

SUBJECT: BSA: Money Services Businesses

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INTRODUCTION

This release applies to all credit unions, both state and federal. It describes federal Bank Secrecy Act requirements for credit unions that serve “money services businesses.”

EXECUTIVE SUMMARY

“Money services business” (MSB) is a term used by financial regulators to describe a business that isn't a bank or credit union but that provides some bank-like services. FinCEN (the federal Financial Crimes Enforcement Network) defines MSB to mean currency dealers or exchangers, check cashers, issuers or sellers of traveler's checks or money orders, money transmitters, and providers or sellers of prepaid access.

Regulators have special Bank Secrecy Act / Anti-Money Laundering (BSA/AML) compliance expectations for credit unions and other institutions that offer services to MSBs. For general information on BSA/AML compliance, see The League's *ii Release No. 0071 - Bank Secrecy Act*.

Some credit unions choose not to serve MSBs, because they can carry heightened risks. The NCUA has warned that if a credit union lacks proper controls, MSBs may generate transaction volume that could overwhelm the credit union and cover up illegal activities. However, not all MSBs are the same. For example, a local grocery store that offers check cashing may be an MSB (depending on the size of the checks it will cash), but it's not nearly as risky as a large international money transmitter. MSBs can provide necessary and valued services for their communities. Each credit union needs to consider the pros and cons and make a risk-based business decision about serving MSBs.

If your credit union serves MSBs, then the National Credit Union Administration (NCUA) expects it to consider, monitor, and mitigate the risks by developing policies, procedures, and processes to achieve certain goals:

- Proper identification of MSB relationships.
- Adequate assessment of potential risks.
- Adequate understanding of the business model and activity of the MSB.
- Adequate and ongoing due diligence relative to the risk assessed.
- Adequate and ongoing suspicious activity monitoring.
- Adequate staffing, expertise, and resources.

For any business accounts, credit unions must understand the nature of members' businesses and the level of transaction activity to be expected from an account. If the credit union's Customer Due Diligence process reveals that the business is an MSB, then a Money Services Business Questionnaire attached as an exhibit to this release can be completed to help the credit union understand the extent of the MSB's activities. Credit unions should also review account activity by current account holders, to see whether they may (perhaps unknowingly) be MSBs.

Credit unions that choose to serve MSBs can expect examiners to scrutinize those relationships, to ensure the credit unions comply with some special BSA requirements. At a minimum, NCUA expects credit unions to take these due diligence steps:

Step #1: Perform required Customer Identification Program and Customer Due Diligence procedures. The same expectations apply to MSBs as to any other business that joins a credit union: The credit union needs to:

- Collect identifying information about the business and verify its identity (as well as the identities of the business' authorized signers, which is a generally recommended practice);
- Gather additional information to understand the nature and purpose of the business, develop a risk profile, and monitor for suspicious transactions; and
- Identify "beneficial owners" – the people who own and control "legal entity customers" – organizations opening credit union accounts, and that includes MSBs.

See The League's *ii Release No. 0159 – BSA: Customer Identification Program and Customer Due Diligence*

Step #2: Confirm that member MSBs register with FinCEN, if applicable. Most businesses that meet the definition of an MSB must register with FinCEN. A business that is an MSB solely because it acts as an agent or branch offer for another MSB – for example, an agent for Western Union – is not required to register.

Step #3: Confirm that member MSBs comply with state or local licensing requirements, if applicable. Wisconsin requires licensing for two kinds of MSBs: "Sellers of checks" & money transmitters, and "community currency exchanges" & check cashers.

Step #4: Confirm the member MSB's agent status, if applicable. If an MSB tells the credit union that it is exempt from FinCEN registration under Step #2 because it is merely an agent for another MSB, the credit union needs to confirm that fact.

Step #5: Conduct a basic Bank Secrecy Act / Anti-Money Laundering (BSA/AML) risk assessment to document the level of risk associated with the account. Credit unions should not treat all MSBs as posing the same level of risk. The *ii Release* lists basic risk assessment steps, along with factors that regulators say can indicate higher or lower risk levels for MSBs.

Step #6: Conduct enhanced due diligence (in addition to the minimum due diligence steps) for MSB accounts if the credit union determines that they pose a higher level of money laundering or terrorist financing risk. Depending on the level of potential risk, as well as the size and sophistication of a particular MSB, a credit union may take steps such as reviewing the MSB's BSA/AML program and/or the results of the MSB's independent testing of its BSA/AML program; conducting on-site visits; or reviewing written procedures for the operation of the MSB. Exhibits to this Release can help credit unions conduct enhanced due diligence when needed.

In addition, credit unions must comply with the credit union's BSA reporting requirements for MSB accounts. This includes monitoring them for suspicious activity, and the release provides examples of what that might be. See The League's *ii Release No. 0109 – BSA: Suspicious Activity Reports*.

Lastly, credit unions are required to report MSB account information on the Call Report. This helps in tracking the MSB activity in the credit union system.

WHAT ARE MSBs?

The term "money services business" broadly describes businesses that aren't banks or credit unions but that provide some bank-like services. FinCEN defines MSB to mean currency dealers or exchangers, check cashers, issuers or sellers of traveler's checks or money orders, money transmitters, and providers or sellers of prepaid access.

