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This is a reply to the request for public comment issued on March 10 2006 by the Financial Crimes Enforcement Network Division of the US Treasury.

It appears to me that the concerns of the banks and other depository institutions could be alleviated by the imposition by FINCEN of increased enforcement in the MSB community of the requirements of the BSA.

Specifically, MSBs should be encouraged, if not required, to demonstrate the existence and nature of their BSA/AML program. Registered MSBs should, as part of their registration and/or bi-annual renewal of registration, have to submit their written BSA/AML program to FINCEN. FINCEN should then review each submitted plan, and publicly certify approval of those MSBs whose program meets acceptable standards.

Banks would then be able to have confidence to do business with MSBs whose commitment to BSA/AML compliance was publicly certified; and, as importantly, MSBs would have an enormous incentive to register with FINCEN and demonstrate that they meet their compliance responsibilities, or face de-facto blacklisting (with good reason) by depository institutions. It would be a virtuous circle: the more rigorous the standard, the more confidence depository institutions could have in establishing and maintaining business relationships with MSBs, and the more pressure would be applied through market forces on unregistered MSBs to meet their responsibilities under the law to fight money laundering.

As part of the certification process, I respectfully suggest that FINCEN consider publishing requirement specifications for software systems for use by MSBs in assisting their compliance with the BSA. That would encourage software providers to design custom software for that purpose.

Making sure that MSBs are "up to code" on the BSA is in everyone's best interest, including the MSBs themselves. MSBs are in fact possibly the most important area of the financial system for purposes of the Bank Secrecy Act, and it is time that FINCEN officially targets the MSBs for the regulatory attention that they urgently require. By setting up a "compliance certification" program for MSBs, FINCEN can set loose market forces that will create a culture of voluntary registration and BSA compliance in the MSB industry.

Thank you,

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