

# **PROTOCOL FOR PERFORMING MULTI-STATE EXAMINATIONS**

**JANUARY 2012**

# MULTI-STATE PROTOCOL

## I. Statement of Purpose

The purpose of this Protocol is to promote a nationwide framework for cooperation and coordination among Money Services Businesses (MSBs) State Regulators that have concurrent jurisdiction over a Multi-State Money Service Business (MMSB) regulated entity in a manner that conserves regulatory resources and minimizes the regulatory burden on supervised entities, consistent with each state attaining its supervisory objectives.

## II. Coordinated Goals

- A. The Coordinated Goals of the Participating State Regulators are to protect consumers; to ensure the safety and soundness of MMSBs; to identify and prevent money laundering and fraud; to supervise and examine in a seamless, flexible and risk-focused manner; to minimize regulatory burden and expense; and to foster consistency, coordination and communication among the Participating State Regulators.
- B. To achieve the Coordinated Goals, the Participating State Regulators resolve to:
  1. Establish a taskforce comprised of Joint Examination State Regulators to coordinate Joint Examinations and supervision of MMSBs. The taskforce will be known as the Multi-State MSB Examination Taskforce (MMET). The MMET shall consist of ten representatives of Participating State Regulators, five of which are appointed by the Conference of State Bank Supervisors (CSBS) and five of which are appointed by the Money Transmitter Regulators Association (MTRA). No two appointees shall be from the same Participating State Regulator. Six members of the MMET shall constitute a quorum and a unanimous six votes shall govern.
  2. Identify which MMSBs are candidates for Joint Examinations.
  3. Develop a Supervisory Program that is tailored to the MMSB's condition and risk profile.
  4. Participate in and support the effective implementation of the Supervisory Program.
  5. Foster a process that supports participation of interested Joint Examination State Regulators.
  6. Consider physical, on-site examinations to be an integral part of a comprehensive Supervisory Program.

### **III. Confidentiality**

All Confidential Supervisory Information shared by, among and between the MMET, Joint Examination State Regulators and Concurrent Examination State Regulators pursuant to this Protocol is subject to the confidentiality provisions of the Nationwide Cooperative Agreement for MSB Supervision.

### **IV. Coordinated Supervisory Process**

#### **A. Determination of MMSBs by Risk Profile**

The MMET will identify MMSBs by risk profile based on the business plan and/or volume, scope of operations, allegations of fraud, complaints, and other risk factors as deemed relevant after consultation with Participating State Regulators.

#### **B. Joint and Concurrent Examinations**

Due to the confidential nature of information obtained and produced during the examination of MMSBs, only State Regulators having agreed to the Nationwide Cooperative Agreement for MSB Supervision will be authorized to participate in Joint or Concurrent Examinations pursuant to this protocol.

A Joint Examination is an examination of an MMSB conducted by two or more Participating State Regulators that share information and combine examination and other resources. These Participating State Regulators shall be known as Joint Examination State Regulators. The Joint Examination should result in one written Joint Examination report.

A Concurrent Examination is an examination of an MMSB by one or more Participating State Regulators at the same time or parallel with a Joint Examination. These Participating State Regulators shall be known as Concurrent Examination State Regulators. Each Concurrent Examination State Regulator is responsible for conducting and writing its own examination report.

#### **C. Scheduling of Examinations**

The MMET will facilitate and maintain Joint Examination schedules based upon statutory requirements, assessed risk, available resources, Participating State Regulator requests and other relevant factors. The MMET will hold at least on a quarterly basis, conference calls to set the Joint Examination schedule. All Participating State Regulators will be notified of the quarterly call to allow for widespread participation on the MMET's exam scheduling conference calls. The MMET will communicate the schedule developed during the conference call to all Participating State Regulators in a timely fashion.

Any Participating State Regulator may perform its own Concurrent Examination with the Joint Examination, or in the alternative, at any other time if the Participating State Regulator examination cannot be scheduled concurrently with the Joint Examination. However, Independent Examinations should be limited in observation of the Coordinated Goals. Furthermore, Participating State Regulators shall strive for a period of at least six (6) months between any on-site Independent Examinations unless conditions warrant otherwise.

The EIC shall contact the Participating or Non-Participating State Regulator in the home state in which the exam will be conducted of an MMSB as part of the scheduling process. It is important the Home State Regulator has the option of participating in the exam (in the case of Participating State Regulators) and/or has notice of when an MMSB domiciled in its state is being examined.

In order to minimize regulatory burden, Participating State Regulators, if authorized by law, that do not participate in the MMSB examination shall strive to accept other state examinations in lieu of conducting on-site Independent Examinations unless conditions warrant otherwise.

#### D. Establishment of Examination Teams

The MMET, in consultation with Participating State Regulators, will identify a Lead State Regulator for each Joint Examination. The MMET will make every effort not to have the same state serve as the Lead State Regulator at consecutive Joint Examinations of an MMSB. The Lead State Regulator shall designate an Examiner in Charge (EIC) for each Joint Examination Team. The EIC shall have the following skills:

- An EIC shall have completed the CSBS MSB Examination course and MTRA Operations School or have equivalent MSB experience.
- An EIC shall have an appropriate level of examination experience to conduct the MMSB examination.
- An EIC shall exhibit good oral and written communication skills.

