



# Audit Report



OIG-08-033

**BANK SECRECY ACT: FinCEN Has Taken Action to Improve Its Program to Register Money Services Businesses (Corrective Action Verification on OIG-05-050)**

April 25, 2008

Office of  
Inspector General

Department of the Treasury



# Contents

---

<b>Audit Report</b> .....	1
Background .....	2
Objective, Scope, and Methodology.....	2
Corrective Actions Taken by FinCEN.....	3

## Appendices

Appendix 1: Management Response .....	6
Appendix 2: Report Distribution.....	7

## Abbreviations

FinCEN	Financial Crimes Enforcement Network
IRS	Internal Revenue Service
JAMES	Joint Audit Management Enterprise System
MSBs	Money Services Businesses
ODCFO	Office of Deputy Chief Financial Officer

**This Page Intentionally Left Blank**

---

*The Department of the Treasury  
Office of Inspector General*

April 25, 2008

James H. Freis, Jr., Director  
Financial Crimes Enforcement Network

This report presents the results of our review of corrective actions taken by the Financial Crimes Enforcement Network (FinCEN) in response to two recommendations in our September 2005 report on FinCEN's Money Services Businesses (MSBs) registration program.<sup>1</sup> These recommendations were for FinCEN to (1) develop and implement a strategy to take enforcement actions against unregistered MSBs and (2) clarify the dollar transaction threshold for MSB designation. The two recommendations were closed in March and May 2006, respectively, in Treasury's Joint Audit Management Enterprise System (JAMES). In closing the recommendations, FinCEN indicated that it had implemented, documented, and validated the corrective actions taken in response to the recommendations.

To address the recommendations, FinCEN developed a strategy to identify unregistered MSBs and coordinate regulatory actions, and issued guidance on MSB registration and deregistration that defines the dollar transaction threshold for MSB designation more clearly. Therefore, we believe that FinCEN addressed the intent of our recommendations. In addition, FinCEN is in the process of reviewing its regulatory framework for MSBs and expects to further assess the current dollar transaction threshold.

---

<sup>1</sup> Finding 3, Recommendation 2, and Finding 4, Recommendation 3, in *Bank Secrecy Act: Major Challenges Faced by FinCEN in Its Program to Register Money Services Businesses*, OIG-05-050 (Sept. 27, 2005).

---

## Background

According to Office of Management and Budget Circular A-50, audit follow-up is an integral part of good management and a shared responsibility of management and auditors.<sup>2</sup> Each agency, the circular states, should establish an audit follow-up system to assure the prompt and proper resolution and implementation of audit recommendations. Treasury requires bureau staff to ensure that (1) audit recommendations are resolved on a timely basis; (2) resolved audit recommendations (i.e., those agreed to by bureau management) are promptly acted upon and that progress with respect to proposed and ongoing corrective actions is adequately monitored; and (3) statistical information and other data are appropriately reported pursuant to all statutory and regulatory requirements.<sup>3</sup>

At the departmental level, the status of audit recommendations is tracked in JAMES, an interactive system accessible to both the Treasury Office of Inspector General and bureau management. JAMES contains tracking information on audit reports from their issuance through completion of all actions related to the findings and recommendations. At the bureau level, FinCEN uses its own internal tracking process, which contains more detailed information than JAMES.

FinCEN's Office of Deputy Chief Financial Officer (ODCFO) coordinates developing FinCEN's responses to audit findings and recommendations. ODCFO's assistant director validates the planned corrective actions developed by responsible program officials, and ODCFO staff track implementation of the planned corrective actions and document the process. Before closing a recommendation, ODCFO staff review supporting documentation regarding the corrective action.

## Objective, Scope, and Methodology

The objective of this corrective action verification was to determine whether FinCEN management had taken corrective actions

---

<sup>2</sup> Office of Management and Budget Circular A-50, revised, "Audit Followup" (Sept. 29, 1982).

<sup>3</sup> Treasury Directive 40-03, "Treasury Audit Resolution, Follow-Up, and Closure" (Feb. 2, 2005).

---

responsive to the intent of two recommendations that we made in our September 2005 report to improve FinCEN's MSB registration program.<sup>4</sup>

We met with a staff member from FinCEN's ODCFO to understand how recommendations in JAMES are monitored. We obtained and reviewed supporting documents to determine whether implementation of the planned corrective actions was adequate. We queried JAMES to review the status of the recommendations.

We conducted our review from August 2007 to October 2007 at FinCEN headquarters in Vienna, Virginia, in accordance with generally accepted government auditing standards.

## **Corrective Actions Taken by FinCEN**

*Prior Recommendation 2. The Director of FinCEN should develop and implement a strategy to take enforcement actions when appropriate, including working with the Internal Revenue Service (IRS) and the states to ensure timely and quality referrals of unregistered MSBs are made.*

In response to Recommendation 2, FinCEN developed a strategy in May 2006 to address the challenges posed by developing and administering a Bank Secrecy Act regulatory framework for the MSB industry. In it, three strategic objectives were identified with specific tasks to be accomplished. The second strategic objective—identify unregistered MSBs and coordinate appropriate regulatory actions—directly addressed the recommendation. FinCEN developed several specific tasks to meet the strategic objective and made efforts to accomplish the tasks.

