

# Registering and Operating as an MSB in the United States

A Spotlight on the Regulatory and Bank Compliance Requirements of Operating as a Money Services Business (MSB)



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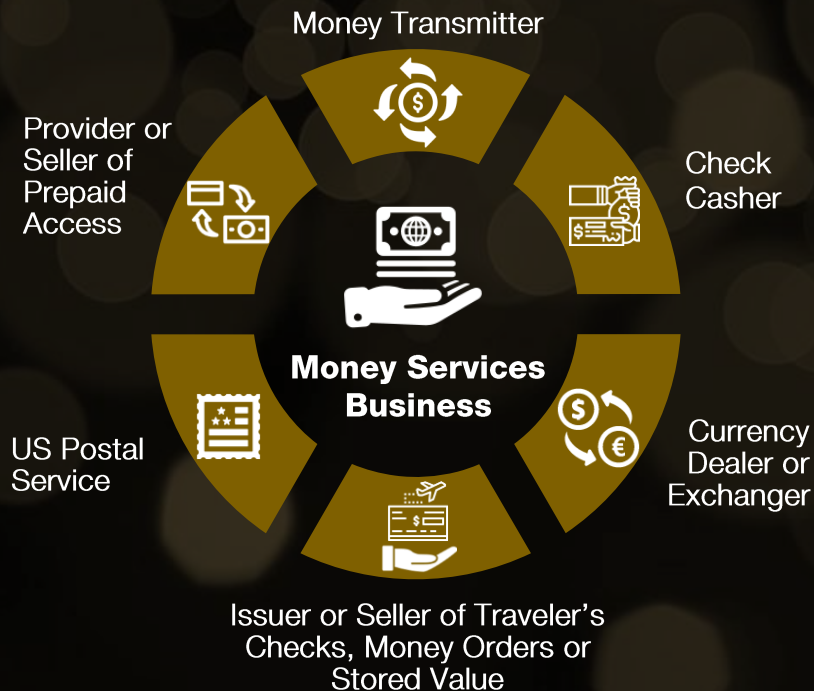


# A Money Services Business Defined

## AM I AN MSB?

The federal definition of a money services business (MSB) includes any person doing business, whether or not on a regular basis or as an organized business concern, while engaged in one of the below activities.

Notably, while there is a \$1,000 daily transaction activity threshold for all the activities referenced, money transmission does not carry a threshold.



## THE BROAD FEDERAL DEFINITION OF MONEY TRANSMISSION

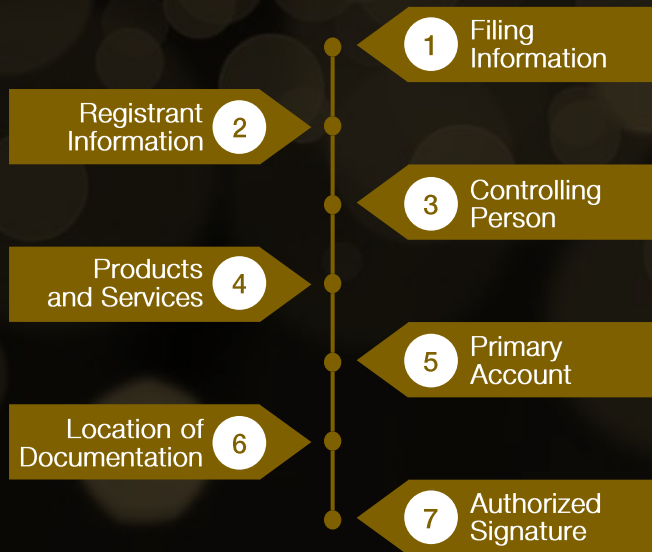
At a federal level, money transmission is defined broadly, but in general, it is the “acceptance of currency, funds, or other value that substitutes for currency from one person and the transmission of currency, funds, or other value that substitutes for currency to another location or person by any means.” Limited exceptions include payment processing, prepaid access, accepting and transmitting funds only for the sale of goods or the provision of services, among others.



# MSB Registration and BSA Requirements

## REGISTERING AS AN MSB

MSBs are considered financial institutions under the Bank Secrecy Act (BSA) and are required to register with the Financial Crimes Enforcement Network (FinCEN). Absent a limited exception, an MSB Registration must be filed within 180 days from the date of establishment and renewed by December 31 every two (2) years. MSB registrations and renewals are filed using the BSA E-Filing System and include the following reporting components:



## MSB BSA REQUIREMENTS

While registering as an MSB is rather straightforward, the impact is significant. Similar to banks and broker dealers, MSBs must comply with a broad set of BSA recordkeeping and reporting requirements, inclusive of suspicious activity reporting (SARs). MSBs are also subjected to Title 31 BSA examinations and extensive onboarding and monitoring from banking partners.



