

TESTIMONY OF
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On behalf of the
CONFERENCE OF STATE BANK SUPERVISORS
On
EXAMINING DE-RISKING AND ITS EFFECT ON ACCESS TO FINANCIAL SERVICES
Before the
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT
HOUSE COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES

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INTRODUCTION

Thank you Chairman Luetkemeyer, Ranking Member Clay, and distinguished members of the Subcommittee. My name is Bryan Schneider. I am the Secretary of the Illinois Department of Financial Services and Professional Regulation. My department is responsible for the supervision, regulation and examination of Illinois' more than 4,000 state-chartered banks, credit unions and non-bank financial institutions, including 156 money transmitters and 380 check cashers. Our mission is to utilize responsive, innovative, transparent and efficient governance to create an ideal regulatory environment that allows economic growth to flourish and effectively optimizes consumer choice.

Today, I represent my colleagues on behalf of the Conference of State Bank Supervisors (CSBS), the nationwide organization of banking regulators from all 50 states, American Samoa, the District of Columbia, Guam, Puerto Rico and the U.S. Virgin Islands. State regulators supervise roughly three-quarters of all U.S. banks and a variety of non-bank financial services. CSBS supports state regulators by serving as a forum for policy and supervisory process development and facilitating effective and efficient state regulation through training, educational programs, examiner tools and job aids. CSBS, on behalf of state regulators, also operates the Nationwide Multistate Licensing System (NMLS) to license and register non-bank financial service providers in the money services businesses (MSBs), mortgage, consumer finance and debt industries.

I currently serve as chair of the CSBS Emerging Payments and Innovation Task Force, which addresses fintech issues, as well as the chair of the State Coordinating Committee, which is responsible for coordinating supervision between the states and the Consumer Financial Protection Bureau (CFPB).

Thank you for holding this hearing on de-risking and its effects on access to financial services. Banks and other financial services companies should know and understand their individual risk profiles. My testimony today will discuss state regulators' perspectives on de-risking and our efforts to give regulators, industry and consumers greater visibility into existing, emerging and evolving MSB risks.

STATE REGULATORS HAVE A UNIQUE VANTAGE POINT OF MSB ACTIVITY

Unlike any single federal prudential regulator, most state banking departments – including my agency – regulate multiple participants in the U.S. payments system, which includes banks, credit unions and MSBs. As such, state financial regulators are well-positioned to recognize the intersection of Bank Secrecy Act (BSA) and Anti-Money Laundering (AML) risks at financial institutions and the best way to supervise for these risks at both depository and non-depository institutions.

State regulators' perspectives on de-risking are informed by our supervision of a diverse field of financial firms. States are the chartering authority and primary regulator for 78 percent of the nation's banks. These banks vary in asset size, from large and complex institutions that have

been labeled as global systemically important banks, to mid-sized and regional banks, to small institutions that offer products tailored to community needs.

Additionally, and unlike federal regulators, states are the primary regulators of more than 23,000 non-depository financial services providers. These providers include MSBs, residential mortgage lenders and servicers, debt collectors and consumer and small dollar loan lenders. The states regulate small local businesses, large international companies, established companies and emerging start-ups across these industries.

State financial regulators operate to ensure safety and soundness and stability within the marketplace, while also protecting consumers and supporting law enforcement. State regulators have a responsibility to ensure value can be transmitted in a manner that does not put consumers, businesses, the payments system or national security at risk. Through state licensure, regulation and supervision, state financial regulators balance market efficiency and risk to ensure that consumers and businesses can access money services in a manner that limits the potential for illegal activity perpetrated through the payment system.

State financial supervisors license and regulate five types of MSBs: 1) currency dealers or exchangers; 2) check cashers; 3) issuers of traveler's checks, money orders, prepaid access and/or stored value; 4) sellers or redeemers of traveler's checks, money orders, prepaid access and/or stored value; and 5) money transmitters. Some of these MSB categories include mobile wallets on our phones and taking, holding or sending virtual currencies on behalf of a consumer.

