



# OCC ADVISORY LETTER

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Comptroller of the Currency  
Administrator of National Banks

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Subject: Bank Secrecy Act/Anti-Money  
Laundering: Guidance on Money  
Services Business Customers

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**TO:** Chief Executive Officers and Compliance Officers of All National Banks, Federal Branches and Agencies, Department and Division Heads, and All Examining Personnel

The Office of the Comptroller of the Currency (OCC) has become aware that some national banks provide, or have provided, banking services to unlicensed or unregistered money services businesses (MSBs), particularly unlicensed money transmitters. Some national banks also provide banking services to foreign MSBs, a line of business that can carry significant money laundering risks. MSBs provide services such as money orders, traveler's checks, money transmission, check cashing, currency exchange and stored value.

Certain domestic MSBs, as defined by 31 CFR 103.11(uu), must register with U.S. Treasury's Financial Crimes Enforcement Network (FinCEN) (31 CFR 103.41), and depending on the laws of the state in which they are located, may be required to be licensed by the state.<sup>1</sup> In addition, 18 USC 1960 provides penalties for conducting an illegal money transmitting business. For purposes of 18 USC 1960, failure to register with FinCEN as required, or operating without a license in a state where such operation is punishable as a misdemeanor or a felony constitutes conducting an illegal money transmitting business. Registration with FinCEN is required every two years. MSBs must also implement anti-money laundering compliance programs, file currency transaction and suspicious activity reports (SARs), and maintain a variety of records on their customers.<sup>2</sup>

National banks should perform careful due diligence of the accounts of MSBs to control money laundering and reputation risks. For example, banks should verify registration and licensing status, and consider visiting customers at their place of business and implementing monitoring procedures to identify and report suspicious activity. As part of their due diligence programs, banks should also consider obtaining and reviewing the following on the MSB:

- Financial information, including primary lines of business and major customers, and local reputation
- The MSB's anti-money laundering policies, procedures and controls

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<sup>1</sup> Certain MSBs, including a person who is solely an agent of another MSB, and issuers, sellers, and redeemers of stored value, are specifically excepted from the requirement to register with FinCEN pursuant to 31 CFR 103.41(a)(1).

<sup>2</sup> The requirement that MSBs report suspicious activities has not yet been extended to check cashers, and issuers, sellers, and redeemers of stored value.

- Third-party references and information from verification services
- Information on owners of the MSB
- The MSB's license, including any restrictions
- Consideration of the purpose, source of funds to open the account, and expected activity

MSBs who have registered with FinCEN receive letters of acknowledgement from the Internal Revenue Service, Detroit Computing Center (DCC). A bank may rely on the DCC correspondence as verification that the MSB has properly registered with FinCEN and may ask its MSB customers to provide a copy of this form. In addition, a list of registered MSBs and state regulators is available on the FinCEN Web site, [www.msb.gov](http://www.msb.gov). If a bank suspects that a customer is an unlicensed or unregistered MSB, it should file a SAR in accordance with OCC regulations and carefully consider the risks of providing services to such an entity. In addition to considering risk to its reputation, the bank should consider the type of activity in the account (e.g., cash transactions or international wires), patterns of activity (e.g., whether it reflects an ongoing fraud or other criminal activity), and the volume of activity and transaction amounts.

Additional steps must be taken with a foreign MSB to comply with the requirements of section 312 of the USA PATRIOT Act (31 USC 5318(i)). Section 312 requires the bank to implement appropriate, specific, and where necessary, enhanced due diligence policies, procedures and controls when maintaining correspondent accounts for foreign financial institutions. A reasonable due diligence program under this section is one that comports with industry best practices<sup>3</sup> and should include, in addition to the items listed above, consideration of foreign licensing requirements and restrictions, the condition of regulation and supervision in the customer's country, and money laundering risks associated with that country.

Questions about this advisory may be directed to your OCC supervisory office or the Compliance Division at (202) 874-4428.

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Ann F. Jaedicke  
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<sup>3</sup> The preamble to the interim final rule (31 CFR 103.181) references the following: the Basel Committee on Bank Supervision, "Customer Due Diligence for Banks" (October 2001) at [www.bis.org](http://www.bis.org) and The New York Clearing House Association, LLC, "Guidelines for Counter Money Laundering Policies and Procedures in Correspondent Banking," (March 2002) at [www.nych.org](http://www.nych.org).