Bank Secrecy Act/Anti-Money Laundering Requirements for Money Service Businesses

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Money Service Businesses (MSBs) Qualifying Services

- Check Cashers – amounts greater than $1,000 for one person per day
- Currency Dealers or Exchangers – amounts greater than $1,000 for one person per day
- Issuance, Sale and Redemption of Money Orders/Traveler’s Checks, Prepaid Access Products—amounts greater than $1,000 for one person per day
- Money Transmitter
Types of MSBs

- Principal MSB – Issuer
- Branch – “Brick & Mortar” locations
- Agent – Service agreement with an independent entity
MSB Registration Requirements

• Initial Registration – 180 days after the date the MSB was established; FinCEN Form 107

• Renewal Registration – Every two calendar years; if the initial registration is filed on November 1, 2017, the renewal must be filed by December 31, 2018, and the next renewal must be filed by December 31, 2020.

• Re-registration – Change in ownership or MSB experiences a more than 50 percent increase in the number of its agents during a registration period

• California Check Casher Permit – Renewed Annually
MSB Registration Exemptions

A business that is a MSB solely because it serves as an agent of another MSB is not required to register. However, a business that is a MSB because it engages in MSB activities both on its own behalf and as an agent of another MSB, must register.

A business that is a MSB solely as an issuer, seller, or redeemer of stored value is not required to register. If, however, a business is an MSB because of other services it provides, providing stored value services does not relieve it of the responsibility to register.
MSB Agent List

- As part of the registration rule, each MSB that is required to register must prepare and maintain a list of its agents. The agent list is not filed with the registration form but must be maintained at a location in the United States reported on the form. The list must include each agent and contain specific information about each agent.

- Upon request, the MSB must make its list of agents available to FinCEN and the IRS in the performance of its examination function.

- The list must be revised if applicable each January 1st for the immediately preceding 12 months. Each list must be retained for a period of 5 years.
Key Components - AML Program for MSBs (§ 1022.210)

i. Policies, procedures, and internal controls designed to ensure ongoing compliance

ii. Designation of individual(s) responsible for coordinating and monitoring day-to-day compliance

iii. Training and education for appropriate personnel

iv. Independence review to monitor and maintain an adequate program
i. Policies and Procedures and Internal Controls §1022.210(d)(1)(i)

Incorporate policies, procedures, and internal controls reasonably designed to:

• Provide for collecting and verifying customer identification. Determine through review of documents and discussion whether there are adequate processes in place for verifying customer identification as appropriate;

• Provide for the identification of reportable transactions and the accurate filing of all required reports, including SAR-MSBs and CTRs.

• Provide for creating and retaining records. The MSB has a process to ensure required information is obtained and retained or the required timeframe. There is a review process to ensure adequate records are being obtained; and

• Provide for responding to law enforcements requests. The MSB has a process for handling law enforcement requests. Are the appropriate personnel involved in the process? For example, do all requests go through the BSA Compliance Officer?
i. Policies and Procedures and Internal Controls
§1022.210(d)(1)(i) - continued

• If the MSB has an automated data processing system (monitoring system), compliance procedures should be integrated with that system.

• A person that is a MSB solely because it is an agent for another MSB, may by agreement allocate responsibility for development of policies, procedures, and internal controls with the MSB that it serves as an agent to. It should be noted that each MSB shall remain solely responsible for implementation of those requirements.

• A MSB that is a provider or seller of prepaid access must establish procedures to verify the identity of a person who obtains prepaid access under a prepaid program and obtain identifying information, including name, date of birth, address, and identification number. Sellers of prepaid access must also establish procedures to verify the identity of a person who obtains prepaid access to funds that exceed $10,000 during any one day and obtain identifying information, including name, date of birth, address, and identification number. Providers of prepaid access must retain access to such identifying information for five years after the last use of the prepaid access device or vehicle; such information obtained by sellers of prepaid access must be retained for five years from the date of the sale of the prepaid access device or vehicle.
i. Policies and Procedures and Internal Controls  
- continued

• Address the BSA/AML risks identified in the MSB’s risk assessment;

• Provide for program continuity despite changes in management or employee composition or structure;

• Meet all regulatory requirements, address recommendations for BSA compliance, and provide for timely updates to changes in regulations

• Provide sufficient controls and monitoring systems for the timely detection and reporting of suspicious activities;

• Provide for adequate supervision of employees that handle currency transactions, complete reports, monitor for suspicious activities or engage in any other activity covered by the BSA and its implementing regulations;
ii.  BSA Officer §1022.210(d)(2)

Designate a person to assure day-to-day compliance with the program. The responsibilities of such person shall include assuring that:

• The MSB properly files reports, and creates and retains records, in accordance with applicable requirements of the regulations;

• The compliance program is updated as necessary to reflect current requirements of this section; and

• The money services business provides appropriate training and education in accordance with (d)(3) of this section.
iii. BSA Training §1022.210(d)(3)