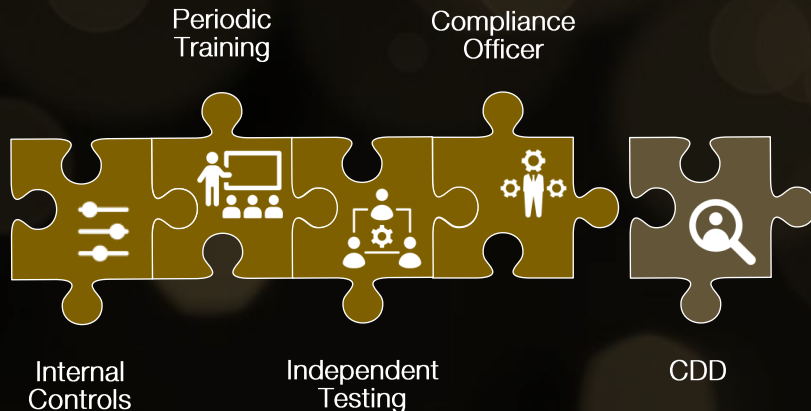


# AML and Sanctions Program Requirements

## AML PROGRAM REQUIREMENTS

Under the BSA, an MSB is required to maintain an effective anti-money laundering (AML) compliance program, which must be commensurate with the risks posed by the location, size, nature and volume of the financial services provided. An effective program is designed to prevent the MSB from being used to facilitate money laundering.

Notably, MSBs are not covered under the Customer Due Diligence (CDD) Rule. However, CDD is part of the internal controls AML program requirement and compliance with CDD is essential to knowing your customer (KYC), but also a contractual requirement with most, if not all, bank partners.



## OFAC SANCTIONS IS A SEPARATE REQUIREMENT

While not covered under the BSA, compliance with the Office of Foreign Assets Control (OFAC) sanctions regulations is an essential function of an AML program. While there is no OFAC requirement to screen OFAC's publicly available sanctions lists, there is a strict liability statutory requirement to not do business with persons on the lists.

Interestingly, in 2019, OFAC issued guidance on establishing a sanctions compliance program (SCP), which mirrors the AML program requirements under the BSA, and is a factor by OFAC when determining penalties.

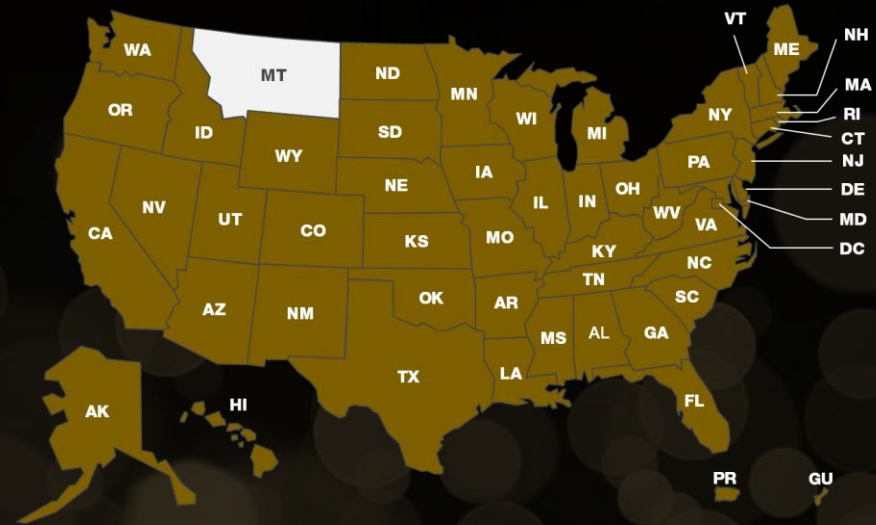


# Title 31 BSA Examinations and Money Transmitter Licenses

## TITLE 31 BSA EXAMINATIONS

MSBs are subject to Title 31 BSA examinations, which solely focus on compliance with the BSA such as AML program requirements, MSB registration, CDD, SARs, training, funds travel and transfer rule compliance, among others.

