

14-CU-10 Identifying and Mitigating Risks of MSBs

Summary

Prepared by NASCUS Legislative & Regulatory Affairs Department
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NCUA has issued a Letter to Credit Unions discussing the heightened regulatory focus on money services businesses (MSBs). In addition to the US Postal Service, FinCEN defines an MSB as 1) dealers in foreign exchange, 2) check cashers, 3) issuers and sellers of traveler's checks or money orders, 4) providers of prepaid access, 5) money transmitters, and 6) sellers of prepaid access. See 31 CFR 1010.100(ff).

The Letter to Credit Unions includes a copy of [NCUA's guidance to examiners](#) regarding MSB/credit union relationships and provides several indicators of high-risk as well as low-risk MSBs. NCUA also notes that larger MSBs may present off-balance-sheet risks by generating significant transaction volumes that could overwhelm smaller credit unions. MSBs banking relationships have come under enhanced scrutiny by FinCEN and regulators. Additional information on MSBs [is available on FinCEN's website](#).

Risk Mitigation

In order to mitigate risk, credit union due diligence with an MSB should include:

- Performing the required Customer Identification Program (CIP) procedures
- Confirming that member MSBs register with FinCEN and state licensing requirements
- Confirming the member MSBs' agent status
- Conducting a BSA/AML risk assessment to document the level of risk associated with the account and whether greater due diligence is necessary

To ensure compliance with the BSA regulations, credit unions are expected to assess the risks posed by each individual MSB account on a case-by-case basis, monitor and report any unusual activities, and implement appropriate risk controls. However, NCUA makes clear that:

“The BSA does not require credit unions to serve as a regulator of any type of MSB account, and neither FinCEN nor NCUA expects credit unions to serve in this capacity. While NCUA expects credit unions to manage risk associated with all accounts, including MSB accounts, credit unions are not responsible for their members' compliance with the BSA and other applicable federal and state laws and regulations.”

Evaluating the Level of Risk Posed by a Particular MSB

NCUA's guidance lists several factors that might, in relation to specific facts and additional information regarding a particular MSB, indicate a *lower risk* if the MSB:

- Primarily conducts routine transactions with moderate frequency in low amounts
- Offers only a single line of money services business product
- Is a check casher that does not accept out-of-state checks
- Does not cash 3rd party checks or only cashes payroll or government checks
- Is an established business with an operating history
- Only provides services such as check cashing to local residents
- Is a money transmitter that only remits funds to domestic entities

- Only facilitates domestic bill payments

Factors that *may* indicate *higher risk* include an MSB that:

- Allows customers to conduct higher-amount transactions with moderate to high frequencies
- Offers multiple types of money services products
- Is a check casher that cashes 3rd party checks or checks for commercial businesses
- Is a money transmitter or currency dealer that specializes in, cross-border transactions, or currency exchanges for jurisdictions posing heightened risk for money laundering/the financing of terrorism or to countries identified as having weak anti-money laundering controls
- Is a new business without an established operating history
- Is located in an area designated as a High Intensity Financial Crime Area (HIFCA) or a High-Intensity Drug Trafficking Area (HIDTA)

In order to properly apply the BSA to a member MSB, a credit union must know its MSB member with an understanding of the MSB's business model and general customer base.

Due Diligence Expectations for Credit Unions

When conducting a due diligence risk assessment of an MSB account, a credit union should consider the following to determine whether additional due diligence is necessary:

- Types of products and services offered by the MSB
- Location(s) and market(s) served by the MSB
- Anticipated account activity and volume
- Purpose of the account

If a credit union determines that a member MSB presents a higher level of BSA risk, enhanced due diligence measures should be conducted. An enhanced due diligence review might include some, or all, of the following:

- Reviewing an MSB's BSA/AML program
- Reviewing results of an MSB's independent testing
- Reviewing written procedures for the operation of an MSB
- Conducting on-site visits of an MSB
- Reviewing an MSB's written employee screening practices

NCUA's guidance reminds examiners that credit unions must comply with all BSA reporting requirements with respect to MSBs, including the filing of CTRs and SARs. While MSBs are ineligible for a CTR exemption, a member that engages in multiple business activities may qualify for an exemption as a non-listed business provided that no more than 50% of its annual gross revenues are derived from one or more ineligible business activities (such as serving as an MSB). NCUA provides the example of a grocery store that also provides MSB related services (such as check cashing) on behalf of its customers. Such a member might be eligible for treatment as an exempt non-listed business if less than 50% of its annual gross revenues are derived from the MSB related services.

As of the March 31, 2014 Call Report reporting cycle, credit unions are also now required to report MSB account information on the 5300 under Schedule E.

Exam Procedures

NCUA instructs its examiners to follow the FFIEC BSA/AML Examination Manual procedures.

- 1) Examiners should determine whether the credit union provides account services to MSBs. Possible indicators of unidentified MSB activity may include, but are not limited to:
 - Large cash transactions not commensurate with expected activity of account or business
 - High volume of third-party checks when not commensurate with expected activity of account or business
 - High volume of wire transfers not commensurate with expected activity of account or business

NCUA notes that the above are possible indicators, but not dispositive. In the case of suspected unidentified MSB activity, further investigation may be warranted to make a determination.

- 2) If the credit union provides account services to MSBs, examiners should evaluate the credit union's systems to ensure management is exercising appropriate due diligence:
 - Determining whether internal controls are in place to adequately identify, monitor, and control the potential risk posed by the MSB account(s)
 - Determining whether the credit union meets the minimum MSB due diligence expectations by confirming that the credit union has performed CIP at account opening; confirming that the member MSBs have registered with FinCEN and the state (if applicable); confirming the member MSB's agent status, if applicable; and confirming that the credit union has conducted a basic BSA/AML risk assessment
 - Determining if the credit union has established adequate enhanced due diligence procedures to be conducted if the credit union determines the MSB presents a higher level of risk
 - Determining if the credit union has adequate policies, procedures, and processes in place to identify, monitor, and report suspicious activity.
 - Determining if the credit union is in compliance with all BSA reporting requirements
 - Determining if the credit union has accurately reported MSB account information on the Call Report
- 3) Examiners will complete the MSB section of the BSA Questionnaire during all examinations when a credit union provides account services to MSBs. Until the release of an updated AIRES Questionnaire workbook, examiners were provided a standalone MSB questionnaire to be used. That questionnaire was included in NCUA's guidance.

Additional resources on MSBs include [NCUA Letter to Credit Unions, Supervisory Focus for 2014 \(LCU 14-CU-02\)](#); [Interagency Interpretive Guidance on Providing Banking Services to Money Services Businesses Operating in the United States](#); FFIEC Bank Secrecy Act/Anti-Money Laundering Examination Manual sections Nonbank Financial Institutions Overview and Nonbank Financial Institutions Examination Procedures; and the [Bank Secrecy Act, 31 CFR 1000](#).