

Uniform Authorized Agent/Delegate Reporting Processing Fees

Proposal # 2013-1

Request for Public Comments

March 20, 2013 – April 19, 2013

The State Regulatory Registry invited public comments on the proposed NMLS Processing Fee for Uniform Authorized Agent Delegate Reporting during a public comment period from March 20, 2013 to April 19, 2013. Eleven individuals or organizations submitted comments during the comment period.

The comments are contained in this document as received, without editing. Comments received in email format were copied exactly as submitted and pasted in the comments section of the table with the submitting individual's name and company displayed. Comments received as an email attachment or via USPS are displayed as submitted in their original format. These comments are noted in the table and numbered accordingly as attachments.

Comments are listed in the order received. Comments received without full name or contact information are not included.

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#	Date	Name & Company	Comments
1	3/25/2013	Gail Preziosi Biller Solutions	<p>Good afternoon,</p> <p>In reply to your request for comments dated March 20, 2013, please see below.</p> <ol style="list-style-type: none"> 1) CheckFreePay currently holds 46 money transmitter state licenses. We have upwards of 18,000 agent locations. 2) We are in agreement with regard to the annual fee of \$0.50 per authorized agent location in lieu of charging every time a new agent is on boarded. 3) We do, however, believe that every money transmitter should be required to pay the \$.50, and therefore do not agree with the proposed "de minimus" exception.
2	4/8/2013	Kelly Patterson GSC Enterprises, Inc.	<p>Hello,</p> <p>Commenting on behalf of GSC Enterprises, Inc. d/b/a Fidelity Express. We are a financial services company selling money orders and in person bill payments in our agent locations, mostly convenience and grocery stores. Our main office is in Sulphur Springs, TX.</p> <p>Currently we are licensed in 18 States and DC with approximately 5030 agent locations. One concern we have with the .50¢ per location charge is that this would be an additional cost to us above what the States currently charge per location. Many of them already charge a per location fee depending on the license type, example in Oklahoma, we have to hold two different license types, Money Transmission (\$50 each corporation for in person bill payments) and Certificate of Authority (\$10 for each location money order sales). Some of these locations process only money orders or bill payments, some process both. If the list didn't include the type of service, the States will be confused since we currently submit the lists by product. Some States even charge differently either for each physical location or for each corporation/owner. We are concerned the lists may get confusing unless all this is addressed on the front end. We do support the combined agent listing and hope that it will save us time.</p> <p>Thank you!</p>
3	4/12/2013	Russell W. Vinyard Stockton Mortgage Real Estate Loan Servicing Company	<p>We currently pay annual renewal fees to NMLS for company and individuals together with annual education requirements. In addition we pay licensing fees to the California Department of Real Estate, along with their educational requirement. Little effort has been expended to consolidate the fees or the educational requirements.</p> <p>We currently pay an outside auditor for quarterly and annual audits at a cost of \$15,000 per year. These audit reports are sent to the California Department of Real Estate. In addition we must file quarterly and annual reports to the NMLS. Little effort has been expended to consolidate the reporting requirements.</p> <p>Please consider a more comprehensive approach! Your \$.50 should be included in your annual renewal fee. Instead of thinking up more ways to generate income for the government, why not consider ways to make this process more cost effective for the people you are called to serve?</p> <p>Here are some suggestions: 1. Allow the California Department of Real Estate to certify continuing education</p>

