



TEXAS DEPARTMENT OF BANKING

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SUPERVISORY MEMORANDUM – 1013

February 22, 2016

TO: Money Services Business License Holders
FROM: Charles G. Cooper, Banking Commissioner
SUBJECT: Sharing Examination Reports With a Bank

BACKGROUND

The Texas Department of Banking (Department) has learned that some banks have expressed reluctance to open or maintain accounts for Money Services Businesses (MSBs). For this reason, some MSBs have expressed a desire to make copies of Reports of Examination (ROEs) issued by the Department available to banks to demonstrate their compliance with state and federal law. The Department is committed to assisting licensed MSBs to ensure that banking services are available, and this Supervisory Memorandum establishes the Department's policy in this matter.

STATEMENT OF POLICY

Much of the information contained in an ROE is confidential under Texas Finance Code §151.606 and therefore prohibited from general release. Moreover, the ROE itself is Department property that cannot be shared without permission from the Department.

This Supervisory Memorandum authorizes a licensed MSB to make ROEs issued by the Department in connection with examination of its MSB activities available to a depository bank if that bank's management requests a copy as part of its due diligence procedures or if the MSB wants to demonstrate its compliance with state and federal statutes. A licensed MSB may also share its ROE with management of a bank it has approached about opening an account for its MSB business.

However, before an MSB may release an ROE to a bank, it must take two actions. First, it must redact personal information about any customer as well as any reference to suspicious activity reports that have been filed. Second, it must enter a written agreement with the bank in which the bank acknowledges that the ROE is confidential information under Texas Finance Code §151.606 and agrees to take appropriate measures to maintain that confidentiality. For examination purposes, the MSB must maintain a list of every bank to which it releases an ROE and a copy of each confidentiality agreement. A bank receiving an MSB's ROE in this manner may not release any portion of the ROE to third parties without express written consent of both the Department and the MSB.

The authorization provided in this Supervisory Memorandum only applies to these circumstances. Accordingly, under different circumstances an MSB must contact the Department for authorization to release an ROE. This authorization also only applies to ROEs issued solely by the Department; it does not apply to any ROE issued in connection with a joint examination performed by multiple state regulatory agencies. In the case of a multi-state joint examination, the MSB must contact the Department and each participating state regulator to obtain appropriate authorization to release the ROE. Be advised that in some cases that will not be possible as several states have statutes that prohibit their regulators from releasing ROEs under any circumstances.