



(This Newsletter is a quarterly publication containing topics of interest to the categories of MSBs regulated by the Georgia Department of Banking and Finance. We hope that you will find this publication to be informative and valuable for providing information about the issues affecting your industry. If there are any issues you would like for the Department to highlight or address in future editions, please e-mail your questions or suggestions to [dbfmort@dbf.state.ga.us](mailto:dbfmort@dbf.state.ga.us).)

## REGULATORY MATTERS

### License Renewals

August 1, 2006, is the due date for filing for renewal of your check cashing licenses and registrations for the **FY2007 (October 1, 2006 to September 30, 2007)** licensing and registration period with the Department. Notices and renewal forms will be mailed beginning in July.

Beginning with this FY2007 renewal period, licensees and registrants may either renew using an on-line Internet based renewal application, or complete the written application form supplied with the renewal notice. Hardcopy applications will no longer be used beginning with the **FY2008** (October 1, 2007 to September 30, 2008) renewal period. At that time all renewals must be completed on-line. **Supporting Documentation Must Be Mailed In Under Separate Cover.** A cover sheet is provided on-line or in the hard-copy application for your use.

The system requires a **user ID** (your license/registration number) and **password**. These will be supplied with your application. The internet links are noted below, in your renewal notice, and are available directly from the DBF website at [http://www.ganet.org/dbf/other\\_forms.html](http://www.ganet.org/dbf/other_forms.html). Note in the box below that there are **two** different web sites, depending upon whether you are a **LICENSEE** or **REGISTRANT**. Choose the proper link for your approval type, access the Department's secure applications server, and enter your license number and the password supplied in your renewal notice. Contact the Department if you lose your password. **On-line payments** may be made by drafts of your checking account (ACH draft) or by Visa® or MasterCard®. You may also submit a check along with the completed **payment** sheet from the on-line system.





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Requirements	Access Information
Full Service LICENSE Renewal Website	<a href="https://bkqfin.dbf.state.ga.us/FY2007RenewalCCLicense.html">https://bkqfin.dbf.state.ga.us/FY2007RenewalCCLicense.html</a>
REGISTRATION Renewal Website	<a href="https://bkqfin.dbf.state.ga.us/FY2007RenewalCCRegister.html">https://bkqfin.dbf.state.ga.us/FY2007RenewalCCRegister.html</a>
User ID	<b>Your License Number</b>
Password	<b>Password Provided in Renewal Notice Letter</b>
Full Service LICENSE Renewal Form	 
REGISTRATION Renewal Form	 

PLEASE complete your renewal on-line. These are processed faster due to user data entry.



## **Prohibition On The Hiring Of Felons**

It is unlawful for licensees or registrants to have as policy making persons, officers, employees, or **agents**, persons who have felony convictions in their MSB related business – not just SUPERVISORY employees, but ANY of these officers, employees or agents, as noted in the following applicable code sections:

### **Check Cashers**

**Code Section 7-1-702. Background investigation; effect of past convictions; conviction data; license posting requirements; term of license.** (Restricts the hiring of felons in check cashing businesses, specifically in the following paragraph of that Section):

**(b) “The department shall not issue such a license if it finds that the applicant, or any person who is a director, officer, partner, agent, employee, or substantial stockholder of the applicant, has been convicted of a felony involving moral turpitude in any jurisdiction or of a crime which, if committed within this state, would constitute a felony involving moral turpitude under the laws of this state...”**

### **Money Transmitters/Check Sellers**

**7-1-682. Qualifications of licensees; investments required.** (Restricts the hiring of felons in money transmission and sale of check businesses, specifically in the following paragraph of that Section):

**(c) “The department shall not issue such license if it finds that the applicant or any person who is a director, officer, partner, agent, employee, or substantial stockholder of the applicant has been convicted of a felony involving moral turpitude in any jurisdiction or of a crime, which if committed within this state would constitute a felony involving moral turpitude under the laws of this state..”**

Also note the following penalties in the Department’s regulations for failure to meet the requirements noted above. Fines and/or revocation of a license/registration are possible administrative actions, depending on the circumstances.

