Forward

CLIENT ALERT · FINANCIAL CRIMES & ECONOMIC SANCTIONS

BOARD & EXECUTIVE BRIEFING

FinCEN's $8 Billion MSB Alert: What Boards and Executives Need to Decide

October 31, 2026

FinCEN has put a number on settlement risk. On October 30, 2026, it identified more than $8 billion in suspicious payments between 2021 and 2025 that US money services businesses (MSBs) sent to third parties abroad on the instructions of their foreign agents, including instances where funds ultimately benefited entities with identified connections to terrorist financing. FIN-2026-Alert009 gives MSBs, the banks that serve them and their examiners the same red flags. For general counsel and executives, the question is no longer whether the risk exists, but whether the institution can show what it did once the risk was published.

WHAT'S AT STAKE AND WHAT TO DECIDE

- **The stakes.** For MSBs, banking access is the business. For banks, MSB relationships carry revenue and examination risk. Both now sit under a published FinCEN typology.
- **The exposure.** In civil BSA enforcement, willfulness requires only "reckless disregard or willful blindness," and it applies to individuals as well as institutions.
- **The precedent.** Western Union forfeited $586 million in 2017 over agent failures. FinCEN imposed a $1.2 billion penalty on Bank of America this month.
- **Decision one.** Authorize a review of settlement flows from 2021 to the present against FinCEN's red flags, with findings reported to the board.
- **Decision two.** Set the policy for agents and customers that cannot document their payments: remediate, restrict or exit, decided case by case and documented.

FIVE QUESTIONS FOR THE BOARD AND EXECUTIVES

Do we know where our settlement payments go? Every third-party recipient should be identified and tied to a commercial purpose.

If FinCEN applied these red flags to our last twelve months, what would it find? Management should be able to answer with data, not assurances.

Who owns this risk, and when was the board last told? Settlement often falls between treasury, operations and compliance.

Are we prepared to act on agents and customers that cannot document their payments? The enforcement record penalizes inaction on known risk, and FinCEN also rejects treating any customer type as uniformly high risk. The policy has to do both.

Would our answer hold up in writing? Responses to examiners and banks should be accurate, complete and supported.

LEGAL EXPOSURE

What is binding. The alert is guidance and creates no new legal obligation. The obligations it points to are binding: the MSB AML program rule, which requires risk-based controls over foreign agents and counterparties; suspicious activity reporting; and, for covered institutions, section 312 due diligence on correspondent accounts for foreign financial institutions.

The willfulness standard. In its October 2026 Bank of America order, FinCEN restated that in civil BSA enforcement the government "need only show that the financial institution or individual acted with either reckless disregard or willful blindness" and "need not show that the entity or individual had knowledge that the conduct violated the BSA." In our assessment, continuing to process settlement payments that match published red flags, without review, increases that exposure.

Individual exposure. The standard reaches individuals. The Department of Justice has charged and convicted 29 owners or employees of Western Union agents since 2001, and charged 37 MoneyGram agent owners, 28 of whom had been convicted as of November 2018.

The enforcement record. Western Union (2017): $586 million forfeiture; FinCEN's $184 million penalty deemed satisfied by that payment. MoneyGram (2018): $125 million forfeiture and an enhanced obligation "to terminate, discipline, or restrict" high-fraud agents. Brink's Global Services (2025): $37,000,000 FinCEN penalty for operating as an unregistered MSB, and a $50,391,143 forfeiture. Bank of America (2026): $1.2 billion FinCEN penalty, with $750 million paid to the OCC credited against it, and an $11,662,930 OFAC settlement.

The de-risking line. FinCEN states that no customer type, including MSBs, should be considered uniformly high risk. Exit decisions should be risk-based, case-specific and documented.

WHAT FINCEN FOUND

The mechanism. A US principal MSB authorizes foreign agents to pay out its transfers. When an agent directs a payment to a third party, the principal wires the funds from its own bank account. FinCEN found that foreign agents "appeared to be using the principal MSBs' bank accounts as their own."

The patterns. Recipients with no clear business purpose, including UAE exchange houses, Chinese commercial banks and trading companies, and recipients across East Africa; volumes and timing inconsistent with the stated business model; general trading companies paid in place of the agent; and onward transfers within hours or days. Some funds ultimately benefited entities with identified connections to terrorist financing.

The parallel finding. In the Bank of America order, the bank's foreign branches and affiliates "maintained accounts for more than 250 non-bank financial institutions, including MSBs or foreign equivalents thereof," whose payments "were inconsistent with 'bank-to-bank bulk flows' or 'interbank settlements.'"

Reporting. SARs should carry the key term FIN2026FOREIGNAGENT. FinCEN issued a companion notice the same day on the abuse of charities and non-profit organizations (FIN-2026-NTC2, key term FIN2026NPO).

WHAT TO AUTHORIZE NOW

A settlement-flow review. Map every third-party payment directed by a foreign agent, test it against FinCEN's red flags from 2021 to the present, and file SARs where warranted, including on agents themselves.

Contract and policy updates. Agent agreements should define permitted third-party recipients, documentation requirements, and the right to refuse payment and terminate.

For banks. Test MSB customers' settlement activity against the bank red flags, and confirm that section 312 due diligence on foreign correspondent accounts covers expected settlement activity.

Board reporting. Findings, remediation decisions and residual risk should go to the board or its risk committee, and settlement flows should be in scope for the next independent test.

RED-FLAG REFERENCE

FinCEN lists nine red flags for principal MSBs and five for banks serving MSBs. The core indicators: payments to third parties outside the agent clearing agreement; recipients without a bulk-remittance profile, such as trading or newly created companies; vague purposes such as "settlement" or "services"; missing documentation; activity inconsistent with settlement; and round-dollar amounts.

THE BOTTOM LINE

From here, an institution will be measured by what it did after October 30, 2026. General counsel and boards should be able to show a review authorized, findings reported and decisions documented.

YOUR FORWARD GLOBAL CONTACT

Sven Stumbauer

Partner

Americas Anti-Money Laundering & Sanctions Practice Leader

E sven.stumbauer@forwardglobal.com
T +1-404-402-8578
A 900 Biscayne Boulevard, Suite 1201, Miami, FL 33132
W www.forwardglobal.com

LET'S TALK

Forward Global advises boards, general counsel and executives at banks, money services businesses and payment institutions on settlement-flow reviews, look-backs, regulatory exposure assessments, and responses to examiners and correspondent banks. Contact Sven Stumbauer to scope a foreign-agent settlement review.

FORWARD GLOBAL

Paris · New York · Washington · Miami · Brussels · London · Montreal · Abidjan
forwardglobal.com

This client alert is provided for general informational purposes only and does not constitute legal advice. Readers should not act upon this information without seeking professional counsel. Sources: FinCEN, FIN-2026-Alert009 and FIN-2026-NTC2 (Oct. 30, 2026); Western Union: DOJ release and FinCEN Assessment No. 2017-01 (Jan. 19, 2017); MoneyGram: USAO M.D. Pa. release (Nov. 9, 2018); Brink's: FinCEN and USAO S.D. Cal. releases (Feb. 6, 2025); Bank of America: Treasury release, FinCEN Consent Order No. 2026-03 and OFAC enforcement information (Oct. 13, 2026).