To be considered an MSB, a business must fit in one or more of FinCEN's defined categories. The definitions can be technical, but this chart, from *FinCEN's "Am I an MSB?" webpage*, lists the things a business might do that could make it

an MSB:

Product or Service	Capacity (Type of MSB)
Money Orders*	Issuer of money orders Seller of money orders
Traveler's Checks*	Issuer of traveler's checks Seller of traveler's checks
Money Transmission	Money transmitter
Check Cashing*	Check casher
Currency Exchange*	Dealer in foreign exchange
Currency Dealing*	Dealer in foreign exchange
Prepaid Access	Provider of Prepaid Access Seller of Prepaid Access

The complete definition of “MSB” is in *FinCEN’s regulations*. Here are more detailed descriptions of the categories of MSBs:

- Currency dealers or exchangers* are considered MSBs if they accept currency, other monetary instruments, funds, or other instruments of one or more countries in exchange for the currency or other monetary instruments, funds, or other instruments of one or more countries in an amount greater than \$1,000 for any person, on any day, in one or more transactions.
- Check cashers* are considered MSBs if they accept checks or monetary instruments in return for currency, or a combination of currency and other monetary instruments, in an amount greater than \$1,000 for any person, on any day, in one or more transactions.
- Issuers or sellers of traveler’s checks or money orders* are considered MSBs if they issue or sell traveler’s checks or money orders (collectively called “monetary instruments”) in an amount greater than \$1,000 to any person, on any day, in one or more transactions.
- Money transmitters. These entities accept currency, funds, or other value that substitutes for currency from one person and transmit the currency, funds, or other value that substitutes for currency to another location or person by any means. (This definition also includes administrators or exchangers of virtual currency). An entity that engages in money transmission in any amount is an MSB.
- Providers or sellers of prepaid access. “Prepaid access” used to be called “stored value.” *Providers* of prepaid access have principal oversight and control over a prepaid program or participant in a program that is registered with FinCEN as the provider of prepaid access for a particular program. Any person or organization that receives funds, or the value of funds in exchange for an initial loading or subsequent loading of value onto prepaid devices, is a *seller* of prepaid access.

The following programs are excluded from the definition of a prepaid program:

- Programs that provide closed-loop prepaid access to funds not to exceed \$2,000 maximum value on any day. Closed-loop prepaid access is defined as “prepaid access to funds or the value of funds that can be used only for

goods or services in transactions involving a defined merchant or location (or set of locations), such as a specific retailer or retail chain, a college campus, or a subway system.”

- Programs that provide prepaid access solely to funds provided by a government agency.
- Programs that provide prepaid access solely to funds from certain pre-tax flexible spending arrangements for health care or dependent care expenses, or from Health Reimbursement Arrangements.
- Programs that offer open-loop prepaid access that does not exceed \$1,000 maximum value on any day, and prepaid access to employment benefits, incentives, wages or salaries (that is, payroll), are not prepaid programs subject to BSA regulatory requirements so long as the prepaid access cannot be used internationally, be reloaded from a non-depository source, or allow transfers of value from one person to another person within the arrangement. If *any* of these features are part of the arrangement, the open-loop prepaid access is covered as a prepaid program under the regulation.

- The U.S. Postal Service.

* *Note:* Three of the categories listed above – check cashers, currency dealers or exchangers, and issuers or sellers of traveler’s checks or money orders – are only considered MSBs if they engage in covered transactions in an amount greater than \$1,000 for any person on any day in one or more transactions. Otherwise, they’re not MSBs. There is no threshold for the other categories of businesses to be considered MSBs.

The MSB services do not have to be the main line of business. A small independent business might offer financial services secondary to its main business – like a grocery store that cashes checks or a convenience store that sells money orders. They could still be considered MSBs if they meet applicable thresholds. As a result, a local tavern or grocery store that cashes checks for its customers may not be an MSB at all – *if* it does not cash checks over \$1,000 for any person in any one day.

The term MSB includes any person (an individual or an organization) doing business in one or more of these categories, whether or not on a regular basis or as an organized business concern. It is possible that an MSB may provide more than one MSB related service. For example, one MSB account holder may cash checks and sell money orders for MoneyGram.

Credit unions & banks are not MSBs

Even though a credit union or bank might provide the same services MSBs do, such as exchanging currencies or selling money orders, it is not considered an MSB for purposes of the BSA.

Are privately owned ATM businesses MSBs?

Usually, privately owned ATM businesses are not MSBs. FinCEN issued guidance in 2007 titled “*Application of the Definition of Money Services Business to Certain Owner-Operators of Automated Teller Machines Offering Limited Services.*” It says that the definition of MSB does not cover “owner-operators of ATMs that offer customers of depository institutions no services other than remote access to those customers’ accounts at those depository institutions for the purpose of making balance inquiries or currency withdrawals.”

But if the ATM has more capabilities, its owner could be an MSB. For example, if a person can use the ATM to exchange currency (such as U.S. dollars for Mexican pesos) without a threshold of \$1,000 per person per day, then the owner-operator of the ATM could be considered a “currency exchanger” and therefore an MSB. If a person can use the ATM to transfer funds to an account in a different depository institution or to transmit funds from his/her account to a third party, then owner-operator of the ATM could be considered a “funds transmitter” and therefore an MSB.

Even if the ATM’s owner is not an MSB, privately owned ATMs still carry special risks. The FFIEC’s BSA/AML Examination Manual *includes a section* dedicated to them. It says that “privately owned ATMs are particularly susceptible to money laundering and fraud. Operators of these ATMs are often included within the definition of an ISO (an Independent Sales Organization). ... Banks should implement appropriate policies, procedures, and processes, including appropriate due diligence and suspicious activity monitoring, to address risks with ISO customers.” The manual goes on to describe regulators’ expectations for credit unions whose members operate privately owned ATMs.

Foreign-located MSBs

In 2011, FinCEN amended the definition of MSB to include foreign-located entities that provide money services within the U.S., even if none of their agents, agencies, branches, or offices are physically located in the U.S. FinCEN issued *a*

2012 advisory, recognizing that the Internet and other technological advances make it increasingly possible for persons to offer MSB services in the U.S. from foreign locations. Credit unions must be particularly cautious about such MSBs.

SHOULD YOU SERVE MSBs?

A credit union does not have to offer accounts to MSBs, even if they are within its field of membership. Some credit unions choose not to serve MSBs for several reasons:

- They can pose increased money laundering risks.
- Serving MSBs requires credit unions to adopt policies, procedures and controls that may not be needed for serving other types of businesses.
- Credit unions must have a clear understanding of an MSB's operations to assess potential risks and to control those risks. Credit unions must also perform ongoing due diligence on their MSB accounts. All of this extra attention for MSBs can be a drain on staff time and resources.
- Credit unions that serve MSBs must track information about them and show it in their Call Reports, including the total number and the dollar amount of the accounts held by MSBs.