### **80-3-1-.07 Administrative Fines and Penalties.**

#### **(1) Check Cashers.**

(e) “Any licensee that hires an employee who is a felon as described in §7-1-702(b), when such employee has not complied with the remedies provided for in §7-1-702(b) for each conviction, may be fined \$1,000 for each such employee and their license will be subject to revocation or suspension.”

#### **(2) Check Sellers and Money Transmitters.**

(c) “Any licensee that hires an employee who is a felon as described in §7-1-682(c), when such employee has not complied with the remedies provided for in §7-1-682(c) for each conviction before such employment, may be fined \$1,000 for each such employee and their license will be subject to revocation or suspension.”

It is important to note that if a remedy for the felony conviction has been obtained, such as where the conviction or plea of guilty is set aside, reversed, or otherwise abrogated by lawful judicial process, a pardon is obtained, or, in the case of a first offender plea, both the probation and sentence have been successfully completed and documented as noted in the applicable code sections, a person may be employed. However, problems tend to arise because licensees and registrants ARE NOT checking to determine if their policy makers, officers, employees (not just **supervisory** employees), or agents have criminal felony convictions. Forms to use for obtaining background checks are available on the Department’s website at [http://www.ganet.org/dbf/other\\_forms.html](http://www.ganet.org/dbf/other_forms.html) .



During an examination, Department examiners will review your employee files for evidence that a proper background investigation was conducted for these individuals to ensure compliance with these statutes. If it is found that investigations were not conducted this will be noted in the report. However, should it be determined that an employee has a felony conviction and none of the remedies have been obtained, then the licensee will be fined \$1,000 for the violation. In addition, should it also be determined that an employee, officer, director, agent, etc. as noted in the code sections, has a felony conviction, then the license is subject to revocation, and the appropriate administrative action will be taken depending upon the circumstances.

## **IN THE NEWS**

### **FinCEN Advance Notice of Proposed Rulemaking (ANPR)**

As the Department previously submitted for your review, please find included in this newsletter the notice **FinCEN Advance Notice of Proposed Rulemaking (ANPR)** related to MSBs. FinCEN is seeking input from MSBs regarding the impact of the Bank Secrecy Act on their ability to, among other things, open and maintain accounts at financial institutions. *Section II. Issues for Comment* of the ANPR asks for your input on seven questions related to banking relationships. Your comments should be sent to FinCEN, **identified by FinCEN RIN 1506-AA85**, by any of the following methods:

- Federal E-rulemaking Portal:  
<http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail:  
[regcomments@fincen.treas.gov](mailto:regcomments@fincen.treas.gov). Include RIN 1506-AA85 in the subject line of the message.
- Mail: Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Include RIN 1506-AA85 in the body of the text.

It is preferable for comments to be submitted by electronic mail because paper mail in the Washington, DC area may be delayed. Please submit comments by one method only. All submissions received must include the agency name (FinCEN) and the Regulatory Information Number (RIN 1506-AA85) for this rulemaking. All comments received will be posted without change to <http://www.fincen.gov>. The department would also appreciate a copy of your comments sent to [dbfmort@dbf.state.ga.us](mailto:dbfmort@dbf.state.ga.us). Thanks to those of you who have already responded to the request and provided your comments.

Several Georgia MSB licensees have expressed frustration regarding their inability to maintain bank accounts solely because of the nature of their business. We provide this notice as a means and encouragement for you to communicate your concerns and experiences directly to FinCEN. **Comments are due to FinCEN no later than July 10, 2006.** The Advanced Notice of Proposed Rulemaking can be found at: [http://www.fincen.gov/anprm\\_on\\_msb.pdf](http://www.fincen.gov/anprm_on_msb.pdf).