Where an MSB maintains a money transmitter license with any state licensing agency, the state examination process is broader and more frequent in scope focusing on compliance, senior management, finance, cybersecurity, ongoing state-based reporting, etc.



## US STATE MONEY TRANSMITTER LICENSES

Operating as a money transmitter (MT), and depending on the specific business model, typically, an MSB will need to obtain money transmitter licenses (MTLs) or exemptions to licensure in each state where the MSB is seeking to operate.

As of January 1, 2025, all US States and territories regulate money transmission activity, except for the state of Montana. Separate from the MSB registration, MTL applications are an involved process based on unique and evolving state-specific requirements.

### MSB - TITLE 31

### BANK AND MONEY TRANSMITTER LICENSEE



# AML Program Independent Reviews and Bank Due Diligence of MSBs

## AML PROGRAM INDEPENDENT REVIEWS

Under the BSA, an MSB is required to perform an independent review of its AML program. General best practice and expectation of regulators and bank partners is the review should occur every 12 months and provide an affirmative statement on compliance with the BSA.

Moreover, the MSB should develop a corrective action plan (CAP) and remediate the findings and/or recommendations identified. The review and CAP should be reviewed, approved, and monitored by the MSBs board.

The quality and sufficiency of the review will be scrutinized by the regulators and bank partners, inclusive of the results and CAP remediation.

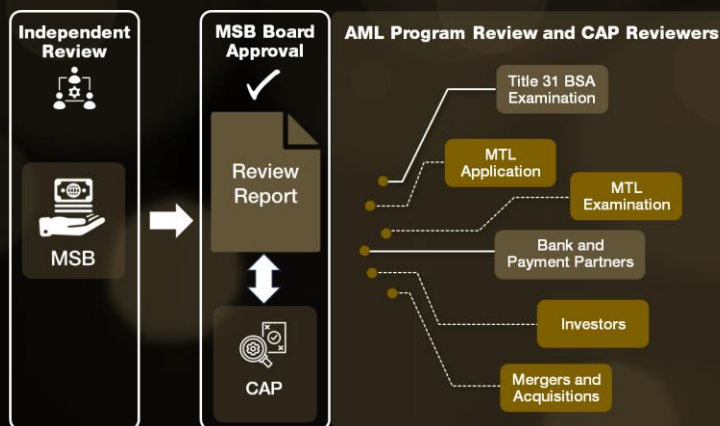
## BANKING PARTNER DUE DILIGENCE

Historically, banks de-risked MSBs to adjust their risk-profile when facing regulatory scrutiny. With the rise of financial services-enabled technology platforms that qualify as MSBs, banks have viewed MSBs as a strong revenue driver.

However, banks typically classify MSBs as higher-risk and onboarding can be a six (6) to 12-month process and may include the following:

- Platform and funds flow reviews;
- Board-approved policies and procedures;
- Compliance officer experience and staffing;
- Review of the AML program independent review;
- Review of transaction monitoring and sanctions screening systems; and
- Fraud, complaints, and cyber incident processes.

Post-approvals, the MSB will be subjected to ongoing reporting and monitoring, and an annual review process, whereby a dedicated compliance team reviews the MSB and issues a report with remedial items to maintain an account.





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## **MSB Registration and MT Licensing**

Engaging in money transmission, inclusive of virtual currency activity, may require registering as an MSB with FinCEN and obtaining money transmitter licenses with more than 45+ US states depending on the business model. For more than 10 years, Stratis has helped startups to Fortune-ranked companies launch, scale, and optimize financial-services enabled models. Stratis can help you execute and maintain a licensing program, inclusive of New York-specific requirements, to successfully operate in market and maintain banking partnerships.



## **TempCCO® Outsourced Compliance Function**

Developing a compliance program is the just the initial step in operating as a regulated financial institution or as a partner of one. Operationalizing your compliance program is critical to maintain compliance, bank accounts, and for successful audits and examinations. Depending on the life cycle of your organization, Stratis can provide you with on-going risk, strategy, and compliance support under our TempCCO® outsourced compliance function to assist you while launching, scaling, or optimizing your compliant program.



## **AML Independent Review**

Whether operating as a regulated financial institution or through various bank, payment, or lending partnership models, typically an annual review of your AML and sanctions programs is a requirement. As Stratis serves a portfolio of global regulated and unregulated companies, Stratis can help you with performing your required AML review on a scale and risk-appropriate basis to satisfy your statutory requirement, but also any requirement(s) from your banking partner.





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