On the other hand, not all MSBs present the same risks; it depends on the nature and scope of the MSB's operations. For example, a small independent business might offer financial services secondary to its main business – like a grocery store that cashes checks or a convenience store that sells money orders. They may still be MSBs (depending on the volume of such business that they do), but they're likely to be less risky than an international money transmitter. Some MSBs – like the grocery store example – may be good, long-term members that the credit union wants to continue serving. Serving MSBs may make sense for a credit union's bottom line, and MSBs can provide necessary and valued services for their communities.

In 2005, FinCEN, the NCUA and other federal regulators issued their *“Joint Statement on Providing Banking Services to Money Services Businesses.”* It was an attempt to calm fears in the banking industry about serving MSBs and to explain regulators' expectations for credit unions and banks that serve MSBs. They wrote:

Money services businesses are losing access to banking services as a result of concerns about regulatory scrutiny, the risks presented by money services business accounts, and the costs and burdens associated with maintaining such accounts. Concerns may stem, in part, from a misperception of the requirements of the Bank Secrecy Act, and the erroneous view that money services businesses present a uniform and unacceptably high risk of money laundering or other illicit activity.

Banking organizations that open or maintain accounts for money services businesses should apply the requirements of the Bank Secrecy Act on a risk-assessed basis, as they do for all customers, taking into account the products and services offered and the individual circumstances. Accordingly, a decision to accept or maintain an account with a money services business should be made by the banking institution's management, under standards and guidelines approved by its board of directors, and should be based on the banking institution's assessment of risks associated with the particular account and its capacity to manage those risks.

Each credit union needs to consider the pros and cons and make a risk-based business decision about serving MSBs.

CUS NEED POLICIES & PROCEDURES TO SERVE MSBs

If your credit union chooses to serve MSBs, the NCUA expects it to consider, monitor, and mitigate the risks discussed in the previous section of this ii Release. Without proper controls, MSBs may generate transaction volume that could overwhelm the credit union and cover up illegal activities. As a result, examiners scrutinize credit unions' relationship with MSBs to ensure that credit unions comply with all BSA requirements.

A credit union serving MSBs is expected to limit money laundering risks by putting policies, procedures, and processes in place to achieve these goals:

- Proper identification of MSB relationships;
- Adequate assessment of potential risks;
- Adequate understanding of the business model and activity of the MSB;

- Adequate and ongoing due diligence relative to the risk assessed;
- Adequate and ongoing suspicious activity monitoring; and
- Adequate staffing, expertise, and resources.

Appropriately designed policies and procedures can limit the risks MSBs pose, preventing money launderers and other criminals from accessing the financial system.

HOW TO TELL IF YOUR CREDIT UNION SERVES MSBs

A cornerstone of BSA compliance is that credit unions are expected to know their members. Customer Identification Program (CIP) rules and Customer Due Diligence (CDD) rules set minimum expectations for credit unions to understand the nature of members' businesses and the level of transaction activity to be expected from an account.

If CDD reveals that the business is an MSB, then the credit union may want to go through a Money Service Business Questionnaire (attached as Exhibit A to this ii Release) to help it understand the extent of the MSB's activities.

Credit unions should also review account activity by current account holders, to see whether they may (perhaps unknowingly) be MSBs. The NCUA tells credit unions to watch for other signs that a business account holder may be an MSB, including:

- Accounts that are for cash-intensive businesses;
- Accounts that generate a high volume of ACH activity;
- Accounts that generate a high volume of wire transfers; and
- Accounts that require credit unions to file a significant number of Currency Transaction Reports on one or more business accounts.

To truly know whether your credit union is serving an MSB, an *online article from Corporate One FCU* suggests taking these steps:

- Add questions to your new membership checklist such as, will you be providing check cashing or money transfer services to customers? Will you be making wire transfers? If so, to whom will you be sending wires and in what dollar amounts? (The Money Service Business Questionnaire attached as Exhibit A to this ii Release includes similar questions.)
- Look at the composition of your business members' deposits. Do they have a large number of third-party checks? You may want to review the image archive of your business members on a periodic basis.
- Are your business members consuming a lot of your branch cash? Are they exchanging large bills for smaller ones?
- Look at the monthly statements of your business members. Do you see debits and credits from American Express (traveler's checks), Western Union, retailers (gift cards) or gift card re-sellers?
- Does your business member send wires to major funds transfer, money order, or stored value providers?
- Finally, send your staff out into the community to shop or visit your business members. Your staff should shop these members with eyes open to various telltale signs: racks of gift cards for sale and customers asking if they can write a check for over the amount of the sale and receive cash back. Have your employees ask about limits on cashed checks and gift card sales. Attached to this ii Release as Exhibit B is a Money Service Business On-Site Visit Report form. Credit unions can use this form to document visits to the physical locations of its higher-risk business members, record what they observe, and track whether the business offers services that could make it an MSB.

DUE DILIGENCE EXPECTATIONS

FinCEN, the NCUA and other federal banking regulators require credit unions that open or maintain accounts for MSBs to take the following minimum due diligence steps:

1. Perform the required Customer Identification Program (CIP) and Customer Due Diligence (CDD) procedures.

2. Confirm that member MSBs register with FinCEN, if applicable.
3. Confirm that member MSBs comply with state or local licensing requirements, if applicable.
4. Confirm the member MSB's agent status, if applicable.
5. Conduct a basic BSA/AML risk assessment to document the level of risk associated with the MSB account.
6. Conduct enhanced due diligence (in addition to the minimum due diligence steps) for MSB accounts if the credit union determines that they pose a higher level of money laundering or terrorist financing risk.

The following material will look at each of these steps in more detail.

