

SCHWARTZ & BALLEN LLP

1990 M STREET, N.W. • SUITE 500
WASHINGTON, DC 20036-3465

(202) 776-0700

FACSIMILE
(202) 776-0720

www.schwartzandballen.com

M E M O R A N D U M

April 27, 2005

To Our Clients and Friends

Re: Guidance Regarding the Bank Secrecy Act and Money Services Businesses

The Federal banking agencies (the Federal Reserve Board, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision) and FinCEN have provided guidance to banking organizations relating to providing banking services to money services businesses (“MSBs”) in light of the Bank Secrecy Act. FinCEN also has issued guidance to MSBs regarding information they must provide to banking organizations.

A. Interagency Interpretive Guidance on Providing Banking Services to MSBs Operating in the United States.

The guidance sets forth the minimum steps that banking organizations should take when providing banking services to MSBs. When opening and maintaining accounts for an MSB, a banking organization should undertake the following minimum due diligence:

- Apply the institution’s Customer Identification Program to the MSB
- Confirm FinCEN registration of the MSB, if required
- Confirm the MSB’s compliance with state or local licensing requirements, if applicable
- Confirm agent status, if applicable, and
- Conduct a basic Bank Secrecy Act/Anti-Money Laundering risk assessment to determine the level of risk associated with the MSB’s account and whether further due diligence of that MSB is necessary

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To determine whether or not any further due diligence will be required, the banking organization should consider the following information regarding the MSB:

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

The guidance states that FinCEN and the Federal Banking Agencies do not expect banking organizations to act as the *de facto* regulators of MSBs and that banking organizations will not be held responsible for their MSB customers' compliance with the Bank Secrecy Act and other applicable federal and state laws and regulations.

B. Guidance To MSBs On Obtaining And Maintaining Banking Services.

FinCEN's guidance sets forth in considerable detail the types of information that an MSB will be expected to produce to a banking organization in the course of opening or maintaining account relationships.

A copy of these two new guidance documents can be found on our web site at http://www.schwartzandballen.com/whats_new.html.

If you have any questions, please call Gilbert Schwartz, Robert Ballen or Tom Fox at (202) 776-0700.