



1299 PENNSYLVANIA AVE., NW  
WASHINGTON, DC 20004-2402  
PHONE 202.783.0800  
FAX 202.383.6610  
A LIMITED LIABILITY PARTNERSHIP

**EZRA C. LEVINE**  
PARTNER  
202.383.7055  
levinee@howrey.com

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Office of the Chief Counsel  
Financial Crimes Enforcement Network  
Department of the Treasury  
P.O. Box 39  
Vienna, VA 22183

**Attention: PRA Comments – SAR – MSB Form**

**Re: Comments of the Non-Bank Funds Transmitters Group  
With Regard to Proposed MSB SAR Form**

What follows are the comments of the Non-Bank Funds Transmitters Group (“Group”) with regard to the proposal published at 70 Fed. Register 20204 on Monday, April 18, 2005 in which FinCEN requested comment on a revised Suspicious Activity Report (“SAR”) form to be utilized by all Money Services Businesses (“MSB”). The Group is composed of the leading national non-bank money transmitters and payment instrument issuers all of whom are MSBs. These include: Western Union Financial Services, Inc., MoneyGram International, Travelex Americas, American Express Travel Related Services, RIA Financial Services, Comdata Network, Inc. and Sigue Corporation. The Group has been active in support of the government’s efforts to combat money laundering and terrorist financing through rigorous compliance with the recordkeeping and reporting requirements of the Bank Secrecy Act (“BSA”).

### **I. A Short Form SAR is Needed for MSB Sales Outlets**

For the reasons set forth below, the Group proposes that, while the proposed SAR form is a major step in the right direction, it does not fit the needs of both MSB “principals” such as Group members nor does it effectively address the unique needs of the over 160,000 retail sales outlet “agents” which are subject to the SAR mandate. Since 1997, well before the adoption of the MSB SAR requirement, the Group has advocated to FinCEN the advisability of the adoption of a short form SAR for use by MSB sales outlets.

FinCEN promulgated on March 14, 2000 the requirement that MSBs report suspicious activity (65 Fed. Reg. 13683) (31 CFR §103.20), but the MSB-specific SAR form was noticed for comment on February 27, 2002 (67 Fed. Reg. 9031) and issued thereafter. The MSB SAR form proposed in February 2002 was very similar to the form ultimately adopted (i.e., a form with instructions of about ten pages in length). In the comments which the Group filed with regard to the SAR form currently in use, the Group foresaw that a long form would prove to be a disincentive to the many agents who serve as MSB retail outlets and would frustrate the goal of effective SAR filing. As the Group emphasized in its comment letter to FinCEN of April 26, 2002 on the draft long form SAR:

The goal of an effective SAR program is to ensure, to the maximum extent practicable, that the sales outlets, the “agents,” as the entities dealing directly with the consumer in retail transactions, will file SARs when suspicious activity is detected. However, since MSB services are offered usually only as an ancillary function, coupled with the fact that most of the “agent” employees may be temporary,

part time or non-professional individuals, it makes sense to utilize a streamlined and perhaps abbreviated SAR form solely for the use of these “agents” and their employees. The current form appears ill suited for this use since it is intimidating; it is long, the instructions appear overly detailed, and, the Group believes, many “agents” will be unable to complete properly the form. Such a result does not serve the needs of the “agents” or of law enforcement.

Since the goal of the SAR program is to provide to the government on a timely basis “suspicious” activity information which may be of use to law enforcement in the fight against money laundering and terrorism, as well as other illegal activities, the Group requests that FinCEN develop a “short form” SAR for use by MSB “agents.” Such a form, in the view of the Group, would enhance the filing of reports of suspicious activity by these sales outlets and their employees. While such a form might not capture all of the information requested in the existing form, the Group believes the most important data could be captured and forwarded to FinCEN more quickly and efficiently using such a short form. If FinCEN would be amenable to considering the adoption of a short form, the Group would be willing to develop a proposed draft.

The Group reiterated the gist of its position that a “short form” was necessary in meetings with Treasury’s Patriot Act Task Force on December 18, 2002 and in written comments to that Task Force on February 27, 2003. Approximately three years have elapsed since the Group submitted its prophetic comments in the earlier MSB SAR rulemaking proceeding. The existing form is suitable for Group members and other MSBs which are “licensees” who either perform “back office reviews” of money orders and travelers checks as these items are cleared and/or maintain the money transmission network but are not themselves the retail sales outlet. The existing long form has proved useful in the context of

“back office” SAR reviews because it allows for the reporting of all data relating to the SAR and, therefore, facilitates compliance with subsequent data requests from law enforcement. As for those retail outlets, the current long form has not been successful.

**II. The Proposed Form Should be Shortened and the Instructions Truncated for Use Only by MSB Sales Outlets.**

The proposed form could be a starting point for the development of an even shorter and less intimidating SAR form to be used only by “sales agents.” The form should be shorter than that proposed and could eliminate, for example, Part II, Questions 20 and 21. Moreover, three pages of instructions printed in very small type is intimidating to a retail sales outlet employee who is merely providing MSB sales ancillary to the sale of other goods and services. The anecdotal information gleaned from law enforcement personnel in the field suggests that a shorter form coupled with the most basic instructions would elicit more valuable data from those who deal directly with the purchasers of MSB services.

**III. The MSB SAR Short Form Instructions Should be in Multiple Languages.**

As the Group has always contended, the instructions should be available in multiple languages. Many MSBs, as FinCEN is aware, serve in particular ethnic communities which utilize languages other than English for the conduct of normal business activity. Many MSB sales outlet employees are more conversant with the

language of their origin and, therefore, the availability of instructions in various languages will assist in SAR outreach efforts.

**IV. The MSB Form Should Recognize the Realities of How MSB Services are Provided.**

In sum, the Group believes that the SAR program has been and will continue to be the most effective tool in the SBA recordkeeping and reporting arsenal to assist the government in combating money laundering and terrorist financing. To that end, the current MSB form should be retained and used by entities such as Group members since it accommodates the information available to such entities. A more streamlined “short form” MSB SAR form should be developed, perhaps as a further adaptation of the form proposed, for use by MSB retail sales outlets. The availability of two forms would recognize the different nature and character of MSB retail sales outlets and would enhance the effectiveness of the SAR program.

**V. Further Steps**

In light of the fact that the Bank Secrecy Act Advisory Group now has a dedicated non-bank subcommittee in place, perhaps this group or some other industry – government committee can assist in further fine-tuning of the short form SAR for use by retail sales “agents.”

Sincerely,

Ezra C. Levine

