



Audit Report



OIG-16-006

BANK SECRECY ACT

FinCEN Continues to Face Challenges with Money Services Businesses

November 10, 2015

Office of
Inspector General

Department of the Treasury

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Abbreviations

AML	anti-money laundering
BSA	Bank Secrecy Act
CTR	currency transaction report
FinCEN	Financial Crimes Enforcement Network
IRS	Internal Revenue Service
MOU	memorandum of understanding
MSB	money services business
MSB search page	MSB Registration Search Web page
OIG	Office of Inspector General
RMSB	Registration of Money Services Business form
SAR	suspicious activity report

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*The Department of the Treasury
Office of Inspector General*

November 10, 2015

Jennifer Shasky Calvery, Director
Financial Crimes Enforcement Network

This report presents the result of our audit of the Financial Crimes Enforcement Network (FinCEN) activities related to money services businesses (MSBs). FinCEN has responsibility for administering the Bank Secrecy Act (BSA) and safeguarding the financial system from financial crime, including terrorist financing, money laundering, and other illicit activities. Among the financial institutions subject to BSA and FinCEN oversight are MSBs — non-bank financial institutions, such as money transmitters (including administrators and exchangers of virtual currencies), check cashers, dealers in foreign exchange, issuers or sellers of travelers' checks and money orders, and providers and sellers of prepaid access products.

The Money Laundering Suppression Act of 1994 requires certain MSBs to register with the Secretary of the Treasury.¹ In addition, the USA PATRIOT Act of 2001 and its implementing regulations require MSBs to maintain a BSA compliance program. FinCEN delegated authority to the Internal Revenue Service (IRS) to examine MSBs for compliance with registration and BSA requirements.² In 2005, we reported on problems with the MSB registration program and related concerns with examination and enforcement.³

The objective of our audit was to assess FinCEN's management systems and controls over MSB registration and BSA compliance. We reviewed MSB registration and examination documentation and interviewed FinCEN officials responsible for MSB registration and

¹ Agents of MSBs, MSBs that only sell prepaid access, government agencies, and the U.S. Postal Service are not required to register with FinCEN.

² 31 C.F.R. 1010.810(b)(8), Enforcement.

³ Treasury, Office of Inspector General (OIG), OIG-05-050, *Major Challenges Faced by FinCEN in Its Program to Register Money Services Businesses*, Sep. 2005.

compliance, officials from IRS's MSB supervision and examination staffs, and law enforcement officials. After we completed initial fieldwork in 2011, FinCEN got a new Director and announced plans to reorganize, so we performed additional fieldwork beginning in 2013 to determine the impact of these changes on FinCEN's MSB program and amended our report accordingly. Appendix 1 provides a detailed description of our audit objectives, scope, and methodology.

Results in Brief

FinCEN continued to take actions to improve MSB compliance with BSA but challenges remain. Among the actions undertaken by FinCEN were its efforts to identify unregistered MSBs and better understand the MSB universe.⁴ However, issues in the MSB registration program require FinCEN's continued attention. These issues include (1) the completeness and reliability of MSB registration data and (2) the maintenance of the MSB registration list. We found that the MSB registration data contains duplicate entries, expired registrations, and other anomalies. We note that FinCEN is not required to validate registration data provided.

FinCEN also took steps to improve the processing of IRS's referrals of MSB violations and the issuing of enforcement actions. However, at the time of our review a backlog of IRS referrals remained. In 2013, FinCEN enhanced its collaboration with IRS and developed procedures for the referral process.

We are recommending that FinCEN (1) continue efforts to learn more about MSBs and outreach to promote compliance with registration and other BSA requirements, (2) take steps to ensure expired registrations are removed from the MSB registration list and consider what other measures could be taken to make the MSB registration data more useful for its stakeholders, and (3) continue to refine procedures used to process incoming enforcement referrals from the IRS.

⁴ MSBs include principal MSBs and agent MSBs. Agent MSBs are affiliated with one or more principal MSBs.

In its management response, which is provided in appendix 2, FinCEN concurred with our recommendations. FinCEN's actions, both taken and planned, are summarized in the Recommendations section of this report and meet the intent of the recommendations.

In its response, FinCEN commented that the MSB industry plays a vital role in our economy and provides valuable financial services, especially to individuals who may not have easy access to the formal banking sector. State regulators, IRS, and FinCEN have worked collectively over the past several years to increase regulatory oversight and financial transparency within this sector. FinCEN stated that it recognizes the importance for MSBs to be able to receive services from other parts of the financial sector, including the banking sector, for MSBs to continue to provide valuable services to their customers and critical BSA reporting to help thwart illicit activity.

