

# AMERICAN BANKER.

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## **Viewpoint: Banks Should Not Have to Monitor MSBs**

By Peter Ziverts

What's wrong with this picture?

\* Alpha Money Transfer is a reputable international remittance provider – a regulated U.S. financial institution with a documented anti-money-laundering program in place. It's licensed and examined routinely by multiple state banking departments and the federal government.

\* Beta Checking Cashing is a three-store chain that provides Alpha-branded money transfer services to local consumers and also is a regulated U.S. financial institution. In business more than 20 years, Beta has a documented AML program in place and is licensed and examined by a state banking department and the federal government.

\* Gamma Bank is a regulated U.S. financial institution – a nationally chartered bank, licensed and examined by the federal government. Gamma has a documented AML compliance program and is supported by regulatory guidance that says it is not responsible for its clients' Bank Secrecy Act compliance.

\* Beta Check Cashing holds accounts at Gamma Bank – into which it has made deposits nearly every weekday of its 20-year existence. The relationship continues without any variation.

Again, what's wrong with this picture? So far – nothing. Here are three U.S. financial institutions – two of them money-services businesses (MSBs) – each with a documented anti-laundering program operating under the nexus of common federal regulation.

Then why did Gamma Bank notify Beta Check Cashing that it had 30 days to find a

new bank account and that Beta should cease all account activity within two weeks? Reason given for the termination? None.

Now what's wrong with the picture?

Quite a bit – and more than meets the eye. A mutually beneficial, 20-year relationship has ended. Gamma has lost a valuable source of revenue after systematically closing Beta's and all of its MSB customers' accounts. Beta's reputation is questioned and its ability to obtain new accounts is hampered by the sudden, undisclosed nature of the terminations.

Beta – a 12-employee small business – is effectively out of business, because it has no means by which to facilitate transactions. Alpha loses revenue and a valuable agent for its services. Consumers lose because their financial institution has closed. And we – the public – lose because many of the transactions once performed by Beta have gone underground. No monitoring, no record, no trace.

Worse yet, Beta is located in the Northeastern United States, where this scenario has taken place hundreds of times with many different MSBs and banks. To call it an epidemic is not an exaggeration.

What went wrong? And who's responsible? After all, Alpha and Beta are living up to their compliance obligations – monitoring and reporting activity both at the agent level and through data-driven analysis at the network level. Gamma Bank is working in its best interest, managing its risk as it deems necessary. And the regulatory agencies have issued guidance to banks and MSBs on working together.

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Maybe everyone's responsible. Which is to say that the solution to this problem doesn't lie solely with MSBs, banks, or regulators. It lies with all three and, perhaps, in moving away from some outdated perceptions.

MSBs do important work by serving a large portion of the population that either by choice or circumstance does not have a banking relationship. While some of these businesses are still developing their AML compliance awareness, there are a vast number of responsible companies with comprehensive programs – ones that very effectively assess risk and monitor transaction activity.

Nonetheless, it's up to the MSB industry to establish a set of standards for anti-money laundering compliance and hold itself accountable for meeting those standards. Not lowest-common-denominator standards, but standards that demonstrate sincere commitment and best-in-class practices.

Reputation is a factor too. MSBs have come a long way, but the perception of the minority that still operate in the poorly lit, backwaters of financial services persists. The industry needs to do a better job of communicating the importance of its work, the sophistication of its AML compliance systems – especially how it assesses and monitors risk – and its coming of age as a viable financial services industry segment.

Banks can maintain a valuable source of revenue by continuing to serve the MSB industry. There's no need to run away from MSBs, which some banks have been doing as a result of implementing blanket "no MSB" policies or one-size-fits-all risk assessments.

But the crux of the issue is that banks should not have to assess each money-services business' anti-laundering compliance program or monitor its transactions with its consumers. That type of oversight should be performed by state and federal regulators under the aegis of state regulations and the

BSA – not coincidentally, the same entities that regulate banks.

Unregistered, unlicensed MSBs? A problem to be sure, but not as it relates to banks. It's very easy for banks to obtain proper documentation for registered and licensed MSBs. No registration or license? No account.

Despite the good efforts of the bank regulatory agencies, stronger interpretive guidance is sorely needed. The problem of MSB account closures is getting worse, not better. Banks need a clearer statement that they are not expected to police the activities of their MSB account holders. Perhaps more important, there needs to be explicit agreement and understanding of what the guidance means among the bank regulatory agencies.

Other solutions should also be pursued, such as giving Community Reinvestment Act credit for banks that provide services to MSBs in certain areas and even providing MSBs with direct account access at Federal Reserve banks. Precedents exist for both solutions.

Clearly, the picture needs to change. And action should begin at that critical nexus: the understanding that MSBs and banks all are regulated by the same agency of the federal government and have a common responsibility to protect the financial system.

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