State regulators are keenly aware that MSBs play a vital role in providing financial services to consumers and small businesses across the country. Countless Americans use MSBs every day to pay bills, purchase items online or send funds to family members and friends domestically and abroad. MSBs are especially integral to those less likely to use traditional banking services.

However, MSBs are losing access to traditional banking services, a phenomenon that our licensees complain about and that state regulators have noticed in their examinations and through industry outreach. We and our colleagues at the Financial Crimes Enforcement Network (FinCEN) have acknowledged that banks are indiscriminately terminating the accounts of MSBs or refusing to open accounts for any MSBs. Further, there is evidence that the people the licensee designates to provide money services on its behalf, known as MSB agents or authorized delegates, are unable to acquire or maintain bank accounts, which eliminates many of their business capabilities.

De-risking is a real problem for three key reasons. First, demand for money transfer services still exists. If MSBs are denied access to banking services, money transfer will occur through other informal means. This heightens the risk for illicit activity. Second, money transmission plays a vital role for reaching underserved populations in the United States and around the world. At-risk communities rely on these funds. If distribution channels serving these communities are severed, it could hurt populations that rely heavily on these funds. Third, as banking regulators, we are concerned about a regulatory environment that provides banks an incentive to cut off relationships with entire classes of legally operating business.

In recent years, federal officials have exerted heightened scrutiny on banks that may have led many of them to shut off certain classes of business customers, such as money transmitters and check cashers. These banks felt pressure to stop adding new business customers in these classes and to sever relationships with similar existing customers.

Despite a loss of banking relationships for these companies, demand for their services continue. As a result, transparent, legitimate transactions are at times undoubtedly converted into opaque, illegitimate transactions, attracting bad actors. However, we also are aware of MSBs, with no other means of money transmission, physically carrying large amounts of cash, often legitimately, to foreign countries. In a 2016 case filed by my agency, investigators identified a Chicago-based MSB whose agent transported \$686,000 in cash to Jordan after its credit union accounts were closed. According to other state regulators, reports of these types of physical transportation or holdings of cash by MSBs without bank accounts are not uncommon. Just last year, an MSB in Seattle was robbed of nearly \$130,000 in cash that it was maintaining onsite in an in-store safe instead of a bank account.¹

De-risking is the result of concerns about regulatory scrutiny, the perceived risks presented by MSB accounts, and/or the costs and burdens associated with maintaining such accounts. Such wholesale rejections of MSBs run counter to our expectation as bank regulators that banks can and should assess the risks of customers on a case-by-case basis.

The lack of access to banking services for MSBs may also be partially rooted in a misunderstanding of the degree to which MSBs are licensed, regulated and supervised by state and federal regulatory agencies.

STATES EMPOWER THE INDUSTRY WITH TOOLS TO HELP COMPLIANCE

State regulators are keenly aware of the money laundering, fraud and terrorist financing risks facing our nation. States also understand that many in the payments and technology industries want greater clarity of both state and federal regulatory requirements on how to mitigate these risks. CSBS, on behalf of state regulators, and the states themselves are taking steps to strengthen supervision of MSBs by creating new tools and updating NMLS to meet current market needs.

This week, CSBS released a BSA/AML Self-Assessment Tool for MSBs.² This tool provides a template for MSBs to identify risks and is available in an easily accessible format that allows them to get an initial understanding of their own particular risk. It is intended to reduce uncertainty surrounding BSA/AML compliance, support more transparency and address de-risking. CSBS launched a similar self-assessment tool for banks in January 2017.³

State regulators firmly believe that tools for industry, not just new rules, are the best way to help operationalize complex areas like BSA/AML compliance. The BSA/AML Self-

¹ <http://komonews.com/news/local/man-posing-as-fbi-agent-steals-130000-from-seattle-business>

² <https://www.csbs.org/money-services-business-bsaaml-self-assessment-tool>

³ <https://www.csbs.org/bsa-aml-self-assessment-tool>

Assessment Tools for banks and for MSBs illustrate our commitment to addressing compliance by empowering both banks and MSBs with tools that are easy to use.