The EIC in consultation with the MMET will determine the optimum number of Participating State Regulators and Joint Examination Team on-site. The MMET may assist the Lead State Regulator in contacting Participating State Regulators to staff Joint Examination Teams.

If a Participating State Regulator requests inclusion on an examination of an MMSB onsite but is not accommodated, the MMET will make every effort to ensure that the Participating State Regulator participates onsite in the next Joint Examination of that MMSB or has the option to participate offsite on the current Joint Examination.

The EIC will serve as the primary point of contact between the MMSB and the Joint Examination Team. The EIC shall designate the responsibilities of each examiner. The examiners shall perform the responsibilities designated and promptly report the findings to the EIC in the form requested, together with supporting workpapers. Concurrent Examination State Regulators will independently staff their Concurrent Examination Teams.

E. Examinations

1. The Joint Examination Teams and Concurrent Examination Teams assigned to an MMSB examination may develop their examination plan independently. However, the Joint Examination Teams assigned to an MMSB examination will coordinate when possible with the Concurrent Examination Teams to eliminate duplication within the Joint and Concurrent Examination programs/plans.
2. Based on the examination plan, the Joint Examination Team and any Concurrent Examination Team should strive to prepare a single entry letter and information request. In furtherance of the Coordinated Goals, the Joint Examination Team and the Concurrent Examination Team(s) may present the MMSB with the single entry letter and information request under a single cover.
3. The EICs of Joint and Concurrent Examination Teams should coordinate the collection of consumer complaints through the MMET and work to ensure that such activity is given due consideration when drafting and scoping the examination plan
4. In order to more effectively achieve the Coordinated Goals, the EIC and MMET will facilitate the exchange of information between the Joint Examination State Regulators and the Concurrent Examination State Regulators.

F. Processing and Issuing Joint Exam Reports

1. In order to ensure that comments of each Joint Examination State Regulator are included in the first draft of the examination report, the Joint Examination Team should provide initial comments to the EIC within a time frame identified by the EIC. (i.e. within 5 to 7 working days)
2. The Lead State Regulator may follow its own processing protocol to complete a “final” draft of the examination report. The content and format of the final draft report in a Joint Examination shall be reviewed by the Lead State Regulator which shall prepare the final draft of the examination report and advise the Joint Examination State Regulators of the findings along with any appropriate recommendations. The Lead State Regulator shall forward the final draft of the examination report to Joint Examination State Regulators for their review and comment within 30 days of completion of the on-site examination. The Lead State Regulator should ensure Joint Examination State Regulators receive the final draft of the examination report for review (i.e. by email confirmation).
3. Joint Examination State Regulators should review the “final” draft examination report and provide comment to the Lead State Regulator within

seven (7) business days of the request for comment. If no response is received within the given timeline; then, the Lead State Regulator should send a courtesy reminder to applicable Joint Examination State Regulators informing them that if comments are not received by a certain date, the “final” examination report will be mailed to the MMSB without the final input of the applicable Joint Examination State Regulators.

4. Joint examination reports should be transmitted to the examined MMSB and Joint Examination State Regulators within 60 calendar days of the examination exit meeting with management.
5. If the MMSB is requested to provide a written response to the Joint Examination report, the response should be co-addressed to all Joint Examination State Regulators. The MMSB’s response to the Joint Examination report shall not be shared with any State Regulator who has not agreed to the confidentiality sections of the Nationwide Cooperative Agreement for MSB Supervision.
6. Each Participating State Regulator who has jurisdiction over the MMSB shall be provided a copy of the final examination report upon a written request.

G. Examinations Findings

1. The findings of the examination shall be reported in a formal exit conference and a final written report.
2. The content and format of the final written Joint Examination reports shall be regularly reviewed by the MMET for continuity and consistency.
3. No Non-Participating State Regulator shall be provided the Joint Examination report; however, nothing in this Protocol shall prevent a Concurrent Examination and Non-Participating State Regulator from sharing its examination report with the Joint Examination Team and/or the MMET.
4. The MMSB’s response to the Joint Examination report shall not be shared with any State Regulator who has not signed the Nationwide Cooperative Agreement for MSB Supervision.

H. Multi-State Examination Enforcement and Supervisory Actions

1. Participating State Regulators will, whenever possible, consult one another regarding supervisory actions (i.e. administrative, civil or criminal actions) considered or taken against MMSBs as a result of the Joint Examination. The MMET will support communications between Participating State Regulators on any such supervisory actions considered or taken against MMSBs.

2. Participating State Regulators will, whenever possible, consult one another regarding supervisory actions (i.e. administrative, civil or criminal actions) considered or taken against MMSBs resulting from supervision outside a Joint Examination. The MMET will support communications between Participating State Regulators on any such supervisory actions considered or taken against MMSBs.
3. When Participating State Regulators together determine that a supervisory action is warranted, the Participating State Regulators will take any necessary steps to develop and implement a joint and/or concurrent action(s). The MMET will facilitate such development and implementation of joint and/or concurrent action(s).
4. Nothing in this protocol limits, suspends or prohibits any Participating State Regulator from exercising its authority or discretionary power to enforce its own laws or protect consumers.

