

Congress of the United States
Washington, DC 20515

March 27, 2014

The Honorable Janet Yellen
Chair
Board of Governors of the Federal Reserve System
Constitution Avenue and 20th Street, NW
Washington, DC 20551

The Honorable Thomas J. Curry
Comptroller of the Currency
250 E Street, SW
Washington, DC 20219

Dear Chair Yellen and Chairman Curry:

We write to first commend the recent efforts of federal banking and law enforcement agencies to eliminate fraud and illegal transactions from our nation's payment system. We also write to express our grave concern regarding the unintended impact of these actions on a crucial segment of our financial system, including fully licensed and regulated Money Services Businesses (MSBs) and their legitimate customers.

MSBs provide a wide array of important financial products and services. As far back as March of 2005, the Board of Governors of the Federal Reserve System (Fed), the Federal Deposit Insurance Commission (FDIC), the Office of the Comptroller of the Currency (OCC), the National Credit Union Administration, the Financial Crimes Enforcement Network, and the Office of Thrift Supervision recognized that "[t]he money services business industry provides valuable financial services, especially to individuals who may not have ready access to the formal banking sector." (Joint Statement, March 30, 2005). Furthermore, in serving millions of unbanked and underbanked consumers, MSBs are often the only providers of financial services in low- and moderate-income areas, where other financial services are not readily available or do not meet consumer needs. That is why, in part, Congress acknowledged the need for short-term credit products and did not limit the ability of online lenders or storefront operators to offer such products in the *Dodd-Frank Wall Street Reform and Consumer Protection Act*. For example, consumers who are about to have their water or electricity turned off, and need a small short-term loan to pay their bills are not going to be able to secure it at a traditional financial institution.

Efforts to protect our constituents and American consumers as a whole from fraud must be balanced with the need to ensure access to regulated financial services and providers. MSBs operate under an extensive system of licensing, regulation, and supervision. Furthermore, at the federal level, the Consumer Financial Protection Bureau (CFPB) has supervisory authority over many of the products offered by MSBs.

It is our understanding that certain recent efforts of federal and state regulators to eliminate fraud, while laudable, have adversely impacted many legally operating MSBs and threaten many of the vital, regulated financial services they provide. We continue to hear from MSBs that are now unable to obtain basic banking services such as bank accounts and lines of credit. In addition, federal attempts to eliminate fraud from the Automated Clearing House (ACH) system have lead depository financial institutions to close access to the ACH system for licensed MSBs.

Banks that have terminated these services, either directly or through ACH processors that serve MSBs, are reflecting blanket concerns about heightened regulatory scrutiny as opposed to engaging in appropriate, risk-based determinations based on individual customer circumstances. Therefore, legitimate, licensed MSBs are being cut off from vital banking services. In turn, as a result their customers may be denied access to much needed financial products and services. Efforts to help eliminate fraud should not come at the expense of limiting access to financial services for some of our most vulnerable citizens.

It has been widely reported that FDIC and DOJ are leading a joint agency effort on this front, commonly referred to as Operation Choke Point, in which banks, including community banks, and third party payment processors face heightened regulatory scrutiny unless they cease doing business with online lenders. It has recently come to our attention that examiners from both the Fed and OCC are also playing a role in discouraging banks from processing lawful transactions, extending credit or holding accounts for MSBs. The reports we have received cause us great concern.

Members of Congress have taken action on this issue and, as a result, both DOJ and FDIC have acknowledged the inappropriate targeting of lenders and intimidation of financial institutions. Both agencies have issued clarifying documentation specifically stating that financial institutions should not be penalized or scrutinized merely for maintaining relationships – many of which are longstanding – with lenders that comply with applicable state and federal laws. Those communiqués are attached. Moreover, CFPB Director Richard Cordray has testified with regard to online lending that those acting in compliance with the law deserve protection, and we believe that it is important to share this message with your respective agencies and industry stakeholders. Likewise, we should encourage responsible insured depositories and state licensed providers who follow both state and federal law to continue to provide these vital services to our constituents.”

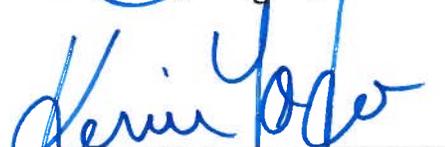
Finally, are you supporting Operation Choke Point and if so, what if any are your respective roles?

While the determination to eliminate fraud is commendable and one that we fully support, efforts to stop banks from processing lawful transactions and maintaining financially sound accounts have the potential to destroy many legitimate, legally compliant lenders and small businesses, as well as adversely impact tens of millions of low- and moderate-income American families.

Banks should not be forced to throw out legitimate customers they have successfully banked for decades. Regulators should instead directly target predatory actors who are breaking existing laws and resist any broad approach that causes undue consequences on an entire industry. We thank you for your consideration of this matter and look forward to your prompt response.

Sincerely,


Blaine Luetkemeyer
Member of Congress

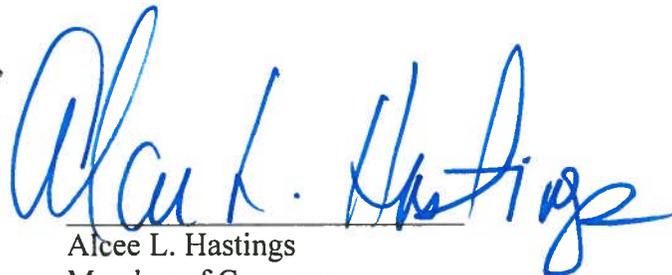

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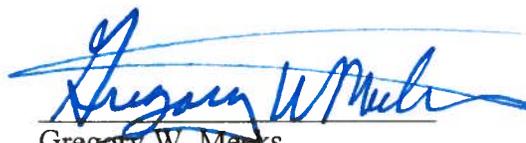

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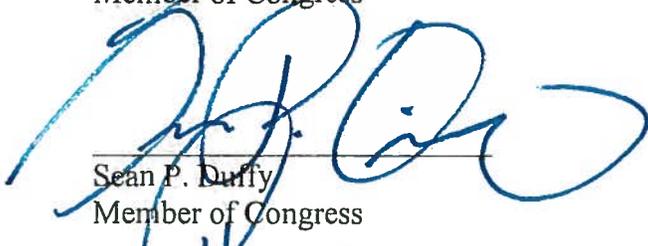
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cc: Martin J. Gruenberg, Chairman, FDIC