BB&T

April 18, 2006

Financial Crimes Enforcement Network
RIN 1506-AA85
P.O. Box 39
Vienna, Va. 22183

Dear Sir or Madam:

BB&T Corporation is the parent company of Branch Banking and Trust Company and its affiliated banks and is currently the 9th largest financial holding company in the United States with assets exceeding $109 billion (collectively referred to as BB&T.) The Corporation owns various other non-bank subsidiaries, but for purposes of this advanced notice of proposed rulemaking, this letter represents comments on behalf of the affiliated banks.

BB&T appreciates the opportunity to participate in the rulemaking process and provide feedback to the very important issue of providing banking services to money services businesses (MSBs.) BB&T agrees with FinCEN that these non-bank financial institutions provide necessary financial services to a segment of the population that is widely unbanked. To deprive this segment of these services would have the unwanted outcome of driving the providers underground thus eliminating any element of transparency present in today's system. Despite the necessity of such services banks have been exiting and continue to exit relationships with MSBs citing BSA / AML concerns.

The regulators continue to exert a great deal of pressure on banks to identify their high-risk clients, and then to monitor their transactions. One category of high-risk clients identified by the regulators is MSBs. The difficulty in understanding, and then meeting the regulators' expectations has driven banks to choose not to bank any high-risk client, whether it is a MSB or other high-risk client such as embassies. Banks that do attempt to understand and meet these expectations are finding that the process is too costly to offset any risk posed by providing banking services to the industry.

First, there is the difficulty in identifying an MSB, whether it is a new or existing client. Not all MSBs have trade names that readily identify them as an MSB. In addition, many MSBs provide money services as ancillary products; that is, their primary business may be something other than an MSB (e.g., a grocery or liquor store.) At the time an account is established, many banks utilize a question and answer process to determine whether a potential client is a MSB. For those MSBs with federal requirements, this is a relatively easy task as the definitions are

uniform and straightforward. However, state requirements vary widely. It would be difficult, if not impossible, for a bank on a cost-effective basis to try to identify every MSB as defined by state regulation. To compound this problem, many clients whose primary business is something other than the provision of money services are unaware of the state requirements. Since the potential client is unaware that they may be defined as a MSB, during the account opening process they do not self identify.

For an existing client, banks can perform scrubs of their database using keywords such words as 'check' 'money.' This process will identify many MSBs, but not all. Once identified, then it is a manual process to notify the client of the bank's requirements, and then track information requests to resolution. This is a labor – intensive process, and therefore costly to the bank.

Once the client has been identified, high-risk clients are expected to undergo enhanced due diligence both at account opening and throughout the relationship. At account opening, the additional steps taken to conduct the due diligence are primarily manual, and are thus very costly. The ongoing tracking for such things as current licenses and updated policies is also a manual process. There is no way to automate the review of policies and procedures or third party independent reviews. Depending on the type of MSB, a bank could spend 15 – 30 hours annually for each account.

Many banks, including BB&T, use software to detect and monitor for suspicious transactions. However, not all MSBs are the same. The account activity for a check casher will be substantially different than that for a money transmitter. Even among similar types of MSBs, differences in regions will account for differences in account activity, as will differences in the additional types of products and services provided. A check casher located in Washington, DC will look different than a check casher in Wilson, NC. In the same way, a check casher that only cashes checks will look different than a check casher that is also a grocery store, income tax preparer, or a full service MSB.

Because the expectations from the regulators are so high, and the cost to the bank to meet these expectations is so high, banks are simply choosing to exit the relationships.

The April 2005 Joint Statement on providing services to MSBs stated that banks were not expected to be the de facto regulators of MSBs. However, if banks followed the guidance as written, this is what they become. They enforce State and Federal regulations by requiring proof of licensing, by ensuring an independent third party review is conducted, and requiring proof of adequate AML policies.

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FinCEN, in its advance notice of proposed rulemaking, requests comments on seven specific questions. BB&T's responses to those questions follows.

1. What requirements have banking institutions imposed on money services business to open or maintain account relationships since the issuance of the joint guidance?

BB&T requires MSBs to provide us with details of the business and expected account activity. This is collected at account setup and throughout the relationship. BB&T also requires proof of licensing and registration at the state and federal level, a copy of the written AML program, copies of training materials, and a third party independent review. The AML program must contain all of the required elements and include OFAC compliance.

BB&T reviews the information provided and may have additional questions. If this is the case, the account is not approved until those questions are resolved. In some cases, we may have questions about the quality of the third party review and require the MSB to engage a new review.

2. Describe any circumstances under which money services businesses have provided or have been willing to provide the information specified by the guidance, and yet have had banking relationships declined or closed.

If the information provided is inadequate, the account would be denied or the relationship terminated. If, after reviewing the information provided the client was deemed to pose an unacceptable level of risk, the account would be denied or the relationship terminated. If issues were noted in the third party review that were a cause for concern, the account would be denied or the relationship terminated.

Because of the risks to the bank previously discussed, BB&T is not accepting any new money transmitter accounts at this time.

3. Have Bank Secrecy Act related grounds been cited for why banking institutions have decided not to open, or have decided not to continue to maintain, account relationships for money services business since the issuance of the guidance?

If a prospect is unwilling or unable to provide information required by BB&T (similar to that provided in the guidance such as proof of state licensing), an account will be refused or a relationship will be terminated. The biggest impact the guidance has is on Mom and Pop organizations, especially those whose primary business is something other than the provision of money services. Many Mom and Pop organizations are unaware of state requirements, could not meet the

state standards or could not afford the fees, and could not afford a third party independent review.

