



## Financial Crimes Enforcement Network Department of the Treasury

### FinCEN Ruling 2003-9 – Definition of Money Services Business (Money Transmitter/Currency Dealer or Exchanger)

October 20, 2003

Dear [ ]:

This letter responds to your October 6, 2003 letter requesting an administrative ruling with respect to whether you are required to obtain a license or to register because you transport your own currency from Colombia into the United States. Based on the representations contained in your letter, we have determined that you are not required to register with FinCEN as a money services business pursuant to 31 CFR 103.41. However, FinCEN does not have jurisdiction over state-imposed licensing requirements, and so we cannot provide you with any information on whether you are required to obtain a license in Florida or any other state.

In your March 14, 2003 letter, you state that you deposit your own money, obtained from savings and credit lines, into your checking and savings accounts in the United States. You travel to Colombia to withdraw this money in pesos using ATMs and cash advances at local bank branches. You take the pesos to an exchange house and buy U.S. dollars, then travel to the United States with the currency. You file Customs Form 4790 "Report of International Transportation of Currency and Monetary Instruments," and later deposit the money into your U.S. bank accounts. You engage in these transactions in order to make a profit for yourself. You were told by a U.S. Customs Officer to consult with the Department of the Treasury and the State Department of Financial Services to determine whether you are required to register, or to obtain a license.

FinCEN administers the Bank Secrecy Act ("BSA") and its implementing regulations found in 31 CFR Part 103. For BSA purposes, money services businesses ("MSBs"), are defined at 31 CFR 103.11(uu) as each agent, agency, branch, or office within the United States of any person doing business in one or more of the following capacities: currency dealer or exchanger; check casher; issuer, seller, and redeemer of traveler's checks, money orders, or stored value; and money transmitter. Among the BSA provisions to which MSBs (other than issuers of stored value, and agents of an MSB) are subject is the requirement to register with FinCEN pursuant to 31 CFR 103.41. To the extent that you are exchanging and transporting your own money on behalf of yourself, you are not doing business as a money transmitter or a currency dealer or

exchanger for purposes of the BSA, and thus, are not required to register with FinCEN as an MSB.

FinCEN does not have authority to determine whether or not you are required to obtain a license from the State of Florida or any other state. Moreover, whether or not a person is required to register with FinCEN has no relevance to the question whether a person must obtain a state license in order to engage in the same activity. Therefore, you must consult with relevant state banking departments to determine whether you are required to obtain a state license.

In arriving at our decision, FinCEN relied upon the accuracy and completeness of the representations made in your October 6, 2003 letter. Nothing precludes FinCEN from seeking further action should any of this information prove inaccurate or incomplete.

Sincerely,

//signed//

Judith R. Starr  
Chief Counsel

cc: David M. Vogt, Executive Associate Director, Office of Regulatory Programs  
Deborah Silberman, Supervisory Program Officer, MSB/Casinos/IRS Section