Step #1: Perform CIP and CDD

Credit unions are expected to apply their CIP and CDD processes to MSBs that open new accounts, just as they would with any other business customer. This means collecting information about the business such as: Its full legal name, even if the member is opening an account "doing business as" another name; the street address (not Post Office box) of the principal place of business, local office or other physical location; and an identification number. If the organization was established under the laws of the U.S., or any one of the states, ask for a U.S. Taxpayer Identification Number, which is a Social Security Number, an Individual Taxpayer Identification Number, or an Employer Identification Number.

Then you must verify the business' identity. Ask to see documents showing the existence of the organization, such as certified articles of incorporation or a government-issued business license. In Wisconsin, corporations, limited liability companies, cooperatives, religious societies, fraternal societies, veterans groups, limited partnerships and limited liability partnerships are all established by filing certain documents with the Wisconsin Department of Financial Institutions (DFI). You can check with the DFI to help verify the identities of these kinds of organizations by visiting the DFI's free [*Corporate Registration Information System*](#).

It is a generally recommended practice to conduct CIP on authorized signers for all organization accounts, including MSBs.

Under BSA CDD rules, credit unions are expected 1) to understand the nature and purpose of member/customer relationships to develop a member/customer risk profile; and 2) to conduct ongoing monitoring for suspicious transactions and, on a risk adjusted basis, maintain and update member/customer information. This applies to organization accounts, including MSBs, as any other accounts. A credit union needs to know and understand its MSB member. To do so, it should understand the MSB's business model and the general nature of the MSB's own customer base.

Another aspect of the CDD rules requires credit unions to have written procedures to identify "beneficial owners" – the people who own and control "legal entity customers" – organizations opening credit union accounts. Credit unions then must verify the identities of those beneficial owners. Additionally, credit unions must establish procedures for making and maintaining a record of all of the identification and verification information collected. These CDD steps are crucial for opening organization accounts.

For detailed guidance on CIP and CDD for organizations, see The League's *ii Release No. 0161 - Organization Accounts* and *ii Release No. 0159 – BSA: Customer Identification Program and Customer Due Diligence*.

Step #2: Confirm the MSB has registered with FinCEN, if applicable

Most businesses that meet the definition of an MSB must register with FinCEN. A business that is an MSB solely because it acts as an agent or branch offer for another MSB – for example, an agent for Western Union – is not required to register; however, if it engages in activities requiring registration on its own behalf, then it must register even if it also engages in activities as an agent of others.

FinCEN's website says:

Registration of an MSB is the *responsibility* of the *owner or controlling person* of the MSB and must be filed by the registration *deadline*. The *form*, Registration of Money Services Business, FinCEN Form 107, must be completed and signed by the owner or controlling person and filed within 180 days after the date on which the MSB is established.

Registration must be *renewed* every two years. *Re-registration* is required in limited circumstances.

A copy of the filed registration form and other supporting documentation must be retained at a *location in the United States* for a period of five years.

The U.S. Postal Service is not required to register with FinCEN, nor are government agencies.

You can look up MSB registration information on *FinCEN's "MSB Registration Search" webpage*. The site says, however, that "Information contained on this site has been provided by the MSB registrant. FinCEN does not verify information submitted by the MSB." The page is updated weekly. New MSB registrants are usually added within two weeks.

The FFIEC says that the credit union should file a SAR if it becomes aware that an MSB is operating in violation of FinCEN registration requirements. The credit union is not required to close the account; the decision to maintain or close an account should be made by management under standards and guidelines approved by its board of directors.

Step #3: Confirm the MSB has complied with relevant licensing laws

Many states have established supervisory requirements, often including the requirement that an MSB be licensed with the state(s) in which it is incorporated or does business. Complying with any state-based licensing requirements is one of the most basic of obligations for MSBs.

Wisconsin requires licensing for certain kinds of MSBs:

- "Seller of checks" & money transmitters. Licensed under *Wis. Stats. Chap. 217*, companies that are sellers of checks transmit money and/or sell or issue checks, including money orders, traveler's checks and prepaid cards. This license authorizes:
 - Electronic money transmitting,
 - Issuing and/or selling traveler's checks,
 - Issuing and/or selling money orders,
 - Issuing and/or selling drafts,
 - Bill paying,
 - Issuing and/or selling prepaid access, and
 - Other money services.

The Wisconsin DFI has more information on licensing sellers of checks *here*.

- "Community currency exchanges" & check cashers. Licensed under *Wis. Stats. §218.05*, currency exchanges (also called check cashers) cash checks for individuals for a fee. The Wisconsin DFI has more information on licensing currency exchanges *here*.

The FFIEC says that the credit union should file a SAR if it becomes aware that an MSB is operating in violation of state licensing requirements. The credit union is not required to close the account; the decision to maintain or close an account should be made by management under standards and guidelines approved by its board of directors.

Step #4: Confirm the MSB's agent status, if applicable

As explained earlier in this ii Release, a business that is an MSB solely because it acts as an agent or branch offer for another MSB is not required to register with FinCEN. If an MSB tells the credit union that it is exempt from registration for this reason, the credit union needs to confirm that fact. The FFIEC says that it is "reasonable and appropriate ... to require an MSB to demonstrate that it is not subject to [registration] requirements due to the nature of its financial services or status exclusively as an agent of another MSB(s)."

Typically, a written contract called an "Agent Agreement" is established between a principal and an agent, outlining their roles and responsibilities. Credit unions can ask to see a copy of such an agreement.

A principal typically provides its agents with access to technology, systems, forms, advertising and marketing, and to written processes and procedures necessary to maintaining compliance with various federal and state laws and to the

terms of their agreement. Most commonly, an MSB acts as an agent for one of the two largest principal MSB companies in the world: Western Union or MoneyGram, but of course there are many others.

MSBs that provide financial services as agents typically provide domestic and foreign money transfers, bill payment, money orders, and prepaid access. While acting as an agent to one or more principal MSBs, the MSB may also act as a principal itself to provide other financial services, like check cashing.

A business that *only* acts as an agent for an MSB does not have to register with FinCEN, but it's still an MSB, and a credit union serving it still has to comply with the responsibilities described in this ii Release.