#### **Upcoming Meetings:**

Deputy Commissioner for Non-Depository Financial Institutions Rod Carnes and Supervisory Manager of MSBs Joel Byers will be speaking at the MSBGA Conference to be held at the Gwinnett Convention Center on July 28<sup>th</sup>, 2006.



**Department Issues Proposed Rules for Comment** - June 20, 2006

Pursuant to the provisions of the Georgia Administrative Procedures Act, Official Code of Georgia Annotated (O.C.G.A.) Chapter 50-13 and by authority of O.C.G.A. § 7-1-61, O.C.G.A. § 7-1-663; O.C.G.A. § 7-1-1012, and other cited statutes, the Georgia Department of Banking and Finance hereby gives notice of its intent to adopt new and amended rules. The proposed changes may be downloaded from <http://www.gadbf.org/bulletins.html#Rules>

The proposed changes are in part responsive to law changes in the 2006 Legislation. A synopsis and purpose precedes each proposed rule, with background information and explanation where applicable.

Comments to the Department of Banking and Finance must be received by **August 3, 2006**, at the close of business. Please send all comments to:

Rob Braswell, Commissioner  
Georgia Department of Banking and Finance  
2990 Brandywine Road, Suite 200  
Atlanta, GA 30341-5565  
Fax: (770) 986-1654 or 1655

The Department will review all comments, may contact commenters to discuss their suggestions, and after the comment period has closed will prepare the final rules. The Department will consider the proposed new rules for adoption at a meeting at 10:00 a.m. on Monday, August 20, 2006 at the offices of the Department of Banking and Finance at Suite 200, 2990 Brandywine Road, Atlanta, Georgia 30341. Notice and a copy of the final rules adopted will be made available on our website at <http://www.gadbf.org>.

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**ACTION ON APPLICATIONS DURING THE PREVIOUS QUARTER**

**APPROVED CHECK CASHERS (License/Registration)**

LicNUM	Applicant Name	DBA	City	Approved
21341	Susie Q's, Inc.	Susie Q's	Thomasville	04/10/2006
21382	Shri Hari, Inc.	GN Food Mart	Cordele	04/10/2006
21401	McDaniel Mart Corporation	US News Stand	Duluth	04/10/2006
21403	RJ&B Investments, Inc.	Welcome Pantry 2	Jonesboro	04/13/2006
21404	Garcia, Hipolito	Costa de Jalisco #2	Athens	04/13/2006
21416	Yamuna-Krupa, Inc.	R & R Beer & Tobacco	Calhoun	04/14/2006
21422	JTL, Inc.	Warehouse Package	Valdosta	04/17/2006
21431	Han, Kwi Choi	CK Food Store	Augusta	04/19/2006
21437	Hope Tax Service, LLC		Atlanta	04/27/2006
21483	ARB Check Cashers		Atlanta	05/08/2006
21354	Ranv, Inc.	BP Food Shop	Atlanta	05/09/2006
21402	Bowdoin's Grocery & Service Station, Inc.	Bowdoin's	Juliette	05/09/2006
21423	Sharon Package Store, Inc.	Skyland Point Bottle Store	Atlanta	05/09/2006
21439	Lyons Open Air Market, Inc.		Lyons	05/09/2006
21440	Reyes, Saul	Reyes Enterprises	Gainesville	05/11/2006



