

Banking MSBs: Dispelling the Myths

By Jill Emerson

Money services businesses, aka MSBs. Community bankers hear the word and what do they think of? Answer: MSBs carry an inherently higher regulatory compliance risk and cost due to government Bank Secrecy Act/antimony laundering rules. The regulatory enforcement climate did not help (remember Riggs Bank and AmSouth?).

Guidance issued by federal regulators has reduced bankers' concerns about the regulatory risk for MSBs, but it did not eliminate them. Many community banks across the United States dramatically reduced MSB accounts, and a few decided to not service MSBs at all. However, financial institutions not serving MSBs have reacted far in excess of the potential regulatory risk they pose. Many community banks have continued effective, and profitable, programs for serving MSBs.

What Is an MSB?

U.S Treasury FinCEN has defined MSBs as financial service providers, including the U.S. Postal Service, to include:

- Currency dealers or exchangers;
- Check cashers;
- Issuers of traveler's checks, money orders or stored value;
- Sellers or redeemers of traveler's checks, money orders, or stored value;
- Money transmitters (including agents of money transmission companies).

There are threshold requirements for the first four categories: a business that engages in the top four activities is considered a MSB if it engages in one or more transactions greater than \$1,000 with any person on any day. All money transmitters are MSBs with no threshold requirements. Many MSBs are required by FinCEN to be registered and many states require them to obtain a license and comply with specific consumer protection requirements, including fees that MSBs can charge, disclosures consumers should see in receipts, and net worth requirements.

Importantly, many financial institutions are often unaware that MSBs are required by law to possess an effective, well-ordered and smoothly functioning anti-money laundering (AML) program to prevent their businesses from being used as conduits for money laundering or terrorist financing activities. At a minimum, MSBs are required to possess a program that consists of four pillars: internal controls such that policies and procedures are designed to ensure ongoing compliance; designation of an individual appointed to oversee day-to-day compliance; training for appropriate personnel; and independent review to monitor the adequacy of the program.

FinCEN and federal financial institution regulators have issued joint guidance that clarified the requirements of the Bank Secrecy Act that pertain to MSBs. The guidance established minimum required steps that financial institutions must comply with when providing services to MSBs. In addition, FinCEN recently issued a manual and a work program that provides guidance to entities that examine MSBs for compliance with the requirements of the BSA. The manual, titled Bank Secrecy Act/Anti-Money Laundering Examination Manual for Money Services Businesses, can be found at www.fincen.gov and is a great tool for MSBs and for financial institutions and other entities that examine MSBs.

As with any financial institution, MSBs could potentially be used as conduits for money laundering and/or terrorist financing activities. However, to gauge such risk posed by a particular MSB, many factors must be considered. In particular, the volume and frequency of transactions, as well as the type of activity (each type of activity poses its own risks) must be taken into account. Most MSBs are knowledgeable about those risks to their operations, and they develop their AML programs accordingly.

What is the vital role of MSBs? MSBs generally offer services to individuals who do not want or do not believe they can obtain bank accounts.

Sandra Stevenson, managing director of Ascella Compliance and a former Wells Fargo Bank compliance consultant for MSB relationships, states that, "Many of these individuals have different cultural perceptions of banks, creating a desire to use MSBs." Instead of building account relationships, as is the case generally with financial institutions, typically MSBs' relationships with their clients are more transactional in nature. In addition, through the use of agents, MSBs are able to operate nationwide—often servicing remote rural areas where banks may not have a presence (in addition to metropolitan urban areas).

Ascella Compliance can develop programs for your financial institution that follow both regulatory guidance as well as best practices in the industry (used by larger national banks that continue to provide services to MSBs). In this regard, Ascella Compliance services include: identifying MSB customers; conducting risk assessments, based on certain MSB risk criteria; educating bank employees on how to conduct appropriate due diligence on MSBs; and developing monitoring procedures and processes. Training services can also be provided by Ascella Compliance staff. To learn more, please visit: www.ascellacompliance.com.

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