

In the following, we offer a summary of the comment letters submitted and our disposition of the commenters' recommendations:

- (1) Part II, Registrant Information; and (2) Part III, Owner or Controlling Person

A commenter noted that the captions for Items 3 and 6 of the proposed form differed from that used in previous versions of Form 107, Registration of Money Services Business (RMSB). A previous version of Form 107 captioned item 3 as "Legal Name of the Money Services Business" and Item 4 as "Doing Business As" while the proposed version substitutes "Individual's last name, or entity's legal name" for the former and "Alternate name" for the latter. The commenter stated that such revisions might be confusing to the registrant, and might also lead to inconsistencies in data from forms filed in previous years. The same concerns were cited for the re-named Item 20 of Part III, Owner or Controlling Person.

We appreciate that the commenting party seeks consistency and clarity from the data derived from Form 107. We share those objectives. However, we believe that the new captions will lead to greater understanding on the part of the individual completing the form by indicating that the correct response may be *either* a natural person or a business entity. This option was not made explicit with the previous wording. Additionally, we allow the registrant to indicate, in response to Item 6, that there may be another name by which the natural person is known and identifiable. Previously, we had limited the question to an alternative business name ("doing business as").

Another consideration that we believe is served by the new captions is the ability to collect and analyze data across various FinCEN reports. We are in the process of reviewing and updating all reports and are attempting to standardize the information fields among them. Such uniformity and consistency will, we believe, lead to enhanced data integrity and reliability.

- Recommendation to coordinate information

One association commenting on the proposed changes to Form 107 requested that FinCEN consider partnering with the National Mortgage Licensing System ("NMLS"), a national registry dedicated to increased supervision of the residential mortgage market. The NMLS is expanding to allow States to register additional industries, including some Money Services Businesses, on the NMLS. The association recommended adding a data field to Form 107 to allow the party completing the form to enter its unique registry identification number. Ultimately, this information would facilitate regulatory investigations that might involve multiple states' coordination.

We appreciate the benefits of this nationwide initiative to enhance regulatory oversight of the residential mortgage and other markets. We will continue to discuss and investigate

ways in which we can serve as a useful bridge among information sources and work with systems such as NMLS for mutual benefit. We will not be adding any additional data fields to Form 107 at this time, however, we will consider the recommendation for future form revisions.

- Concurrence with trade association comments

A trade association and an industry respondent recommended allowing the reporting of multiple, similar prepaid programs with a single, general description. We agree that the registrant will know the best way to delineate among its various programs. For that reason, we do not intend to mandate a particular format for providing a prepaid program listing; we trust that the industry respondent will reasonably aggregate similarly featured products into appropriate programs, and will report information accurately.

Additionally, the trade association comment addressed several more comments and questions to the fields in which a prepaid program must be identified. First, they asked whether an internal reference used by the prepaid provider or issuer when referring to the program is sufficient. We do not intend to mandate any format for labeling prepaid programs either and leave such descriptions/labels to the discretion of the prepaid provider. Second, the trade association also asked whether having the same IIN used in different prepaid provider registrations or program lists was a problem. Having multiple programs using the same IIN is not a problem, as noted above we intend to leave it to the discretion of the program provider how and when it is appropriate to delineate distinct prepaid programs. Third, they requested clarification of which processors must be listed on the form where multiple processors, or sub-processors, may be used for a particular program. Only the primary transaction processor, as determined at the discretion of the program provider, needs to be listed on the form.

The trade association requested clarification of whether person-to-person transfer within a prepaid program would be considered part of an informal value transfer system (IVTS). IVTS, as noted in the instructions to the form, “includes any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system.” Prepaid programs, insofar as they involve the conventional financial system, such as funds stored at banks, electronic funds transfer systems, bank to bank transfers, account settlement on commercial systems, or transaction processing by commercial vendors, are not considered IVTS whether they allow person to person transfers or not.

Finally, the trade association requested clarification regarding the number of U.S. agents selling prepaid access. Since the definition of seller of prepaid access includes reload locations, all reload locations must be included in the number of agents. While we recognize that this requirement may present some difficulties and could result in double counting in some cases, nevertheless the number of U.S. agents selling (including reloading) prepaid access must be reported. This requirement, however, is only based on the best knowledge of the provider. There is no requirement to continually update this number based on the ever changing number of

agents of commercial partners, but only to report the best knowledge available at the time of filing.

- (1) Include prepaid program exemptions; and (2) Eliminate “seller of prepaid access” where it might confuse the registrant

One commenter, a consulting firm noted the breadth of the prepaid Provider definition, but the lack of corresponding information on the form describing the exceptions to the definition. The commenter recommended incorporating the program exclusions into the text on the form.

To address this issue, we will provide a link to the relevant information. Thus, when the individual is in the process of completing the form, simply placing the cursor over the section entitled “The following are not required to register” will allow the user to click through to the Federal Register website displaying the exclusion language.