STATES HAVE A COMPREHENSIVE REGIME FOR OVERSEEING MSBS

Virtually all states have a rigorous licensing, reporting and examination process in place for companies and individuals that hold or transmit other people's funds. Licensing and oversight ensures compliance with state and federal regulatory requirements, which helps prevent and identify illicit activities while providing protections for customers. Many states have used the Uniform Money Services Act, which outlines licensing standards and requirements for self-insurance and bonding to protect consumer funds, as the foundation for their laws.

As part of the state licensing process, applicants typically must submit credit reports, a business plan, financial statements with evidence of liquid assets, and a surety bond. In many states, the applicant must provide evidence of policies, procedures and internal controls that ensures compliance with state and federal regulations, including required FinCEN registration and documentation of a sufficient BSA/AML compliance program.

In addition to reviewing the applicant's business plan, the state regulator evaluates the company's financial condition to ensure it has the financial capacity to protect customer funds. Additionally, the application process typically includes a background check on all owners and executive officers. Most states conduct background checks through NMLS, which has channeling authority with the FBI. These requirements are common in the MSB, banking, mortgage, securities and other financial industries to ensure persons in a position of trust meet established standards to protect consumers and businesses alike.

This credentialing has been a key aspect of regulating emerging payment business models, including virtual currencies. For the past several years, many states have been working with these emerging businesses to determine whether their activity would require an MSB license. To date, 45 states have issued MSB licenses to companies that utilize virtual currency in their business model. Once licensed, emerging payments companies – like all state-regulated MSBs – are subject to regular reporting, supervision and enforcement.

Once a license is granted, companies must maintain requisite permissible investments and surety bonds, as well as submit periodic reports that often include financial statements, permissible investments calculations, branch and agent information and transmission volume activity. This reporting is used to assess BSA/AML compliance risk during examinations, as well as ensure policies, procedures and internal controls continue to detect and deter money laundering and other illegal activity.

MSBs are regularly examined by multi-state teams or individual states to validate licensees operate in a safe and sound manner and adhere to BSA and other state and federal laws. Between exams, state regulators monitor their licensees on an ongoing basis. Consumer complaints provide another input into the supervisory process.

BSA/AML compliance is a substantial portion of money transmitter exams. During an exam, state examiners cover a broad range of policies and practices, including:

- Programs for BSA/AML Compliance
- Information Systems Adequacy and Protections for Personal Information
- Agent Monitoring
- Procedures for Mitigating Money Laundering and Terrorist Financing from Foreign Agent or Counterparty Relationships
- Currency Transaction and Suspicious Activity Reporting
- Foreign Bank and Financial Accounts Reporting
- Transaction Record Keeping
- Office of Foreign Assets Control Requirements

A licensee that is found operating in an unsafe manner or out of compliance with state and federal requirements may face state enforcement actions. State enforcement actions vary, depending on the entity, substantiated behavior and type and nature of violation, and can range from a letter of understanding or consent order, temporary or permanent cease and desist order, or civil money penalties and consumer restitution. Additionally, a regulator could revoke an entity's license and refer the violation to state and/or federal law enforcement, which may carry significant criminal penalties.

STATE AGENCIES COORDINATE

MULTI-STATE SUPERVISION

Many state MSBs hold licenses in more than one state. As a result, state regulators have worked for several years to proactively build a foundation for multi-state examination coordination. The Money Transmitter Regulators Association (MTRA) set the groundwork for multi-state exams with a 2002 cooperative agreement that established the initial framework for states to coordinate MSB examinations and share information. Since this early agreement, state agencies have conducted hundreds of multi-state MSB examinations. Through coordination, regulatory oversight is applied in a uniform manner, a benefit that has been publicly noted by industry.

To foster consistency, coordination and communication, the states, through CSBS, established the Multi-State MSB Examination Taskforce (MMET) to oversee joint examinations. The MMET advances a supervisory program tailored to multi-state licensees that fosters consistency and coordination among state agencies.

In 2017, the states completed 264 state examinations of multi-state MSBs. Of those, 63 were joint exams consisting of examiners from 28 states.

