



1700 NORTH MOORE STREET  
SUITE 2250  
ARLINGTON, VA 22209  
T (703) 841-2300 F (703) 841-1184  
WWW.RILA.ORG

August 22, 2011

BY EMAIL

Mr. Jamal El-Hindi  
Associate Director for Regulatory Policy and Programs  
Financial Crimes Enforcement Network  
P.O. Box 39  
Vienna, VA 22183

Re: Prepaid Access Regulations – RIN 1506-AB07

Dear Mr. El-Hindi:

On behalf of the Retail Industry Leaders Association (RILA), we write with respect to the Financial Crimes Enforcement Network's (FinCEN) final rules amending the Bank Secrecy Act (BSA) regulations regarding definitions and other regulations relating to prepaid access (Final Rules).<sup>1</sup> We appreciated the opportunity to meet with you and other FinCEN policy staff today to discuss the retail industry's concerns with the Final Rules and the need for an extension of the implementation date.

RILA is the trade association of the world's largest and most innovative retail companies. RILA members include more than 200 retailers, product manufacturers, and service suppliers, which together account for more than \$1.5 trillion in annual sales, millions of American jobs and more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

We appreciate the improvements that FinCEN made to the Notice of Proposed Rulemaking and for taking into account many of the concerns raised by the retail industry in RILA's comment letter and those of a number of our members.<sup>2</sup> Our most immediate concern with the Final Rules, however, is the short implementation period, with the effective date of September 27, 2011. This date coincides with the end of the back-to-school season and the beginning of the holiday shopping season. As discussed at the meeting, retailers typically have a "holiday system freeze" or "system lockdown," usually lasting from October through January, during which technology and systems changes are suspended in order to avoid disruptions during peak sales and returns seasons. In addition, companies typically have a "financial systems freeze" following year-end (which occurs between December and February for many retailers) in order to facilitate the closing of their books and preparation of annual financial statements.

These timing and systems limitations particular to retail businesses, present significant obstacles to developing and implementing new policies and procedures, especially any that involve

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<sup>1</sup> RIN 1506-AB07, 75 Fed. Reg. 45403 (July 29, 2011).

<sup>2</sup> A copy of RILA's comment letter, dated August 24, 2010, is available at:  
[www.rila.org/email/RILACommentLetterFinCENRIN1506AB07.pdf](http://www.rila.org/email/RILACommentLetterFinCENRIN1506AB07.pdf).

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technological changes or training of employees across the country (potentially tens of thousands of individuals for many RILA members). Moreover, the interpretive questions/issues that we discussed present challenges for implementing such significant rules until retailers are better able to determine the exact scope of the rules that they are expected to implement.

For example, from our discussion we understood that FinCEN would consider open-loop prepaid access products that are reloadable at retail stores to be reloadable from a non-depository source, which would require retailers to collect and verify identifying information on any reload of such a product. Similarly, we understood that for the closed-loop exemption to apply, systems would need to be in place to limit the initial load and all aggregate reloads within a day to no more than \$2,000, or identifying information would have to be collected and verified. These two examples would affect hundreds of millions of transactions over the next few months just for the retailers represented at the meeting. Retailers will have to assess whether to undertake costly and burdensome information collection systems or change the features of the prepaid access products they offer. In either case, the remaining five weeks until the current implementation date is insufficient time for such significant changes to be made.

For these reasons, we respectfully request that FinCEN delay the effective date of the Final Rules by at least 18 months. During that time, we are committed to working with FinCEN to address the interpretational and other technical and employee-training issues that RILA members have identified in order for them to implement the Final Rules efficiently and effectively. We attach a compilation of the policy issues/questions identified by RILA members, a number of which we discussed today, and request that FinCEN issue interpretive guidance that addresses these concerns.

Thank you for your consideration of the foregoing requests. We look forward to continuing to work with you and FinCEN's policy staff to address these issues so that the Final Rules can achieve FinCEN's objectives while avoiding disruptive and adverse effects on consumers' ability to purchase prepaid access for its broad range of uses and retailers' ability to provide these important products.

If you or your staff have any questions or if we can provide any additional information, please contact either of us – Mark Warren at (703) 645-2041 or mark.warren@rila.org or Doug Thompson at (703) 600-2065 or doug.thompson@rila.org.

Respectfully submitted,



Mark Warren  
Vice President, Tax & Finance



Doug Thompson  
Vice President, Government Affairs

Attachment