

DEPARTMENT OF BUSINESS OVERSIGHT*Ensuring a Fair and Secure Financial Services Marketplace for all Californians*

Jan Lynn Owen
Commissioner of Business Oversight

April 10, 2017

Re: Calculation of Eligible Securities that a Money Transmitter Licensee Must Maintain

Dear _____:

Thank you for your letter dated October 12, 2016 to the Deputy Commissioner of the Money Transmitters Division, Robert Venchiarutti, sent on behalf of your client, _____, a California-licensed money transmitter. As Counsel for the Legal Division, I have been asked to respond to this matter. In your letter, and in subsequent telephone calls and emails of October 20, November 4, and November 8, 2016, and March 22, 2017 you seek an interpretive opinion regarding how the amount of eligible securities _____ must maintain must be calculated pursuant to Financial Code section 2081, subdivision (a).

More specifically, you seek confirmation that:

1. _____'s eligible securities should be calculated solely based on money it receives for transmission in the United States from its U.S. customers; and
2. Money received and transmitted outside of the United States from non-U.S. customers by _____ or its parent would not be included in the calculation of _____'s eligible securities under California law.

I. Money Transmission Act

Financial Code section 2081 provides, in relevant part, that a money transmitter must own eligible securities with an aggregate market value that is the same as or more than all of its outstanding money received for transmission in the United States. This requirement ensures that money transmitters adequately safeguard the funds entrusted to them by their customers.

Financial Code section 2081 provides eligible securities are also based on outstanding payment instruments and stored value obligations, but _____ does not issue payment instruments or stored value.

II. Analysis

- A. _____'s eligible securities should not be calculated solely based on money it receives for transmission in the U.S. from its U.S. customers.**

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It is incorrect to state that _____ should only include outstanding money received for transmission in the United States from its U.S. customers. Financial Code section 2081, subdivision (a) does not factor in the customer's location. It requires only that the money for transmission be received in the United States. Therefore, it is not relevant, for purposes of calculating the amount of eligible securities required, whether the sender is in the United States. _____ must include in its eligible securities calculation all outstanding money received in the United States for transmission from any customer, whether he or she is in the United States or elsewhere.

B. Money received and transmitted outside of the U.S. from non-U.S. persons by _____ or its parent should not be included in the calculation of _____'s eligible securities.

Outstanding money received for transmission outside the United States is excluded from the calculation of eligible securities under Financial Code section 2081, subdivision (a). As explained above, the fact that the sender is not in the United States does not change this analysis. All money received in the United States must be counted, and none of the money received outside of the United States may be counted.

No outstanding money received for transmission by _____'s parent company, _____, may be included in the calculation of the amount of eligible securities that _____ must maintain, regardless of where the money is received for transmission. The eligible securities calculation should be based only on the licensee's outstanding money transmission obligations, rather than those also of its parent company.¹

This opinion is based solely on the facts presented in your correspondence. Any changes in the facts or circumstances, as we understand them, could lead to a different conclusion.

You may call me at _____ with any questions.

Sincerely,

Jan Lynn Owen
Commissioner of Business Oversight

By

Julie L. Jacob
Counsel

JJ:is

cc: Robert Venchiarutti, Department of Business Oversight, San Francisco

¹ Fin. Code, § 2003, subd. (m).