Background

Risks with MSBs and the Challenge of BSA Compliance

Some MSBs may be at risk for misuse by terrorist financiers and money launderers. Unlike banks, which are account-oriented and know their customers, MSBs are transaction-oriented and operate in an environment that may be more vulnerable to illegal activity.⁵

MSBs can engage in a variety of financial transactions, including selling money orders and traveler's checks; providing or selling prepaid access products, such as gift cards; and administering and exchanging convertible virtual currency.⁶

⁵ 31 C.F.R. 1020.220, Customer identification programs for banks, savings associations, credit unions, and certain non-Federally regulated banks. When opening a customer account the financial institution must obtain each customer's name, date of birth, address, and identification number.

⁶ Bitcoin is an example of a virtual currency. FinCEN's guidance states that, unlike real currency, "virtual" currency is a medium of exchange that operates like a currency in some environments but does not have all the attributes of real currency. Virtual currency does not have legal-tender status in any jurisdiction. FinCEN's guidance also addresses "convertible" virtual currency, which either has an equivalent value in real currency or acts as a substitute for real currency.

MSBs provide their customers a means of conveniently moving money, either domestically or internationally. MSBs can include grocery stores and small businesses that operate within neighborhoods.⁷

Concerned that money services businesses were largely unregulated and could be used for money laundering, Congress passed the Money Laundering Suppression Act of 1994, which requires certain MSBs to register with Treasury.⁸ FinCEN has responsibility for ensuring the registration occurs and for designing the framework that helps protect the U.S. financial system from money laundering, terrorist financing, and other illicit finance, including determining emerging trends and methods in money laundering and other financial crimes.⁹

FinCEN issued regulations in 1999 requiring existing MSBs to register by December 31, 2001, and new MSBs to register within 180 days of opening. FinCEN requires an MSB to register if it provides services to transmit money, provides prepaid access, or is another form of an MSB that conducts one or more transactions in an amount greater than \$1,000 for any one person on any day in one or more transactions.¹⁰ In addition, all MSBs and their agents must develop, implement, and maintain effective anti-money laundering (AML) programs. These programs are described below.

MSBs must renew their registration every 2 years. In addition, an MSB must re-register with FinCEN no later than 180 days after it has: a change in ownership requiring it to re-register with the state, a transfer of more than 10 percent voting power or equity interests, or more than a 50 percent increase in agents during the registration period.

⁷ This is according to former official with the Money Transmitter Regulators Association. The Money Transmitter Regulators Association consists of state regulatory authorities in charge of regulating money transmitters and sellers of traveler's checks, money orders, drafts and other money instruments.

⁸ Treasury defines money laundering as "financial transactions in which criminals, including terrorist organizations, attempt to disguise the proceeds, sources, or nature of their illicit activities. Money laundering facilitates a broad range of serious underlying criminal offenses and ultimately threatens the integrity of the financial system."

⁹ 31 U.S.C. 310(b)(2)(C)(v), Financial Crimes Enforcement Network.

¹⁰ 31 C.F.R. 1022.380(a)(1), Registration of money services businesses.

MSB Requirements for BSA Compliance

Similar to other financial institutions, MSBs must comply with BSA requirements and maintain effective AML programs that include at a minimum:¹¹

- policies, procedures, and internal controls reasonably designed to assure compliance with BSA requirements
- a designated person to ensure day-to-day compliance with the program and BSA requirements
- education and/or training of appropriate personnel concerning their responsibilities under the program
- independent review to monitor and maintain an adequate program

MSBs, except check cashers, are also required to file a suspicious activity report (SAR) when a transaction involves, or aggregates, at least \$2,000 and the MSB knows or suspects the transaction (1) involves funds derived from illegal activity; (2) is designed to conceal funds from illegal activity, or to evade reporting requirements; (3) is designed to evade the BSA; (4) serves no legitimate business or apparent lawful purpose, and the MSB knows of no reasonable explanation for the transaction; or (5) involves the use of the MSB to facilitate illegal activity.¹² All MSBs have the obligation to file a currency transaction report (CTR) for a cash transaction greater than \$10,000.¹³

MSBs have several other recordkeeping requirements.¹⁴ For example, for fund transfers of \$3,000 or more, MSBs must retain the name and address of the transmitter and the recipient's financial institution. If the transmitter or recipient is not an established customer, MSBs must also obtain and retain the name, address, and identification number of the transmitter and recipient. For an entity, the customer's identification number is the employer identification number, and for an individual, it is the Social Security

¹¹ 31 C.F.R. 1022.210(d), Anti-money laundering programs for money services businesses.

¹² 31 C.F.R. 1022.320, Reports by money services businesses of suspicious transactions.

¹³ 31 C.F.R. 1010.311, Filing obligations for reports of transactions in currency.

