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Congress of the United States
House of Representatives
Washington, DC 20515

January 5, 2022

The Honorable Janet L. Yellen
Secretary of Treasury
Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC, 20005

Michael J. Hsu
Acting Comptroller
Office of Comptroller of the Currency
400 7th Street, Southwest
Washington, DC, 20219

Dear Secretary Yellen and Acting Comptroller Hsu,

I write to urge the Treasury Department (the Department) and the Office of the Comptroller of the Currency (OCC), along with other relevant agencies, to address the lack of banking access for money service businesses (MSBs) and take steps to support a state-level initiative in Washington state to get community and regional banks to serve MSBs.

Many MSBs in Washington and across the country, especially those serving certain higher risk foreign countries, have been unable to obtain banking services. These state licensed MSBs in Washington operate legally and are regulated by the Washington State Department of Financial Institutions (DFI). A variety of factors contribute to decisions by banks to stop serving MSBs, including widespread and systemic de-risking as a result of Bank Secrecy Act/Anti-Money Laundering (BSA/AML) compliance.¹ Not only do federal-chartered financial institutions refuse to serve many MSBs directly, but they have also exacerbated bank de-risking by threatening to cut off services to state-chartered banks that serve MSBs.

The lack of a bank account has a negative impact on the MSB's long-term viability and their ability to serve consumers and presents a safety and security issue. Unbanked MSBs that have been forced to store large amounts of cash in their premises have become victims of armed robberies. These challenges disproportionately affect immigrant communities and communities of color. A study by The Right to be Banked Campaign showed that twenty-five percent of licensed MSBs in Washington State are unbanked and most of these businesses are owned by people of color.² The lack of banking access also presents a barrier to federal relief – unbanked MSBs were unable to access the Paycheck Protection Program (PPP) and other federal assistance programs throughout the COVID-19 pandemic due to not having a banking relationship.

The Washington DFI is currently developing an initiative to encourage state-chartered community and regional banks to serve MSBs. However, the ability for these community and regional banks to utilize federal-chartered financial institutions as correspondent banks is critical to the success of the initiative. I

¹ https://www.gao.gov/products/gao-22-104792?utm_campaign=usgao_email&utm_content=daybook&utm_medium=email&utm_source=govdelivery

² <https://medium.com/@roblemusse/the-impact-of-bank-de-risking-in-washington-state-c1b53542ae9d>

am requesting that the federal regulators take actions to help ensure federal-chartered financial institutions will still serve the community and regional banks that count MSBs as their customers.

The OCC, FinCEN, and others have taken actions to attempt to address de-risking and concerns raised by federal-charted financial institutions. However, there appears to be minimal impact so far in improving banking access for MSBs. I strongly encourage you and your federal partners to consider new and creative solutions to address this problem. Federal regulators could consider a pilot program working with a few correspondent banks, regional and community banks, and MSBs. The pilot program could put together new guidance, a no action letter, a safe harbor (or something similar), enhanced information sharing, or other actions to increase comfort levels for correspondent banks to give them more protections and less perceived risk with taking these accounts.

Addressing this crisis is not only important for the MSBs and the communities they serve, but for national security too. As you know, the current use of cash-based remittances by unbanked MSBs hinders the ability of federal regulators and enforcement agencies to oversee these transactions and ensure compliance with federal laws. Working with correspondent banks, the Washington DFI, and stakeholders in Washington at a small scale to improve access to banking services could serve as a model for expansion across the country.

Collaboration with Washington's state-level efforts could also be helpful to inform the development of the Department's strategy to combat de-risking pursuant to Section 6215 of the National Defense Authorization Act for Fiscal Year 2021. As part of the statutory requirement to consult with appropriate public- and private-sector stakeholders, I request the Department speak with representatives from the Washington DFI and local stakeholders in Washington, including MSBs, as the Department prepares the strategy.

I applaud President Biden and the Biden-Harris Administration's commitment to advancing racial equity and strengthening underserved communities, including improved access to the financial sector. Taking immediate steps to alleviate de-risking and unbanked MSBs, the vast majority of whom are owned by people of color and supporting communities of color, fits directly into this mission. Washington state would be a perfect place to begin fixing this problem facing our communities.

I appreciate your attention to this issue and look forward to working with you on solutions to address this crisis.

Sincerely,

A handwritten signature in blue ink, appearing to read "Adam Smith".

Adam Smith
Member of Congress

Cc: Honorable Todd Harper, Chairman, National Credit Union Administration