**APPROVED CHECK CASHERS (Continued)**

LicNUM	Applicant Name	DBA	City	Approved
21482	Dipken, LLC	Empire Food Mart	Atlanta	05/11/2006
21484	GCSC, Inc.	Citgo Food Mart	Hapeville	05/11/2006
21494	Fuller, Jimmy	Joes Package Shop	Savannah	05/11/2006
21499	SAR 2, Inc.	BP Food Mart	Atlanta	05/11/2006
21508	NUR Enterprises, Inc. #1	Stop N Shop Food Mart	College Park	05/11/2006
21475	Waits, Stacy Maddox	42 South Tire & Auto	Jackson	05/16/2006
21485	Jagnath, Inc.	Citgo Food Mart	Marietta	05/16/2006
21486	GCSC 2, Inc.	Citgo Food Mart	Alpharetta	05/16/2006
21481	Shim, In Sub	Shields Grocery	Decatur	05/19/2006
21524	Gurudev, Inc.	Midtown Minit Mart	Lakeland	05/22/2006
21527	Super Mercado Chicago, Inc.	Chicago Supermarket	Doraville	05/22/2006
21523	Anshoya Food Market of Jesup, Inc.	Country Corner	Jesup	05/25/2006
21531	Triple H Investments, Inc.	J's Wine & Spirits	Thomasville	05/25/2006
21532	Zaman Enterprise, Inc.		Norcross	05/25/2006
21550	Chailim, Inc.	First Express	Duluth	05/25/2006
21551	Jateen Corporation	King Foods Mart	Macon	05/26/2006
21555	Lee, Yon J.	Check Cash One	Lawrenceville	05/31/2006
21560	Food Basket, Inc.	Food Basket	Marietta	05/31/2006
21328	Christine Kwon Enterprises, Inc.	World Star Mart	Atlanta	06/01/2006
21525	Young's Palmetto, Inc.	Palmetto One Stop	Palmetto	06/01/2006
21526	Giant Consulting, LLC	Spritzer's Package	Tucker	06/01/2006
21530	Tanish Enterprises, Inc.	Douglasville Package Store	Douglasville	06/01/2006
21561	Choice Check Cashing, Inc.	Choice Check Cashing	Norcross	06/01/2006
21480	Brothers Food Store	Brothers Food Store	Omega	06/02/2006
21495	KVS Gas, Inc.	Anglers Corner	Doraville	06/02/2006
21567	HJK Group, Inc.	Avondale Package Store	Avondale Estates	06/02/2006
21529	Lim, Kyu J.	Q's Check Cashing	Garden City	06/09/2006
21581	ANB Enterprises, Inc.	Community Grocery	Conyers	06/09/2006
21582	Abusalameh, Aiman	Penny Saver	Savannah	06/09/2006
21583	Meladi Corporation	PK Food Mart	Warner Robins	06/09/2006
21604	JMC Food, Inc.	Quick Mart	Conyers	06/19/2006
21607	NSM, Inc.	Quick Stop Food Mart	Forest Park	06/19/2006
21613	Cash Any Time, Inc.	Cash Any Time	Lawrenceville	06/19/2006
21615	Mencias, Marcos	La Fuente Musical	Forest Park	06/19/2006
21327	Jay Gopal, Inc.	Brookwood Stop & Shop	Dublin	06/20/2006
21521	Hanna, Joseph E.	Joe's Check Cashing	Douglas	06/20/2006
21522	Georgia Peach Financial & Fast Tax Services, Inc.	Georgia Peach Financial & Fast Tax Services	Atlanta	06/22/2006



## **APPROVED MONEY TRANSMITTERS**

LicNUM	Applicant Name	DBA	City	State	Approved
21568	BB Credit, Inc.	BB Money Transfers	Marietta	GA	06/16/2006

## **Department Contact Information**

NAME	E-MAIL ADDRESS	PHONE#
Melinda Kinard, Director of Money Service Businesses and Mortgage Licensing	<a href="mailto:mkinard@dbf.state.ga.us">mkinard@dbf.state.ga.us</a>	770-986-1649
Joel Byers, Supervisory Manager - Money Service Businesses (MSBs)	<a href="mailto:byers@dbf.state.ga.us">byers@dbf.state.ga.us</a>	770-986-1656
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2990 Brandywine Road, Suite 200  
Atlanta, GA 30341-5565

**Website:** <http://www.gadbf.org>

**Phone & Fax Numbers:** Phone: (770) 986-1633 or  
**Toll Free:** (888) 986-1633  
Fax: (770) 986-1655 or 1029



## **E-MAILING THE DEPARTMENT**

The Department would like to encourage you to correspond with us using e-mail. Providing written details in the e-mail regarding any questions or concerns you may have allows the Department to forward the request to the appropriate person who handles that area, and if sufficient details are included in the request, that person can then more efficiently provide you an answer. The main Division e-mail address is [dbfmort@dbf.state.ga.us](mailto:dbfmort@dbf.state.ga.us)

In the event you still need additional information or you do not receive a timely response to your e-mail, please contact us by phone.