¹⁴ These include 31 C.F.R. 1010.410(e), Records to be made and retained by financial institutions; 31 C.F.R. 1022.410, Additional records to be made and retained by dealers in foreign exchange; and 31 C.F.R. 1022.420, Additional records to be maintained by providers and sellers of prepaid access.

number or individual taxpayer identification number. If no identification is provided, the MSB must make a notation.

MSB Principals and Agents

An MSB principal is the issuer of the MSB product or service and could have one or more agents. An agent is a separate business entity that the principal authorizes, through a written agreement or otherwise, to sell its instruments, such as money orders; or, in the case of funds transmission, to send and receive funds. For example, an agent can be a corner store with a money transmitter terminal or a store that sells money orders provided by another company that is an MSB. MSB principals are required to maintain information about their agents and make it available to FinCEN upon request. An agent is not required to register with FinCEN unless it is separately engaged in money services activities beyond its capacity as an agent. Thus, if the same corner store also cashes checks in an amount greater than \$1,000 for any one customer on any day in one or more transactions, it would need to register as an MSB.

According to FinCEN, the MSB industry is quite diverse, ranging from small neighborhood convenience stores, where English may not be the primary language, to large companies with a global presence. In 2015, one of the largest MSBs, the Western Union Company, reported that the company had 500,000 agent locations and that in 2014 it completed 255 million consumer-to-consumer transactions, totaling \$85 billion worldwide.¹⁵

Office of Inspector General 2005 Audit

In our 2005 audit, we reported that data quality problems with the publicly available FinCEN registration list limited its usefulness to banking organizations for determining the MSBs' registration status. There were, for example, over 1,000 duplicate registrants as well as closed businesses found on this list. We also reported that FinCEN could improve the registration program by measuring

¹⁵ Another major MSB is the United States Postal Service (USPS), which issued nearly 97 million money orders during 2014. The Secretary of the Treasury delegated oversight of USPS's MSB operations to USPS. USPS in turn delegated oversight to its Office of Inspector General. Accordingly, we did not review BSA compliance activities by USPS.

how registration was improving MSB BSA compliance and addressing the reliability of the publicly available MSB registration list.

FinCEN Reorganization

FinCEN announced a reorganization in June 2013. In this reorganization, employees were organized based on job function rather than stakeholder served, including law enforcement agencies and the Federal banking agencies. Upon completion of the reorganization, FinCEN was organized into six divisions: Intelligence, Enforcement, Policy, Liaison, Technology, and Management. The Enforcement Division is FinCEN's primary arm for investigating referrals from examining authorities and enforcing compliance with the BSA, and has three offices: Compliance and Enforcement, Special Measures, and Special Investigations. The Office of Compliance and Enforcement includes a dedicated Money Services Businesses and Casinos Section.

Office of Inspector General Investigations of MSB

The Office of Inspector General's Office of Investigations (OI) has worked with FinCEN on several MSB violation cases. In January 2015, OI reported that since September 2013, it investigated 12 cases involving MSB employees or owners and 3 involving unregistered MSBs. OI reported that, in connection with these cases, 42 subjects had been convicted.

Findings

Finding 1

FinCEN Took Steps to Improve BSA Compliance by MSBs, But Challenges Remain with Its MSB Registration Program

FinCEN took steps to identify unregistered MSBs and improve BSA compliance by MSBs. However, processes were not in place to detect data-quality issues in information provided on Registration of Money Services Business (RMSB) forms. Furthermore, FinCEN was not timely in removing expired registrations from its MSB Registration Search Web page (MSB search page).

FinCEN Took Steps to Improve MSB Compliance with BSA Requirements

Several FinCEN actions and initiatives facilitated better MSB compliance with BSA requirements:

Unregistered Money Transmitters Initiative

In reaction to the May 2010 attempted bombing by a terrorist in New York City's Times Square, FinCEN developed the Unregistered Money Transmitters Initiative designed to identify unregistered money transmitters, including informal value-transfer systems.¹⁶ Through this initiative, FinCEN searched SARs filed by depository institutions for specific search terms that might identify an unregistered money transmitter.¹⁷

FinCEN officials stated that unregistered MSBs are still a top priority, although resources are no longer assigned to this initiative. In 2013, FinCEN officials stated that they had recently implemented a program similar to the one used in the Unregistered Money Transmitters Initiative to search SARs to help identify potentially unregistered MSBs.

Agent Request Initiative

With its 2011 Agent Request Initiative, FinCEN took action in an attempt to improve the quality of MSB agent data and to better understand the size and geographic distribution of agents nationwide. Through this initiative, FinCEN asked 24,668

¹⁶ FinCEN defines an informal value-transfer system as "any system, mechanism, or network of people that receives money for the purpose of making the funds or an equivalent value payable to a third party in another geographic location and generally outside of the conventional banking system."

