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**From:** James Russell [jrussell@bankfranklin.com]  
**Sent:** Thursday, May 04, 2006 3:36 PM  
**To:** Comments, Regulation  
**Cc:** sasfil@fdic.gov; ccollier@fdic.gov  
**Subject:** RIN 1506-AA85

Regarding proposed rules concerning MSBs.

Respectfully, this is sounding very ridiculous. The specific and only reason financial institutions are leery of accepting or keeping MSBs as customers is because examiners (including FDIC, OCC, Fed, and state) are telling bankers not to bank MSBs. As a bank consultant with a lot of contact with a variety of examiners in Texas (including FDIC, OCC, Fed, and state), I have heard examiners make comments like: 1) "If you have MSBs we are going to use the expanded BSA exam procedures.", 2) "MSBs are automatically high-risk customers and we are going to look at them very closely.", 3) "We can't tell you who you can or cannot have as a customer, but you better know what you are doing if you have an MSB customer.", 4) "Are MSBs really worth the risk?", 5) "If your not charging MSBs a minimum of \$1,000 a month service fee, your going to be losing money." At an April 6, 2005 FDIC sponsored conference in Austin, Texas (even after your 3-30-05 published guidance on MSBs), the panel (mostly regulators) was sometimes directly and sometimes by innuendo suggesting that MSBs are not worth the risk.

I recently took a job at a \$4 billion bank. We were fortunate to have a lead BSA examiner that was knowledgeable on MSB issues and she gave us a very fair exam and good BSA advice during the exam. We have no complaints. However, we did have four examiners for four weeks onsite. That is a lot of onsite man-hours and does not include the offsite work involved in the exam. While we got generally positive feedback regarding our BSA program, BSA dominated the Examination Report. With this amount of emphasis on BSA, it would seem to be reasonable to assume that banks would want to do whatever possible to reduce BSA risk – possibly eliminating MSBs as customers. The BSA Risk Assessment that your examination staff asked us to prepare served to highlight the fact that MSBs were high risk accounts. Isn't the purpose of a risk assessment to minimize risk? What better way to minimize our overall BSA risk.

We definitely do not need additional BSA regulations. Believe me when I say that your 331 page BSA Exam Manual is enough. What we really need is more examiner training. Although my bank had a well-trained and helpful examiner, we were the exception rather than the rule. We need examiners willing to 1) provide suggestions to bankers on monitoring techniques, 2) provide suggestions to bankers on how MSBs can be "good" customers, and 3) provide suggestions to bankers on what to watch out for with regard to MSBs.

I am not writing as a representative of a particular bank. I worked for the FDIC for ten years and as a consultant for ten years. And, currently I am a bank employee and BSA Officer of a large bank. As a former regulator (I still think of myself as a regulator), I would welcome the opportunity to work with your team and or provide any comments that can smooth over this issue.

Thanks.

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The above are my personal comments and not the comments of the institution I work for.

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5/10/2006

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