

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

**Jan Lynn Owen**  
**Commissioner of Business Oversight**

August 24, 2015

Re: \_\_\_\_\_ – Opinion Request

Dear \_\_\_\_\_:

Thank you for your letter dated July 13, 2015. In your letter, and in our telephone conversations of August 10 and 13, you requested that the Department of Business Oversight (Department) confirm that \_\_\_\_\_ foreign check clearing services are not considered money transmission subject to the Money Transmission Act.

**Background**

Your letter, as clarified by our telephone conversations, describes the services \_\_\_\_\_ offers to American banks (the service is not offered to any California bank) as:

An American bank receives for deposit a check (denominated in Canadian dollars) that was written against a Canadian bank; the American bank uses \_\_\_\_\_ to establish an exchange rate to translate the Canadian dollars to U.S. dollars; the American bank sends the check, via courier, to Bankers Bank; Bankers Bank, after processing the check, sends the check via courier, to Bank of Montreal in Canada. The checks are then deposited into \_\_\_\_\_ account. After processing, Bank of Montreal wires to Bankers Bank funds in an amount consistent with the previously established \_\_\_\_\_ exchange rate. Bankers Bank then applies the appropriate credit to the accounts of its member banks.

**Money Transmission Act**

In part, Financial Code section 2003(q) defines “money transmission” as receiving money for transmission, and Financial Code section 2003(u) defines “receiving money for transmission” as receiving money or monetary value in the United States.

\_\_\_\_\_ does not receive money or monetary value in the United States, rather it receives money or monetary value in Canada; therefore, the check clearing activity described above does not fall within the Financial Code’s definition of money transmission.

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**Conclusion**

The check clearing service provided by \_\_\_\_\_, as described in your letter and as further clarified during our subsequent telephone conversations, is not considered money transmission, pursuant to Financial Code section 2003(q).

This opinion is based solely on the facts as represented in your correspondence and by you in follow-up telephone conversations, and may change if any of the conditions or circumstances under which \_\_\_\_\_ provides check clearing services is altered in the future. If you have any questions, please feel free to contact me at (415) 263-8541.

Sincerely,

Jan Lynn Owen  
Commissioner  
Department of Business Oversight

By

Paul. T. Crayton  
Senior Counsel

PTC:is

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