¹⁷ 31 C.F.R. 1020.320, Reports by banks of suspicious transactions. Banks are required to file a SAR for a transaction that involves or aggregates at least \$5,000 in funds or other assets, and the bank knows, suspects, or has reason to suspect that the transaction (1) involves funds derived from illegal activities or is intended or conducted in order to hide or disguise funds or assets derived from illegal activities as part of a plan to violate or evade any Federal law or regulation or to avoid any transaction reporting requirement under Federal law or regulation; (2) is designed to evade any requirements under regulations promulgated under BSA; or (3) has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the bank knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

registered MSBs that reported having agents, to provide information about their agents.

Of the 24,668 letters mailed, 11,211 (or 45 percent) of the MSBs responded, and only 197 MSBs (2 percent) reported themselves as principals. Although FinCEN concluded that the information provided through the initiative contributed significantly to a better understanding of the MSB agent population and would help to inform future decisions about the MSB registration process, it did not plan to continue the initiative. One thing FinCEN learned through the initiative was that MSBs had different interpretations of which entities were considered agents. FinCEN published the results of this initiative in May 2012.¹⁸

New or Revised Rules

In 2011, FinCEN issued two final rules—one to clarify which businesses must register as MSBs and a second rule to address regulations relating to prepaid access. In the first rule, issued in July 2011,¹⁹ FinCEN revised its MSB definitions to clarify the activities subject to BSA rules. The final rule also updated MSB definitions to reflect past guidance, rulings, and current business operations, and to accommodate evolving technologies and emerging lines of business.

The second final rule, also issued in July 2011, renamed “stored value” as “prepaid access,”²⁰ among other things. The rule imposed suspicious activity reporting, and customer and transaction information recordkeeping requirements on both providers and sellers of prepaid access products, such as gift cards.²¹ Although prepaid access is most often associated with a card similar to a credit card or gift card, the new rule was designed to be technology neutral and was meant to be adaptable to a range of

¹⁸ SAR Activity Review - Trends, Tips & Issues, Issue 21, May 2012.

¹⁹ 76 Fed. Reg. 140, Bank Secrecy Act Regulations; Definitions and Other Regulations Relating to Money Services Businesses (July 21, 2011).

²⁰ 76 Fed. Reg. 146, Bank Secrecy Act Regulations; Definitions and Other Regulations Relating to Prepaid Access (July 29, 2011).

²¹ In accordance with the Credit Card Accountability, Responsibility and Disclosure Act of 2009 (P.L. 111–24) the Secretary of Treasury is required to issue regulations in final form implementing BSA, for the sale, issuance, redemption, or international transport of stored value, including stored value cards.

products, including those using magnetic-stripe cards, Internet systems, and mobile phone networks.

To help MSBs understand the implications of this final rule and facilitate compliance, FinCEN conducted outreach in 2011 that addressed the vulnerabilities of these methods of payment and issued an administrative ruling that clarified provisions of the rule. FinCEN held town hall meetings with industry representatives, which identified areas of prepaid card vulnerability, such as tax refund fraud and the use of prepaid access cards to divert drug proceeds.

New MSB Registration Site

Also in 2012, FinCEN launched a new MSB registration website to improve the availability of MSB registration information. This website was intended to provide updated information on a weekly basis whereas before the information was updated monthly. According to FinCEN, the new website provided MSBs, banks, regulators, law enforcement, and the general public the ability to access, search, verify, download, and print MSB registration information 24 hours a day, 7 days a week.

Electronic BSA Filing System

FinCEN published a Final Notice in February 2012 that mandated all financial institutions subject to BSA reporting to use electronic filing beginning no later than July 1, 2012. According to the notice, MSBs that demonstrated a substantial hardship in meeting this effective date would be granted exemptions not to extend beyond March 2013. FinCEN reported that 28 MSBs applied for and received an exemption. All exemptions from filing electronically ended on March 31, 2013.

FinCEN reported that, from July 1, 2012, through December 31, 2013, MSBs filed more than: 29,000 registrations, 320,000 CTRs, and 951,000 SARs. These totals included both paper and electronic filings. FinCEN could not specify the number of forms filed by paper during that time. FinCEN may impose civil money penalties on MSBs that do not comply with the electronic filing

mandate.²² As of December 2014, FinCEN had not issued a penalty against an MSB for paper filings.

Virtual Currency Guidance

FinCEN issued guidance on March 18, 2013, to provide clarity and regulatory certainty for businesses and individuals administering, exchanging, or using virtual currencies.²³ The guidance classifies as an MSB any person engaged as a business in putting virtual currency into circulation, and who has the authority to redeem virtual currency, or a person engaged as a business in the exchange of virtual currency for real currency, funds, or other virtual currency. A person who obtains virtual currency to purchase goods or services for his or her own personal use is not considered an MSB under FinCEN regulations.