The Bank Secrecy Act related issues from a banking perspective are that BB&T is not in a position to monitor high-risk MSBs in a cost-effective manner, and because of the increased regulatory focus on the detection and monitoring of suspicious activity, BB&T has chosen to exit businesses that we feel may be a source of regulatory criticism.

The focus of these decisions is not so much on perceived criticism of banking MSBs, but on the inability to understand the businesses and effectively monitor. The cost of due diligence and monitoring is prohibitive and, compared to the fear of criticism of inadequate monitoring systems, cannot be justified.

4. Would additional guidance (including, if applicable, clarification of existing guidance) to the banking industry regarding the opening and maintenance of accounts for money services businesses within the Bank Secrecy Act regulatory framework be beneficial? If so, what specifically should such guidance address?

Additional guidance in the form of more requirements will only add to the cost of servicing these accounts. For example, the April joint statement describes additional due diligence for high-risk MSBs. If additional guidance means providing guidance on due diligence for low-to-medium risk MSBs, then the additional guidance will have added to the already overly burdensome process by defining a process that had previously been left up to the bank.

If, on the other hand, additional guidance means providing guidance on suspicious activities, then additional guidance would be beneficial. Many of the activities identified as suspicious in the April guidance are 'know your customer' and not parameters that can be programmed into a monitoring system. If banks must rely on something other than automated systems for monitoring account activity, then the current trend of not banking MSBs will only get worse.

The level of guidance provided is not the real issue. The real issue is the level of expected due diligence and the requisite monitoring.

In order for banks to accept the risks associated with banking an MSB, then the regulators should consider a safe harbor provision. If a bank chooses to bank an MSB, follows the spirit of the guidance, and the MSB is later found to be laundering money or conducting other illegal activities, the bank needs to have the assurance that it will not be subject to regulatory criticism or enforcement orders simply for providing banking services to the MSB. Further, if the bank has a reasonable process to detect and report suspicious activity, then it should not be

subject to regulatory criticism or enforcement orders solely for the failure to report a specific transaction in that MSB's account.

5. Would additional guidance (including, if applicable, clarification of existing guidance) to money services businesses regarding their responsibilities under the Bank Secrecy Act as it pertains to obtaining banking services be beneficial?

Many small MSBs, primarily check cashers, are unaware of either state or federal requirements. The money services that they provide normally do not account for the majority of their income; the provision of check cashing, for instance, is not their primary business. Many of these are small, Mom and Pop operations and because their primary business is something other than the provision of money services, they do not belong to MSB trade associations. It would be beneficial for FinCEN, working with not only the MSB trade associations, but with the other trade associations such as grocery or convenience stores to strengthen existing educational outreach programs.

BB&T places a great deal of reliance on the adequacy of the third party independent review. Since the MSB, and not BB&T, is in the best position to monitor its own and its agents' activities, the testing of their controls is essential. It would be beneficial for FinCEN to stress the importance of internal controls and the necessity of a thorough third party independent review. Inadequacies discovered in a third party review could be cause for termination of an account.

The MSBs also need to understand they are responsible for policing their own agents or branches. If an internal or external review indicates that a branch or agent is structuring, then they must take immediate action. Weaknesses in this area will most certainly be cause for account closure or refusal to open an account.

6. Are there steps that could be taken with regard to regulation and oversight under the Bank Secrecy Act that could operate to reduce perceived risks presented by money services businesses?

Banks are unsure whether 'reasonable' to the bank will be 'reasonable' to the examiner. In a time when banks are being cited for an examiner's perception of an inadequate program, or for failing to follow every process in the examination manual, banks are taking the path of least resistance. Choosing not to bank an MSB is an example. As discussed earlier, a safe harbor policy that is uniform not only in Washington, but in the field, may give banks the assurance they need. If a bank establishes a MSB relationship, applies the risk-based procedures in the guidance, and then knows it will not be criticized for the MSB's non-compliance,

or second-guessed as to its risk assessment of the MSB, then banks may once again enter this business.

Many banks simply do not have an understanding of the nature of a money services business. By the same token, MSBs may be unaware of the pressures banks are under for BSA / AML compliance. Educational outreaches could be beneficial in bridging this gap.

7. Since the March, 2005, hearing and the issuance of guidance in April, 2005, to banks and to money services businesses, has there been an overall increase or decrease in the provision of banking services to money services businesses? Please offer any thoughts as to why this occurred.

Prior to the issuance of the guidance, BB&T had policies and procedures in place for MSB due diligence and monitoring. Since the issuance of the guidance, this process has been enhanced, based on perceived expectations. BB&T has closed a number of accounts since that issuance, but not necessarily directly related to the guidance. We do, however, expect as these enhanced processes are applied to our existing client base that many more accounts will be closed. Likewise, there will be a larger number of clients that will not meet our requirements and the relationship will be refused.

For the first time FinCEN, through this guidance, established an expectation that banks should obtain and monitor all licenses and registration, whether state or federal. For a multi-state operation, having a working knowledge of state requirements throughout our footprint, and indeed even nationwide, is a monumental, if not impossible, task. The verification of proper licensing and registration is a manual task, and may well be a deterring factor in the future.

BB&T appreciates the opportunity to provide FinCEN with its comments. These comments are presented to help FinCEN understand the continued pressures banks face when providing services to high-risk clients, in particular MSBs.

Sincerely,

Sherryl McDonald

Sherryl McDonald
Senior Vice President
BB&T BSA / AML Management