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			<p>as they did for the 20 units initially for those already licensed. (They require 45 hours every 4 years, you require 8 every year.)</p> <p>2. Allow the California Department of Real Estate to certify the quarterly and annual reporting or ask them to drop the requirement and allow licensees to report through NMLS.</p> <p>3. Give mortgage brokers registered with NMLS exemption from the requirement to be licensed by state real estate departments.</p>
4	4/13/2013	Robert Wiley	We disagree with the fee. It is just another tax on businesses. Why can't the States pick up the cost of development since they are already taxing businesses and individuals? The NMLS system is difficult to navigate and almost impossible to use from a mortgage lending renewal standpoint. I am sure this new system will be just as cumbersome and difficult to use. Please pay have the States pay for this!!
5	4/13/2013	Brad W. Peterson First American Mortgage, LLC.	<p>To whom it may concern:</p> <p>We believe there should be no added fees within the system or for any of the reporting that NMLS requires. There are already increased operational fees and expenses from the invent of this NMLS system and we (mortgage originators and brokers) have absorbed the brunt of such fees. Do not add any further fees to the system.</p>
6	4/15/2013	Fred Beaman Beaman Financial	<p>Do wholesale mortgage brokers fall into the category of "money transmitters"?</p> <p>Does any portion of this Proposed NMLS Processing Fee pertain to wholesale mortgage brokers?</p>
7	4/17/2013	R. B. Rolling ITC Financial Licenses, Inc.	See Attachment #1
8	4/19/2013	Alberto Laureano	<p>State Regulatory Registry Representative:</p> <p>It seems reasonable in principle, I'd expect to have a cap in the fees collected (i.e. a cap in the # of agents they'll apply the variable fee to), it's also not clear if the fees are by state or total, it'd make sense for them to be by state (since the rest of the fees for licensing are also paid state by state), if it's by state, then the 100 agent threshold is reasonable (so as not to overly penalize small msb's), if the threshold is national, then the 100 # may be too low.</p>
9	4/19/2013	Ezra Levine Morrison Foerster	See Attachment #2
10	4/19/2013	Mabel Wilson Blackhawk Network	<p>General Comments:</p> <p>Commenting on this proposal would have been easier if more information had been provided on:</p> <ul style="list-style-type: none"> · The costs for this NMLS enhancement and ongoing support and an explanation for adopting the processing fee of \$0.50/location · The cost drivers for supporting the system and how they can be managed

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			<ul style="list-style-type: none"> · What part of the costs is fixed and what part is variable · How these costs are expected to increase over time · Since NMLS is a system already in existence for the benefit of governmental agencies, why the cost of this service cannot be borne by those governmental agencies · What efforts are being made to standardize the reporting process so licensees are not going to lengths to satisfy the new NMLS requirements in addition to maintain and paying fees for existing state processes <p>Comment on the Proposed UAAR NMLS Processing Fees:</p> <ol style="list-style-type: none"> 1. The NMLS Processing Fee will be no more than fifty cents (\$.50) per active Agent/Delegate location. We disagree with any fee to add an active agent location. Uploading should be a simple process that the licensee performs and it should not matter how many records are added. Licensee will already be paying applicable fees to states for these locations. A \$100 initial fee per licensee to participate will be fair. 2. The NMLS Processing Fee will be assessed once per year, based on the number of all active Agent/Delegate locations as of a certain date (e.g. July 1st). There should be an annual fee of no more than \$100 due at a predetermined time in the year for each participating licensee. No other fees should apply. Over time, licensees may pay fees for other useful services offered through NMLS. 3. Money Transmitter licensees with less than 100 active Agent/Delegate locations reported through NMLS will not be assessed a UAAR NMLS Processing Fee. All licensees should pay the initial fee and the annual fee to participate. No licensee should be exempt. If the SRR thinks the fees should be higher, a cost breakdown must be provided to licensees otherwise this effort will be seen as simply finding ways to make money off licensees. 4. Money Transmitter licensees with 100 or more agents will be assessed a fee based on the total number of active Agent/Delegate locations (see #2 above). Disagree. These fees will be a cost of doing business and \$100 initial and \$100 annual should be enough to cover overhead. Bigger licensees should not be subsidizing the smaller licensees because all licensees continue to pay fees to states and in that regard, the bigger licensees pay bigger fees to the states. 5. To accommodate the transition of Money Transmitter license authorities throughout 2013, the UAAR processing fee will not be assessed until 2014. Starting the fee assessment in 2014 is acceptable because it will give licensees time to manage their records for upload and for SRR to better define the process. 6. The UAAR NMLS Processing Fee is distinct from and independent of fees or assessments required by state agencies. We understand this distinction and that is one of the reasons why requiring only some licensees to pay based on some arbitrary threshold of 100 stores is unfair to the paying licensees. <p>Questions to Specific Questions:</p>
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			<p>1. If possible, please provide how many money service business or money transmitter state licenses your company currently holds and approximately how many Agent/Delegate locations your company uses. Such information will help the Board of Managers evaluate responses from companies of varying sizes and business models. Licensee holds 48 state licenses and has approximately 20,000 store locations.</p> <p>2. While the SRR Board of Managers has proposed an annual assessment of the NMLS Processing Fee, would it be easier and/or more efficient for the System to assess on an ongoing basis at the time that an Authorized Agent/Delegate is first reported through NMLS? There could be a one-time initial fee of \$100 for each licensee to participate and a \$100 fee per active licensee every year thereafter.</p> <p>3. The SRR Board of Managers proposed the “de minimis” exception for those licensees with less than 100 agent locations so as to not disproportionately impact small MSBs. Is a de minimis exception appropriate? Is the proposed 100 agent location threshold appropriate? There should be no exclusions from any fee established since all licensees will continue to pay fees to the states for agent locations based on number of locations for each licensee.</p>
11	4/19/2013	Trish Lagodzinski Chartwell Regulatory Compliance & Risk Management	<p>Uniform Authorized Agent/Delegate Reporting - Proposed NMLS Processing Fee</p> <p>2. While the SRR Board of Managers has proposed an annual assessment of the NMLS Processing Fee, would it be easier and/or more efficient for the System to assess on an ongoing basis at the time that an Authorized Agent/Delegate is first reported through NMLS? <i>Since the UAAR NMLS Processing Fee is distinct from and independent of fees or assessments required by state agencies, it might be viewed unfavorably, particularly by small and medium size companies. In general, it would be easier if the NMLS Processing Fees for agents were rolled into the yearly renewal fees.</i></p> <p>3. The SRR Board of Managers proposed the “de minimis” exception for those licensees with less than 100 agent locations so as to not disproportionately impact small MSBs. Is a de minimis exception appropriate? Is the proposed 100 agent location threshold appropriate? There are small and medium companies that use agents as part of their business model, so 100 agents might be a low threshold for some small and medium companies.</p>