Every MSB that must register with FinCEN 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 U.S. location reported on the form. The list must include each agent and contain specific information about each agent. However, the list is not generally available and may not be accessible by credit unions. Upon request, an MSB must make its list available to FinCEN and any other appropriate law enforcement agency (including the IRS). Requests for agent list information must be coordinated through FinCEN.

Step #5: Conduct a risk assessment

MSBs range from large international money transmitters to small independent businesses that offer financial services only as a secondary component to their primary business. Credit unions should not treat all MSBs as posing the same level of risk. For example, a local grocer that also cashes payroll checks for customers is less risky than a money transmitter specializing in cross-border wire transfers to jurisdictions posing heightened risk for money laundering.

The credit union may need to apply enhanced due diligence to an MSB account, beyond the minimum expectations, if it determines that a member MSB presents a higher level of money laundering or terrorist-financing risk. Enhanced due diligence is covered in Step #6.

Basic risk assessment

As with any business account, in determining how much, if any, further due diligence is needed for any MSB member, the credit union should consider the following basic information:

- *Types of products and services offered by the MSB.* To properly assess risks, credit unions should know the categories of money services that an MSB engages in. Credit unions also should determine whether an MSB is a “principal” (with a fleet of agents) or is itself an agent of another MSB. Other relevant considerations include whether the money service is a new or established operation, and whether or not money services are the MSB member’s primary or secondary business (such as a grocery store that derives a small fraction of its overall revenue from cashing checks).
- *Location(s) and market(s) served by the MSB.* MSB money laundering risks can vary widely depending on the locations, customer bases, and markets the MSB serves. Relevant considerations include whether markets served are domestic or international, or whether services are targeted to local residents or broad markets. For example, a convenience store that only cashes payroll checks generally presents lower money laundering risks than a check casher that cashes any type of third-party check or cashes checks for commercial enterprises (which generally involve larger amounts).
- *Anticipated account activity.* Credit unions should determine the expected services that the MSB will use, such as currency deposits or withdrawals, check deposits, or funds transfers. For example, an MSB may operate out of one location and use one branch of the credit union, or may have several agents making deposits at multiple branches throughout the credit union’s network. Credit unions should also have a sense of expected transaction amounts.
- *Purpose of the account.* Credit unions should understand the purpose of the account for the MSB. For example, a money transmitter might require the credit union account to remit funds to its principal U.S. clearing account or may use the account to remit funds cross-border to foreign-based agents.

Other risk indicators

Over the years, federal agencies have provided several “higher” and “lower” risk indicators for MSBs. Credit unions should not focus on any single indicator. Instead, an effective risk assessment should be a composite of multiple factors. Depending upon the circumstances, certain factors may be weighed more heavily than others.

Potentially lower risk indicators for MSBs could include:

- It primarily markets to customers that conduct routine transactions with moderate frequency in low amounts.
- It offers only a single line of MSB product (for example, only check cashing or only currency exchanges).
- It is a check casher that does not accept out-of-state checks.
- It is a check casher that does not accept third-party checks or only cashes payroll or government checks.
- It is an established business with an operating history.
- It only provides services such as check cashing to local residents.
- It is a money transmitter that only remits funds to domestic entities.
- It only facilitates domestic bill payments.

Potentially higher risk indicators for MSBs could include:

- It allows customers to conduct higher-amount transactions with moderate to high frequency.
- It offers multiple types of money services products.
- It is a check casher that cashes any third-party check or cashes checks for commercial businesses.
- It is a money transmitter that offers only, or specializes in, cross-border transactions, particularly to jurisdictions posing heightened risk for money laundering or the financing of terrorism or to countries identified as having weak anti-money laundering controls.
- It is a currency dealer or exchanger for currencies of jurisdictions posing heightened risk for money laundering or the financing of terrorism or countries identified as having weak anti-money laundering controls.
- It is a new business without an established operating history; or is located in a High Intensity Drug Trafficking Area (HIDTA) or High Intensity Financial Crime Areas (HIFCA). For information on HIDTAs and HIFCAs, see The League's *ii Release No. 0071 - Bank Secrecy Act*.
- It has not performed a risk assessment.
- It does not have a BSA/AML program or has not implemented the AML program.
- Its BSA/AML program does not define the duties of the MSB's personnel.
- Its BSA/AML program has not been modified to identify specific risks at agent level.
- Its BSA/AML program in place does not address all financial services that the entity provides.
- BSA/AML independent testing has not been done, or the MSB has not implemented recommendations from such testing.
- It does not provide continuous BSA/AML training to appropriate personnel.
- The author of the compliance program, policies, procedures and training also conducts the independent review for the MSB.
- It does not have written procedures for the separation of duties.
- The same staff conducting the financial transactions prepares, reviews, and files required BSA reports.
- It does not document its oversight duties and decisions.
- Employees can override input fields with invalid or illogical data entries when completing customer transactions.
- Electronic data is not secure. No plans are in place for emergency data restoration.
- It has special rates for different types of transactions or special customers that are not available to the general public.

- Transaction limits are not in place. For example, the use of multiple money orders or traveler's checks to purchase products or services is typical.
- Transaction limits do not meet customer needs, yet affected customers continue to use the MSB services.
- Transaction limits are enforced by a third party, but no provision at the retail level prevents multiple transactions that could circumvent the limits.
- There is frequent employee turnover.
- It relies solely on paper documents.
- It relies solely on automated reporting systems, and frontline employees do not initiate SARs.
- New employees can conduct transactions of any amount before they receive BSA/AML training.
- It receives the currency needed to provide the financial service from sources other than its bank.
- No transaction limitations are in place, or no system lock-out when processing transactions greater than established limits.
- No organized recordkeeping system is used.
- It does not separate the financial and bookkeeping activities of the MSB from his/her other business.
- The management of the MSB is unaware of the BSA, sound business practices (such as cash flow management) and accounting controls and procedures.
- The customer base is volatile in terms of few repeat customers; transaction volume is unpredictable, and subject to large swings between time periods. For example, customers are self-employed.
- It provides check cashing services to businesses that require large amounts of currency.
- The value of individual transactions and total volume are not within expected range for the customer base.
- Customers transmit funds to countries that have poor money laundering oversight and controls.
- It has more than one agent relationship.
- The MSB's principal does not monitor the day-to-day activities of its agents, provide up-to-date BSA/AML training, nor perform internal reviews of its agents.
- It derives significant business from customers outside the community.
- It is located in owner's personal residence or area that is not accessible to the public.
- It has multiple locations, but its BSA/AML program and procedures do not consider the risks of all locations.
- Customers generally pay for funds transmittal and/or purchase money orders/traveler's checks with currency or with proceeds from business checks or other monetary instruments.
- It does not offer one or more products or services that its customer base needs.
- Products purchased by customers are shipped overseas.
- Transactions are not done face-to-face.

