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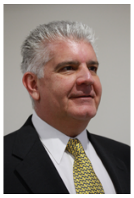
Financial Inclusion for Non Bank Financial Service Providers: a fundamental game changer for the payments industry.



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Increasingly businesses that are viewed as "high-risk" by their financial institutions are becoming the new unbanked, particularly in America. The recent congressional report titled, Federal Deposit Insurance Involvement in "Operation Choke Point" frames the debate that could be a fundamental game changer for the payments industry. The trend toward heightened regulatory scrutiny on the financial services industry has continued unabated for decades but it seems to have accelerated since 2008, characterized by an unprecedented collaboration and some would say collusion, on the part of federal and state law enforcement and regulatory agencies that has put the payments industry in the government crosshairs. The scathing congressional report not only suggests impropriety on the part of FDIC's involvement in a Department of Justice investigation, but it also raises the awful specter of misuse of regulatory authority in targeting legitimate businesses that have been deemed as "high-risk" by federal regulators.

The fact that this report has not even been a blip on the media radar screen is a chilling omen of the 'new-normal' for financial payment services regulation. Traditionally financial institutions have maintained banking relationships with businesses based on their legal status and in accordance to the FI's AML policies and procedures with an eye on the safety and soundness of the financial risk exposure. However, in today's regulatory environment the bar has been raised for FI's due to vague innuendoes made by regulators on 'Reputational Risk' and the implied threat of heightened regulatory scrutiny. Whole classes of legitimate businesses are finding themselves either unbanked or unable to access basic electronic payment services due to their category of business. The congressional report cited: "Ultimately, senior officials at FDIC headquarters were successful in choking-out payday lenders' access to the banking system. As of June 2014, over 80 banks have terminated business relationships with payday lenders as a result of FDIC targeting."

The targeting of payday lenders was just the tip-of-the- iceberg, as the list of "high-risk" activities that was circulated through the FDIC's *Supervisory Insights* publication included: "Coin Dealers, Credit Card Schemes, Dating Services, Firearms Sales, Fireworks Sales, Lottery Sales, Money Transfer Networks, Telemarketing, Tobacco Sales and Travel Clubs" among many others. The congressional report cited that offering feedback on the article, one FDIC Regional Office explicitly focused on how the high-risk merchant list would influence the examination process by quoting an email from the Charlotte Territory Supervisor, on behalf of Atlanta Regional Director Thomas Dujenski to Managing Editor of *Supervisory Insights* at FDIC headquarters: "we believe the articles will assist examiners and others in understanding the broad risk considerations that are present in these business lines and will help focus more detailed analysis during examinations." The report also stated: "Personal animus towards payday lending is apparent throughout documents produced to the Committee. In one egregious example, the DCP's Deputy Director for Policy & Research insisted that Chairman Gruenberg's letters to Congress and talking points always mention pornography when discussing payday lending," quoting an email sent by a Counsel in the Legal Division, " in an effort to convey a good picture regarding the unsavory nature of the businesses at issue."

Where does the payments industry go from here? How will the financial services ecosystem evolve in an environment of heightened regulatory scrutiny and uncertainty? This is a problem for the payments industry that is global in scale, as banking regulators around the world tighten their control of the financial system.   How will this disturbing trend impact payment innovation and is the consumer the biggest loser of all? I will be leading a panel of experts at the upcoming All Payments Expo in Las Vegas on Feb. 23 -25, to discuss this critical topic and propose possible solutions for this global problem.

Happy holidays to all and best wishes for the New Year!

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