



**Department of the Treasury
Financial Crimes Enforcement Network**

FIN-2014-R008

Issued: April 29, 2014

Subject: Whether a Company that Provides an Armored Car Coin and Currency Exchange Service is a Money Transmitter and Whether the Armored Car Service Exemption Would Apply to the Service.

Dear []:

This responds to your letter of December 4, 2012, seeking an administrative ruling from the Financial Crimes Enforcement Network (“FinCEN”) on behalf of your client, [the Company], regarding whether your client is a money services business (“MSB”) under FinCEN’s regulations. Specifically, you ask (a) whether [the Company]’s new armored car coin and currency exchange service (the “Service”) would make [the Company] a money transmitter for purposes of the Bank Secrecy Act (“BSA”); and (b) if falling under the definition of money transmission, whether the armored car service exemption would apply to the Service.

In your letter, you represent that the purpose of the Service is to provide retailers with change (smaller or higher denominations of cash or coins) to meet their operational needs. A retail customer or similar establishment (the “customer”) places a change order with [the Company]. [The Company] then prepares a sealed bag containing the change, drawing from [the Company]’s-owned cash inventory, and delivers the bag to the customer through an armored car on regularly scheduled stops. In return for the change bag, the customer delivers to the armored car driver a payment bag containing currency and/or coin in the exact amount of the change order.¹ When the payment bag from the customer reaches [the Company], [the Company] examines the currency, verifies the total, and collects or pays out any discrepancy (e.g., payment shortages or overages) through a debit or credit to the customer’s bank account via Automated Clearing House or credit card.

On July 21, 2011, FinCEN published a Final Rule amending definitions and other regulations relating to MSBs (the “Rule”).² The amended regulations define an MSB as “a person wherever located doing business, whether or not on a regular basis or as an

¹ While your letter does not specifically state that the currency and/or coin delivered and received correspond to the same country, it is clear from the context that the service does not involve exchanging currency and/or coin from one country into currency and/or coin of another.

² 76 FR 43585 (July 21, 2011) Bank Secrecy Act Regulations – Definitions and Other Regulations Relating to Money Services Businesses.

organized or licensed business concern, wholly or in substantial part within the United States, in one or more of the capacities listed in paragraphs (ff)(1) through (ff)(6) of this section. This includes but is not limited to maintenance of any agent, agency, branch, or office within the United States.”³

BSA regulations, as amended, define the term “money transmitter” to include a person that provides money transmission services, or any other person engaged in the transfer of funds. The term “money transmission services” means the acceptance of currency, funds, or other value that substitutes for currency from one person *and* the transmission of currency, funds, or other value that substitutes for currency to another location or person by any means.⁴ The regulations also stipulate that whether a person is a money transmitter is a matter of facts and circumstances and enumerates business models where a person’s activities would not make such person a money transmitter. 31 CFR § 1010.100(ff)(5)(ii)(D) provides a specific exemption from money transmitter status for persons that are primarily engaged in the business of physically transporting currency, other monetary instruments, other commercial paper, or other value that substitutes for currency, from one person to the same person at another location, or to an account belonging to the same person at a financial institution, provided that the person engaged in physical transportation has no more than a custodial interest in these items at any point during the transportation (the “armored car exemption”).

FinCEN interprets all of the above referenced exemptions strictly. For example, an activity that does not conform fully to the elements of an exempted transaction or that contains additional features not contemplated in the description of the exempted transaction, is not covered by such exemption. Therefore, a common carrier of currency, other monetary instruments, other commercial paper, or other value that substitutes for currency that goes beyond the basic activity described in the armored car exemption might be a money transmitter under FinCEN’s regulations. Based on the description contained in your letter, we note that the armored car exemption does not apply to [the Company]’s new Service, as the Service is not limited to the physical transportation of currency and/or coin as described in 31 CFR § 1010.100(ff)(5)(ii)(D), but consists of the additional activity of changing larger denominations of currency for smaller denominations of currency for customers.

However, in considering the elements of the Service in the context of the definition of “money transmission services,” we also note that the Service does not involve the “acceptance and transmission of currency, funds, or other value that substitutes for currency to another location or person.” As described in your letter, [the Company]’s armored cars effectively act as remote teller counters for its Service. Rather than offering the Service at its own headquarter, and making the customer incur the

³ 31 CFR § 1010.100(ff).

⁴ 31 CFR § 1010.100(ff)(5)(i)(A) and (B).

expense and risk of transporting the value in its original denomination to [the Company] and transporting the change back, [the Company] leverages its core activity as a common carrier of valuables to conduct the transaction at the customer's own location. After the original request from the customer, [the Company] transports low-denomination currency (which, until the exchange is concluded, is [the Company]'s own property) to the customer's location, completes the exchange with the customer, and transports the equivalent amount in large-denomination currency (which, after the exchange, is also [the Company]'s own property) back to headquarters.⁵ Accordingly, the transportation of currency and/or coin of certain denominations from [the Company]'s vault to the customer's location and the return transportation of currency and/or coin in the exact amount of the change provided to [the Company]'s own vault does not constitute the acceptance of value from one person and the transportation of such value to another person or location and, therefore, it does not make [the Company] a money transmitter under FinCEN's regulation.

This ruling is provided in accordance with the procedures set forth at 31 CFR § 1010.711. In arriving at the conclusions in this administrative ruling, we have relied upon the accuracy and completeness of the representations you made in your communications with us. Nothing precludes FinCEN from arriving at a different conclusion or from taking other action should circumstances change or should any of the information you have provided prove inaccurate or incomplete. We reserve the right, after redacting your name and address, and similar identifying information for your clients, to publish this letter as guidance to financial institutions in accordance with our regulations.⁶ You have fourteen days from the date of this letter to identify any other information you believe should be redacted and the legal basis for redaction.

If you have questions about this ruling, please contact FinCEN's regulatory helpline at (703) 905-3591.

Sincerely,

//signed//

Jamal El-Hindi
Associate Director
Policy Division

⁵ [The Company] would not be considered a dealer in foreign exchange under FinCEN's regulation for this activity. The Rule amended the definition of dealers in foreign exchange, formerly referred to as "currency dealers and exchangers," (31 CFR § 1010.100(ff)(1)). The Preamble to the Final Rule explained that the change in definition includes the phrase "of one or more other countries" to underscore FinCEN's policy that a person is not a dealer in foreign exchange based on exchanges that involve currency or instruments denominated exclusively in the currency of one country.

⁶ 31 CFR §§ 1010.711-717.