If the credit union's risk assessment of a particular MSB relationship indicates a lower risk of money laundering or other illicit activity, regulators do not expect the credit union to perform enhanced due diligence (explained in Step #6) or go to beyond the minimum due diligence expectations set out previously in this ii Release.

Step #6: Conduct enhanced due diligence on higher risk MSB accounts

Not all MSBs pose the same level of risk. Each will require a different level of due diligence based on the credit union's review and assessment.

If a credit union determines that a member MSB presents a higher level of money laundering or terrorist-financing risk, enhanced due diligence measures should be conducted in addition to five minimum due diligence steps outlined previously in this ii Release. This is no different from requirements applicable to any other business account and does not mean that a credit union cannot maintain the account.

Depending on the level of potential risk, as well as the size and sophistication of a particular MSB, a credit union may do any of the following as part of enhanced due diligence:

- Review the MSB's BSA/AML program;
- Review results of the MSB's independent testing of its BSA/AML program;
- Conduct on-site visits;
- Review a list of agents, including locations, within or outside the U.S., that receive services directly or indirectly through the MSB's account;
- Review written procedures for the operation of the MSB;
- Review written agent management and termination practices for the MSB; and/or
- Review written employee screening practices for the MSB.

FinCEN and NCUA do not expect that credit unions will uniformly require any or all of these actions for all MSBs. It depends on the level of risk associated with an MSB's account(s).

Ongoing due diligence & periodic reviews

If you've determined that an MSB presents heightened risks, then not only is enhanced due diligence needed at account opening, but the credit unions must conduct ongoing due diligence, too. Ongoing monitoring is just as important as initial due diligence when it comes to MSBs.

The NCUA expects credit unions that serve MSBs to limit the money laundering risks posed by MSBs by developing policies, procedures, and processes to achieve certain goals, listed previously in this ii Release. Those goals include: "Adequate *and ongoing* due diligence relative to the risk assessed."

In other words, your initial due diligence and risk assessment at account opening may have to be updated periodically, depending on the MSB's risk level.

MSB account activity may be reviewed monthly. For higher-risk MSBs, a more in-depth annual review should be completed. For example, the credit union should verify that registration and licensing has been renewed (if applicable). The credit union can also find out whether the MSB offers new products or services since account opening, which could impact the credit union's assessment of that MSB's risks. The credit union can determine whether the MSB has had BSA independent testing and whether that testing revealed BSA lapses that could increase risks. Adequate monitoring of MSBs also helps detect the volume of funds transferred. If it has changed significantly, that may change the credit union's rating of the MSB's risk levels.

Attached as Exhibit C to this ii Release is a Money Service Business Annual Review form. Credit unions can use this form to help them record the steps taken each year to review their MSB accounts and, if needed, to modify an MSB's risk rating.

Reviewing the MSB's BSA program compliance

Several of the enhanced due diligence steps involve the credit union reviewing the MSB's BSA/AML program. That does not necessarily mean that the credit union has to review every MSB's operations to see if it maintains a sound program and complies with BSA/AML requirements.

Unless indicated by the risk assessment of the MSB, credit unions are not expected to routinely review an MSB's BSA/AML program. The BSA does not require, and neither FinCEN nor the NCUA expect, credit unions to serve as the *de facto* regulator of MSBs.

If your credit union does need to review an MSB's compliance with BSA/AML requirements, be aware that most MSBs are subject to the full range of BSA regulatory requirements, including the anti-money laundering program rule, the suspicious activity and currency transaction reporting rules, and various other identification and recordkeeping rules. There are some differences, however. For example:

- MSBs have different requirements for filing Suspicious Activity Reports, depending on the type of financial service provided to the public. For example, *FinCEN says* that the SAR requirement does not apply to check cashers.
- MSBs that provide money transmission or currency dealing or exchange – or businesses that issue or sell money orders or traveler's checks – must report suspicious activity involving any transaction or pattern of transactions at or above \$2,000. MSBs may voluntarily file SAR-MSBs for amounts below the required reporting thresholds.
- For issuers of money orders or traveler's checks, to the extent that the identification of a suspicious transaction is derived from a review of clearance records or other similar records of money orders/traveler's checks that have been sold or processed, the issuer is required to report a suspicious transaction or pattern of transaction that involves or aggregates funds or other assets of at least \$5,000.

COMPLY WITH THE CREDIT UNION'S BSA REPORTING RULES

As with any account, credit unions must comply with all BSA reporting requirements with respect to MSBs.

Suspicious Activity Reports (SARs)

As we explain in The League's *ii Release No. 0109 – BSA: Suspicious Activity Reports*, a credit union must file a SAR if it knows, suspects or has reason to suspect that any crime or any suspicious transaction related to money laundering or a violation of the BSA has occurred in the certain circumstances.

Ongoing, risk-based monitoring of accounts maintained for all members, including MSBs, is a key element of an effective system to identify and report suspicious transactions. How deeply and frequently you monitor account activity depends on the risk assessment and the activity in an account.