Two commenters stated that it is potentially confusing to include “seller of prepaid access” among the various MSB choices (see Item 36), when the language of the Prepaid Access Final Rule summary [76 FR 45403] specifically refers to the imposition of a registration requirement on “Providers only.” The commenter’s second observation, that including Sellers of Prepaid Access among the various categories of MSBs is misleading to the registrant and should be deleted, is not a change we are prepared to make at this time. We want to emphasize that Prepaid Access, as an industry segment new to comprehensive regulatory oversight under the BSA, is of particular interest to all of our various stakeholders, most especially law enforcement. For this reason, we are interested in determining the universe of *both* providers and sellers in the marketplace as both are regulated parties under the final rule. We acknowledge that the registration requirement is uniquely imposed on providers, but we are interested in identifying those sellers who, in addition to being MSBs required to register for independent reasons, are also engaged in the sale of prepaid access. Similarly, we are interested in determining the number of provider registrants also engaged in the sale of prepaid access.

- De-registration of MSB status

A commenter observed that the proposed form does not provide any instructions for a previously-registered MSB to indicate its withdrawal from the regulated business activity. Specifically, the commenter wanted to know how a business entity “un-registers” as a money services business.

We believe that this commenter raises a very good point and have amended the instructions to Form 107 appropriately. “Special Actions” under the section of the

instructions entitled “Where and When to Register” now includes a section on De-Registration of MSBs, along with a citation to the FinCEN website for detailed guidance.

- (1) Eliminate “seller of prepaid access” from MSB choices; (2) “seller of prepaid access” definition in General Instructions; and (3) Include prepaid program exclusions  
This commenter, a trade association, raised two points previously raised by the consulting firm (above), specifically, the request to delete the “seller of prepaid access” from the MSB listing in Item 36, and the request to include the various prepaid program exclusions. Additionally, this commenter asked for clarity for the “seller of prepaid access” definition provided in the General Information – Who Must Register section of the instructions.

We have comprehensively addressed the first two comments raised by this trade association in our response to the consulting firm (above). However, we reviewed the definition for “seller of prepaid access” and agreed with the commenter’s observation. We have revised the wording to indicate more clearly and distinctly the two “prongs” under which a person will be deemed a seller under the rule.

- Multiple comments, various aspects of Form 107 and the instructions  
This commenter presented a variety of comments and questions. In the aggregate, the commenter offered the following:
  1. The need to reconsider FinCEN’s migration to electronic submission exclusively for required reports, including Form 107.
  2. A request for the collection of additional information related to an MSB’s sending and receiving of wire transfers.
  3. The ambiguity related to Item 1e of Part I, the “RMSB registration number.”
  4. Part III, Owner or Controlling Person of Form 107 includes a reference to “a duly authorized owner...,” but the commenter notes that this term is not defined anywhere for the registrant.
  5. The Specific Instructions, Item 34, includes the term “tribal lands.” The commenter questions whether this concept will be adequately understood by the average registrant.
  6. Part VI, regarding the MSB documentation, states that the information collection “*may include*,” but the commenter believes it more appropriate to state “*must include, at a minimum.*”

We appreciate the thoroughness provided by this commenter’s review and we have incorporated a great many of the recommendations offered. In summary, for those which we are unable to address at this particular time, we offer the following explanations:

1. We understand that the migration to new technology will be more difficult for some of our regulated entities than it will be for others. To that end, we will continue to accept hard copy filing of Form 107 through March 2013. And, we will continue to monitor the success of mandated electronic filing over the coming months to assess where we can provide assistance.
2. At this time, we cannot request additional information related to wire transfers. We anticipate additional modifications to Form 107 in the near future, and we will consider the commenter's suggestion at that time.
3. The RMSB registration number requirement has been removed from the form.
4. By using the term "duly authorized," we refer to an individual with actual authority to conduct the transaction.
5. A concern was raised with the use of the term "tribal lands" as it is used in the form. This term is consistent with the use of the term tribal throughout the BSA regulations and refers to areas under the jurisdiction of an Indian Tribe within the United States.
6. Because the broad and diverse types of MSBs that encompass different industries do not share a standard set of criteria, we will not accept the commenter's suggestion to indicate that the information listed is a mandatory minimum. We believe that the MSB status should be evaluated independently, on a case-by-case basis.

- Part VII

One commenter found problematic the requirement that the U.S. agent for service of process for a foreign located MSB sign the form and certify regarding matters of which it does not have direct knowledge or control in its role as agent for service of process. FinCEN has changed the language of the certification to indicate that the declaration is only to the best of the knowledge of the signatory agent. Agents for service of process will not be held liable for the failure of the MSB to execute its obligations as an MSB so long as the agent reasonably believes the MSB is doing so based on the representations made to the agent by the MSB.