In 2014, to further interpret its March 2013 guidance, FinCEN published five administrative rulings that provide additional information on whether conduct related to convertible virtual currency brings a person within the BSA's definition of a money transmitter.²⁴ Those designated as MSBs are responsible for complying with BSA regulations. Our audit did not include an assessment of FinCEN's oversight of virtual currency exchangers' compliance with BSA.

MSBs and Casinos Section

After its June 2013 re-organization, FinCEN organizationally created the Money Services Businesses and Casinos Section. This newly created section works with State and local partners to focus on strengthening MSB compliance and serves as FinCEN's authority on MSBs. We did not assess, as part of this audit, the work

²² 31 C.F.R. 1010.820, Civil Penalty.

²³ FinCEN guidance, Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies (Mar. 18, 2013).

²⁴ FIN-2014-R001, Application of FinCEN's Regulations to Virtual Currency Mining Operations (January 2014), FIN-2014-R002, Application of FinCEN's Regulations to Virtual Currency Software Development and Certain Investment Activity (January 2014), FIN-2014-R007: Application of Money Services Business Regulations to the Rental of Computer Systems for Mining Virtual Currency (April 2014), FIN-2014-R011 Application of FinCEN's Regulations to a Virtual Currency Trading Platform (October 2014), and FIN-2014-R012 Application of FinCEN's Regulations to a Virtual Currency Payment System (October 2014).

performed by this section or any of its components but we will consider this area going forward. We did note that in 2012 and 2013, FinCEN did not have a single enforcement action against an MSB but between 2014 through June 2015, FinCEN had nine such cases.

MOU with Mexico

In October 2013, FinCEN entered into an MOU with Mexico's National Banking and Securities Commission to share supervisory information related to combating money laundering and terrorist financing. FinCEN's Director stated in a press release that the MOU, its first with that agency, should help FinCEN to more effectively oversee MSB activities.²⁵

Registration Data Continues to Need Improvement

Despite FinCEN's efforts, two primary areas in its MSB registration program require the bureau's continued attention: (1) the completeness and reliability of registration data reported to FinCEN and (2) the maintenance of the MSB registration list to ensure its usefulness.

BSA required FinCEN to establish an MSB registration regime but did not require FinCEN to validate MSB registration data provided by MSBs. According to FinCEN officials, it needs to balance the usefulness of the data to its stakeholders with the accuracy of the data received by the filers. To improve usefulness, we believe that FinCEN should review published MSB registration data for expired and duplicative entries, and for certain anomalies to improve the usefulness of the data for its stakeholders.²⁶

²⁵ "Statement of Jennifer Shasky Calvery, Director, Financial Crimes Enforcement Network Upon Signing a Memorandum of Understanding with Mexico's National Banking and Securities Commission," October 24, 2013.

²⁶ A principle of internal control in the Federal government is that management should use quality information to achieve the entity's objectives. Another principle is that management should externally communicate the necessary quality information to achieve the entity's objectives. In this case, these principles would call for the accurate and reliable presentation of MSB registration data to the extent possible. The principles for internal control are prescribed in the publication GAO-14-704G, *Standards for Internal Control in the Federal Government* (Sep. 2014).

Discrepant MSB Registrant Information

Users have two ways to search for registered MSBs, one is using a search engine found on FinCEN's MSB Registrant Search Web page and the other is a downloadable MSB registration Excel spreadsheet also accessible from this web page. In August 2013, we found that MSB Registrant Search Web page stated that the total number of registered MSBs was approximately 35,000; the number of registered MSBs on the downloadable Excel spreadsheet available through the same web page totaled approximately 47,900 records.²⁷ This was a difference of approximately 12,900 registrations. According to FinCEN, the number of registered MSBs stated on the web page was based on a count of unique Taxpayer Identification Numbers reported by the MSB registrants. With respect to the spreadsheet showing 47,900 registered MSBs, we noted approximately 5,300 of the listed MSBs (11 percent) appeared to be duplicate records based on the entries in the Legal name, Street, City, and State fields of the spreadsheet. FinCEN personnel attributed the possible duplicate records to two reasons: (1) some MSBs may have filed an amended registration without linking it to the original registration, contrary to FinCEN instructions; and (2) some MSBs may have registered more often than every 2 years.

