



Department of the Treasury Financial Crimes Enforcement Network

Ruling

FIN-2007-R002

Issued: November 15, 2007

Subject: Whether a Business that Cashes Checks Payable to Customers to Apply Proceeds to the Repayment of Customers' Obligations is a Money Services Business

Dear []:

This letter responds to your request for an administrative ruling, dated June 16, 2007, regarding whether your client, [], should be registered as a money services business (MSB). For the reasons set forth below, we have determined that your client's business is not an MSB, and therefore that it is not required to register with the Financial Crimes Enforcement Network (FinCEN).

In your letter, you state that officers of a bank where your client maintains accounts have raised concerns regarding whether your client should be registered as an MSB, based on your client's check cashing activities ancillary to its retail sales of automobiles. You also state that your client has given strict instructions to all employees that no checks or monetary instruments of any kind may be cashed for any person in an amount greater than \$1,000 per person per day, with two exceptions. The first exception is for your client's own employees' payroll checks. The second exception is for checks or money orders payable to customers who have current obligations to your client that are due and payable, where the difference between the amount of the check or money order and the amount that the customer will pay to your client to satisfy current obligations is less than \$1,000. Such instructions have been incorporated into a written policy, which has been posted on the client's business premises and will be provided to the bank. A copy of such policy is also attached to your letter.

For purposes of the Bank Secrecy Act (BSA), a check casher is each agent, agency, branch, or office within the United States of any person "engaged in the business of a check casher (other than a person who does not cash checks in an amount greater than \$1,000 in currency or monetary or other instruments for any person on any day in one or more transactions)." ¹ An entity that is a "check casher" under the BSA must comply with the registration requirement under 31 CFR 103.41, in addition to all other BSA requirements contained in 31 CFR Part 103 applicable to check cashers.

¹ 31 CFR 103.11(uu) and (uu)(2).

Furthermore, as FinCEN previously has guided, a business does not meet the BSA definition of a check casher if it only cashes its own employees' payroll checks.² If a business provides its employees with currency in exchange only for payroll checks issued by the business, FinCEN does not consider the business to be "engaged in the business of a check casher."

Based on the circumstances described in your letter, it is not necessary for your client to register as a money services business. We recommend that your client review guidance issued by FinCEN, which provides, in pertinent part, that a business that develops and implements written policies and procedures that would exclude it from the definition of money services business would cease to be, and would not be treated as, a money services business for purposes of the BSA, and that such a company need not register for its past performance as a money services business.³

This ruling is provided in accordance with the procedures set forth at 31 CFR 103.81. We have relied upon the accuracy and completeness of the representations in your letter. Nothing precludes us from reaching different conclusions or from taking further action if circumstances change or if any of your representations are inaccurate or incomplete. We reserve the right, after redacting your name and address and your client's name, to publish this letter as guidance in accordance with our regulations. Please inform us within fourteen (14) days from the date of this letter of any information that you believe should be redacted from this letter and the legal basis for redaction.

If you have any questions about this letter, please contact our regulatory helpline at (800) 949-2732.

Sincerely,

//signed//

Jamal El-Hindi
Associate Director
Regulatory Policy and Programs Division

² See FIN-2006-G005 (March 31, 2006) Frequently Asked Questions: Businesses Cashing Their Own Checks (copy attached).

³ See FIN-2006-G006 (Feb. 3, 2006) Registration and De-Registration of Money Services Businesses (copy attached). As a matter of policy, we have determined that we will not comment specifically on the written policy created by your client.