ENFORCEMENT

As a result of established processes and lines of communication, state agencies promptly communicate with one another to reduce risk of consumer harm. Since January 2017, the states of Florida, Texas and California collectively have undertaken over 200 enforcement actions against MSBs, with a single order in California resulting in \$500,000 in monetary penalties.

State regulators also have demonstrated they are prepared and capable of promptly acting on a national and international basis. In 2013, thirty-seven states, led by Massachusetts, worked with federal authorities from the United States and Brazil, as well as the Brazilian Central Bank and two Brazilian private banks, to take action against one money transmitter they identified as having illicit transactions. The money transmitter's activity came to light when regulators saw it primarily remitted funds to Brazil, with transfers of more than \$122 million originating from Massachusetts in 2012 alone.

STATE AND FEDERAL COORDINATION SERVES BOTH CONSUMERS AND REGULATORS

Meaningful coordination with federal regulatory agencies is just as important as coordinated state action for consumer protection, and particularly national security. In many areas of bank and non-bank regulation and supervision, the states have found that a more coordinated approach better serves both consumers and regulated entities.

In addition to coordination with FinCEN, state regulator membership in the Federal Financial Institutions Examination Council (FFIEC) has proved a valuable venue for coordination between state and federal banking regulators across a wide range of bank supervisory issues and processes related to BSA compliance. State banking regulators have brought our experience to efforts including development of the FFIEC BSA/AML Examination Manual and the ongoing work of the FFIEC's BSA/AML Working Group, an interagency effort to enhance coordination of BSA/AML training, guidance and policy.

Congress has repeatedly recognized the importance of coordination between state and federal authorities. In August 2014, the Money Remittances Improvement Act of 2014 was signed into law to allow the U.S. Treasury Secretary to rely on state BSA/AML examinations for depository and non-depository financial institutions.⁴ This law recognizes the importance of state exams to federal BSA/AML reviews and sets a foundation for further coordination between states and FinCEN.

The states have entered memorandums of understanding (MOU) with FinCEN and the Internal Revenue Service (IRS) to coordinate BSA/AML supervision in the non-bank sector.⁵ State agencies provide information to FinCEN and the IRS on a quarterly and annual basis that includes the number of BSA examinations conducted, referrals of BSA violations and state

⁴ Money Remittances Improvement Act of 2014, 113 P.L. 156, 128 Stat. 1829, 2014 Enacted H.R. 4386, 113 Enacted H.R. 4386. Available at <https://www.congress.gov/bill/113th-congress/house-bill/4386/text/pl>.

⁵ Memorandum of Understanding between the Internal Revenue Service and the States concerning Money Services Businesses and Certain Other Non-Bank Financial Institutions. Available at http://www.csbs.org/regulatory/Cooperative-Agreements/Documents/IRS-StatesBSA_MOU_4-22-2005.pdf.

enforcement actions. Additionally, state agencies worked collaboratively with FinCEN and the IRS on the FinCEN/IRS BSA/AML Examination Manual for MSBs that was issued in 2008.⁶

In 2016, state regulators and the IRS began sharing proposed principal and agent examination schedules. In February 2016, the states began holding annual meetings with FinCEN to discuss coordinating supervisory efforts through data collection and examination efforts. Just last week, the states met for the third annual meeting with FinCEN in New Orleans and discussed collaboration on identification of risk, as well as the current state of de-risking.

State agencies also have provided resources to develop and conduct training for state and IRS examiners nationwide on BSA compliance for MSBs. CSBS regularly offers a BSA/AML Examiner School. The week-long school provides an intensive overview of BSA/AML requirements, including currency transaction reporting, customer identification programs, suspicious activity reporting and the exam procedures to test these requirements.

In addition to existing state/federal cooperative frameworks, the Dodd-Frank Wall Street Reform and Consumer Protection Act established new expectations for coordination, collaboration and information sharing between the states and federal regulators, including with the CFPB.⁷ In 2011, the states entered an Information Sharing MOU with the CFPB⁸ that lays the foundation for information-sharing, supervision and enforcement between the CFPB and state regulators.

