



# Bank Account Closures: The Perspective of an MTO

Presentation Prepared for the MTRA Annual Meeting



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2005



## Accounts are closing left and right. Why?

Fallacy:	Fact:
<p><b>It is good bank supervisory policy</b> to encourage banks to provide money transfer services directly, and to do nothing to stem the tide of account closures, because:</p> <ul style="list-style-type: none"> <li>■ Consumers benefit by having their transfers made through banks.</li> <li>■ Bank-based transfer programs are more secure against money laundering operations.</li> </ul>	<ul style="list-style-type: none"> <li>■ MTOs are faster, cheaper and better through specialization. Highly technical bank programs have floundered. Banks are adopting MTO models.</li> <li>■ Banks require a face-to-face meeting once; thereafter the service can be totally remote and is wide open for abuse. <b>MTOs see customers every time.</b></li> <li>■ Account closures drive customers to unlicensed operators, thwarting all control.</li> </ul>
<ul style="list-style-type: none"> <li>■ Providing accounts to licensed MTOs presents great risk to banks.</li> </ul>	<ul style="list-style-type: none"> <li>■ Bank AML sanctions have been based on <b>bank misconduct</b> and on banking <b>UNLICENSED</b> MTOs. <b>Bank fines have not been based on non-compliance of licensed MTOs account holders.</b></li> </ul>

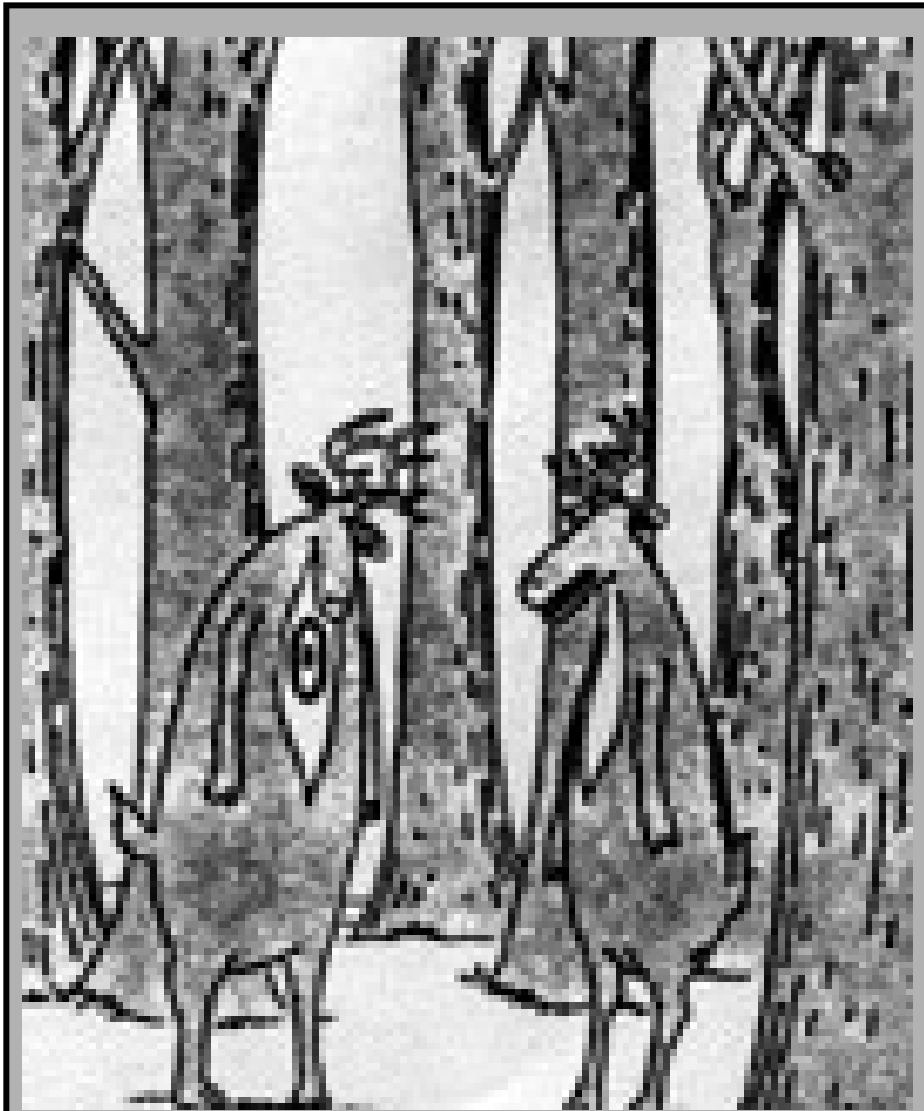
# So what's really happening?