**NOTE:** This publication is delivered to interested parties via e-mail and is also available from the Department's website at: <http://www.gadbf.org> under Publications, Bulletins. If you would like to be added to our distribution list, please send an e-mail to [dbfcorp@dbf.state.ga.us](mailto:dbfcorp@dbf.state.ga.us) and indicate your name, the company you are with, license or registration # (if applicable), and phone number.



**DEPARTMENT OF THE TREASURY****31 CFR Part 103**

RIN 1506-AA85

**Financial Crimes Enforcement Network; Provision of Banking Services to Money Services Businesses**

**AGENCY:** Financial Crimes Enforcement Network, Department of the Treasury.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** We are issuing this advance notice of proposed rulemaking (“Advance Notice”) as a part of our ongoing effort to address, in the context of the Bank Secrecy Act, the issue of access to banking services by money services businesses. Both the banking industry and the money services business industry have expressed concerns with regard to the impact of Bank Secrecy Act regulations on the ability of money services businesses to open and maintain accounts and obtain other banking services at banks and other depository institutions. Due to the concerns about the effect of regulatory requirements on the provision of banking services to money services businesses, we, through the Non-bank Financial Institutions and the Examinations subcommittees of the Bank Secrecy Act Advisory Group, held a fact-finding meeting on March 8, 2005, to hear directly from banks, other depository institutions, and money services businesses concerning the challenges that they face on this issue.

Subsequent to the fact-finding meeting, we took a number of steps to address the concerns raised by these industries, including working together with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision (collectively, the “Federal Banking Agencies”) to issue guidance, which was incorporated into the June 2005 Federal Financial Institutions Examination Council Bank Secrecy Act/ Anti-Money Laundering Examination Manual. We understand that many banks and other depository institutions (collectively, “banking institutions”) remain wary of dealing with money services businesses, and that money services businesses continue to experience difficulties in obtaining and maintaining bank accounts and other banking services.

This Advance Notice solicits updated facts and recommendations regarding

the extent to which ongoing concerns are based in the Bank Secrecy Act, and regarding what additional guidance or regulatory action under the Bank Secrecy Act, if any, would be appropriate to address these concerns.

**DATES:** Written comments may be submitted on or before May 9, 2006.

**ADDRESSES:** You may submit comments, identified by RIN 1506-AA85, by any of the following methods:

- *Federal E-rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *E-mail:* [regcomments@fincen.treas.gov](mailto:regcomments@fincen.treas.gov). Include RIN 1506-AA85 in the subject line of the message.
- *Mail:* Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Include RIN 1506-AA85 in the body of the text.

*Instructions:* It is preferable for comments to be submitted by electronic mail because paper mail in the Washington, DC area may be delayed. Please submit comments by one method only. All submissions received must include the agency name and the Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to <http://www.fincen.gov>, including any personal information provided. Comments may be inspected at the Financial Crimes Enforcement Network between 10 a.m. and 4 p.m. in the reading room in Washington, DC. Persons wishing to inspect the comments submitted must request an appointment by telephone at (202) 354-6400 (not a toll-free number).

**FOR FURTHER INFORMATION CONTACT:** Regulatory Policy and Programs Division, Financial Crimes Enforcement Network at (800) 949-2732 (toll-free number).

**SUPPLEMENTARY INFORMATION:****I. Background**

The Bank Secrecy Act authorizes the Secretary of the Treasury to issue regulations requiring all financial institutions (as defined therein) to maintain records or file reports that are determined to have a high degree of usefulness in criminal, tax, or regulatory investigations, or in the conduct of intelligence or counter-intelligence activities, including analysis, to protect against international terrorism, or to implement counter-money laundering programs and compliance procedures. The Secretary’s authority to administer the Bank Secrecy Act has been delegated to the Director of the Financial Crimes Enforcement Network.

