

Making it the same everywhere: States strive for uniformity in money transmitter laws

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State attorneys general have increased their focus on the use of their enforcement authority against payment processing applications platforms that were not licensed under state money transmitter laws. One of the challenges raised by these state laws is the fact that they are not uniform in either their language or how they are interpreted or applied.

In the spirit of looking at the glass-half-full aspects of these developments, it is worth pointing out that the Conference of State Bank Supervisors (CSBS) is undertaking an initiative to develop model payments legislation with the goal of increasing uniformity of state legislation in this area.

The multistate licensing initiative is part of Vision 2020, a set of initiatives that CSBS and state regulators are implementing to harmonize the multistate licensing and supervisory experience for nonbank financial services providers, including fintechs.

One primary area of focus for the CSBS is state money transmitter legislation.

To this end, a committee of state financial institution supervisors, under the auspices of the CSBS, has developed model language for money services businesses, and recently published this model language for public comment.¹

The model language focuses on areas such as core definitions of money transmission-related activities, money transmitter exemptions, control and changes in control of money transmission businesses, financial condition issues, and interstate parity and coordination activities.

As CSBS President and Chief Executive Officer John Ryan noted, "A 50-state law for money transmission offers nationwide consistency for companies, access to innovative financial products for citizens and more effective supervision by state regulators."²

We agree completely: Experience shows that the lack of uniformity in state money transmitter laws and regulations is a source of continuing frustration for fintech firms — in particular, those offering payments applications — that are trying to understand when and in what manner these laws may apply to them.

Further, this state regulatory inconsistency creates barriers to innovation and service deployment by creating regulatory risk for industry participants.

The latest development follows an announcement by CSBS in June 2019³ that 23 states have committed to a multistate agreement that standardizes key elements of the licensing process for money transmitters and other money services businesses (MSBs).

The original agreement announced in February 2018⁴ included only seven states, which shows that substantial progress is being made at the state level in moving toward regulatory uniformity.

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The CSBS legislative harmonization effort is a worthy endeavor that we hope will lead to forward-looking and workable legislative recommendations that states will implement.

NOTES

¹ <http://bit.ly/2QAHCOD>

² <http://bit.ly/39mqDbv>

³ <http://bit.ly/2rJZezc>

⁴ <http://bit.ly/39sBosv>

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