**ITC Financial Licenses, Inc.**

1200 Brookstone Centre Parkway, Suite 220 • Columbus, Georgia 31904 • Fax 866-295-0646

April 11, 2013

*Via Email: comments@stateregulatoryregistry.org**Via Fed Ex Mail:*

Uniform Authorized Agent Reporting Public Comments
Attn: Tim Doyle, Senior Vice President
State Regulatory Registry
Conference of State Bank Supervisors
1129 20th Street, N.W.
9th Floor
Washington, D.C. 20036-3403

Re: Uniform Authorized Agent Reporting Public Comments

To Whom It May Concern:

This letter is submitted to the State Regulatory Registry LLC ("SRR") in response to the invitation for public comment ("Invitation for Comment") proposing a Nationwide Mortgage Licensing System & Registry ("NMLS") processing fee for functionality that would provide a uniform automated method for state-licensed money transmitters to report information concerning authorized agents or delegates to NMLS participating state agencies.

This letter is being provided on behalf of ITC Financial Licenses, Inc. ("ITCFL"), a licensed money transmitter in 44 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands. ITCFL has agreements in place with nearly 100,000 retail agents throughout the United States to distribute financial services products, which include gift cards, general purpose reloadable cards, bill payment services, and card reload services.

For purposes of this letter, ITCFL emphasizes that the SRR's proposals potentially impose substantial burdens on money transmitters. **For this reason, and as otherwise set forth in detail below, while ITCFL supports the SRR's decision to implement a method for reporting information concerning authorized agents or delegates to NMLS, the implementation of this requirement should be fully automated in order to not overburden money transmitters subject to the reporting requirement. Further, with regard to the NMLS processing fee, the per-agent fee that the SRR proposes places a high cost on money transmitters, especially since the proposed fee structure is both uncapped and payable on an annual basis. In order to minimize the burden on money transmitters, the SRR should instead consider an approach imposing a per-agent fee for the first year and a modified per-agent fee for all subsequent years. Such an approach would more narrowly tailor the processing fees charged to money transmitters to the actual costs to the NMLS in administering the program, and would simultaneously ease the burden the proposed fee structure places on money transmitters by capping high annual fees.**

Comments

Comment A: Automated Method of Input Should be Implemented.

A manual input process to the authorized agent reporting requirements would impose heavy burdens on money transmitters that are already subject to authorized agent reporting requirements in many jurisdictions.

While ITCFL supports the SRR's decision to require the reporting of authorized agents, ITCFL stresses that any method of reporting other than through a fully automated system would impose a high burden on licensed money transmitters. The burden would be particularly high on those money transmitters with a significant network of authorized agents, such as ITCFL. The burden is due in large part to the amount of resources ITCFL would need to dedicate to the manual entry of nearly 100,000 agent records. This task would likely necessitate the hiring or reassignment of a significant number of personnel for the sole purpose of inputting agent information into the NMLS database. And without question, manual entry of 100,000 records would take a significant amount of time to complete.