The Bank Secrecy Act defines currency exchangers; issuers, redeemers, or cashiers of travelers’ checks, checks, money orders, or similar instruments; the United States Postal Service; and persons involved in the transmission of funds (collectively, “money services businesses”) as financial institutions for purposes of the Act.<sup>1</sup> Regulations issued by the Financial Crimes Enforcement Network further define the universe of money services businesses.<sup>2</sup>

Like other financial institutions under the Bank Secrecy Act, money services businesses are required to: establish written anti-money laundering programs pursuant to section 352 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Pub. L. No. 107-56 (the PATRIOT Act);<sup>3</sup> file Currency Transaction Reports<sup>4</sup> and Suspicious Activity Reports (for certain money services businesses);<sup>5</sup> maintain certain records with regard to customers who purchase monetary instruments with cash;<sup>6</sup> maintain certain records with regard to currency dealing or exchange;<sup>7</sup> and record and retain certain information about funds transfers and include certain information in the transmittals of orders for such funds transfers.<sup>8</sup> Money services businesses also are required to register with the Department of the Treasury<sup>9</sup> and are examined for Bank Secrecy Act compliance by the Internal Revenue Service.<sup>10</sup>

In response to concerns expressed by both money services businesses and banking institutions, on March 8, 2005, we, through the Non-bank Financial Institutions and the Examinations subcommittees of the Bank Secrecy Act Advisory Group, held a fact-finding meeting on the following issues: (1) Specific challenges and issues encountered by money services businesses in obtaining banking services; (2) specific challenges and issues encountered by banking institutions seeking to provide banking services to money services businesses; (3) the understanding at that time by banking institutions of the various activities undertaken by money services businesses and how they may present different levels of risk; and (4) the

<sup>1</sup> 31 U.S.C. 5312(a)(2)(j), (k), (r), and (v).

<sup>2</sup> 31 CFR 103.11(uu).

<sup>3</sup> 67 FR 21114 (Apr. 29, 2002); 31 CFR 103.125.

<sup>4</sup> 31 CFR 103.22.

<sup>5</sup> 65 FR 13683 (Mar. 14, 2000); 31 CFR 103.20.

<sup>6</sup> 31 CFR 103.29.

<sup>7</sup> 31 CFR 103.37.

<sup>8</sup> 31 CFR 103.33(f)-(g).

<sup>9</sup> 64 FR 45438 (Aug. 20, 1999); 31 CFR 103.41.

<sup>10</sup> 31 CFR 103.56(b)(8).

understanding at that time by banking institutions of what they were required to do to comply with regulatory obligations in providing banking services to money services businesses.

We received written statements from 60 banking institutions, money services businesses, and trade associations prior to the meeting, and 43 such entities made oral statements at the meeting. Many money services businesses addressed the fact that banking institutions were closing money services businesses' demand deposit accounts on the grounds that the accounts were owned by money services businesses, rather than on the basis of some specific concern with the accounts. Money services businesses further commented on the fact that, in order to be licensed by many state governments, a money services business has to submit to a rigorous review, including providing financial statements and internal audit reports and permitting background checks of the owners and managers. Further, they noted that the licensing process requires annual training, current Bank Secrecy Act compliance programs, and the submission of a surety bond. They also stated that money services businesses provide a valuable service that many banking institutions are not fulfilling in catering to immigrant communities, and that, if the money services business industry is not able to obtain banking services, immigrant communities might suffer and might be compelled to use informal and unregulated money transfer systems that the government cannot supervise.