Beginning in 2015, the states and the CFPB joined efforts to simultaneously supervise large money transmitters through coordinated supervision, improved communication and leveraged resources. Both sides annually agree to schedule and examine together certain money transmitters and to exchange independent reports of examination on other money transmitters.

A STATE FOCUS ON CYBERSECURITY

Cybersecurity risk cuts across the full range of state licensed, chartered and regulated institutions. Through industry outreach and coordination, as well as the development of supervisory tools, state regulators – collectively and individually – have been focused on this priority for several years. Several years ago, CSBS launched an initiative to educate bank executives on cybersecurity through face-to-face dialogue between state regulators and industry, issuance of a resource guide and other information and tools for industry.⁹ Through the states' role on the FFIEC, we participated in the development and deployment of the FFIEC Cybersecurity Assessment Tool for banks. Beyond these collective efforts, many state agencies

⁶ Available at https://www.fincen.gov/news_room/rp/msb_exam_materials.html.

⁷ “The Bureau shall coordinate with...State regulators, as appropriate, to promote consistent regulatory treatment of consumer financial and investment products and services.” Dodd-Frank Act § 1015, *codified at* 12 U.S.C. 5495. Available at <https://www.gpo.gov/fdsys/pkg/USCODE-2010-title12/html/USCODE-2010-title12-chap53-subchapV-partA-sec5495.htm>.

⁸ Memorandum of Understanding Between the Consumer Financial Protection Bureau, the Conference of State Bank Supervisors, and the Other Signatories Hereto on the Sharing of Information for Consumer Protection and Other Purposes. Available at <http://www.csbs.org/regulatory/CooperativeAgreements/Documents/CFPB%20CSBS%20MOU.pdf>.

⁹ <https://www.csbs.org/cybersecurity-101>

have pursued individual efforts at enhancing cybersecurity. In August of last year, New York's Department of Financial Services enacted a cybersecurity rule requiring all New York chartered banks and licensed financial services companies to assess and manage cyber risks.

Most recently, state regulators have devoted significant resources to addressing the massive data breach Equifax experienced in 2017. A multi-state examination including the states of California, Georgia, Maine, New York, North Carolina, Texas and others is underway at Equifax. The exam is looking at Equifax's cybersecurity programs, what breakdowns led to the breach, and what corrective actions the company is taking to ensure consumers are not harmed in the future.

STATES INNOVATIVE TECHNOLOGY TO COORDINATE LICENSING AND SUPERVISION

State regulators have long understood that regulation needs to adapt alongside marketplace changes to capture the benefits and mitigate the risks of innovation. We also understand that, in the modern economy, businesses and markets grow irrespective of geographic boundaries. Accordingly, the states recognized a need to effectively and efficiently license financial services companies, track bad actors and provide responsible ones with greater efficiency and consistency. To achieve these goals, the states collectively developed and currently operate NMLS,¹⁰ which serves as the licensing system of record for non-banks, through CSBS.

Originally developed as a voluntary system for state licensing and then codified in the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act),¹¹ NMLS is a web-based system that allows state-licensed, non-depository companies in a variety of industries to apply for, amend, update or renew a license online for all participating state agencies using a single set of uniform applications in one system.

NMLS celebrated its tenth anniversary in January. In its decade of existence, it has grown and adapted to better reflect the market. Today, 62 state agencies have licensed or registered almost 23,000 non-bank companies and 9,500 depository institutions with NMLS. Currently, 41 state agencies use NMLS for MSB licensure, and each year more agencies adopt NMLS. Approximately 2,121 MSBs are licensed through NMLS. Concerning money transmitters specifically, 382 companies are licensed through NMLS. While many firms are licensed only in one state, NMLS also includes all large money transmission firms licensed nationwide.

NMLS is a system of record for state regulatory authorities and a central point of access for licensing. Through NMLS, licensees can manage their licenses in one location for multiple states. Moreover, states can track the number of unique companies and individuals, as well as the number of licenses they hold in each state. This allows greater efficiency, uniformity and transparency to these non-depository financial services industries while maintaining and strengthening the ability of state regulators to monitor these industries.

¹⁰ See <http://mortgage.nationwidelicencingsystem.org/Pages/Default.aspx>.