Inaccurate Branch Information

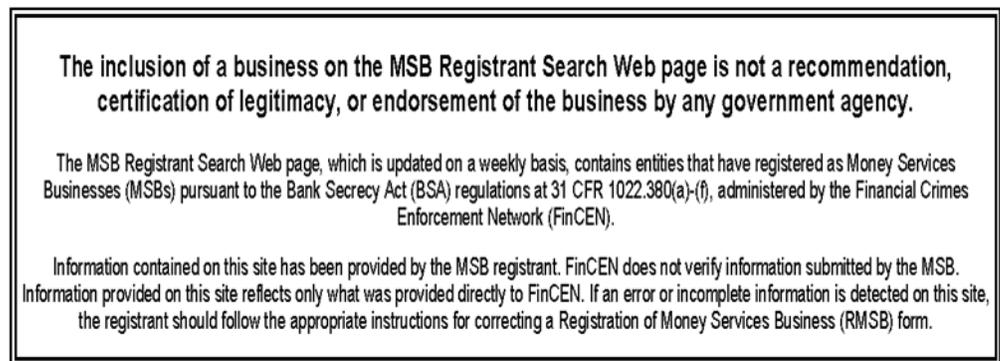
An MSB must report the number of branch locations it operates on the RMSB form. We found a number of obvious inaccuracies with this information as it was reported in 2010. For example, the registration data from one MSB, a stand-alone market, showed that it had 823,563 branch locations in a June 2009 filing.

We found similar questionable branch totals in FinCEN's registration information reported in 2013. For example, in August 2013, there were 17 MSBs reporting 10,000 or more branches. The registration data from one MSB, a small, local, grocery store, showed that it had over 54,000 branch locations. In 2015, we found that both these MSB showed no branch locations.

²⁷ http://www.fincen.gov/financial_institutions/msb/msbstateselector.html (accessed August 21, 2013).

FinCEN acknowledged that there were problems with the registration list, and it referred to a disclaimer on its MSB search page (see Figure 1), advising that FinCEN did not verify the information provided by the MSB, and it did not certify the legitimacy of the MSBs included on the MSB Registrant Search web page. FinCEN representatives stated that FinCEN does not have the resources to verify the accuracy of the registration information provided on the RMSB forms.

Figure 1. FinCEN’s MSB Registrant Search Web Page Disclaimer



Source: MSB search page; accessed by OIG on July 29, 2015.

As a general observation, errors with the website were noted in our 2005 report. Given the continued problems with the data, we question the utility of maintaining this public listing, and we believe that FinCEN should explore steps to improve the data quality.

Erroneous or Expired MSB Registrations

MSB registrations run on 2-year cycles, which expire on December 31 of the 2nd year. In the past, FinCEN reported it would take approximately 60 days to process a paper registration or renewal, and it would allow registrants with expired registrations to remain on the list in case their renewal was in process. The electronic filing of MSB registrations, according to FinCEN, had decreased the time necessary to process registrations and add them to its website. FinCEN stated that MSBs are now generally added to the MSB registration website 2 weeks after their electronic filing of an RMSB form. Therefore, the date by which FinCEN should remove expired registrations could be as early as mid-January. In 2013, MSBs with expired registrations were removed in late February.

FinCEN representatives were considering removing expired registrations from its website, a process they call the “annual drop,” just after they expire. As of January 2015, however we found 16,555 MSB registrations listed on the MSB registration Excel spreadsheet that were received in 2011, and therefore expired. FinCEN did not remove any MSBs from its MSB Registrant Search web page for non-renewal of registration between February 2013 and May 2015 when it dropped 14,223 entities.

In an effort to improve the data quality of the MSB registration list, FinCEN’s Policy Division was looking into ways for MSBs to deregister, allowing them to be removed from the list with more certainty.

Finding 2

FinCEN Has Taken Action on Many IRS Referrals for Enforcement Action Against MSBs Although a Backlog Remained

IRS examines MSBs for BSA compliance. When MSBs with significant areas of noncompliance are identified, IRS refers them to FinCEN for potential enforcement action.

FinCEN’s 2013 reorganization changed the structure of its Enforcement Division. Prior to the reorganization, IRS referrals were submitted to FinCEN’s former Office of Compliance, which would decide whether the referrals should be forwarded to FinCEN’s former Office of Enforcement. FinCEN officials explained that these two offices had little interaction and did not have a coordinated approach to enforcement. This resulted in duplication of work, untimely action, and bottlenecks.

Since its June 2013 reorganization, a FinCEN Enforcement Division official stated that they have made IRS referrals a priority. The reorganization combined FinCEN’s Office of Compliance and the Office of Enforcement to form the Office of Compliance and Enforcement within the Enforcement Division. That office created a section devoted to MSBs and casinos, which was formed, in part, to focus on MSB compliance. During our initial fieldwork in 2011, we found that IRS referred 22 MSBs to FinCEN for possible enforcement action during the period 2008 through 2010. IRS referred an additional 25 MSBs from January 2011 through September 2013. As of September 2013, of the 47 MSBs referred

by IRS, FinCEN had closed 27 cases and 20 referrals were awaiting action—1 from the earlier period and 19 from the later period, indicating that backlogged referrals were being reduced. Eleven (11) of the 20 referrals were referred for enforcement action. FinCEN officials stated that they were working to expedite the processing of cases.