Written and oral statements from banking institutions discussed, among other things, the expense and difficulty of identifying and monitoring money services businesses and the increased regulatory and reputational risk involved in serving the money services business community. They also expressed concern about the perceived lack of regulatory guidance in this area, the disparate interpretations of the applicable regulations, and the inconsistent application of regulatory requirements by the Federal Banking Agencies and their examiners. Banking institutions also noted that it was their perception that some money services businesses, even those that were licensed by a state and were appropriately registered with the Financial Crimes Enforcement Network, were not sufficiently familiar with the Bank Secrecy Act and its requirements, and, furthermore, that many small money services businesses did not have the resources with which to adequately comply with Bank Secrecy Act regulations.

Subsequent to the fact-finding meeting, on March 8, 2005, we issued the following statement:

The Financial Crimes Enforcement Network has long recognized that the money services business industry provides valuable financial services, especially to groups and individuals that may not have ready access to the formal banking sector. Moreover, we believe it is imperative that money services businesses remain within the formal financial sector, and not be driven underground. Accordingly, the Financial Crimes Enforcement Network is committed to ensuring their continued access to banking services. At the same time, we believe it essential that the money services business industry maintain the same level of transparency, and implement the full range of anti-money laundering controls, as banking institutions.<sup>11</sup>

On March 30, 2005, together with the Federal Banking Agencies, we issued a Joint Statement to address expectations regarding banking institutions' obligations under the Bank Secrecy Act with respect to money services businesses.<sup>12</sup> The Joint Statement acknowledged that the money services business industry "provides valuable financial services, especially to individuals who may not have ready access to the formal banking sector" and that it is important that money services businesses "that comply with the requirements of the Bank Secrecy Act and applicable state laws remain within the formal financial sector, subject to appropriate anti-money laundering controls." The statement also noted that "it is essential that the M[oney] S[ervices] B[usiness] industry maintain the same level of transparency, including the implementation of a full range of anti-money laundering controls as required by law, as do banking organizations." The statement went on to emphasize that the "Bank Secrecy Act does not require, and neither [the Financial Crimes Enforcement Network] nor the Federal Banking Agencies expect, banking institutions to serve as the *de facto* regulator of the money services business industry. Banking organizations that open or maintain accounts for money services businesses should apply the requirements of the Bank Secrecy Act on a risk-assessed basis, as they do for all customers, taking into account the products and

services offered and the individual circumstances."

On April 26, 2005, together with the Federal Banking Agencies, we issued more detailed joint guidance to the banking industry.<sup>13</sup> The intent of the guidance to the banking industry was "to clarify further the requirements of the Bank Secrecy Act" and to set "forth the minimum steps that banking organizations should take when providing banking services to money services businesses." The guidance set forth the basic information that a banking institution should obtain from a money services business when preparing to open an account, including the money services business' types of products and services, its locations and markets served, the anticipated account activity, and the purpose of the account. The guidance also explained the concept of a risk assessment that should be performed by a banking institution when evaluating whether or not to establish or maintain an account relationship with a money services business. Further, the guidance set forth a checklist of various risk factors with which to analyze and differentiate the various kinds of money services businesses, and discussed the nature of enhanced due diligence that banking institutions might perform on money services business customers that are identified as higher risk, and the circumstances under which such enhanced due diligence might be needed.

On the same date, we issued an Advisory containing guidance to the money services business industry on obtaining and maintaining banking services.<sup>14</sup> The guidance to the money services business industry was designed to "identify and explain to money services businesses the types of information and documentation they are expected to have and to provide to banking organizations" under the Bank Secrecy Act. The guidance to money services businesses set forth a checklist with which to organize and explain the types of products and services offered by a given money services business, its locations and markets, its anticipated account activity, and the purpose of the

<sup>11</sup> Statement from the Financial Crimes Enforcement Network, <http://www.fincen.gov>. (Mar. 8, 2005).

<sup>12</sup> Joint Statement on Providing Banking Services to Money Services Businesses, issued by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Financial Crimes Enforcement Network, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision (Mar. 30, 2005).

<sup>13</sup> Interagency Interpretive Guidance on Providing Banking Services to Money Services Businesses Operating in the United States, issued by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Financial Crimes Enforcement Network, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision (Apr. 26, 2005).