Most state agencies that manage money transmitter licenses currently require companies to submit agent information in an electronic format¹. Licensed money transmitters already have processes in place for these submissions. They have developed and implemented internal processes for the automated collection, entry and submission of agent information. If the SRR were to require licensed companies to manually enter agent information into the NMLS database, the SRR would be creating a structure that would require licensed companies to run dual agent collection and submission processes – one for the NMLS database and one for the non-NMLS participating state agencies. Again, this would impose an undue burden on licensed companies through increased monetary and resource costs. The SRR should thus only implement an authorized agent reporting requirement that is fully automated.

Full automation is in the SRR's best interest because it will lessen the chances of increased administration and processing costs through human error and duplication.

Requiring a licensed money transmitter's personnel to manually input such large amounts of data will very likely result in duplications, spelling mistakes, accidental omissions and other errors. Such errors will not only increase the cost of compliance to money transmitters, they will also increase the costs to the SRR in administering and monitoring the agent reporting database. The increased costs stem from the fact that the increased risk of errors in a manual input system will cause the SRR to employ more stringent oversight and verification procedures to ensure accurate reporting of authorized agent information.

By contrast, while a fully automated reporting system is not a full proof method of avoiding reporting errors, such a method significantly reduces the risk of important authorized agent data being inaccurately reported or accidentally omitted by employees when it is transmitted from the records of the money transmitter to the NMLS database.

¹ While some states like Idaho, Louisiana and Maryland require companies to send in an electronic copy of the agent list (generally in Excel), see e.g., Instructions for Semi Annual Money Transmission Report to the Commissioner, State of Maryland Commissioner of Financial Regulations (2012) (instructing licensed money transmitters to submit authorized agent information through Microsoft Excel and electronic mail), others utilize electronic lists for submission into their own systems. As an example, North Carolina utilizes its own system, which allows users to upload agent information contained in an Excel spreadsheet directly to the North Carolina system through the state's online login portal. See NCOOB Online, <https://www.nccob.org/online/ConsumerIndustriesLogin.aspx> (last visited April 11, 2013).

Thus, in light of the heavy burden and high costs a manual input method places on both money transmitters and the SRR, the SRR should not impose its agent reporting responsibilities on licensees unless and until such reporting can be processed through a fully automated system.

Comment B: NMLS Should Consider a Modified Approach to their Fee Proposal.

The proposed processing fee is too expensive in light of the annual fees already imposed on money transmitters.

The Invitation for Comment states that the SRR intends to impose a processing fee of \$.50 per active agent or authorized delegate. Such a fee is excessively expensive for a money transmitter in ITCFL's position. With nearly 100,000 agents, the processing fee as currently envisioned would cost ITCFL nearly \$50,000 annually. This substantial cost is compounded by the fact that it is distinct and independent from other fees and assessments required by state agencies².

Take, by way of example, the state of Washington, which manages its money transmitter licenses through NMLS. Under Washington Administrative Code section 208-690-150(1), a licensed money transmitter is required to pay \$50 for each authorized delegate added during a given calendar quarter to the licensed entity's agent network in Washington.³ Under the proposed fee structure, ITCFL would be required to pay \$.50 per active agent location in Washington on an annual basis, after already having paid the separate new agent fee required by Washington. As additional states move toward managing money transmission licenses through NMLS, it is foreseeable that such states will continue to require agent fees separate and distinct from the proposed NMLS processing fee. Thus, ITCFL respectfully contends that the current proposed processing fee is too expensive given that money transmitters are already subject to annual fees in a number of states.

The NMLS should consider a modified fee approach that places a cap on annual fees.

In lieu of its proposed per-agent fee model, the ITCFL respectfully requests that the SRR implement a modified processing fee approach. Notably, the modified approach proposed by ITCFL retains the SRR's per-agent fee model for the first year. Beyond the first year, however, ITCFL suggests a method whereby the proposed per-agent processing fee applies solely to new agents. As to existing agents, the SRR would charge a capped amount consisting of the lesser of (i) a smaller per-agent fee (e.g. \$.25 per agent) or (ii) \$10,000.

A modified approach to the processing fee is preferable for two key reasons. First, as noted above, the modified processing fee imposes a lighter burden on money transmitters already subject to numerous annual fees. Second, the modified processing fee is more narrowly tailored to the actual costs the SRR is likely to incur in overseeing the authorized agent reporting process. Verifying accurate information for new agents and inputting such information into the NMLS database will take more time and impose more financial costs on the SRR than a simple re-verification of an agent that has already been uploaded and whose information is already contained within the NMLS database. It thus follows that such re-verification should necessitate a lower – or at least capped – per-agent rate.

