

STATE OF COLORADO

Department of Regulatory Agencies

M. Michael Cooke
Executive Director



Bill Owens
Governor

DIVISION OF BANKING

Richard Fulkerson
State Bank Commissioner

OPERATING MEMORANDUM

TO: President or Chief Executive Officer of all Money Transmitter Companies Regulated by the Colorado Division of Banking

FROM: Richard Fulkerson
State Bank Commissioner

DATE: February 13, 2002

RE: Money Services Businesses/Reporting Requirements
Bank Secrecy Act/Executive Order No. 13224

As part of our nation's financial community, organizations called money services businesses (MSBs) must comply with a federal law known as the Bank Secrecy Act (BSA) 31 U.S.C. 5311-5330. The BSA is a federal recordkeeping and reporting law applicable to financial institutions. BSA data helps law enforcement agencies detect and deter financial crimes, including money laundering and terrorist financing. This letter is being sent to you as a reminder of your responsibilities under the BSA.

Under the BSA, MSBs were required to register with the Financial Crimes Enforcement Network (FinCEN) by December 31, 2001, and provide a list of agents to FinCEN by January 1, 2002. You may be a MSB if you provide any of the following services: money orders, traveler's checks, money transmission, check cashing, or currency exchange. Companies can research whether they meet the definition of a MSB by accessing <http://www.msb.gov>. Forms are also available at that site for registering as a MSB and for providing an agent list. The Division of Banking (Division) will be obtaining a list of registered MSBs from FinCEN to ensure that Colorado licensed MSBs are in compliance with federal law.

Beginning January 1, 2002, MSBs are required to begin reporting suspicious activities to FinCEN. Suspicious activity report (SAR) forms are also available at <http://www.msb.gov>. Companies are strongly encouraged to provide agent training for detection of what is considered a suspicious activity under the BSA.

On September 24, 2001, President Bush issued Executive Order No. 13224 freezing the assets of individuals and organizations that support terrorism. This action has and will play a major role in the ability of law enforcement to eliminate the financial resources of those persons and organizations that support and commit terrorism. Licensed money transmitting institutions will be instrumental in limiting the ability of these people and organizations to move money across international borders.

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Executive Order No. 13224 is available at <http://www.treas.gov/ofac/t11ter.pdf>, as well as from the Division's website at <http://www.dora.state.co.us/banking/operatingmemos/opermemo.htm>. The website of the Office of Foreign Assets Control (OFAC) at <http://www.treas.gov/ofac> should be reviewed frequently as the list is expanded periodically due to on-going investigations.

It is important that all institutions understand that compliance with the President's Order should have already been initiated. Compliance means that any accounts of any entity listed on the OFAC site must be frozen immediately. In addition, any assets of such entities coming into the possession of the institution must be blocked. It is important to understand that, under federal law, there are very severe penalties for violations of the Presidential Order.

The Division expects full compliance with the Presidential Order. Therefore, it is strongly recommended that institutions receiving or transmitting monies follow the best industry practices in complying with the Order. To ensure compliance, it is strongly recommended that such practices include obtaining additional identifying information from any person seeking money transmission services, either for themselves or on behalf of any entity. The information should include, at a minimum, the date of birth of the person, which should be verified by a driver's license or other official document.

For similar reasons, it is strongly recommended that institutions receiving monies for transmission obtain as much of the following information as possible regarding the beneficiaries of the transfer, including the following: 1) date of birth; 2) driver's license number 3) passport number; 4) national identification number, if applicable; 5) local address; and 6) any other information usually obtained for such persons by the transmitter.

The institution should retain all of the information until further notice. It is imperative that the requirements for suspicious activity reporting and the requirements of the Presidential Order be communicated to the institution's agents and sub-agents. The information and requirements noted above are subject to review by Division examiners during on-site examinations.

I cannot stress enough the importance of compliance with both the BSA and the President's Executive Order. We, as a financial community, must take action to do what we can to help law enforcement agencies eliminate the ability for terrorist organizations to easily move money across international borders. If you have any questions related to the above information, please call Supervising Examiner Terry Breckenridge at (303)-894-7575.