

**DEPARTMENT OF FINANCIAL INSTITUTIONS**

TEVEIA R. BARNES, Commissioner of Financial Institutions  
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**Commissioner's Opinion – No. 005**

**Compliance with the Notice Requirements in Branches of Financial Code § 2104 and Financial Code § 2105.**

This Opinion provides guidance on the notices required to be posted by Financial Code (FC) § 2104 and Financial Code § 2105.

FC § 2104 provides that:

Each licensee or agent shall prominently post on the premises of each branch office that issues or sells payment instruments, and at machines located in this state and operated by the licensee or agent that issues or sells payment instruments, a notice clearly stating that payment instruments are not insured by the federal government, the state government, or any other public or private entity. This notice shall be printed in English and in the same language principally used by the licensee or any agent of the licensee to advertise, solicit, or negotiate, either orally or in writing, with respect to the purchase of payment instruments. The information required in this notice shall be clear, legible, and in letters not less than one-half inch in height. The notice shall be posted in a conspicuous location in the unobstructed view of the public within the premises. The licensee shall provide to each of its agents the notice required by this section. In those locations operated by an agent, the agent, not the licensee, shall be responsible for the failure to properly post the required notice.

FC § 2105 provides that:

(a) Each licensee or agent shall prominently post on the premises of each branch office that conducts money transmission a notice stating that: “If you have complaints with respect to any aspect of the money transmission activities conducted at this location, you may contact the California Department of Financial Institutions at its toll-free telephone number, 1-800-622-0620, by e-mail at [consumer.complaint@dfi.ca.gov](mailto:consumer.complaint@dfi.ca.gov), or by mail at Department of Financial Institutions, Consumer Services, 1810 13th Street, Sacramento, CA 95811.”

(b) The commissioner may by order or regulation modify the content of the notice required by this section. This notice shall be printed in English and in the same language principally used by the licensee or any agent of the licensee to advertise, solicit, or negotiate either orally or in writing, with respect to money transmission at that branch office. The information required in this notice shall be clear, legible, and in letters not less than one-half inch in height. The notice shall be posted in a conspicuous location in the unobstructed view of the public within the premises. The licensee shall provide to each of its agents the notice required by this section. In those locations operated by an agent, the agent, and not the licensee, shall be responsible for the failure to properly post the required notice.

The notice required by FC § 2104 is clearly intended to warn customers that the payment instruments that they are purchasing are not insured. The intent of the notice required by FC § 2105 is equally clearly – to provide customers with information about the complaint process available to them at the California Department of Financial Institutions. Both FC § 2104 and FC § 2105 require that the notice be “posted in a conspicuous location in the unobstructed view of the public within the premises.” It is evident that the notices required by FC § 2104 and FC § 2105 will only serve their intended purpose if they are posted where there are customers to see them.

Accordingly, it is the opinion of the Commissioner that:

- (a) The notice required by FC § 2104 only applies to branch offices, as defined by FC § 2003(e), and machines located in this state and operated by the licensee or agent, that issue or sell payment instruments to customers who are physically on the premises of the branch offices or physically on the premises where the machines are located; and,
- (b) The notice required by FC § 2105 only applies to branch offices that conduct money transmission with customers who are physically in the branch offices.

May 28, 2013

/s/  
TEVEIA R. BARNES  
Commissioner of Financial Institutions