¹¹ P.L. 110-289. Codified at 12 U.S.C. 5101 et seq. More information on the SAFE Act may be found at <http://mortgage.nationwidelicencingsystem.org/SAFE/Pages/default.aspx>.

Additionally, NMLS has streamlined the criminal background check process, which often is required by state law. NMLS allows company owners and directors to submit a single set of fingerprints to the system for a single FBI criminal background check available to all relevant state agencies, saving significant expense for the individual and driving greater consistency by regulators. Congress has recognized this value and, in 2015, enacted legislation enhancing NMLS's ability to process background checks for all financial services, including MSBs.

CSBS has begun work on the next generation of NMLS harmonization. Our goal is a one-stop, streamlined platform for state financial regulators that supports licensing as well as supervision. The new version will transform the licensing process through data and analytics, enabling states to focus on higher-risk cases. It adds a coordinated examination system for the states that encourages standardized state exam processes, coordinates exam sharing data between states and safeguards company and consumer information.

DATA POINT TO MSBs MOVING \$1 TRILLION IN 2017

In 2017, NMLS began collecting information from MSBs through a reporting system called the MSB Call Report. It is the only nationwide database of MSB transaction activity. The quarterly MSB Call Report helps regulators better assess risk and identify trends, complementing the information received concerning authorized agents. The MSB Call Report collects national and state specific MSB activity – including financial condition data, transactional activity and permissible investment amounts¹² – covering the six major MSB sectors: money transmission, stored value, payment instruments, virtual currency, currency exchange and check cashers. When aggregated, this data gives a macro view into the money services industry.

MSB Call Report filings in the first half of 2017 show:

- More than half a trillion dollars of funds were transferred by MSBs, putting the industry on pace for more than \$1 trillion in 2017.
- Of this amount, MSB firms without brick and mortar presence accounted for \$189 billion, or more than one-third of the total.
- In a further breakdown of the MSB Call Report, a total of 151 companies filed international remittance reports totaling over 263 million transactions valued at more than \$75 billion.

When the 2017 filing deadline closes today, the states and CSBS also will be able to match this information to the countries of destination, a powerful tool for monitoring the remittance market.

¹² See, e.g. California Money Transmitter Call Report Forms, available at <http://www.dbo.ca.gov/forms/tma/callreport.asp>.

CSBS also provides regulatory information from NMLS to FinCEN, as well as log in capability that allows regulator-level access to company, agent or individual information, under a 2015 information-sharing MOU.

State-licensed money transmitters have been able to report their authorized agents using the NMLS Uniform Authorized Agent Reporting function since 2014. NMLS tracks these agent locations and their history, including who and how many companies use the same agents and whether the agent is also a licensee. While the incumbent money transmitter business model relies on these agents, we are seeing that most of the new companies entering the industry are not using agent locations, indicating a reliance on the internet to reach customers.

CSBS provides transparency for consumers on state-regulated companies and individuals through NMLS Consumer Access¹³. This fully searchable public website allows consumers to view information about companies, branches and individuals, including public state regulatory actions. Consumers can also connect directly to state agencies to submit a complaint against a state-licensed company. In 2017, there were 2.9 million visitors to NMLS Consumer Access to check on companies.

STATE REGULATORS ARE HARMONIZING THE MULTI-STATE EXPERIENCE

State regulators are hard at work developing new risk analysis tools and supervision processes for state MSB examiners. Call Report and NMLS licensing information, coupled with actual examination findings, will be the source material for technology-based tools designed to identify and report risk more effectively and efficiently. In early 2019, CSBS will launch the State Examination System (SES), designed to facilitate work flows for both single state and multi-state examinations and support information sharing among states and between state and federal regulators.

The NMLS update is one of several initiatives CSBS is undertaking through our Vision 2020 initiative, designed to modernize state regulation of non-banks, including financial technology firms. By 2020, state regulators will adopt an integrated, 50-state licensing and supervisory system, leveraging technology and smart regulatory policy to transform the interaction between industry, regulators and consumers. Achieving this vision will result in a regulatory system that makes state supervision more efficient. These actions will benefit start-ups and enable national scale while protecting consumers and the financial system.

