

Statement of  
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Office of the Comptroller of the Currency  
Before the  
Subcommittee on Financial Institutions and Consumer Credit  
Of the  
Committee of Financial Services  
United States House of Representatives  
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Chairman Bachus and members of the Subcommittee, I appreciate the opportunity to discuss the Bank Secrecy Act's impact on money services businesses. Over the past couple of years, the OCC has taken many actions to help ensure that MSBs are not unfairly denied access to a bank account. For example, we participated in numerous meetings and conferences with representatives of the banking and MSB industries to help us understand the issues. With the other regulatory agencies, we issued interagency guidance and examination procedures that address these issues. And, we have provided instructions and training to our examiners on MSB issues.

As the regulator of national banks, the OCC has long been committed to ensuring that all Americans have fair access to the banking system and financial services. We recognize the positive role that MSBs play in this process. The OCC is very concerned about the problems that MSBs are experiencing in obtaining banking services.

The reasons some MSBs have lost access to banking services are complex and derive from a multitude of factors, including the risks presented by some MSB accounts, the costs associated with maintaining MSB accounts, and banks' concerns about law enforcement and regulatory scrutiny. Notwithstanding these concerns, there are still a significant number of national banks that continue to provide accounts and banking services to MSBs.

Over the last 18 months, OCC officials have met often with various representatives of the MSB industry to better understand the problems MSBs face in obtaining bank accounts.

For example, in March 2005, OCC representatives attended the fact-finding hearing on MSBs hosted by FinCEN. Later that month, the OCC hosted a teleconference for the banking industry in which we discussed a variety of issues, including MSBs. Also, OCC participated in a nationwide teleconference on MSB issues hosted by the American Bankers Association. And, in April 2006, the OCC again joined various federal, state, and industry representatives at an MSB regulatory policy meeting sponsored by the ABA. All of these initiatives have helped to further the understanding of all parties involved, and we are committed to continuing this dialogue.

As our knowledge and understanding of MSBs and their issues have grown, our guidance has continued to evolve. Along with FinCEN and the other Federal banking agencies, in April 2005 we issued interagency guidance on MSBs. The guidance has since been incorporated into the Interagency Bank Secrecy Act and Anti-Money Laundering Manual and into interagency training.

More recently, on March 10, 2006, FinCEN issued an Advance Notice of Proposed Rulemaking to solicit updated facts concerning MSBs access to banking services, as well as recommendations regarding additional guidance or regulatory action that might address these concerns. The comment period closes soon. The OCC will again work with FinCEN and the other Federal banking agencies to provide, if needed, different guidance to the banking industry that is clear and consistent. We commend the efforts of Director Werner for the leadership he has shown in addressing this important issue.

The BSA has been the focus of regulatory, Congressional, and media attention for the past few years, and certainly there has been an increasing sense of urgency by all parties since

9/11. The intense focus on BSA compliance may have led to misperceptions about the OCC's policies and practices relating to MSB accounts at national banks. Let me be clear: First, the OCC is not the supervisor of MSBs and does not expect national banks to be the *de facto* regulators of their MSB customers.

Second, the OCC, does not, as a matter of general policy, require any national bank to close the accounts of an MSB or any other customer.

Third, the OCC does not discourage banks from having MSB accounts. We expect banks that open and maintain accounts for MSBs to apply the requirements of the BSA, as they do with all accountholders, on a risk-assessed basis.

The OCC has taken steps to ensure that our examiners are acting in conformance with these agency policies. For example, when the Interagency Guidance was issued, we provided copies to every national bank examiner with the instruction that it was to be followed immediately. As previously discussed, the Interagency Guidance has been incorporated into the Interagency Manual, and Comptroller Dugan has directed that the procedures in the Interagency Manual be used at every BSA/AML examination. We have trained our examiners extensively on the procedures in the Interagency Manual. Perhaps most significantly, in the past year, senior OCC officials have held nationwide teleconference briefings with the entire national bank examination force. In those briefings, examiners were instructed that under no circumstances, should they be directing or encouraging banks to close MSB accounts. We have been very clear in this regard.

Mr. Chairman, the OCC salutes your leadership in this vital area. We also believe that important objectives are achieved when MSBs have access to banking services, consistent with

anti-money laundering laws and rules. We stand ready to work with Congress, FinCEN, the other financial institutions regulatory agencies, and the banking industry to achieve these goals.