

32A-2-1

32A-2-2

June 17, 1998

Re: \_\_\_\_\_ Travelers Cheques

Dear Ms. \_\_\_\_\_ :

Commissioner Bias requested that I respond to your letter of June 4, 1998 regarding your notification of \_\_\_\_\_ ' plans to offer \_\_\_\_\_ Travelers Cheques denominated in South African rands through its offices and authorized delegates in West Virginia. These checks would be issued by the \_\_\_\_\_ Travellers Cheque Co., a company in which you are part owner in conjunction with \_\_\_\_\_ .

\_\_\_\_\_ Co. holds a license pursuant to W. Va. Code § 32A-2-1 et seq. as recently amended by HB 4591, to engage in the issuance and sale of travelers checks. (See W. Va. Code § 32A-2-2(b) granting new provisional license to entities previously licensed under the earlier act). The provisions of the new law clearly allow for licensees to issue travelers checks denominated in a foreign currency, while specifically excluding such sales from the definition of "currency exchange." (See W. Va. Code § 32A-2-1(2) and (4)).

While you indicate that \_\_\_\_\_ has full and joint liability with its South African bank partners in connection with the issuance and sale of these travelers checks, it appears that \_\_\_\_\_ will be the actual issuer of the checks. State law requires that persons issuing the checks must have a license before they may engage in the money transmission business in West Virginia. (See W. Va. Code §§ 32A-2-2(a) and -2-1(6)). It would therefore be incumbent for the South African \_\_\_\_\_ Co. to apply and obtain its own separate license prior to marketing these travelers checks in West Virginia under the structure you propose. Further, the name of the licensed entity must by law be stamped or imprinted on the check (see W. Va. Code § 32A-2-15(a)), a requirement not met in your submitted sample bearing the name of \_\_\_\_\_ Company.

Lastly, please keep in mind that even once your proposal has been properly restructured, that in the sale of foreign denominated travelers checks the licensee or its authorized delegate must record the date of the transaction, the amount of the transaction, the rate of exchange used at the time of the transaction; and provide the customer with a written receipt identifying the transaction, the licensee and the amount. (See W. Va. Code § 32A-2-15(d)). These records must be maintained and available for examination by this office.

It is my understanding that these same concerns have been raised by both California and Georgia. My discussions with Texas officials, (the state on which our statute is based), reveal that they also have issues with the proposal. Thus while it is true that \_\_\_\_\_ Co. could issue South African rand denominated travelers checks bearing its name in West Virginia under its current license, \_\_\_\_\_ Company may not on its subsidiary's behalf sublet its license authority to \_\_\_\_\_.

If you have any questions regarding this letter, please feel free to contact me.

Sincerely,

Timothy C. Winslow  
General Counsel