In February 2014, FinCEN took enforcement action against an MSB that was the subject of one of the backlogged cases. As a condition of this action, the MSB agreed to cease operating as an MSB and immediately surrendered its registration to FinCEN. According to FinCEN, this was the first time an MSB surrendered its registration under such conditions.²⁸

We asked officials from the reorganized Enforcement Division if they had developed written standard operating procedures for the referral function. FinCEN provided a draft of its Office of Compliance and Enforcement Standard Operating Procedures. The standard operating procedures included guidance for opening an enforcement case, processing a case, commencing an enforcement action, and resolving a case. FinCEN officials stated that the procedures were in use but would be refined as FinCEN progressed with continuing to build the reorganized Enforcement Division.

Recommendations

We recommend the Director of FinCEN:

1. Continue efforts to learn more about MSBs and outreach to MSBs so as to promote compliance with registration and other BSA requirements.

Management Response

FinCEN concurred with the recommendation. As with all of the industries subject to BSA, FinCEN is responsible for continuously learning about MSBs and conducting outreach with

²⁸ The MSB had not registered with FinCEN and did not maintain an anti-money laundering program. The MSB owner admitted he did not comply with BSA requirements to keep customers who did not want to be identified or questioned about their transactions. The MSB repeatedly wired funds to a country at high-risk for money laundering and terrorist financing activity.

that industry to promote compliance with registration and other BSA requirements. FinCEN views this as an ongoing responsibility.

OIG Comment

The above commitment by FinCEN meets the intent of our recommendation.

2. Take steps to ensure the downloadable MSB registration data online is updated in a timely manner to remove expired registrations. FinCEN should also consider what other measures could be taken to make the MSB registration data more useful for its stakeholders.

Management Response

FinCEN concurred with the recommendation. FinCEN recently took steps to delete expired MSB registrations and will develop supporting documentation that defines the process for ensuring this is done in a timely manner going forward. FinCEN has an on-going data management process, which leverages its Data Management Council—comprised of internal and external stakeholders—to review and prioritize system and data-related issues and requests for improvement. FinCEN’s Investment Review Board will continue to align any system and data changes with current business priorities for all stakeholders. The planned completion date for supporting documentation that defines the process for timely removal of expired MSB registrations is January 31, 2016.

OIG Comment

FinCEN’s proposed action meets the intent of our recommendation.

3. Continue to refine the standard operating procedures used to process incoming enforcement referrals.

Management Response

FinCEN concurred with the recommendation. FinCEN will continue to refine and improve the guidance for processing

incoming cases, and anticipates that these procedures will continually evolve based on new information learned. FinCEN views this as an ongoing responsibility.

OIG Comment

FinCEN's commitment as stated above meets the intent of our recommendation.

* * * * *

We would like to extend our appreciation to FinCEN personnel for the cooperation and courtesies extended to our staff. If you have any questions, please contact me at (617) 223-8638.

/s/
Sharon Torosian
Director

The objective of our audit was to assess the Financial Crimes Enforcement Network's (FinCEN) management systems and controls over money services businesses (MSBs) registration and Bank Secrecy Act (BSA) compliance.

To gain an understanding of FinCEN's delegated authority over MSBs, we interviewed senior managers and staff members from FinCEN's Vienna, Virginia and Washington, D.C., offices. We also interviewed:

- Internal Revenue Service (IRS) officials from the Enterprise Computing Center in Detroit, Michigan; Small Business/Self-Employed in Lanham, Maryland, and Detroit, Michigan; IRS agent examiners, during walkthroughs at BSA examinations of both a large and small MSB at locations in the Boston, Massachusetts, area; and IRS Criminal Investigations, from one of the Suspicious Activity Report review team locations in Boston, Massachusetts.
- law enforcement officials from the Department of Justice in Washington, D.C.
- senior managers and staff members with the Federal Deposit Insurance Corporation, National Credit Union Administration, and the Office of the Comptroller of the Currency, at their offices in Washington, D.C.
- representatives from Massachusetts Division of Banks in Boston, Massachusetts
- officials with Treasury's Office of Terrorist Finance and Financial Crimes Office of Strategic Policy Director, and Policy Advisor, in Washington, D.C.
- officials with the Department of the Treasury, Office of Inspector General, Office of Investigations
- representatives from the United States Postal Service (USPS) BSA compliance program and Postal Office of Inspector General (USPS OIG)
- representatives from MSB companies MoneyGram and The Western Union Company
- representatives from MSB state regulator and trade associations that include the Conference of State Bank Supervisors, Financial

Service Centers of America, Money Transmitters Regulators Association, National Money Transmitters Association, and The Money Services Round Table

- law enforcement representatives from the New York High Intensity Financial Crime Area
- representatives from Office of Foreign Assets Control

Although FinCEN delegated examination authority and paper form processing to IRS, the scope of this audit did not include an assessment of IRS's performance in its BSA examinations or processing of BSA filings. Similarly, the Secretary of the Treasury delegated to USPS the power to implement, monitor, and enforce its own compliance program. The Postmaster General has delegated this authority to the USPS OIG. Our scope did not include an assessment of USPS's compliance program.

