

**De :** susan@universalforex.com [mailto:susan@universalforex.com]

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**À :** Consultation-en-cours

**Objet :** Comments with respect to MSB - Regulations & Guidelines - to the Autorite de Marche Financiere

Good Morning,

Here are my comments with respect to the Policy Statement, Regulations under the Act and Regulations vis a vis, Fees and Tarriffs:

I have presented my comments and have noted the sections that I am discussing:

**COMMENTS PRESENTED BY SUSAN HERMELIN OF UNIVERSAL CURRENCY EXCHANGE INC., MONTREAL, QC.**

**Policy Statement to the Money Service Business Act, S.Q. 2010,**

**Schedule I, section 44:**

**On page one,**

**Section I - SCOPE:**

**Discussion of classes of License:**

**2) Funds transfers "a funds transfer consists in moving cash funds from one location to another or from one person to another via a person, an entity or a network."**

**Comment:** Can you clarify Cash funds please. Is this physical cash or does the terminology, cheque, bank draft or wire payment included in this terminology as we do not accept "cash" for wire payments.

If we use the services of our Bank ( may I presume this is what you mean by the word Entity? (via Bank software) Is this considered as a separate license as **it is the Bank that controls the actual release and movement of the funds.**

**3) Issue of redemption of travellers' cheques, money orders or bank drafts:**

**Comment on terminology "cashiers cheque".**

This terminology, I believe is **limited to the USA only**. In Canada we say a **Bank draft** or **it could be an Official Cheque**, both of which are only obtainable by presenting oneself **directly to the Bank employee** and requires the signature of two employees. This is for amounts over \$2,500.00.

In some Banks, there is no difference between the Bank draft and Money order and in some Banks, only one signature of a Bank employee is required and the payee name is written in by the Bank employee.

One can purchase a Money order, **only at the Bank**, for amounts under \$2,500.00, however the payee name is written in by the Purchaser **as opposed to a Bank Draft**, where the payee name is recorded by the Bank Employee and said name is noted in their computer system.

**No MSB Can issue a Money order or a Bank Draft, they can issue a company cheque only**

The **Schedule A Banks** are supposed to only sell these items to a client that has an account and funds are debited from client's account – no cash payments.

I believe that Schedule B Banks are able to sell these instruments to *non clients* and therefore it appears they would be accepting hard cash. This is a fact that would have to be verified.

### **Section III – OBLIGATIONS OF MONEY SERVICE BUSINESS**

#### **General Obligation,**

##### **subsection – Verification of Identity of customers and co contracting parties:**

*“ It may also **obtain confirmation from a financial institution**, with which the customer holds a deposit account that the **customer's identity was verified by the Institution**”*

#### **MY COMMENT:**

Please note that sometimes it is virtually **impossible to retrieve this information as many Banks hide behind privacy issues in that we are not a Financial Institution**. We believe that we need to be able to obtain this information in order for us to respect to the regulations.

#### **Subsection: Co-Contracting Parties:**

*“.....the msb must verify the identity of the co-contracting parties with which it enters into an agreement related to its money services activities. A co contracting party related to the msb activities is deemed by the Authority to be a person who.....**transports securities** for the money service business”*

**My comment:** We use the services of **Brinks Canada**. Does this mean that Brinks has to provide their Employee listing & said employee has to provide their ID to us? It is important to note that all outgoing deliveries contracted with Brinks contains their Waybill as well as the E-667 CBSA declaration completed by us, that includes the signature & ID code of the employee of Brinks. All incoming deliveries are accompanied by the Brinks Waybill that details remitting party, our details as well as the value of the items being delivered. This is a computerized receipt received from Brinks and Brinks takes a signed copy from us.

## **Regulations under the Money Service Business Act**

### **Division III**

#### **– General Obligations**

**8.** *“To secure the performance of its obligations, the msb must provide security to the Authority in the form of a sum of money or bonds in the amount of \$10,000.00”*

I would like to know **how these funds are to be treated** with respect to the following:

- A. Would this be considered as an Asset to the Business?
- B. Will the Authority pay a nominal interest fee to the Business for the holding of these funds?
- C. What type of receipt will the Authority provide to the Business for accounting purposes?

**13.** **Please clarify a proxy document.** My understanding: Customer has a Power of Attorney for someone. We photocopy the Power of Attorney that contains original signatures and place same with our records. Or if someone is clearly acting as an Executor for an Estate. We take photocopies of the “Will/Death Certificate/Notarial document that states they are the Executor to the Estate. Our records will indicate the client as the Estate of the deceased being represented by the actual name of the presenting person, their ID and capacity.

#### **REGULATIONS RESPECTING FEES AND TARIFFS:**

1. Fee for Currency Exchange – scenario: A client presents payment ( **Bank Draft/Cheque/Wire Payment**) in **one currency** and **converts to another**, our payment is **either** via our Company Cheque/Bank Draft from the Bank and/or wire transfer – **do all of the above fall under the Currency Exchange Tariff** or

Must we file for a **separate license for the issuance of a company cheque** for the currency conversion.

Must we file a **separate license for the services of a Wire Transfer payment?**

We never take the same currency for a wire transfer or a cheque as there is always a currency conversion. Please clarify.

**We use the software from a Bank, does that mean to include in the additional tariff?  
The release and subsequent movement of the funds is controlled by our Bank. ( Fee charged \$600.00)**

Therefore if an MSB has the services of

- 1. The Buying and Selling of Foreign Currencies as a service - and-**
- 2. The selling of a company cheque in a foreign currency - and – receiving payment from the client in the form of *Interac card* , Bank Draft or cheque;**
- 3. The selling of a wire payment in a foreign currency – and – receiving payment via *Interac*, Bank Draft or cheque ( no cash )**
- 4. The purchase of a USD Bank Draft/Foreign Currencies and payment is via a Canadian company cheque or Bank Draft or Wire payment to client’s account.**

**Question: Do the above four scenarios equate to four separate licenses?**

**Respectfully submitted by:**

Mme. Susan Hermelin  
Agent de Conformité/ Compliance Officer  
Bureau de Change UNIVERSAL Currency Exchange Inc  
Centre de Commerce Mondial - Montreal World Trade Center  
380 St Antoine O. (W-1010) Rez de Chaussé – Ground Floor  
Montreal, QC H2Y 3X7

Tel: 514- 844-5060 - Télécopieur | Facsimile # 514-844-5006

[susan@universalforex.com](mailto:susan@universalforex.com) - [www.universalcurrency.ca](http://www.universalcurrency.ca)