² Invitation for Comment, page 2.

³ WAC § 208-690-150(1) (2013).

ITCFL respectfully requests that the SRR implement a modified processing fee such as the one outlined above in lieu of the straight per-agent processing fee contained in the Invitation for Comment.

Conclusion

For the reasons set forth above, ITCFL respectfully requests that the SRR implement a fully automated method of agent entry into its proposed database. Any other method of entry imposes an unworkable burden on money transmitters. Additionally, the proposed per-agent fee is extremely costly, particularly since it is in addition to what licensed money transmitters are already required to pay on the state level. ITCFL respectfully requests that the SRR consider a modified approach similar to the one proposed in this comment letter.

ITCFL appreciates the opportunity to provide the SRR comments on the Invitation for Comment. If we may provide you with any additional information or if you would like to discuss our comments further, please feel free to contact me at (678) 921-5342 or at srolling@itcfl.com. Thank you for your consideration.

Sincerely,



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April 19, 2013

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VIA ELECTRONIC DELIVERY

Uniform Authorized Agent Reporting Public Comments
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Re: Comments of the Money Services Round Table in Opposition to The Proposed
 NMLS Agent/Authorized Delegate Location Fee

Dear Tim:

The Money Services Round Table ("TMSRT") is interested in the development and implementation of the NMLS MSB function to see if it can become an efficient method for money transmitters to apply for and renew their state money transmitter licenses. TMSRT is comprised of the leading national non-bank money transmitters, including RIA Financial Services, Sigue Corporation, American Express Travel Related Services, Western Union Financial Services, Inc., MoneyGram Payment Systems, Inc., and Integrated Payment Systems, Inc.

These companies are the licensees that have, in the aggregate, the vast bulk of agent/authorized delegate ("agent") retail sales outlet locations. Thus, TMSRT members, as a group, are impacted to the greatest extent by the proposed fee. TMSRT submits these comments in response to the State Regulatory Registry's ("SRR") Request for Public Comment of 20 March, 2013 regarding the proposed 50¢ per agent/authorized delegate location "processing fee."¹

¹ The industry notes that the fee proposal can be read as only imposing a fee not to exceed 50¢. However, the memory of man runneth not to the contrary, even if such fees are initially set low, they are bound to increase. That has been the experience with state-imposed location fees and other assessments.

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Not only will this proposed processing fee be in addition to the annual NMLS imposed license renewal fee, the proposed agent location fee will be assessed in addition to (i.e., not a replacement for) the significant fees now charged by the states for the collection of the same data, and no credit from the states is proposed for the payment of the new fee. Furthermore, the proposed annual “processing fee” has no cap and TMRST members will not realize any cost savings from the implementation of the new agent registry. For the reasons set forth below, TMRST opposes the proposed per location agent/authorized delegate fee.

I. The Proposal is Deficient

- States Now Impose Per Location Agent Fees on Licensees

Currently, money transmitter licensees, including TMSRT members, have, in the aggregate, well over 150,000 agent locations in the U.S. Under current laws in over half the states with transmitter laws, licensing fees are based, in part, on the number of agent locations in the state.² While the agent per location fees differ by state, they range from a low of about \$5 in Wisconsin to a high of \$300 in Massachusetts. These fees have been increasing over the years. Over the past few years TMSRT has not objected in the legislative arena to reasonable state fee increase proposals because TMSRT believes that effective regulation benefits the industry, and that administrative costs exist at the states to manage agent/location data bases. So far as TMRST is aware, all money transmitter laws require licensees to file annual or more frequent reports of agents and agent locations. About 30-40% of the states already use some form of electronic filing of this data and some licensees report that they now file about 80% of agent location data in some type of electronic format. This system has worked well in practice and each state now has in its data base a list of all licensees, their agents, and agent locations.

- Existing Per Location Fees Are High

Under the current regulatory regime in the United States, a licensed multi-state money transmitter can be subject to very high agent location based fees. For example, typical national licensees pay between \$500,000 and \$800,000 a year in the aggregate for state imposed agent location fees. This is of course in addition to the fact that some of these states also impose assessments or flat renewal fees, while others, which do not impose location fees, either impose variable assessments (*see, e.g.,* Virginia) or flat fees. In short, the total fee burden on licensees is not to be underestimated.