## **V. Support**

Support to the MMET and Joint Examination Teams and Concurrent Examination Teams will be provided by CSBS and/or MTRA upon request and direction of the MMET. No person providing support to the MMET shall be permitted access to Confidential Supervisory Information, as defined in the Nationwide Cooperative Agreement for MSB Supervision, unless such person is an employee of a Joint Examination State Regulator or has, as permitted by applicable law, signed a Confidentiality Nondisclosure Agreement. Joint Examination Teams and Concurrent Examination Teams will be provided administrative, technical, strategic and logistic support as approved by the MMET. In furtherance of the Coordinated Goals, the MMET may establish a separate protocol and agreement between CSBS and/or MTRA and the MMET/State Regulators.

## **VI. Amendment**

Any Participating State Regulator to this Protocol may propose an amendment at any time, but this Protocol may be amended only by a written instrument signed by the MMET pursuant to this section. A proposed amendment must initially be approved by an absolute majority vote (six or more) of the MMET for submission to all Participating State Regulators for review, and may not be adopted by the MMET prior to the expiration of a 30 day review period. If no objection is made by any Participating State Regulator during the review period, the MMET may ratify and adopt the amendment by absolute majority vote. Upon the objection of any Participating State Regulator, the amendment may not be adopted by the MMET unless the amendment is approved by a majority vote of all Participating State Regulators after reasonable notice. Each Participating State Regulator shall have one vote and may take part and vote by telephone, e-mail, webcast or other electronic means.

## VII. Definitions

**“Concurrent Examination”** means an examination of an MMSB, whereby one or more State Regulators conduct parallel but separate examinations from the Joint Examination.

**“Concurrent Examination State Regulator”** means a Participating State Regulator who has signed the Nationwide Cooperative Agreement for MSB Supervision and conducts a parallel but separate examination from the Joint Examination.

**“Concurrent Examination Team”** means a Participating State Regulator examination team conducting a Concurrent Examination.

**“Confidential Supervisory Information”** means information the disclosure of which would violate any confidentiality statutes, regulations or policies applicable to Participating State Regulators.

**“Coordinated Goals”** means the goals stated under section II.A. of this Protocol.

**“Examination Team”** means an Examination Team assigned to a specific MMSB examination, investigation or other related assignment. An Examination Team may be comprised of a team of examiners or other personnel from multiple states or a single state’s examiners or other personnel authorized to conduct a multi-state examination or investigation. An Examination Team may be either a Joint Examination Team or a Concurrent Examination Team.

**“Examiner-In-Charge” (EIC)** means an examiner assigned by the Lead State Regulator to lead a Joint Examination Team or the examiner leading a Concurrent Examination Team.

**“Home State”** means the state where an MSB has its principle place of business.

**“Home State Regulator”** means the State Regulator of the Home State of an MSB.

**“Independent Examination”** means an on-site examination of an MSB performed by a State Regulator that is neither a Joint nor Concurrent Examination.

**“Joint Examination”** means an examination of an MMSB conducted by two or more Participating State Regulators that share information and combine examination and other resources under a single EIC.

**“Joint Examination State Regulator”** means a Participating State Regulator and participates in a Joint Examination.

**“Lead State Regulator”** means the Participating State Regulator designated by the MMET as being primarily responsible for the Joint Examination of an MMSB.

**“Money Services Businesses” (MSB)** means four types of financial service providers: (1) currency dealers or exchangers, (2) issuers of traveler’s checks, money orders, or stored value,



(3) sellers or redeemers of traveler's checks, money orders or stored value and (4) money transmitters.

**“Multi-State MSB Examination Taskforce” (MMET)** means the body created under Section II (B) (1) of this Protocol.

**“Multi-State Money Service Business “ (MMSB)** means any money service business (MSB) with operations in two or more states identified by the MMET.

**“Nationwide Cooperative Agreement for MSB Supervision”** means the formal agreement entered between Participating State Regulators for the purpose of fulfilling the Coordinated Goals promoting a nationwide framework for cooperation and coordination among state regulators that have concurrent jurisdiction over a regulated entity in a manner that conserves regulatory resources and minimizes the regulatory burden on supervised entities, consistent with each state attaining its supervisory objectives.

**“Non-Participating State Regulator”** means a State Regulator that cannot agree to the confidentiality provisions of the Nationwide Cooperative Agreement for MSB Supervision

**“Participating State Regulator”** means a State Regulator that is a signatory to this Protocol and the Nationwide Cooperative Agreement for MSB Supervision

**“State Regulator”** means a state regulatory agency with legal jurisdiction over one or more MSB Entities.

**“Supervisory Program”** means a program of regulatory supervision for an MMSB designed to achieve the Coordinated Goals established in this Protocol. The Supervisory Program includes examination scheduling, on-site examination, off-site monitoring and review, complaint reporting and profiling, exam report issuance, report follow up, and where necessary, supervisory action.