



STATE OF CALIFORNIA

Department of Business Oversight

GOVERNOR **Gavin Newsom** • COMMISSIONER **Manuel P. Alvarez**

IN REPLY REFER TO:
FILE NO: _____

August 6, 2020

VIA EMAIL

Re: _____ – Opinion Request

Dear Mr. _____:

Thank you for your letter to Robert Venchiarutti, Deputy Commissioner of the Money Transmitter Division, dated July 8, 2020, on behalf of _____ (“_____”). As Senior Counsel for the Legal Division, the Commissioner requested that I respond to this matter. In your letter, you request confirmation of whether _____’s banknote replenishment service is an activity subject to the licensing requirements of the Money Transmission Act.

Your letter described _____’s banknote replenishment service as follows: if a commercial business or financial institution which purchases or sells foreign currencies needs to replenish its foreign currency inventory, that business will negotiate a rate with _____. Then, _____ will transport the foreign currency from its own inventory of that currency to the business. The business will verify the received amount and wire the owed U.S. dollars to _____. You clarify in the letter that _____ only receives money from the business after _____ delivers the foreign currency.

The Department agrees that this service does not trigger the licensing requirements of the Money Transmission Act.¹ Money transmission is defined as selling or receiving payment instruments, selling or receiving stored value, or receiving money for transmission.² Here, _____ is not engaging in any of those services. _____ does not issue anything to the business except for the foreign currency that was ordered, and does not receive money from the business for purpose of transmission. Similar to other direct customer-merchant transactions, each of these transactions is a direct purchase in a single transaction whereby the business places an order

¹ Fin. Code, § 2000 et seq.

² Fin. Code, § 2003, subd. (q).

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for foreign currency, ___ sends the currency to the business, and only then, the business pays ___ for that currency provided.

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. Furthermore, because this opinion is limited to licensure requirements under the MTA, it should not be construed as interpreting any other state or federal laws regulating foreign currency exchange.

You may call me at (___) _____ with any questions.

Sincerely,

Manuel P. Alvarez
Commissioner
Department of Business Oversight

By /s/

Senior Counsel

cc: Robert Venchiarutti, Deputy Commission, Money Transmitter Division