

## FAQs Regarding Anti-Money Laundering Compliance Programs

### 1. What law requires a Money Services Business (MSB) to develop and implement an AML compliance program?

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001 (Public Law 107-56). Title III of the Act makes a number of amendments to the anti-money laundering provisions of the Bank Secrecy Act (BSA), which is codified in subchapter II of chapter 53 of title 31, United States Code.

These amendments are intended to provide additional tools to prevent, detect, and prosecute international money laundering and the financing of terrorism. Section 352(a) of the Act, which became effective on April 24, 2002 amended section 5318(h) of the BSA. As amended, section 5318(h) (1) requires financial institutions to establish anti-money laundering compliance programs. FinCEN promulgated an anti-money laundering compliance program requirement specifically applicable to money services businesses that became effective on July 24, 2002 and can be found at 31 CFR 103.125.

### 2. What are the required components of a compliance program?

The anti-money laundering compliance program must be in writing and must be reasonably designed to prevent the money services business from being used to facilitate money laundering and the financing of terrorism. At a minimum, the program must:

- Incorporate policies, procedures and internal controls reasonably designed to assure compliance with the Bank Secrecy Act including:
  - Verifying customer identification
  - Filing reports
  - Detecting suspicious activity
  - Creating and retaining records; and
  - Responding to law enforcement requests
- Designate a compliance officer to assure day-to-day compliance with the program. The responsibilities of such person include assuring that:
  - The business properly files reports and creates and retains records;
  - The compliance program is updated as necessary to reflect current requirements and related guidance issued by the Department of Treasury; and
  - The business provides appropriate training and education.
- Provide for ongoing training of appropriate personnel concerning their responsibilities under the program, including training in the detection of suspicious transactions.
- Provide for an independent review to monitor and maintain an adequate program.
  - The scope and frequency of the review should be commensurate with the risk of the financial services provided by the money services business. Such review may be conducted by an officer or employee of the MSB so long as the reviewer is not the person designated as the compliance officer.

In addition, 31 CFR 103.125(b) provides that compliance programs should be commensurate with the risks posed by the location and size of, and the nature and volume of financial services provided by, the money services business.

### 3. What money services businesses are affected by this law?

All categories of money services businesses subject to BSA regulation under 31 CFR part 103 must implement an anti-money laundering compliance program including:

- Currency dealers or exchanges
- Check cashers
- Issuers, sellers, and redeemers of travelers' checks, money orders, or stored value and
- Money transmitters

**4. What if the financial services that I provide are incidental to my business? Am I still included in the law?**

Yes.

For some enterprises, such as grocery stores, convenience stores, and gas stations, the financial activities that make them money services businesses are not their core business activities but only incidental services offered along with core products and services. Other money services businesses are organized to provide several financial services to their customers similar to the full range of financial products provided by a bank. The anti-money laundering program requirement found at 31 CFR 103.125 requires each money services business to establish a program reasonably designed to prevent the MSB from being used in money laundering or terrorist financing. However, it only applies to the extent of the money services activity conducted by an MSB.

**5. How do I get started?**

FinCEN has determined that the exact nature of an effective anti-money laundering program for money services businesses must be commensurate with the risks posed by the size and location of the particular money services business, and the nature and volume of the financial services that it offers. Therefore, a business must first assess its risk of being used to launder money or finance terrorism.

**6. Are there other important items to consider when creating a compliance program?**

Policies, procedures, and internal controls developed and implemented shall include the following to the extent they are applicable to MSBs (31 CFR 103.125 (d)(1)(i)):

- Procedures for assuring that applicable customer identification requirements are met;
- All reports required under 31 CFR part 103, including but not limited to suspicious activity reports are filed in a timely fashion;
- All records are maintained in complete and accurate form
- Requests for information from law enforcement agencies are handled with appropriate speed
- To the extent that automated data processing systems are used, MSBs should integrate their compliance procedures with such systems. (31 CFR 103.125(d)(1)(ii))

**7. What is the effective date for the compliance programs to be implemented?**

Pursuant to section 103.125(e), an existing money services business is required to comply with the anti-money laundering compliance program requirements by July 24, 2002.

- Money services businesses coming into existence after that date must develop and implement such a program by the end of the 90-day period beginning on the day following the date the business is established.