Based on the credit union's assessment of the risks of its particular MSB members, monitoring should include periodic confirmation that initial projections of account activity have remained reasonably consistent over time. Account activity would typically include deposits or withdrawals of currency, deposits of checks, or funds transfers. The mere existence of variances does not necessarily mean that a problem exists, but may be an indication that additional review is needed. Furthermore, risk-based monitoring generally does not include "real-time" monitoring of all transactions flowing through the account of a MSB, such as a review of the payee or drawer of every deposited check.

While many MSBs provide services to individual customers, some MSBs provide services to other MSBs. This added layer of anonymity between the credit union and the originator of the transaction could pose additional complexity in identifying suspicious activity to the credit union. In addition, MSBs providing services to other MSBs can result in a much higher dollar amount and volume of activity, which can make it harder to identify suspicious activity or trends.

Examples of suspicious activity

Examples of potential suspicious activity within MSB accounts, generally involving significant unexplained variations in transaction size, nature, or frequency through the account, include:

- A check casher deposits checks from financial institutions in jurisdictions posing heightened risk for money laundering or the financing of terrorism or from countries identified as having weak anti-money laundering controls when the MSB does not overtly market to individuals related to the particular jurisdiction.
- A check casher deposits currency in small denomination bills or unusually large or frequent amounts. Given that a check casher would typically deposit checks and withdraw currency to meet its business needs, any recurring deposits of currency may indicate suspicious activity.
- A check casher deposits checks with unusual symbols, stamps, or written annotations either on the face or on the back of the negotiable instruments.

- A money transmitter transfers funds to a different jurisdiction than expected, based on the due diligence information that the credit union had assessed for the particular MSB. For example, if the money transmitter represented to the credit union or in its business plan that it specializes in remittances to Latin America and starts transmitting funds on a regular basis to another part of the world, the unexplained change in business practices may indicate suspicious activity.
- A money transmitter or seller/issuer of money orders deposits currency significantly in excess of expected amounts, based on the due diligence information that the credit union had assessed for the particular MSB, without any justifiable explanation, such as an expansion of business activity, new locations, etc.
- An MSB has failed to register with FinCEN or failed to obtain a license under applicable state law. According to FinCEN, given the importance of the licensing and registration requirement, a credit union should file a SAR if it becomes aware that a member is operating in violation of the registration or state licensing requirement.

Credit unions are not expected to terminate existing accounts of MSBs based solely on the discovery that the member is an MSB that has failed to comply with licensing and registration requirements (although continuing non-compliance by the MSB may be an indicator of heightened risk). There is no requirement in the BSA regulations that credit unions must close an account that is the subject of a SAR. The decision to maintain or close an account should be made by the credit union's management under standards and guidelines approved by its board of directors.

However, if an account is involved in a suspicious or potentially illegal transaction, the credit union should examine the status and history of the account thoroughly and should determine whether or not the credit union is comfortable maintaining the account. If the credit union is aware that the reported activity is under investigation, FinCEN strongly recommends that the credit union notify law enforcement before making any decision regarding the status of the account.

Currency Transaction Reports (CTRs) & exemptions

As explained in The League's *ii Release No. 0071 - Bank Secrecy Act*, a credit union must file a CTR for each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to a credit union which involves a transaction in currency of more than \$10,000. Multiple currency transactions totaling more than \$10,000 during any one business day are treated as a single transaction if the credit union has knowledge that they are by or on behalf of the same person.

These requirements apply to MSBs just as they would to any other credit union member.

A credit union can choose to exempt certain businesses and organizations from CTR filing. MSBs are not generally eligible for such exemptions; however, a member that engages in multiple business activities may qualify for an exemption as a non-listed business *if* no more than 50% of its annual gross revenues are derived from one or more ineligible business activities. For example, a grocery store that also provides MSB related services (such as check cashing) on behalf of its customers would be eligible for treatment as an exempt non-listed business if less than 50% of its annual gross revenues are derived from the MSB related services. For details, see NCUA *Supervisory Letter (SL 14-05) – Money Service Businesses*.

IDENTIFY MSBs ON CREDIT UNION'S CALL REPORTS

Credit unions are required to report MSB account information on the Call Report. Gaining a more accurate picture of the number of credit unions that provide account services to an MSB helps in the NCUA's risk management and supervision process. It also leads credit unions to review their operations to ensure they are adequately identifying and assessing their BSA/AML risks.

The Call Report's Schedule E requires credit unions to report the total number and the dollar amount of the accounts provided to MSBs.

RESOURCES

The following resources can help credit unions comply with the BSA/AML requirements related to serving MSBs:

- NCUA Report, *What to Know if Your Credit Union Holds MSB Accounts* (2016).
- NCUA Letter to Credit Unions 14-CU-10, *Identifying and Mitigating Risks of Money Services Businesses*, and enclosed *Supervisory Letter (SL 14-05) – Money Service Businesses*.

- NCUA Letter to Credit Unions 14-CU-02, *Supervisory Focus for 2014*.
- *Joint Statement on Providing Banking Services to Money Services Businesses*, issued March 30, 2005, by FinCEN, the NCUA and other federal regulators.
- *Interagency Interpretive Guidance on Providing Banking Services to Money Services Businesses Operating in the United States*, issued April 26, 2005 by FinCEN, the NCUA, and other federal banking regulators, as a follow-up to their earlier joint statement
- FFIEC BSA/AML Examination Manual:
 - *Nonbank Financial Institutions Overview*; and
 - *Nonbank Financial Institutions Examination Procedures*.
- NCUA *Automated Integrated Regulatory Examination System (AIRES)* examination checklist. Under the “BSA – Bank Secrecy Act” tab, it includes a section on “MSB-Money Service Businesses.”

* * * * *

League publications are designed to provide accurate information with regard to the subject matter covered, with the understanding that The League does not render legal services. If you have general questions regarding this release, please call The League at (608) 640-4050 if local or (800) 242-0833. For specific legal advice, please consult your credit union’s attorney.