After we completed fieldwork in September 2011, FinCEN gained a new Director and announced plans to reorganize. We conducted additional fieldwork, beginning in 2013, to determine the impact of the reorganization's changes on FinCEN's MSB program, and amended our report based on subsequent findings. In both of these periods of fieldwork, we interviewed FinCEN and IRS officials with MSB-related responsibilities and reviewed information provided to us by FinCEN associated with:

- MSB registration data integrity
- analytical procedures for BSA filings
- processing of MSB-related case referrals
- results of BSA examinations, including standard operating procedures, training manuals, memoranda of understanding (MOUs), MOU-related reports, Suspicious Activity Report analytical reports, and registration analysis

We reviewed information provided on FinCEN's public website, including the *BSA/Anti-Money Laundering Examination Manual*, directors' speeches, the MSB registration list, rulemakings, the Code of Federal Regulations, and other MSB-related material. We also requested and reviewed information from IRS, including BSA filings received by the Enterprise Computing Center in Detroit, Michigan, a listing of examinations completed by IRS Small

Business/Self-Employed, examination referral documents, internal guidance, manuals, internal IRS directives, exam target methodology, workflow analysis, BSA exam staffing, training plans, and copies of MOUs.

We compared requirements outlined in the FinCEN and IRS MOU with MOU-related documentation provided and maintained by FinCEN and IRS. We reviewed FinCEN Office of Compliance case referral memoranda for cases closed during 2008 through 2013. During our additional fieldwork we discussed with FinCEN its recent enforcement efforts and related initiatives with the MSBs. We also obtained updated data on MSB-related enforcement cases.

We performed fieldwork from December 2010 through August 2015.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FREEDMAN

FROM: Jennifer Shasky Calvery /s/ 11/3/15
Financial Crimes Enforcement Network

SUBJECT: *Management Response to the Draft Report –FinCEN Continues to Face Challenges with Money Service Businesses*

Thank you for the opportunity to review the draft report on FinCEN's efforts with Money Services Businesses (MSBs). We are pleased that we are making progress with the MSB program while at the same time safeguarding the many other types of financial institutions for which we have responsibility under the Bank Secrecy Act (BSA).

The MSB industry plays a vital role in our economy and provides valuable financial services, especially to individuals who may not have easy access to the formal banking sector. State regulators, the IRS, and FinCEN have worked collectively over the past several years to increase regulatory oversight and financial transparency within this sector. FinCEN recognizes that it is important for MSBs to be able to receive services from other parts of the financial sector, including the banking sector, in order for MSBs to continue to provide valuable services to their customers and critical BSA reporting to help thwart illicit activity.

FinCEN seeks to focus on improvements in the MSB area that use existing resources. Please find our responses to the report recommendations in the attachment. If you have any questions or need additional information, please contact Becky Martin, Assistant Director, Office of Financial Management, on 703-905-3860.

www.fincen.gov

Appendix 2
Management Response

Attachment – FinCEN Corrective Actions

Page 2

1. Continue efforts to learn more about MSBs and outreach to MSBs so as to promote compliance with registration and other BSA requirements.

FinCEN Response: Concur. As with all of the industries subject to the BSA, FinCEN is responsible for continuously learning about MSBs and conducting outreach with that industry to promote compliance with registration and other BSA requirements; the bureau views this as an ongoing responsibility.

Status: Closed

2. Take steps to ensure the MSB registration data FinCEN maintains and provides online is updated in a more timely manner to delete expired registrations. FinCEN should also consider what other measure could be taken to make the MSB registration data more useful for its stakeholders.

FinCEN Response: Concur. FinCEN has recently taken steps to delete expired MSB registrations and will develop supporting documentation that defines the process for ensuring this is done in a timely manner going forward. FinCEN has an on-going data management process, which leverages its Data Management Council—comprised of internal and external stakeholders—to review and prioritize system and data-related issues and requests for improvement. FinCEN’s Investment Review Board will continue to align any system and data changes with current business priorities for all stakeholders.

Status: January 31, 2016 (completion of supporting documentation)

3. Continue to refine the procedures used to process incoming enforcement referrals.

FinCEN Response: Concur. FinCEN will continue to refine and improve the guidance to process incoming cases, and we anticipate that these procedures will continually evolve based on new information learned. FinCEN views this as an ongoing responsibility.

Status: Closed

Appendix 3
Major Contributors To This Report

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