

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

Jan Lynn Owen
Commissioner of Business Oversight

August 14, 2015

Re: Request for Guidance on California Financial Code section 2003(u)

Dear _____:

Thank you for your letter dated June 16, 2015. In your letter you requested guidance on the activities of _____ under the Money Transmission Act (MTA) (Fin. Code section 2000 et seq.). _____ is a licensed money transmitter with the Department of Business Oversight. Specifically, you asked whether certain foreign activity initiated by a customer in the United States is a regulated activity under the MTA. Your letter provides three scenarios of _____'s activities and your interpretation of each scenario. I will address each scenario individually.

Financial Code section 2003(u) is applicable to all three scenarios. Financial Code section 2003(u) provides that "receiving money transmission ... means receiving money or monetary value in the United States for transmission within or outside the United States by electronic or other means."

Scenario 1

In Scenario 1, _____ receives United States Dollars (dollars) into its United States (US) bank account from a California corporation's US bank account to transfer euros to the corporation's bank account in France. _____ interprets this scenario as a regulated activity.

_____ is correct that this scenario is a regulated activity under the MTA, because money is received in the United States.

Scenario 2

In Scenario 2, _____ receives British Pounds into its bank account in the United Kingdom from a California corporation's United Kingdom bank account to transfer to the corporation's bank account in France. _____ interprets this scenario as not being a regulated activity.

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_____ is correct that this scenario is not a regulated activity under the MTA, because money is not received in the United States.

Scenario 3

_____ receives British Pounds into its United Kingdom bank account from a California corporation's United Kingdom bank account to transfer dollars to the corporation's US bank account. _____ has requested guidance on the definition of "in California" in the MTA.

Financial Code section 2003(k) defines "in California" as "physically located in California, or with, to, or from persons located in California." _____'s concern is that the definition of "in California" may be broader than "receiving money for transmission in the United States" in section 2003(u), and if read literally could encompass activity outside of the United States.

The Department does not read the definition of "in California" to encompass the scenario you describe. This scenario is not a regulated activity under the MTA, because money is received in the United Kingdom, not the US.

The Department's guidance is limited to the specific facts of the above scenarios. Should any of the facts or circumstances change, our opinion may be different.

I trust this has been responsive to your request. If you need further assistance in this matter, please contact me.

Sincerely,

Jan Lynn Owen
Commissioner
Department of Business Oversight

By

JAMES M. PATTEN-LEO
Senior Counsel

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