

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

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

January 4, 2018

Re: Request for a legal opinion under Financial Code section 2010(l)

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

Thank you for your letter dated August 24, 2017 to Robert Venchiarutti, the Deputy Commissioner of the Money Transmitter Division in the Department of Business Oversight. As counsel for the Legal Division, I have been asked to respond to this matter.

Your letter asks whether the California Money Transmission Act (“MTA”) applies to the payment services to be offered by \_\_\_\_\_. Your letter states that \_\_\_\_\_’s proposed business practices should be exempt from the MTA under the agent of payee exemption.<sup>1</sup> In an email dated August 29, 2017, you provided a sample contract for \_\_\_\_\_’s services and a flow of funds chart.

The Department intends to propose a regulation concerning the agent of payee exemption in the near future. While the Department engages in the rulemaking process, we decline to opine on the applicability of the exemption to \_\_\_\_\_’s proposed payment activity. However, the Department will not require \_\_\_\_\_ to be licensed under the MTA while the rulemaking is pending.

This letter is limited to the facts and circumstances presented to the Department in the correspondence listed above. Should any of the facts or circumstances change, the Department’s opinion may also change.

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<sup>1</sup> Fin. Code § 2010, subd. (l).

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If you have any questions, please contact the undersigned at \_\_\_\_\_.

Sincerely,

Jan Lynn Owen  
Commissioner  
Department of Business Oversight

By

\_\_\_\_\_  
Shavaugn I. Lewis  
Counsel