² See attached chart.

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- The Proposed 50¢ Fee is a Significant, Unjustified Tax

The added impact on licensees, therefore, of a 50¢ per location fee, whether or not characterized as “processing” fee or otherwise, is a significant expense for licensees. Since smaller licensees with 100 or fewer locations are exempted from the proposal (for reasons known only to CSBS), only larger licensees pay the fee which, based on the number of locations, could easily reach annual charges of \$40,000 to \$50,000 for a number of licensees.

Simply stated, the proposed “processing” fee is unnecessary and out of touch with the fact that many states are currently charging for the same service—collection of agent/authorized delegate location data, often on an electronic or digital basis. In addition, those states that do not charge per location fees base their assessments, in part, on the cost of administering agent location data. To add insult to injury, there is not even a suggestion in the proposal that existing state fees will be abated if SRR double dips and charges fees for services that licensees currently pay the states for the “processing” of location data.

- Equity Demands that Those That Want a New Agent Location Database Should Pay for the Development and Processing Costs

SRR is seeking, through the imposition of the 50¢ fee, to impose on the industry costs for a system that is neither needed, necessary nor demanded by the industry. If, as reported, the state regulator members of the CSBS are demanding a new registry of agent locations to facilitate state administration of licensing laws, then it would be appropriate for the states to utilize state funds from fees already collected from licensees for the development of this new system, or to obtain funds from other sources such as the federal government and its agencies. Certainly it should at least be considered but, of course, the proposal in this aspect is silent.

Alternatively, CSBS, has not indicated in the fee proposal whether it has assessed if agencies such as the CFPB or FinCEN could provide grant money to support the “development” and maintenance of a new agent location database system if it is needed. Both of these agencies have evidenced some interest in agent data, although it is now available from any state regulator upon request from these agencies. Moreover, when FinCEN recently collected agent location data from all licensees nationwide, it asked for it and charged nothing when the data was submitted. In short, it appears that, once again, the fallback is to tax the industry without any evidence that any alternative funding sources were even considered.

- The Fewer than 100 Locations Exception is Unjustified

In almost no state is there a location fee exemption for licensees with fewer than 100 locations. Even if there were, there is no basis to provide a free ride in this context for those with fewer than 100 locations. One hundred locations at 50¢ is \$50.00, hardly a major

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amount. This exception demonstrates, yet again, the deficient nature of the proposal as it provides no basis for this exception. For example, a transmitter with 95 high-volume locations could be far more profitable than one with 500 locations. What this exception does, therefore, is to assume, with no articulated basis, that a licensee with fewer than 100 locations must be destitute. Therefore, the legitimate question arises as to why medium to large licensees should subsidize smaller, competing enterprises, which may in fact be more profitable on a per transaction basis. Even if this exemption could be justified on some basis, the proposal is flawed because the basis for the exception is nowhere to be found and there is no justification as to why a smaller player cannot pay 50¢ for location registration.

In sum, as in other aspects of the proposal, the exemption is arbitrary and capricious because no basis for the proposal is advanced. Some might speculate that the exemption is designed to avoid complaints from smaller companies to state and federal legislators who may be sympathetic to “small business” concerns.

- Licensees Will Not Save Money Through the Use of the NMLS Agent Fee Registration

There has been some suggestion, advanced informally by the fee proponents, that the proposed NMLS location fee system will save licensees costs by reducing the administrative burden of filing multiple state agent location reports. Therefore, the reasoning goes, licensees should not object to a new location fee because it will result in savings. However, while a one-stop filing process may be more efficient, the real costs for licensees in administering location data on a multistate basis is ascertaining the correct location and ownership data for a vast agent base which is constantly in a state of flux—agents migrate to different licensees, change locations, etc. In short, TMSRT members do not view the prospect of filing agent location data on the NMLS system as a cost elimination or reduction process.³

Moreover, since it is not clear that the most populous states with the most agent locations will join either NMLS and/or the agent registry in the future, no licensee savings will result. This is compounded by the fact that since many states require unique, state specific agent location information, even the use of NMLS for registering agent locations will still require supplementary filings of agent location data in some states. Finally, most agent data is already filed in digital or electronic format with the states. Therefore, the proposed fee is not justified as a licensee “cost saving” proposition.

³ At a recent CSBS NMLS Conference a Western Union representative indicated that while one-stop filing would be more efficient, it was not clear that it could save the company any money or personnel costs.

