



Gateway Bulletin GB-2015-03

Gateway Advisory: FinCEN Ruling on MoneyGram Compliance Program

March 3, 2015

Overview

On December 18, 2014, FinCEN issued a [ruling against MoneyGram's Chief Compliance Officer, Thomas E. Haider](#), on the grounds that he had willfully violated BSA regulations and permitted illegal activity through MoneyGram's network of agent and outlets. The ruling includes a \$1 million civil money penalty, assessed personally against Mr. Haider.

The purpose of this bulletin is to describe the relevance of the FinCEN ruling to gateways and bring to light possible consequences of inaction against illegal activities. It is important to note that, depending on the nature of your gateway's business, FinCEN may view its regulations as applicable to that business, regardless of where your gateway operations are located and where your services are used. Gateway operators should also be aware that failure to take necessary action against illegal uses of their gateway's services may result in penalties that are personally directed against individual officers.

It is the responsibility of gateways to consult their own legal advisors and assess how this ruling applies to their business. This gateway bulletin is not meant to be a substitute for legal advice. Gateway operators should seek their own legal counsel and assess whether any changes need to be made with regard to their Anti-Money Laundering program.

Background

Moneygram, established in 2003 and headquartered in Dallas, Texas, is a FinCEN-registered money service business (MSB) and offers money transmission services to customers globally. Moneygram's transfer system operates through a network of agents and outlets who send and receive money from one Moneygram location to another. These outlets are frequently located in convenience stores, internet cafes, or department stores and are owned and operated by independent agents.

A control failure at Moneygram permitted unauthorized persons to collect the proceeds of its wire transfers. This failure was not remedied and permitted a series of fraudulent schemes to

occur and continue unchecked at outlet locations in Canada, resulting in Americans sending millions of dollars to agents.

Summary of Violations

As a holder of the most senior position of Moneygram's Compliance Department, Thomas Haider was responsible for Moneygram's AML Program, including fraud reporting and internal interdepartmental communication. His violations included failing to maintain an effective AML Program and willfully allowing illegal use of Moneygram's services by external agents.

While it was Moneygram's agents who carried out fraud and money laundering activities, rather than Moneygram's employees, Haider was aware of the agents' crimes and failed to terminate agent relationships and properly file Suspicious Activity Reports (SARs). FinCEN's list of Haider's violations include the following :

- failure to implement policies and procedures for terminating Agents known to be involved in fraud and money laundering
- failure to implement policies and procedures for filing SARs, to have adequate internal transparency and communication to file SARs, and to properly fill out SARs
- failure to review and monitor agents and investigate detected suspicious activity, such as check pooling
- failure to research backgrounds of agents and visit outlet locations to ensure that branches were legitimate operations before approving new locations

FinCEN determined that these failures reflected willful violation against BSA/AML regulation and and individually penalized Haider for the above offenses.

MSB Requirements inside and outside the United States:

It is noteworthy that many of the fraudulent activity carried out by Moneygram's agents took place entirely outside the United States. Gateway operators should be aware that FinCEN's decision states that money-service business (MSB) regulations apply to money transmitters that offer financial services or conduct business activities in the United States "even if none of its agents, agencies, branches or offices are physically located in the United States." Relevant FinCEN regulations include recordkeeping, reporting, AML program requirements, and registering with FinCEN. You can find more information about foreign operations and qualifications [here](#).

Resources

We remind gateway operators that in order to follow best practice, they should implement a risk-based AML Program, which involves an on-boarding process, continued monitoring, and an independent review.

You can find further information on FinCEN guidances for Money Service Businesses (MSBs) in our Gateway Bulletin [GB-2014-08](#).

Additional Resources

FinCEN [BSA Requirements for MSBs](#)

FinCEN [Guidance on Foreign MSB Requirements](#)

Financial Action Task Force (FATF) [Recommendations and Guidance for Global AML Standards](#)

Pricewaterhouse Cooper's [KYC Quick Reference Guide](#)