



Financial Crimes Enforcement Network Department of the Treasury

FinCEN Ruling 2005-3 – Definition of Money Services Business (Ceasing to be a Money Services Business)

June 24, 2005

Dear []:

This responds to your letters to the Financial Crimes Enforcement Network (“FinCEN”) of March 18, 2005, and June 14, 2005, requesting a determination as to whether (“bank”) must continue to treat its customer (“business”), which is currently registered as a money services business (check casher) with FinCEN, as a money services business although it no longer engages in check cashing activity that meets the definitional threshold of a money services business under Bank Secrecy Act regulations (31 CFR 103.11(uu)(2)).

In general, a business that develops and implements written policies and procedures that would exclude it from the definition of money services business would not be treated as a money services business for purposes of Bank Secrecy Act requirements relevant to money services businesses under 31 CFR 103. Based on the information contained in your letters, we conclude that the bank is not required to treat the business as a money services business customer if the business no longer offers check cashing services that meet the definition of “check casher” found at 31 CFR 103.11(uu)(2). In arriving at this decision, we have assumed that the business offers no other money services activity that would cause it to be treated as a money services business under our regulations.

Money services business, a category of financial institution for purposes of Bank Secrecy Act regulations, includes, among other things, a person engaged in the business of a check casher (other than a person who does not cash checks in an amount greater than \$1,000 in currency or monetary or other instruments for any person on any day in one or more transactions). A check casher with multiple branches must aggregate transactions from all of its locations at which check cashing is provided in order to determine if it meets the \$1,000 definitional threshold. A business that cashes checks in amounts sufficient to reach the \$1,000 definitional threshold is a money services business, and must comply with all Bank Secrecy Act requirements applicable to money services businesses, including the requirement to register with FinCEN (31 CFR 103.41). A money services business must be registered with FinCEN for the initial registration period, and each renewal period (31 CFR 103.41(b)(2)).

Your letters state that the business, a supermarket network, initially registered as a money services business with FinCEN because it engaged in check cashing at a level that met the regulatory definition for a money services business. However, although the business still cashes checks from time to time, it has ceased to offer check cashing services that reach the \$1,000 definitional threshold for a check casher, and will not renew its money services business registration when it expires at the end of the business' initial registration period. Although the business is still currently registered, it no longer meets the definition of a money services business, and the bank has requested FinCEN's determination as to whether it must continue to treat the business as a money services business customer.

A business that develops, implements, and abides by, written policies and procedures that provide that it will no longer cash checks in amounts sufficient to reach the \$1,000 definitional threshold for a check casher would cease to be a check casher for purposes of Bank Secrecy Act regulations. Assuming the business offers no other services that would cause it to be treated as a money services business, the business would therefore not be held responsible for compliance with Bank Secrecy Act requirements applicable to money services businesses under 31 CFR Part 103. This is so even if the registration period for the former check casher has not yet expired at the time the business ceases to meet FinCEN's regulatory definition of check casher. For information on maintaining accounts for money services business customers, please refer to the guidance that FinCEN and the Federal Banking Agencies jointly published on April 26, 2005 regarding banks' responsibilities when opening or maintaining accounts with customers who are money services businesses.

In arriving at our decision, FinCEN relied upon the accuracy and completeness of the representations made in you letter. Nothing precludes FinCEN from seeking further action should any of this information prove inaccurate or incomplete. FinCEN reserves the right to publish this letter as guidance to financial institutions with information redacted in accordance with regulations for requesting an Administrative Ruling under 31 CFR 103.81(a)(5). You have 14 days after the date of this letter to identify any other information you believe should be redacted and the legal basis for the redaction. Should you have any questions, please telephone Anna Fotias, Senior Regulatory Compliance Specialist, at 202-354-6413.

Sincerely,

//signed//

William D. Langford, Jr.
Associate Director
Regulatory Policy and Programs Division