Provide education and/or training of appropriate personnel concerning their responsibilities under program, including training in the detection of suspicious transaction to the extent that the MSB is required to report such transactions under the regulation.
iv. Independent Review §1022.210(d)(4)

Provide for independent review to monitor and maintain an adequate program. The scope and frequency of the review shall be commensurate with the risk of the financial services provided by the MSB. Such review may be conducted by an officer or employee of the MSB so long as the reviewer is not the person designated in (d)(2) of this section.
Risk Assessment

Each MSB should identify and assess the money laundering risks that may be associated with its unique or high risk activity:

• Product/Services Risk – Anonymity, currency and structuring

• Customer/Entities Risk – Business, occupation or anticipated activities

• Geographic Risk – International and Domestic

• Operational Risk – MSB will fail to detect or prevent money laundering as a result of inadequate internal processes
Geographic Risk (International)

- Countries, jurisdictions and governments subject to OFAC sanctions, including state sponsors of terrorism
- Countries identified as supporting international terrorism as determined by the Secretary of State
- Jurisdictions determine to be “of primary money laundering concern” by the Secretary of the Treasury, through FinCEN pursuant to section 311 of the USA PATRIOT Act
- Countries and territories identified as non-cooperative by the Financial Action Task Force (FATF)
- Major money laundering countries and jurisdictions identified in the US Department of State’s annual International Narcotics Control Strategy Report (INCSR)
Geographic Risk (Domestic)

- High Intensity Drug Trafficking Areas (HIDTAs)
- High Intensity Financial Crime Areas (HIFCAs)
Other MSB Considerations: Privately Owned ATMs

For monitoring purposes, keep records for how the MSB replenishes the machine(s) cash supply and the processing records.

- Cash withdrawals from your bank
- Cash on-hand from the business
- Armored car service
Predicate Crimes Associated with Money Laundering

• Drug Trafficking
• Human Trafficking
• Gun Running /Illegal Sale of Arms
• Tax Evasion
• Corporate Crime
• Fraud and Organized Theft
• Trade Finance
MSB Reporting: Reporting Cash Transactions

MSBs must electronically file FinCEN Form 112, Currency Transaction Report (CTR), when they have a cash-in or cash-out currency transaction, or multiple transactions, totaling more than $10,000 during one business day for any one person, or on behalf of any one person.

Multiple cash transactions at different branches must be aggregated and reported if over $10,000
Certain MSBs are required to report suspicious activity. The following MSBs are subject to the suspicious activity (SAR) requirement:

- Money transmitters
- Currency dealer or exchanger
- Money order – issuers, sellers and redeemers
- Traveler’s check – issuers, sellers and redeemers
- US Postal Service

A report must be filed when a transaction is conducted by, at or through the MSB is both: Suspicious and $2,000 or more.
A transaction must be reported if the MSB knows, suspect or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):

- **Involves funds derived from illegal activity** or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity, or is
- **Designed to evade the requirements of the Bank Secrecy Act**, whether through structuring or other means or
- **Serves no business or apparent lawful purpose**, and the reporting business knows of no reasonable explanation for the transaction after examining all available facts.

**Definition of the term “Suspicious”**
• A SAR must be filed electronically using a SAR MSB Form. MSBs have 30 days after becoming aware of a suspicious transaction to complete and file the FinCEN Form 109.

• A copy of the filed form and supporting documentation must be retained for a period of five years from the date of filing.

• MSBs (including MSB employees) are prohibited from disclosing to a person involved in the transaction that a suspicious activity report has been filed.

• Continuing suspicious activity should be filed every 90 days with FinCEN.
Every year, (due April 15th) under the Bank Secrecy Act, you (including a citizen, resident, corporation, partnership, limited liability company, trust and estate) must if applicable report certain foreign financial accounts (aggregate value over $10,000) such as bank accounts, brokerage accounts and mutual funds, to the Treasury Department and keep certain records of those accounts. You report the accounts by filing a Report of Foreign Bank and Financial Accounts (FBAR) on FinCEN Form 114.
MSB Reporting: Report of International Transportation of Currency or Monetary Instruments (CMIR)

Each person who physically transport, mails, or ships or causes to be physically transported, mailed, or shipped currency or other monetary instruments in an aggregate amount exceeding $10,000 at one time from the United States to any place outside the United States or into the United States from any place outside the United States at the time of shipment must file a FinCEN form 105 with Bureau of Customs and Border Protection Officer or with the Commissioner of Customs and Border Protection.

Each person who receives in the United States currency or other monetary instruments in an aggregate amount exceeding $10,000 at one time which have been transported, mailed, or shipped to them from any place outside the United States within 15 days of receipt must file a FinCEN Form 105 with the appropriate Bureau.
Banking MSB Clients

• Do you have a formally documented underwriting policy/procedure for banking MSB clients?

• Are MSBs identified and risk rated on your Risk Assessment?

• Are the MSB clients internally identified/tracked and monitored (do you have specific rules/scenarios within your AML monitoring system to identify the unusual/suspicious activity)?

• Are you performing site visits?
Questions?

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