

DEPARTMENT OF BUSINESS OVERSIGHT*Ensuring a Fair and Secure Financial Services Marketplace for all Californians*

Jan Lynn Owen
Commissioner of Business Oversight

August 23, 2016

Re: Opinion Request

Dear _____:

Thank you for your letter to the General Counsel of Business Oversight, Scott Wyckoff, dated July 29, 2016. As Senior Counsel for the Legal Division, the General Counsel requested that I respond to this matter.

_____ previously received an opinion letter dated June 24, 2011, from the Department of Business Oversight (formerly, Department of Financial Institutions). That letter exempted from the Money Transmission Act ("MTA"), _____ activities as a program manager for the sale and distribution of bank-issued, FDIC-insured reloadable stored value cards. At the time the June 24, 2011 letter was issued, _____ was the card issuing bank.

_____ has informed the Department that _____ is now the card issuing bank. _____ serves as the program manager for _____ stored value cards. Other than the change in the card issuing bank, all other material facts regarding _____ role as program manager remain the same as discussed in the June 24, 2011 letter.

Since the issuance of the June 24, 2011 letter, the Department has adopted a regulation that specifies exemptions from the MTA. (Cal. Code Regs., tit. 10, § 80.3002.) Subdivision (a)(1) of Section 80.3002 exempts from the MTA the sale of a money transmission product of a person exempt pursuant to Financial Code section 2010. A bank issued stored value card is a product of a person exempt under Financial Code section 2010.¹ Thus, the sale of a bank issued stored value card is exempt from the MTA. Accordingly, the sale and distribution by _____ of bank-issued cards is exempt from the MTA.

¹ Banks are exempt from the MTA. Fin. Code, § 2010(d).

This opinion is based solely on the facts as represented in your correspondence. Any change in the facts or circumstances, as we understand them, could lead to a different conclusion. If you have any questions, please feel free to contact me at _____.

Sincerely,

Jan Lynn Owen
Commissioner
Department of Business Oversight

By

Jennifer L.W. Rumberger
Senior Counsel

cc: Robert Venchiarutti, Department of Business Oversight, San Francisco