<sup>14</sup> Financial Crimes Enforcement Network Advisory: Guidance to Money Services Businesses on Obtaining and Maintaining Banking Services (Apr. 26, 2005).



account. The guidance also set forth the circumstances when a banking institution might want or need to perform enhanced due diligence with regard to a money services business account and the nature of such enhanced due diligence.

Together with the Federal Banking Agencies, we have also provided additional support and training to bank examiners with regard to the variety of products and services offered by money services businesses and the range of risks posed. For instance, in June 2005, the Federal Banking Agencies, in consultation with us, developed and issued, through the Federal Financial Institutions Examination Council, uniform Bank Secrecy Act/Anti-Money Laundering examination procedures to be used by all Federal Banking Agency examiners. The new examination procedures include a section focused specifically on non-bank financial institutions, including money services businesses.

Notwithstanding these efforts, providing banking and other financial services to money services businesses continues to be an issue of concern. As a part of our continuing effort to address this matter in the context of the Bank Secrecy Act, issuing this Advance Notice to solicit updated facts and recommendations regarding what additional measures with regard to the Bank Secrecy Act, if any, would be appropriate.

## II. Issues for Comment

In issuing this Advance Notice, we solicit comments on the following issues:

1. What requirements have banking institutions imposed on money services businesses to open or maintain account relationships since the issuance of the joint guidance by us and the Federal Banking Agencies in April 2005?

2. Describe any circumstances under which money services businesses have provided or have been willing to provide the information specified in the guidance issued by us to money services businesses in April 2005, concerning their obligations under the Bank Secrecy Act, and yet have had banking institutions decline to open or continue account relationships for the money services businesses.

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 businesses since the issuance of the guidance to money services businesses and to banking institutions in April 2005?

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?

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? If so, what specifically should such guidance address?

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?

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 has occurred.

## III. Conclusion

We are seeking input to assist in our efforts to ensure that money services businesses that comply with the law have reasonable access to banking services and, specifically, to avoid any unintended misinterpretation of Bank Secrecy Act requirements that could adversely affect the issue of the establishment and maintenance of account relationships and other banking services for money services businesses by banking institutions. We welcome comments on all aspects of this Advance Notice and encourage all interested parties to provide their views.

## IV. Executive Order 12866

This Advance Notice is not a "significant regulatory action" for purposes of Executive Order 12866. It neither establishes nor proposes any regulatory requirements. Instead, it seeks public comment on a number of issues concerning the establishment and maintenance of account relationships at banking institutions by money services businesses within the Bank Secrecy Act regulatory framework.

Dated: March 3, 2006.

**William F. Baity**,  
*Acting Director, Financial Crimes  
Enforcement Network.*

[FR Doc. E6-3373 Filed 3-9-06; 8:45 am]

**BILLING CODE 4810-02-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2004-TX-0006;  
FRL-8044-1]

### Approval and Promulgation of Air Quality Implementation Plans; Texas; Control of Air Pollution by Permits for New Construction or Modification

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Texas State Implementation Plan (SIP). This action approves provisions for alternate language public notice for certain preconstruction permits or permit renewals and provisions for preconstruction permit renewals. It approves SIP revisions that Texas submitted to EPA on August 31, 1993; April 29, 1994; August 17, 1994; and July 22, 1998. The revisions that EPA is approving supplement the current requirements for new construction and modifications and are more stringent than the Federal Clean Air Act (CAA or the Act) and EPA regulations. We are approving the revisions under sections 110 and 116 of the Act as improving the existing SIP.

**DATES:** Written comments must be received on or before April 10, 2006.

**ADDRESSES:** Comments may be mailed to Mr. David Neleigh, Chief, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stanley M. Spruiell, Air Permits Section (6PD-R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7212; fax number 214-665-7263; e-mail address [spruiell.stanley@epa.gov](mailto:spruiell.stanley@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no significant adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant adverse comments are received in response to