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Goals
HISTORICAL PERSPECTIVE

- Checks / Money Orders / Travelers Checks
- 1993 Texas Sale of Checks Act, Art. 489d, Section 3
- Limited form of deposit taking
UNIFORM MONEY SERVICES ACT

- 2000, amended in 2004
- 10 states, 2 US territories

Money transmission is defined as:

“selling or issuing payment instruments, stored value, or receiving money or monetary value for transmission.”
Threshold: Is It Money Transmission?

- Definitions vary across jurisdictions
- Advertising? → License
- Gray areas
Receipt and Control

➤ Receipt
➤ Constructive receipt
➤ Control
  • FBO bank accounts
  • Sham arrangements
➤ Instruct to be transmitted or delivered
Purposes of MT Laws

- Safety and soundness
- Consumer protection, and
- Prevent financial crimes
Should we get a license? Can we?

- Application fee / Investigation Fee / License Fee
- Surety bond
- Permissible investments and other ongoing obligations
- Net Worth / Tangible Net Worth
- Audited Financial Statements
- Background checks
What about an exemption?

- Bank Agent
- Agent of a payee / payment processing
- Closed Loop
- Business to business / commercial activity
- Authorized Delegate
Bank Agent Exemption

- 16 states have express/formal exemptions
- 9 states: bank may lose its exemption
- A few states disallow bank agents
- Remainder silent
Agent of a Payee / Payment Processor

- Approx. 20 states have express/formal exclusions
- At least 3 with informal policies
- Remainder unclear
- Possible common law argument
Closed Loop

- Pre-payment for goods and services
- Definitions vary, boundaries sometimes unclear
- What about cash out?
Business to Business / Commercial Activity

Examples:

- Indiana
- North Carolina
- Pennsylvania
- Coming up: Rhode Island
Authorized Delegate

- Essentially an agent of a licensee
- Written agreement common requirements
- Location Requirements
- Cede Control
- No “Rent-a-License” agreements
Different Virtual Currency Approaches

- TX SM 1037
- RI new “currency transmission” definition
- NY’s BitLicense
- Uniform Regulation of Virtual-Currency Businesses Act
Looking to the future

- Vision 2020
- Multistate licensing initiative – 23 states
- Reciprocity – at least 2 states, but...
- Sandboxes – 3 states
- NMLS – 46 states
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