

IRS BSA Comments on the Proposed Changes to the MSB Registration Form

1. The instructions are for filing only electronically. There is no provision for filing a paper form – no address for filing a paper form and all codes are selected from a drop-down menu. We understand that FinCEN wants all filings to be electronic. This is not a realistic expectation because it will not be possible for all MSBs to file electronically. Some MSBs will not be able to afford the equipment, are concerned about identity theft, or hindered by their limited proficiency in English. In those cases, the MSB will not register electronically. This leaves the IRS examiner in a difficult position where the MSB has not registered. The MSB will say they tried to register but could not register electronically and there was no alternative for paper filing, no address to mail form to. Does the examiner cite the MSB for failure to file when the failure is due to the MSBs inability to file electronically? Does the examiner cite the MSB when the MSB made a good faith effort to register but could not do so electronically and there is no address for a paper filing?

In the notice, FinCEN asks for “...(e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information;...” The smaller MSBs are not going to respond to the notice. Most do not read the Federal Register. The larger MSBs that may respond are not representative of the smaller MSBs, especially the check cashers.

2. Since you are going in-depth on the pre-paid access, we would request you to ask for additional information related to wires:
 - Do the MSB send, receive, or both? This would be beneficial to know because with the smaller ethnic services, most were set up to "send" only, but now some "receive". The "receiving" places them at a higher risk than just a service set up to send. This would benefit not only IRS and States, but also law enforcement.
 - What countries does the MSB send to/receive from? They could list the country codes.

If an MSB is going to register and provide law enforcement with beneficial information, we think this information would be of great value. Law enforcement and we would not need to contact the MSB to determine where they wire to/from.

3. On the form, Item 1e Enter the RMSB registration number if 1b, c, or d is checked –

The acronym “RMSB” is not spelled out anywhere in the instructions. It should be because not all users know what it stands for. Using “RMSB” followed by “registration number” is awkward wording – “Registration of Money Services Business registration number”. Suggest you change the wording to “MSB registration number”.

4. Instructions for Item 1 - We need to be specific as to what the registration number is and where they can locate the number - such as on the acknowledgement letter. The directions read as "Complete “1e” if a registration number has been provided by

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a US Federal or State Government Agency". The MSB industry has never really considered the number on the acknowledgement letter as a "registration number" assigned by the Federal government. Do you want the MSB to use a State number if the original registration was with the Federal government? Why would you want a state registration number? Do the states have registration numbers? Will the MSB confuse a state licensing number with the Federal registration number? How will the user of the form know if it is a Federal registration number, a state registration number, or a state license number? Do they each have a unique format?

The directions read as "Complete "1e" if a registration number has been provided by a US Federal or State Government Agency". On the form Item 1e reads as "Enter the RMSB registration number if 1b, c, or d is checked". There should be more consistency in the directions to what is on the form. .

If this were the third renewal, would the MSB use the initial registration acknowledgment number or their last renewal registration number? What happens if the MSB just copies the same number from the prior renewal? Do you really want the registration number on a "renewal" since the acknowledgement will provide a new number? Maybe only a correct/amend registration should require a registration number be associated since it is correcting a form previously submitted. Knowing the education level of some of these MSBs, small moms and pops, the instructions are not clear to secure the information FinCEN is requesting.

5. Specific Instructions, Item 12 – Reads as "If the registrant is an entity enter...." There should be a comma after "entity" so it reads as "If the registrant is an entity, enter..."
6. Specific Instructions, Item 17 – Reads as "If the MSB has a web site please enter...." There should be a comma after "site" so it reads as "If the MSB has a web site, please enter...."
7. Specific Instructions, Item 18 - Reads as "....or if different individual listed in item 3." It would be clearer if it read as "....or if a different individual from the individual listed in item 3."
8. Specific Instructions, Part III Owner or Controlling Person – The last sentence reads in part as"...If the owner or controlling person is a corporation, a duly authorized owner...." Is "duly authorized owner" defined somewhere?
9. Items 62 -65 – The same issue applies to the instructions for the signature.
10. Specific Instructions, Item 28 - Reads as "...If the owner or controlling person is an entity enter...." There should be a comma after "entity" so it reads as "...If the owner or controlling person is an entity, enter...."

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11. Specific Instructions, Item 31 - Reads in part as "...has an email address please enter..." There should be a comma after "address" so it reads as "...has an email address, please enter..."
12. Specific Instructions, Item 32 - Reads in part as "...has a web site please enter..." There should be a comma after "site" so it reads as "...has a web site, please enter..."
13. Specific Instructions, Item 34 – The term ‘tribal lands’ – will filers know what this means? Does it mean Native American tribes? Are there are other tribes in American territories? Do you care if the location is on tribal lands in a foreign country?
14. Item 34 on the form – Reads in part as "...if services are provided in foreign locations (non-US and US Territories), check box d." If the services are provided in a US territory, shouldn't the filer also check which US territories from the list?
15. Specific Instructions, Item 36 - This needs to be clarified in the terms used in the General Information section that relates to check cashers. The General Information terms section reads in part as "...accepts checks (as defined in the Uniform Commercial Code), or monetary instruments (as defined at 1010.100 (dd))..." This definition needs to be expanded. Treasury issued guidance that all correspondence with the public needs to be at a level that ordinary individuals will understand. This does not meet that requirement. These small mom and pop MSBs do not have access or may not know what 1010.100(dd) is. This section needs to be expanded so the common MSB will know exactly what FinCEN is defining as a check casher.

On the form, Item 36g reads as "Check casher (including traveler's and money orders)". If "traveler's" means "traveler's checks", then you need to say so. In addition, it is confusing and problematic to see "Check casher (including traveler's and money orders)" on the form and not see any reference to "(including traveler's and money orders)" in the terms section under General Information. In the section where you try to define check casher, you need to include an explanation that check casher includes cashing "traveler's checks and money orders".
16. Specific Instructions, Item 36i – In the second sentence, there should be a comma after "however". In the third sentence, there should be a blank space before "37" and before "42".
17. Part VI, General section instructions, 5th paragraph – The first sentence reads as "Documents supporting the MSB's existence may include:" The verb "may" implies that the supporting documentation is optional. Shouldn't it say "Documents supporting the MSB's existence must at a minimum include:"?
18. Part VI, General section instructions – Under item 4, Agent List – The first sentence reads in part as "...If the registrant has agents it must..." There should be a

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comma after “agents”. The sentence should read as “...If the registrant has agents, it must...”