Legal Affairs Department

PEG/jb

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EXHIBITS:

- A. Money Services Business Questionnaire
- B. Money Services Business On-Site Visit Report
- C. Money Services Business Annual Review

EXHIBIT A - MONEY SERVICES BUSINESS QUESTIONNAIRE

Business Name: _____

Location(s): _____

1. Does the entity sell traveler's checks or money orders? ☐ YES ☐ NO

If yes, what is the maximum amount of money orders / traveler's checks that can be sold TO ONE PERSON IN ONE DAY? \$ _____

What agent provides your money orders/traveler's checks (Western Union, MoneyGrams, etc.)?

2. Does the entity cash checks? ☐ YES ☐ NO Fee Charged? ☐ YES ☐ NO

If yes, what is the maximum amount of checks that can be cashed for ONE PERSON IN ONE DAY?

\$ _____

What types of checks are cashed? Please indicate.

☐ Personal Checks

☐ Payroll Checks

☐ Other – Please describe: _____

3. Does the entity sell prepaid access cards? ☐ YES ☐ NO

If yes, what is the maximum amount of prepaid access cards that can be sold TO ONE PERSON IN ONE DAY?

\$ _____

4. Does the entity perform money (wire) transfers for customers? ☐ YES ☐ NO

If yes, is the entity an agent of a money transfer service (Western Union, MoneyGram, Xoom, Pop Money, etc.)?

List name of company _____

5. Does the entity perform currency exchanges (foreign currency to U.S. currency or vice versa) for customers?
☐ YES ☐ NO

If yes, what is the maximum amount of currency exchange that can be done for ONE PERSON IN ONE DAY?

\$ _____

ACKNOWLEDGMENT SECTION

I understand that businesses that engage in one or more of the financial services noted above will qualify as a Money Service Business (MSB) and may be required to register with FinCEN. I understand that ABC Credit Union is required to obtain this information. I hereby confirm, under penalties of perjury, that my statements are accurate. I also agree to notify the Credit Union if any of the above information changes and provide additional documentation as requested.

Signature

Date

(Printed Name)

ATM QUESTIONNAIRE

1. Is an ATM located at this business establishment? ☐ No ☐ Yes (continue to question #2)

2. Is/are the ATM(s) ☐ Owned or ☐ Leased by your business?

If leased, the ATM is leased FROM: _____

3. ATM Network Provider: _____

4. How will the cash in the ATM Machine be replenished?

☐ By your business;

☐ By the Lessor of the machine;

☐ By a Third Party: _____

5. Identify the source of funds utilized to replenish the ATM cash:

☐ My ABC Credit Union account(s);

☐ Cash supplied by Lessor;

☐ Cash from other business sources - _____

If the ATM is replenished from your ABC Credit Union deposit account(s), please indicate the average WEEKLY volume of cash used to replenish the machine: \$ _____

Internal Use Only

Risk Assessment Rating: _____

Date Initial Due Diligence Completed: _____

EXHIBIT B - MONEY SERVICES BUSINESS ON-SITE VISIT REPORT

MSB ON-SITE VISIT REPORT

Date of Visit: _____

Business Name: _____

Business Address: _____

Acct. Rep. conducting visit (Print Name): _____ Signature: _____

While conducting the visit, Credit Union employee attested to the following:

Business is still in existence? ☐ Yes ☐ No Type of Business: _____

Description of Property (What products and services are offered):

Does the member offer any of these services?	Yes or No	Is Daily limits > \$1,000 per person? Yes or No	If an agent of another MSB, list name of this service provider (i.e. Western Union)
Money Transmission (Wire Transfers)		NA	
Issuer or Seller of Money Orders or Travelers Checks			
Check Cashing			
• Payroll or government checks			
• Other In state preprinted checks			
• Other Types:			
• Is a fee charged for cashing checks?			
Seller of Prepaid Access Cards			
Seller of International Phone Cards			
Dealer in Foreign Exchange			

Currency Monitoring

Does the business have an ATM on-site? Y or N (If yes, answer the following.)

Is the machine ____ owned or ____ leased by the business?

ATM Network Provider: _____

Identify the source of funds utilized to replenish the machine:

- a) ____ Credit Union account(s)
- b) ____ Cash supplied by Lessor;
- c) ____ Cash from other business source: _____

EXHIBIT C - MONEY SERVICES BUSINESS ANNUAL REVIEW

Account Title _____ Member # _____

Owner(s) _____

Signer(s) _____

Type of Business: _____ Risk Level: _____

- 1) Is the MSB required to register with FinCEN or agent of MSB? _____

See procedure below to check and print Registration form. Registration is valid for two years.

Registered if required? _____ If no, action needed.

Action taken _____

- 2) Are transactions consistent with the MSB Initial Questionnaire and/or Annual Site Visit Form?

Circle one: Yes (Continue to next question)

No (Contact Branch & complete new questionnaire with member)

Comments: _____

- 3) Other Services: Besides MSB activity, what other services are offered? Does the level of activity seem appropriate or normal? What percentage is MSB activity to other activity?

- 4) Create list of any CTRs filed for this member since last annual review. Total cash in and cash out amounts. Compare to previous year activity. Did the level of activity materially change? Y or N

Comments: _____

- 5) Was any suspicious activity noted during the review or MSB is not registered as required?

Circle one: YES (Follow Investigation procedures) NO

Retain all documentation with this form:

- Print out FinCEN's MSB Registration Status form. (Auth. Signature Date: _____)
 - Go to FinCEN Website, Click on MSB Registrant Search Web Page
 - Click on state and select WI or other state Business is registered in.
 - Click on the Business, review, and print the MSB Registration Status form for file.
- Print a copy of WI Dept. of Financial Institutions Entity's current registration
- Any new accounts or suffixes opened? Any change in signers? Print copies for MSB file
- Print past account activity for at least 90 days - document your review of each type of activity
- Review a sample of deposits for third party checks and the dollar amount of each check cashed
- Any correspondence with branch or member and site visit form completed
- Place notes in file in regards to level of activity in each account. Is activity level reasonable?

Completed by: _____ Date: _____

Reviewed by: _____ Date: _____