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- Electronic Filing of Agent Location Data is the Norm

Increasingly over the last several years, state regulators have been requiring and/or permitting licensees to submit and update their agent location lists via electronic means. While as in most areas of MSB regulation, states are not uniform, many now require agent location list filings to be made online, electronically through e-mails and/or in Excel formats on CDs (*see, e.g.*, Michigan, Florida, Washington, North Carolina, New York, New Jersey, Ohio, Illinois, etc.). Thus the swing to electronic filing represents at a minimum about 30-40% of agent location filings at this time and, so far as can be ascertained, no state has requested additional fees to electronically process agent location information.⁴ In fact, implementation of such processes saves money for state regulators and also facilitates analysis of the submitted data.

In the face of this national regulatory trend away from paper filing, it makes no sense to duplicate existing practice, especially at exorbitant, unjustified cost, which will produce no discernible benefit to the public interest. As indicated above, all of the agent location data presently resides on state databases and is now accessible.

- No Cost Basis is Disclosed

The proposal is deficient because no cost basis for the “processing” function is disclosed. The drafters of the proposal apparently did not believe that those who are slated to pay should know the basis for the imposition of the fee. That is, nowhere in the proposal does CSBS indicate how it reached the conclusion that processing fees of about 50¢ per location would cover its processing costs. The relevant question is, what are those costs and how are they calculated. Apparently, the industry is to take on faith that 50¢ per location is justified. But, there is no indication of such key variables as how many locations are assumed to register, how many licensees exist, etc. or whether the fees will be phased out or decreased if costs turn out less than expected. Finally it is not clear if CSBS has realized that while there may be about 200,000 agent locations in the U.S., many of these locations serve multiple licensees. That means that the majority of locations will be reported multiple times resulting in yet another financial windfall for SRR and CSBS.

CSBS has modeled its notice of proposed fee increase on the model of a federal notice of proposed rulemaking. In such rulemaking proceedings, as in this case, if fees are being sought from the regulated industry, the basis for the imposition of such fees must be indicated. In the current context, no such basis has been provided. If CSBS has a cost basis for the development and operation of the agent location database, it should be disclosed, if for no other reason than to dispel the widespread suspicion in the industry that CSBS is

⁴ One licensee reports that it files data in 12 states by email, sends CDs to 22 other states and provides online data to 4 other states. Another reports that 80% of its agent location data is submitted electronically.

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seeking the 50¢ fee as another profit center. In short, “trust us” is not sufficient in the absence of actual or projected cost data. Moreover, it is not clear that CSBS even has an accurate fix on the number of agent locations nationwide (notwithstanding that the state regulators in 48 states have this information).

Finally, there is no data to suggest how much revenue will be raised by the 50¢ per location fee and how it will be spent. For these reasons the proposal on its face is deficient, and does not appear to be a serious attempt to convince the regulated industry that a new “double dip” is warranted.

Aside from these issues, it is not respectful of the industry’s legitimate concerns about fees and taxes, especially in tight economic times, to propose fees without the courtesy of at least a minimal explanation of anticipated costs to justify the fees. Even if the industry were to agree that it is a good idea to impose duplicative agent location fees, the industry would be justified in demanding how those fees are set. CSBS has indicated that the model for this fee proposal notice is a typical federal “notice of proposed rulemaking.” However it is axiomatic in that context that a basis must be set forth so that the industry can provide meaningful contents. On that basis alone, this fee proposal does not pass muster.⁵

- Fees Cannot be Proposed When CSBS has Failed to Analyze State Data

The notice seeks a response from commenters concerning how many licenses each company holds and how many agent locations they have. However, the states now possess this information and CSBS should first contact its members for this data. It should be easy to collect and tally. Finally, this request for information from the industry underscores the apparent fact that CSBS/SRR has no real idea of the data universe it is dealing with and therefore the proposed fee is not based on a true reflection of potential costs to administer the system.

- Implementation of the Proposed Per Location Fee for Agents/Authorized Delegates Jeopardizes Industry Cooperation for the NMLS

TMSRT has been very supportive of the NMLS extension to non-bank money transmitters. For example, TMSRT has opposed none of the recent state initiatives to enact NMLS-enabling provisions and has testified consistently in support thereof when requested. This has been the case although the touted advantages of the NMLS system have not, as yet, been realized. For example, the existing CSBS-State-FBI quagmire over how to facilitate transmission of fingerprints to the FBI is one critical deficiency.