- **Fundamental tensions are at play:**

- **State vs. Federal regulation** – Federal banking agencies give no respect to state issued licenses.
- **Large MTO vs. small/medium MTO** – Large MTOs are keeping their bank accounts and quietly whispering to their banks “it’s safer to close the small guys.”
- **Mom and Pop store MSBs vs. Money Transfer Company MSBs** – Lobbying pressure on regulators from large MTOs and check cashers to remove mom and pop MSBs and check cashers from “High risk” classification leaves MTOs almost alone as “high risk.” Small – medium MTO lobbying efforts are nascent.

## **Many banks want to move into the money transfer business**

- Banks with large branch networks think they see an opportunity.
- September 2005: Bank of America embarks on wholesale closure of small/medium MTO accounts and launches **free** transfers to Mexico.
- Federal banking agencies’ hostility to (or at best tepid acceptance of) MTO accounts gives banks perfect air cover to make a competitive move while<sub>3</sub> wrapped in the flag of AML / anti-terrorist finance prudence.



“Bummer of a birthmark, Hal.”

The combination of regulatory hostility and some banks' desire to enter the market makes it tough to be a competitive MTO with an account at a large bank.

## Historical and cross-industry perspective

US economic history is full of examples of core infrastructure being forcibly opened to competition.

- Railroads' anticompetitive practices led to the creation of Federal antitrust law
- Telecommunications infrastructure was forced to be made available to competitors

... and consumers benefited.

## WHY NOT BANKING?

- The US banking infrastructure is a **subsidized federal infrastructure**.
- Banks should not be permitted to deny access in order to hinder competition.

# What is a Regulator to do?

**Federal regulators:** “[We] do not expect, banking organizations to serve as the *de facto* regulators of the money service businesses for which they maintain accounts.” *Interagency Guidance, April 26<sup>th</sup>, 2005*

This is nice, but is **too little too late**. Years of regulatory hostility did more damage than that statement will cure.

- **FinCEN** – Tell the world that in FinCEN’s view there is a **rebuttable presumption** that a bank providing an account to an MTO is **NOT**, absent willful misconduct on the part of the bank, liable for AML violations of the MTO.
- **Federal banking agencies** – Get your examiners to stop telling banks (or insinuating to them) that they should close MTO accounts. You say you don’t, but bankers tell a different story.

## **State regulators:**

- Get aggressive in defense of your money transfer consumers’ right to choose. Demand justification from banks closing accounts affecting your consumers, whether they are federally chartered or not. Enlist your state’s Attorney General to assist.
- Help make ACH collections feasible by sanctioning defaulting agents.
- Follow Maryland’s lead and bring your licensed MTOs and banks together.

## Small and Medium Money Transfer Companies:

**“We must all hang together, or assuredly we shall all hang separately.”**

Benjamin Franklin at the signing of the Declaration of Independence, 1776.



*Access to bank accounts cannot continue to be seen as a competitive advantage by small and medium MTOs vis a vis other small and medium MTOs.*

**We must perfect funds collection methods that disintermediate banks that do not want our business:**

- **Work with good smaller banks** to improve ACH collection methods and wire transfer capabilities.
- **Band together to share negative agent credit history** to mitigate the A/R risk inherent in ACH collections.
- **Band together to share armored car services** at agents we have in common in order to make those services more cost efficient.

- Small and Medium MTOs need to fight for our rights.
- **We provide a valuable service to be proud of.**
- We deserve the respect and support of our regulators – direct and indirect – and given a level playing field we will continue to win at the customer level by providing superior service on superior terms.
- **In order to defeat the forces aligned against competition, we must band together.**

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