Money Services Businesses: Understanding the Risks and Rewards

Presented By:

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Introduction

➢ Recent Headlines

Remarks of Under Secretary Cohen at the ABA/ABA Money Laundering Enforcement Conference

11/10/2014

FinCEN Statement on Providing Banking Services to Money Services Businesses

FATF clarifies risk-based approach: case-by-case, not wholesale de-risking
Introduction

- Who are money services businesses (MSBs)?
  - Check cashers
  - Money transmitters
  - Issuers & sellers of money orders & travelers checks
  - Dealers in foreign exchange
  - Providers & sellers of prepaid access
  - Agents

- Varying degrees of risk
Introduction

- Why do customers use MSBs?
  - Convenience
  - Preference
  - Lack of options
Abby Hans
President
Hans Management, Inc.
History of the Check Cashing Industry

- The Great Depression
- 1931: Northside and Southside
- 1946: Licensing and Regulation
  - Creation of the CCEA
- 1950’s Growth
- 1970’s
  - No Good Deed Goes Unpunished
  - Bank Secrecy Act
History of the Check Cashing Industry

- 1990: FinCEN
- 1992: NaCCA
  - Alliances with Western Union & MoneyGram
- 1997: FiSCA
- 1999:
  - EFT ’99
- 2000: How Do You Like Me Now?
History of the Check Cashing Industry

- 2001: 9/11
  - USA Patriot Act (Oct. 2001)
- 2014: Increased Electronification and Staff Oversight
Michael Hans

Director of Operations & Compliance Officer

Hans Management, Inc.
Currency Exchange Operations

- **Products and Services**
  - Financial, Business and Governmental

- **Daily Operations and Procedures**
  - Security
  - POS
  - BSA/AML Compliance
    - Recording/Reporting
  - Store Reconciliation, Balance and Closeout

- **Personnel**
  - Company Structure
Currency Exchange Operations

- Personnel (continued)
  - Training
  - Products/Services
  - Compliance (BSA / AML)
    - Initial and Ongoing
- Accounting/Bookkeeping
- Audits/Examinations
  - Random store balances/audits (in-house)
  - State of Illinois – DFPR
  - Title 31 - IRS
Currency Exchange Operations

- Audits/Examinations (continued)
  - Independent Review - BSA / AML Program
  - Partners/Principals (Bank, Money Transmitter, etc.)

- Compliance Officer
  - Responsibilities
  - Outsourcing
    - BSA / AML Program
      - Develop, Implement and Maintain
    - Monitor transaction activity
    - Assist with reviews/audits/exams
    - Point of contact for BSA / AML related matters
Dave Ryan

Senior Vice President

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Republic Bank
Problems / Benefits

- The government has categorized MSBs as high-risk accounts.
  - A greater degree of monitoring and costs.
- Risk, perceived or otherwise, needs to be rewarded.

What are the benefits?

- Scale – while overall relationships are critical to understanding your MSB customer, this is a transaction, fee-based business model.
- The scale needs to be such to compensate for the investment in products, services, and personnel that are unique to the MSB industry.
- Once initial investments are made, fee income can be very important for a bank’s bottom line.
Two main types of risk

- **Credit**
  - Uncollected funds, cash on delivery, overdrafts, B2B, returns, etc.
  - Does the compliance officer care about the credit risk? It’s about knowing your customer.

- **Compliance**
  - Multiple bank relationships
  - Commercial check cashing
  - Policies and procedures – corporate, ACH, BSA, etc.
  - BSA requirements
    - FinCEN’s “culture of compliance”
    - Independent reviews
    - It’s all about “**transparency**”
Other risks

- **Reputational**
  - Hard to define but it is real
  - “I only care if this check is good or not” to “Do I want to be doing business with this person or company?”

- **Operational**
  - Balancing
  - Processing returns
  - ACHs
Banking MSBs

- Have a policy that identifies the risks:
  - Cash-based businesses
  - Immediate availability of funds
  - Cash orders / wires
  - Kiting
  - Overdrafts
  - BSA / AML
  - Tax evasion
  - Registrations / Licensing
  - KY customer
  - KY correspondent
  - Agency relationships
  - Corporate check cashing
Banking MSBs

- Have a set of procedures that mitigates these risks:
  - Identify the type of MSB and the state and federal licensing requirements
  - Underwrite the accounts similar to credit / macro-study sets expectations. Distributions, is capital adequate, trends on makers and payees…can the MSB afford it?
  - Set limits
  - Limit bank relationships
  - Establish lines of credit where needed
  - Analyze the MSB’s policies, procedures, independent reviews, and audits (financial, ACH, etc.)
  - Transaction monitoring – balances, returns, paid items
  - Correspondent reviews, onsite visits, etc.
  - Staffing (credit / operations)
Trends

- The pressure continues (for many years now) to increase for the bank to know its customers’ customers.

- Checks have been declining in volume placing more and more pressure on capital requirements and personal financial support.
  - Drives MSBs to take on higher risk checks and to try to outpace decline with expansion. This in turn places greater demand on capital.
Ernesto Rios

Revenue Agent

Workload Identification, Selection, Delivery, and Monitoring (WISDM)

Internal Revenue Service
AML Program Requirements

- Policies, Procedures and Internal Controls
  - Risk-based
  - Consistently implemented
  - Monitored
  - Compliance Officer
    - Delegated duties
  - Branch/Agent Locations
    - High Risk
    - Identify/monitor transactions
    - Terminate agents
SAR Review Process

- Identify unusual activity
- Research sender/beneficiary for prior transactions
- Decision
  - File – based on all facts
  - Not file – know the customer/business purpose
  - Monitor for future transactions
“Know Your Customer”

• Not required by MSBs
• DOJ - “Virtually impossible for a financial institution to have an effective SAR program unless they have a “Know Your Customer” requirement”
“Know Your Customer”

– Risk-based
– Customers with a higher volume of recurrent transactions
  • $25,000 / 12 month period
– Source of funds
– Business purpose
– Terminate relationship
AML Program Requirements

• Training
  – Adequate and timely

• Independent review
  – Frequency is risk-based
  – Transactional testing
  – Plan to address deficiencies
AML/CTF Compliance Programs for MSBs

- Developing
  - 4 pillars

- Maintaining
  - Changes in regulations
  - New products/services
  - Monitoring

- IRS Examinations
  - Letter of Intent to Examine
  - On-site visit
  - Closing interview
Closing / Q&A
Conclusions

- Not all MSBs pose the same risk

- Not all banks should service the industry

- Servicing MSBs can result in:
  - A significant source of income
  - Improved infrastructure for future growth
“The financial services industry must learn to intelligently embrace risk. This will be encouraged by regulators who are good risk managers themselves.”

– Jim Harper, global policy counsel for the Bitcoin Foundation
Exiting the Market

“Chances are the risk is still coming back to us, it’s just less transparent.”

– Bob Werner, global head of financial crime compliance for HSBC
Questions?