in all instances, even where the requested refund is not due to error on their part? We believe this area requires further analysis as to how this process would work, and under what circumstances a consumer may seek an unconditional refund.

A similar example is the requirement that a consumer may be permitted to correct, at no additional charge, all errors in remittance orders. Reprocessing of remittance transactions is time consuming and costly to both remittance providers and agents. We believe this is another area that requires further consideration.

Additionally, although FiSCA supports full disclosure of all applicable fees and costs, we are concerned that certain requirements proposed by the Board may be excessively burdensome. Specifically, the proposed rules require that remittance providers disclose all taxes and "tax-like" charges payable on a remittance order. Ostensibly, this would include even local and municipal taxes assessed at the point of payment in the foreign jurisdiction. Although not directly applicable to sending agents in the U.S., we believe this requirement may be overly burdensome on remittance providers, ultimately resulting in greater operational costs and adversely impacting agents and consumers.

Acts of Agents

Most remittance transactions are sent through an agent of the remittance provider. In many cases, the agent is the single point of contact between the consumer and remittance provider. The larger remittance providers generally insist on contractual exclusivity with their agents. Other remitters do not insist on contractual exclusivity, in which case the agent may serve as an agent for more than one remittance provider. It is fair to say that the level of agent oversight may differ from provider to provider.

The Board proposes two alternatives to implement EFTA Section 919(f) with respect to a remitter's responsibility for acts of agents. Under alternative A, "[a] remittance transfer provider is liable for any violation of [the proposed rule] by an agent when such agent acts for the provider." Alternative B would provide that "[a] remittance transfer provider is liable for any violation of [the proposed rule] by an agent when such agent acts for the provider, unless: (a) The remittance transfer provider establishes and maintains written policies and procedures designed to assure compliance with [the proposed rule] by its agents, including appropriate oversight practices; and (b) The remittance transfer provider corrects the violation to the extent appropriate, including complying with the error resolution procedures set forth in [the proposed rule]."

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Generally, the qualified vicarious liability as described under alternative B is a more acceptable approach as we believe it would act as an incentive to remittance providers to take a more active role in developing and communicating compliance policies and procedures for agents, and in engaging in agent oversight, generally. The proposed rules will create significant additional compliance responsibilities for both remitters and agents, and we believe that this approach will foster a more positive environment. Moreover, we believe this approach would also benefit consumers as it will encourage remittance providers to actively engage in and support customer complaint resolution and assist agents in customer relations matters.

Conclusion

We appreciate the opportunity afforded us to comment with respect to these very important issues. We hope that the Federal Reserve Board and Consumer Financial Protection Bureau will consider favorably our comments and recommendations. We are grateful for the Board's efforts thus far and we are committed to continuing to work with all interested parties in this regard.

Thank you.

Very truly yours,

s/ Edward P. D'Alessio

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