



STATE OF CALIFORNIA

Department of Financial Protection and Innovation

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

IN REPLY REFER TO:

FILE NO: _____

January 28, 2021

VIA EMAIL ONLY

Re: _____ – Opinion Request

Dear Mr. _____:

Thank you for your letter to the Department of Financial Protection and Innovation dated October 22, 2020 on behalf of _____ (“_____”). You request the Department interpret the term “money transmission receivables” in Financial Code section 2040, subdivision (e) to include the intercompany receivables that _____ generates in connection with money transfer transactions initiated with its affiliate _____ (“_____”).

BACKGROUND

_____ and _____ (collectively with their affiliates, “_____”) are licensed money transmitters in California. _____ utilizes _____ for the international leg of all U.S. outbound transactions, resulting in _____ and _____ acting in cooperation to provide international money transfer services to U.S. consumers and business customers (“Customer(s)”). The Customer contracts with both _____ and _____ which conduct two separate money transfer transactions to make money available to the beneficiary located outside the U.S. (“Beneficiary”).

Specifically, each international transaction consists of: (1) a transaction in which the Customer engages _____ to send money to _____ and (2) a transaction in which the Customer engages _____ to send money to the Beneficiary. In the first transaction, under the Customer’s contract with _____, _____ collects the Customer’s money (either directly or through a _____ agent in the U.S.) and makes the money available to _____. In the second transaction, under the

Customer's contract with _____, _____ converts the money into the applicable currency and sends the money to the Beneficiary, either directly to an account of the Beneficiary maintained in the foreign country or to a foreign payout agent who makes the funds available to the Beneficiary.

At the end of each day, _____ transfers to _____ the liability representing the aggregate dollar value of transactions that originated in the U.S. on that day that are designated to pay out to a Beneficiary ("U.S. Outbound Transactions"). _____ records an intercompany receivable from _____ for this amount, in addition to an amount for those U.S. Outbound Transactions for which _____ has already paid the Beneficiary that day. _____ subsequently receives the equivalent amount of cash from _____ the following business day, extinguishing the receivable. This intercompany receivable is the subject of the interpretive request.

ANALYSIS

Financial Code section 2040 requires licensed money transmitters to maintain tangible shareholder's equity within a specified range, in an amount determined by the Commissioner. Subdivision (e) of Section 2040 places limitations on the value of a licensee's accounts receivable relative to tangible shareholder's equity. Specifically, Financial Code section 2040, subdivision (e) provides that "the aggregate value of a licensee's accounts receivable, *excluding money transmission receivables...* cannot exceed 50 percent of the licensee's tangible shareholders' equity without the advanced written approval of the commissioner" (emphasis added)."

You argue that the term "money transmission receivables" should encompass the receivables due from _____ that _____ records under _____'s U.S. Outbound Transaction model. You state the receivables are generated to extinguish the outstanding transaction on _____'s balance sheet and establish the liability on _____'s balance sheet until the Beneficiary is paid. Therefore, you assert the receivables are an intercompany settlement for underlying money transfer transactions. You state the receivables arise as a result of a money transmission to be paid out, or already paid out, by _____, and are owed by a licensed money transmitter supervised by the Department.

You also argue that interpreting the receivables recorded by _____ as "money transmission receivables" aligns with the intent of Financial Code section 2040, subdivision (e). Based on discussions with the Department, you understand that the 50 percent calculation imposed by Subdivision (e) was historically intended to limit the amount of assets on a licensee's balance sheet that the Department could not evaluate. You assert that in this case, the entity from which the receivables are due, _____, is subject to regulation and supervision by the

Department. Therefore, unlike other receivables due to licensees, here the Department is able to monitor and assess the financial profile of the payor and the quality of the receivables.

The Department agrees the receivables are “money transmission receivables” under Financial Code section 2040, subdivision (e). Under _____’s business model for U.S. Outbound Transactions, the receivables are an intercompany settlement for underlying money transfer transactions. The receivables are generated because of money transmission initiated with _____, a licensed money transmitter, to be paid out, or already paid out, by _____. Such receivables fall within the scope of the term “money transmission receivables” in Financial Code section 2040, subdivision (e).

This opinion is based solely on the facts represented in your correspondence. If any of the facts or circumstances change, the Department’s opinion may also change.

Please contact the undersigned at _____ or _____ if you have any questions.

Sincerely,

Manuel P. Alvarez
Commissioner
Department of Financial Protection and Innovation

By

Counsel

cc: _____ Robert Venchiarutti, Department of Financial Protection and Innovation, Money Transmitter Division