⁵ The 50¢ fee appears to be characterized in the proposal as a cap, yet there is no way for industry to evaluate if a lower number would cover the alleged processing costs.

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Aside from the key fingerprint issue, many day to day operational issues continue to arise and very few states are using the system exclusively, while those that do sometimes do not seem conversant with the system. Therefore, the first priority ought to be the implementation of the basic licensing and renewal system; it is premature to inject location registry when the MSB function has just launched and is experiencing teething problems.

Finally, it would have been far better for CSBS to convene a meeting of those most affected, or at least solicit comments informally from those who will bear the disproportionate burden of costs under the proposed system before transmitting a superficial notice of proposed fees. As indicated above, there continues to be suspicion in the industry that use of the NMLS system for MSBs will be exploited by CSBS as a means to supplement its budget, and as a means to protect against incursions into traditional state regulatory turf by agencies such as the CFPB.

- Bottom Line—This Processing Fee is Unreasonable and its Consideration is Premature

The bottom line for TMSRT is that the prospect of another layer of duplicative payments for no discernible benefit to the industry is a bridge too far—it is both inequitable and over-reaching. In sum, TMSRT is strongly opposed to paying additional, duplicative fees so that the NMLS system can provide a service which, at best, is identical to that now provided by the states and for which licensees now pay huge sums. To add insult to injury, these fees would exempt smaller transmitters for no discernible reason and would be in addition to the large NMLS renewal fees. One is led to the logical question of whether the NMLS system, if implemented for MSBs in this manner, is in reality merely an opportunity for a non-governmental organization to impose a new layer of fees and costs to support a non-government bureaucracy.⁶ Clearly, the proposal provides no basis to conclude otherwise.

In the past, TMSRT has sought the alternative of optional federal licensing for MSBs. Perhaps, with the prospect of major administrative cost increases from an entity that is not even a prudential regulator, now is the time for the industry to reconsider this alternative.⁷ It is hard to imagine that such national licensing could be more expensive than what licensees now pay through the fragmented state regulatory system.

* * *

⁶ The NMLS system, by all accounts, has turned out to be a financial windfall for both CSBS and SRR. Rather than imposing yet another duplicate fee on money transmitters for using NMLS, it would seem appropriate to redirect some of the windfall to fine tune NMLS to accommodate money transmitters. If this agent registration system is of such benefit to the states, CSBS should share its unexpected windfall.

⁷ There is no indication in the proposal that the proposal fee will be “locked in” at some level. Therefore, licensees may be faced with escalating location fees in the future.

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If you have any questions concerning matters set forth herein, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ezra C. Levine". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ezra C. Levine

	State	When Paid	Fee Amount	Cap
1	AL	Renewal	\$5	MAX \$500
2	AZ	Qty Agent Fees	\$25	
	AZ	Renewal	\$25	MAX \$2,000
3	CA	Renewal	\$25	
4	DC	Renewal	\$25	MAX \$2,500
5	DE	Renewal	\$4.60	
6	FL	Monthly	\$38	
7	HI	Renewal	\$300	MAX \$15,000
8	IA	Renewal	\$10	
	IA	Qty Agent Fees	\$10	
9	IL	Renewal	\$10	
	IL	Qty Agent Fees	\$10	
10	IN	Renewal	\$10	MAX \$2,000
11	KS	Renewal	\$12	
12	LA	Renewal	\$25	MAX \$3,000
13	MA	Renewal	\$300	
14	ME	Renewal	\$50	MAX \$2,500
15	MI	Renewal	\$6	
16	MS	Renewal	\$50	MAX \$1,000
17	NC	Renewal	\$10	MAX \$6,000
18	NH	Renewal	\$25	MAX \$5,000
	NH	Monthly	\$25	MAX \$5,000
19	NM	Renewal	\$25	
	NM	Qty Agent Fees	\$25	
20	OK	Renewal - MT	\$50	
	OK	Renewal - SOC	\$10	
21	PR	Renewal	\$100	
	PR	Qty Agent Fees	\$100	
22	TN	Renewal	\$12	
23	VT	Renewal	\$25	MAX \$3,500
24	WA	Qty Agent Fees	\$50 Open / \$30 Close	
25	WI	Renewal	\$5	MAX \$1,500
26	WV	Renewal	\$20	
27	WY	Renewal	\$50	MAX \$6,000