

**DEPARTMENT OF BUSINESS OVERSIGHT***Ensuring a Fair and Secure Financial Services Marketplace for all Californians***Jan Lynn Owen****Commissioner of Business Oversight**

October 7, 2013

Re: Illegal Online Payday Loans Offered and Sold to California Customers

Dear State-Licensed Financial Institution:

I am writing to you in connection with the Department of Business Oversight's ("Department") ongoing investigation into illegal deferred deposit transaction lending ("payday lending") and to seek your cooperation by identifying your exposure to these transactions and reporting all suspicious activity.

The California Deferred Deposit Transaction Law ("CDDTL") governs payday lending in California and specifies the Department's role as the regulator of these products. Under Financial Code section 23001, subdivision (a), a "deferred deposit transaction" (commonly known as a "payday loan"), is a transaction whereby a person defers depositing a customer's personal check until a specific date, pursuant to a written agreement for a fee or other charge. "Personal check" includes the electronic equivalent of a personal check that is transmitted through the Automated Clearing House ("ACH") network. Financial Code section 23001, subdivision (f) defines "deferred deposit originator" as a person who offers, originates, or makes a deferred deposit transaction.

Financial Code section 23005, subdivision (a) states, in relevant part, "No person shall offer, originate, or make a deferred deposit transaction, arrange a deferred deposit transaction for a deferred deposit originator, act as an agent for a deferred deposit originator, or assist a deferred deposit originator in the origination of a deferred deposit transaction without first obtaining a license from the commissioner..."

Additionally, to the extent a bank or credit union conducts any business with unlicensed payday lenders, such activity could implicate safety and soundness concerns. For example, a bank or credit union may violate Bank Secrecy Act (BSA)/Anti-Money Laundering (AML) requirements if its customer due diligence procedures do not confirm a customer's compliance with state licensing requirements. A bank or credit union must file a Suspicious Activity Report if it becomes aware that a customer is operating in violation of a state licensing requirement. Finally, please note that recently the Federal Deposit Insurance Corporation (FDIC) issued [guidance](#) for banks on conducting proper risk assessments to ensure they are not facilitating illegal loans. The FDIC has stated that their examination focus will assess whether banks are properly overseeing activities and appropriately managing and mitigating risks.

Since January 2013, the Department has taken numerous enforcement actions, including issuing Internet alerts, Desist and Refrain orders, Orders Voiding Transactions, and citations, against unlicensed online payday lenders soliciting and providing payday loans to California residents via ACH transactions in violation of the CDDTL. The lenders and their business locations include:

1515 K Street, Suite 200  
Sacramento, CA 95814-4052  
(916) 445-2705

1810 13<sup>th</sup> Street  
Sacramento, CA 95811  
(916) 322-5966

One Sansome Street, Suite 600  
San Francisco, CA 94104-4428  
(415) 972-8565

45 Fremont Street, Suite 1700  
San Francisco, CA 94105  
(415) 263-8500

320 West 4<sup>th</sup> Street, Suite 750  
Los Angeles, CA 90013-2344  
(213) 576-7500

300 S. Spring Street, Suite 15513  
Los Angeles, CA 90013  
(213) 897-2085

1350 Front Street, Room 2034  
San Diego, CA 92101-3697  
(619) 525-4233

7575 Metropolitan Drive, Suite 108  
San Diego, CA 92108  
(619) 682-7227

- **Bottom Dollar Payday – Costa Rica**
- **Cash Express Loan – (Internet only)**
- **Prestige Group Marketing – Charlestown, Nevis, West Indies**
- **CashLine LLC – Malta, European Union**
- **Chukchansi Indian Tribe of California (dba Blue King, Inc.) – California**
- **Federal Financial Services (dba Payday Nation) – United Kingdom**
- **Cash Yes and Hong Kong Partners – Belize**
- **Otoe-Missouria Tribe of Indians of Oklahoma (dba American Web Loan) – Oklahoma**
- **Joro Resources LLC (dba IdealGelt) – Texas**
- **NetPDL; NetPDL.com – (Internet only)**
- **Northway Financial Corporation – Malta, European Union**
- **CWB Services LLC – Missouri**
- **East Side Lenders, LLC (dba eastsidelenders.com) – Delaware**
- **Tunica-Biloxi Tribe of Louisiana (dba Mobiloans) – Louisiana**
- **Twin Bluffs Financial LLC – Missouri**
- **Vince Enterprises, Ltd. – Charlestown, Nevis, West Indies**

The Department is actively identifying unlicensed payday lenders and will continue to pursue enforcement action against those that refuse to desist and refrain from their activities in California.

Financial institutions may also be, knowingly or unknowingly, facilitating a violation of state law by accepting debits and credits by unlicensed payday lenders from the ACH network. Recent actions by other state regulators have highlighted the role that the ACH network, the medium through which many payday loans transact in California, plays in illegal payday lending through financial institutions.

Banks and credit unions, the “gatekeepers” of the ACH network in electronic payday transactions, play a crucial role as either Originating Depository Financial Institutions (“ODFIs”) or Receiving Depository Financial Institutions (“RDFIs”). ODFIs enable payday lenders to present debit entries into the ACH network and, like the unlicensed payday lenders themselves, ODFIs that provide ACH services for illegal payday transactions bear the risks (legal, reputational, compliance, and financial) for these transactions. Banks and credit unions that function as the payday customer’s bank or credit union (i.e., RDFIs) can help prevent their customers from being victimized by acting on customer complaints. RDFIs have the power to detect a pattern of excessive unauthorized transactions from a single payday lender and work with ODFIs and the Department to verify the status of a payday lender.

Accordingly, the Department requests its licensees refrain from doing business with the unlicensed payday lenders identified above, and assess their controls to identify and discontinue transactions with other unlicensed payday lenders and report those unlicensed payday lenders to the Department. Additionally, Department examinations will review for compliance to ensure safeguards are in place to prevent unlicensed payday lenders from gaining access to the ACH network and victimizing Californians.

Thank you for your prompt attention to this matter. Please contact the Department’s Chief Bank Examiner, Scott Cameron, at 916-322-5962 or Deputy Commissioner for Credit Unions, RaAnn Wood, at 213-897-2155 with any questions or to discuss this matter further.

Sincerely,

/s/ \_\_\_\_\_

Jan Lynn Owen

Commissioner of Business Oversight

California Department of Business Oversight