In particular, FinCEN worked with law enforcement agencies, including IRS, and analyzed Suspicious Activity Reports to identify

---

<sup>4</sup> The September 2005 audit report contained three recommendations. Recommendation 1 was to develop and track performance indicators that measure how registration is enhancing Bank Secrecy Act compliance by the MSB industry. We excluded this recommendation because FinCEN will define a performance measure for the FY 2008 budget and will establish the baseline in FY 2008.

---

unregistered MSBs. FinCEN identified 5,776 entities as possible unregistered MSBs from Suspicious Activity Reports accumulated from September 2002 through November 2007, and Immigration and Customs Enforcement identified 67 entities as possible unregistered MSBs. In addition, since September 27, 2005, the date of our original report, through January 31, 2008, FinCEN received seven referrals from IRS for failure to register or renew registration. We believe that FinCEN addressed the intent of our recommendation.

Prior Recommendation 3. *The FinCEN Director should assess whether the guidance on the dollar transaction threshold definition of an MSB requires clarification so as to reduce the risk of misinterpretation.*

In response to Recommendation 3, FinCEN issued guidance in February 2006 concerning MSB registration and deregistration, in which the dollar transaction threshold definition of an MSB was more clearly made. We therefore believe that FinCEN addressed the intent of our recommendation. It should be noted that concurrent with the issuance of the guidance, FinCEN initiated a broader review of the regulatory framework for MSBs and expects to further assess the current dollar transaction threshold.

### **Management Response**

In a written response to our draft report, (Appendix 1), the Director of FinCEN noted the report's findings as reinforcing the bureau's commitment to strengthening the administration of the Bank Secrecy Act with respect to MSBs through its outreach and collaborative efforts. He stated that FinCEN recognizes the importance of maintaining a continuing dialogue with each of the financial industries subject to the Bank Secrecy Act, and cited its achievements regarding the MSB registration.

\* \* \* \* \*

We would like to extend our appreciation for the cooperation and courtesies extended to our staff during the review. If you have any



---

questions, please contact me at (202) 927-6512. The major contributor to this report was Myung Han, Management Analyst.

Michael J. Maloney  
Director, Fiscal Service Audits

Appendix 1  
Management Response

---

April 18, 2008

**MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FREEDMAN**

**FROM:** James H. Freis, Jr. /s/  
**SUBJECT:** *Management Response to the Draft Audit Report – Corrective Action Verification on FinCEN's MSB Registration Program*

Thank you for providing a copy of the Office of the Inspector General's assessment of the Financial Crimes Enforcement Network's (FinCEN's) efforts related to the money services business (MSB) registration program. The audit report's findings reinforce the bureau's commitment to strengthening FinCEN's administration of the Bank Secrecy Act (BSA) with respect to MSBs through outreach to the MSB industry as well as collaboration with the Internal Revenue Service (IRS) and relevant state authorities to ensure timely and quality referrals of unregistered MSBs.

FinCEN recognizes the importance of maintaining a continuing dialogue with each of the financial industries subject to the BSA. As cited in the audit report, FinCEN has implemented a strategy to identify unregistered MSBs and coordinate regulatory actions, and has also issued guidance on MSB registration and deregistration. Other recent examples of FinCEN outreach to the MSB industry include interpretive guidance and administrative rulings regarding whether certain types of service providers are MSBs subject to the BSA,<sup>1</sup> an MSB registration renewal calculator, and educational brochures in multiple languages. Beyond these efforts, FinCEN is assessing the current MSB regulatory framework and anticipates proposing appropriate revisions to BSA implementing regulations for purposes of clarity.

If you have any questions, please contact Becky Martin, Assistant Director, Office of Financial Management, on 703-905-3860.

---

<sup>1</sup> See, e.g., FIN-2007-G006 – Application of the Definition of Money Services Business to Certain Owner-Operators of Automated Teller Machines Offering Limited Services (12/3/07); FIN-2007-R002 – Whether a Business that Cashes Checks Payable to Customers to Apply Proceeds to the Repayment of Customers' Obligations is a Money Services Business (11/15/07); FIN-2007-R001 – Whether a Publicly Traded Company that Cashes its own Checks Issued to Loan Customers is a Money Services Business (11/15/07). To access these documents, go to [www.msb.gov](http://www.msb.gov)

**Department of the Treasury**

Under Secretary, Office of Terrorism and Financial Intelligence  
Assistant Secretary, Terrorist Financing and Financial Crimes  
Office of Strategic Planning and Performance Management  
Office of Accounting and Internal Control

**Financial Crimes Enforcement Network**

Director  
Associate Director, Regulatory Policy and Program Division  
Assistant Director, Deputy Chief Financial Officer

**Office of Management and Budget**

OIG Budget Examiner