



STATE OF WYOMING

DEPARTMENT OF AUDIT

DIVISION OF BANKING

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Memorandum

TO: Chief Executive Officer
Wyoming State Chartered Banks

FROM: Jeffrey C. Vogel, Commissioner

DATE: April 8, 2005

SUBJECT: Money Services Businesses

Wyoming banks have historically conducted business with Money Services Businesses (MSBs). But due to recent concerns and misperceptions at both the state and national level, MSBs are losing access to banking services as a result of concerns about regulatory scrutiny, the risks presented by MSB accounts, and the costs and burdens associated with maintaining such accounts. The purpose of this memorandum is to highlight the recent joint regulatory agency statement regarding banking institutions' obligations under the Bank Secrecy Act (BSA) for doing business with MSBs, and to share pertinent information about the requirements for MSBs to comply with the BSA.

Access to the March 30, 2005, "Joint Statement on Providing Banking Services to Money Services Businesses" can be gained by following the links provided on the Wyoming Division of Banking website at <http://audit.state.wy.us/banking/>. Or you may access it at any of the following website addresses (includes cover letters from some of the respective agencies):

- <http://www.federalreserve.gov/boarddocs/srletters/2005/sr0507.htm>
- <http://www.fdic.gov/news/news/financial/2005/fi12405.html>
- <http://www.fincen.gov/bsamsbrevisedstatement.pdf>

While the BSA does not require, and neither FinCEN, the Federal Banking Agencies nor the Wyoming Division of Banking expect, banking institutions to serve as the *de facto* regulator of MSBs, it is important that MSBs **that comply with the requirements of the Bank Secrecy Act and applicable state laws** remain within the formal financial sector, subject to appropriate anti-money laundering controls.



To comply with applicable laws, a crucial step for MSBs is to register with the Treasury Department's Financial Crimes Enforcement Network (FinCEN). Civil and criminal penalties may be imposed on MSBs for willful violation of the registration requirement. Based on recent events it appears that businesses operating as MSBs within the State of Wyoming have failed to register which creates a risk to Wyoming banks if said banks are doing business with unregistered MSBs.

The following definition of an MSB is helpful in determining whether a business is operating as an MSB (extracted from the "Money Services Business Registration Fact Sheet" located at <http://www.msb.gov/pdf/FinCENfactsheet.pdf>):

The term "money services business" (MSB) includes any person doing business, whether or not on a regular basis or as an organized business concern, in one or more of the following capacities:

- *Check casher*
- *Currency dealing or exchange*
- *Issuer of traveler's checks, money orders or stored value*
- *Seller or redeemer of traveler's checks, money orders or stored value*
- *Money transmitter*
- *U.S. Postal Service*

*To meet the definition of an MSB, a person must conduct more than \$1,000 in business with one person in one or more transactions (in one category of activity listed above) on any one day. A business is an MSB for each activity for which it meets this threshold. However, there is one exception. **No activity threshold applies to the definition of money transmitter.** A person that engages as a business in the transfer of funds is a money transmitter and an MSB, regardless of the amount of transfer activity.*

All MSBs meeting the definition above (with exceptions listed on the www.msb.gov website) were required to register with FinCEN prior to the deadline of 12/31/01, and new MSBs must register too. A bank may determine if a business is registered with FinCEN as a MSB by visiting www.msb.gov and following the links. Wyoming Statutes further require that money transmitters operating within the State of Wyoming be licensed. Licensing applications, the statute and a list of Wyoming licensed money transmitters can be found at the Wyoming Division of Banking's website, <http://audit.state.wy.us/banking/>, by clicking on the "Money Transmitters" link.

If a bank suspects that a customer is an unlicensed or unregistered MSB, it should file a Suspicious Activity Report (SAR) and carefully consider the risks of providing services to such an entity.

The MSB industry provides valuable financial services, especially to individuals who may not have ready access to the formal banking sector. However, if your bank chooses to establish or maintain a business relationship with a MSB, it is imperative that you apply the requirements of the BSA on a risk-assessed basis to the MSB as you would for any customer. Failure to do so may lead to violations of the BSA, reputation risk and other associated risks.

If you have any questions, need additional information, or would like to discuss your bank's compliance with BSA as it relates to conducting business with MSBs, please do not hesitate to contact our office at (307) 777-7797. Our office is interested in allowing state banks to conduct business with legitimate MSBs that serve the needs of their individual communities. Nevertheless, it is important to understand and establish the proper controls to ensure compliance with appropriate regulations and to ensure the safety and soundness of our state's and nation's financial system.

Additional resources/reading:

- FRB-KC cover letter for the document that follows:
<http://www.kansascityfed.org/bs&s/guidance/BSA-MoneyLaundering6-04.doc>
- "Check Cashers and Money Transmitters: Serious Risks or just misunderstood?" document located at:
<http://www.kansascityfed.org/bs&s/guidance/BSA-MoneyLaunderAttch6-04.pdf>