The CSBS Emerging Payments and Innovation Task Force that I chair created a Fintech Industry Advisory Panel in October 2017 as a part of Vision 2020. It is composed of companies from the payments and money transmission, lending and community banking sectors. The panel solicits industry input to help states modernize regulatory regimes, identify friction points in licensing and multi-state regulation and discuss solutions.

Consistent with Vision 2020, several states last week announced a multi-state agreement that standardizes key elements of the licensing process for MSBs. The agreement asserts that if one state reviews key elements of state licensing for a money transmitter – including compliance

¹³ <http://www.nmlsconsumeraccess.org/>

with the federal BSA – then other participating states agree to accept the findings. This effort to streamline the MSB licensing process is a great example of state-driven initiative and experimentation. I am pleased that Illinois is one of the states participating in this agreement, along with Georgia, Kansas, Massachusetts, Tennessee, Texas and Washington. I expect that other states will join the agreement.

CONCLUSION

State regulators are working together and with our federal counterparts to further develop structures, processes and systems to bring greater clarity and consistency to MSB supervision. We continue to work collaboratively to identify gaps in supervision and better coordinate consumer protection, safety and soundness, and national security goals.

The states are concerned that indiscriminate de-risking resulting in the elimination of MSB bank accounts will not only weaken access to financial services, but may very well unintentionally increase BSA/AML risks. Banks and customers should know and understand the MSBs with which they transact, including the supervisory structures designed to authorize and regulate the industry and make decisions based on the individual risk profile of each MSB.

We appreciate this Committee's ongoing work to examine de-risking and seek constructive regulatory and legislative solutions. To support this effort, we offer the following recommendations:

- 1) **Continue a focus on tailored supervision.** Regulation and supervision should be tied to risk and to an institution's business model. As Congress carries out its oversight responsibilities over the federal financial regulatory system, I urge you to continue to hold regulators accountable for tailoring regulation and supervision and for avoiding a one-size-fits-all approach to managing risk in the financial system. Non-banks have completely different risk profiles, and state laws have worked for decades to protect consumers in an environment without deposit insurance or federal backstop.
- 2) **Regulatory coordination and collaboration.** As my testimony notes, state regulators – unlike federal banking regulators – bring the perspective of bank regulators and of licensing and supervisory authorities for a broad range of non-depository financial services providers. Furthermore, state regulators are integrated into a variety of regulatory structures and processes. And, through bills that this Committee has previously supported, Congress has promoted state regulators and the use of NMLS as key elements of our regulatory fabric. I urge this Committee to maintain this approach of cooperative federalism as it explores legislative proposals affecting de-risking and innovation.
- 3) **Update the Bank Service Company Act:** CSBS encourages members of Congress to support H.R 3626, the Bank Service Company Examination Coordination Act. The bill, introduced by Rep. Roger Williams, would enhance state and federal regulators' ability to coordinate examinations of and share information on banks' technology vendors and partners in an effective and efficient manner by making updates to the Bank Service Company Act (BSCA). Amending the BSCA to appropriately reflect states' authority to examine technology service providers (TSPs) would improve state-federal coordination

and information sharing, reduce duplication and promote more efficient supervision of TSPs that provide critical services to a broad range of banks. In addition, the 2017 Annual Report of the Financial Stability Oversight Council (FSOC) recommends legislation for coordinated TSP examinations. This legislation would enhance state regulators' ability to support and oversee banks in their business relationships with third party service providers and encourage banks to do business with their customers, including MSBs.

State regulators focus on tailored supervision. Consistent with this approach, my view is that banks should be responsible for managing the risks of their business relationships, and my role as a bank regulator is to ensure that each of our supervised banks understands and can manage these risks.

Local understanding, coordination between regulators and collaboration with policy makers have provided the states a unique ability to actively regulate a broad range of financial products and services in an effective and timely manner. We look forward to working with Congress, the industry and our federal regulatory partners to develop an integrated and collaborative approach to all innovative financial products and services, ensuring individuals and economies are well served.

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