



STATE OF CALIFORNIA

Department of Financial Protection and Innovation

GOVERNOR **Gavin Newsom** • COMMISSIONER **Manuel P. Alvarez**

IN REPLY REFER TO:
FILE NO: _____

October 6, 2020

SENT VIA EMAIL

Re: _____.-Request for Interpretive Opinion re Agent of the Payee Exemption
under the Money Transmission Act

Dear Mr. _____:

This is in response to your letter dated September 11, 2020, in which _____
(_____) requests a determination by the Department of Financial Protection and
Innovation, formerly Department of Business Oversight (Department) that _____'
international settlement service meets the requirements of the agent of the payee exemption¹
from the Money Transmission Act (MTA).² You argue that _____'s activity is exempt from
the MTA under the agent of payee exemption.

I. FACTS

_____ is a U.S. company that provides a cross-border settlement service to Chinese
merchants (Merchant(s)) working with large U.S. e-commerce marketplaces or other sales
platform (Platform(s)) located in California to sell goods or services in the United States.

Each Merchant has a direct contractual relationship with the relevant Platform(s), under which
each Platform, acting as the agent of the Merchant, collects payments from customers that are
due to the Merchant.

Each Merchant wishing to participate in the service offered by _____ agrees to _____'
Terms of Use (Terms). Under the Terms, each Merchant appoints _____ as the Merchant's

¹ Fin. Code, § 2010, subd. (l).

² Fin. Code, § 2000, et seq.

agent for the collection of payments from each Platform on which Merchant is selling its goods or services. The Merchant directs the Platform to remit to _____ any amounts owed by the Platform to the Merchant.

In lieu of providing its own bank account number to the Platform for the purposes of settlement, each Merchant provides the Platform with an account number provided by _____ that is linked to _____' U.S. bank account. _____ daily instructs its U.S. bank to transfer the received amount of U.S. dollars from its bank account to an omnibus bank account held by _____ in Hong Kong. _____ subsequently converts the received U.S. dollars into the designated payout currency and remits the funds from its bank account in Hong Kong to a bank account designated by the Merchant.

II. CONCLUSION

The Department has proposed regulations concerning the agent of payee exemption.³ The Department anticipates that these regulations will become final by the end of February 2021. While the Department engages in the rulemaking process, we decline to opine on the applicability of the exemption to _____' proposed payment activity. However, the Department will not require _____ to be licensed under the MTA while the rulemaking is pending. The agent of payee exemption is self-executing. Nonetheless, after _____ has reviewed the final, promulgated regulation, you are welcome to contact me to discuss further, if you wish.

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. If you have any questions, please feel free to contact me at _____ or _____.

Sincerely,

Manuel P. Alvarez
Commissioner
Department of Financial Protection and Innovation

By

Senior Counsel

cc: Robert Venchiarutti, Department of Financial Protection and Innovation, San Francisco
Jonathan Lee, Department of Financial Protection and Innovation, Los Angeles

³ <https://dbo.ca.gov/MONEY-TRANSMISSION-ACT-PRO-07-17/>