



**IDAHO**  
DEPARTMENT OF FINANCE

**C. L. "BUTCH" OTTER**  
Governor

**GAVIN M. GEE**  
Director

August 25, 2011

Re: Money Transmitter Licensing Inquiry

Dear M

It was a pleasure to speak with you recently regarding your written submission on behalf of

As noted in our conversation, we believe that the proposed business model constitutes money transmission as provided for in the Idaho Money Transmitters Act. As we also discussed, the Department will consider taking a no action enforcement position as to licensing if it is in the public interest to do so all risk to the payment originator can be eliminated.

If you have any questions or need to discuss this matter further, please feel free to contact me directly at (208) 332-8080.

Sincerely,

James A. Burns  
Investigations Chief

**SECURITIES BUREAU**  
800 Park Blvd., Suite 200, Boise, ID 83712  
Mail To: P.O. Box 83720, Boise ID 83720-0031  
Phone: (208) 332-8004 Fax: (208) 332-8099  
<http://finance.idaho.gov>

**PROTECTING THE INTEGRITY OF IDAHO FINANCIAL MARKETS**

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STATE OF IDAHO  
DEPT OF FINANCE

Idaho Department of Finance  
ATTN: Gavin M. Gee, Director  
800 Park Blvd., Suite 200  
Boise, Idaho 83712

Re: Money transmitter licensing interpretation request –

Dear Director Gee,

is an insurance agency founded in 2008 and licensed in your state for the sale of pet health insurance to consumers. is a wholly-owned subsidiary of . The underwriter for is – a Company.

Recently, has decided to expand into a non-insurance business named with the intention of assisting veterinarians in offering pet wellness programs to their clients. will be registering as a dba in your state. would like to confirm that it does not need a money transmitter or other license to operate its proposed business model, as described below.

will contract with veterinary clinics to provide them with proprietary software to facilitate their creation, selling and management of annual wellness service contracts to their clients. The veterinary clinic will create its own annual wellness plan(s) to be sold to its clients via the software and website, which are designed to provide veterinary services to the veterinary clinic's clients' pets. The veterinary clinic's client will purchase the annual wellness plan from his or her veterinary clinic online via the website.

Once a veterinary client purchases an annual wellness contract, pursuant to its contract with the veterinary clinic, will collect monthly payments from the veterinary client on behalf of their veterinary clinic. All funds collected by from veterinary clients, on behalf of their veterinary clinic, will be via credit card or debit card only. the vendor used by for payment collection, will then deposit collected funds into a account. will then remit collected funds to the veterinary clinic via EFT or check if requested, less a small fee collected to cover costs. Only the veterinary clinic will be liable to for this fee; no veterinary client is responsible for payment of this fee or any other of the veterinary clinic's fees owed to . The veterinary clinic has access to a secure web portal to review the funds collected status from each client. The client also has access to a secure web portal to view their payment history and manage their personal information.

This processing of veterinary clients' wellness contract payments is a convenience will provide to the veterinary clinics, and is only a small piece of the total services will offer to veterinary clinics related to their wellness programs.

The attached graph demonstrates the proposed business model.

will not be "receiving money for transmission" in the traditional sense. will be acting only on behalf of veterinary clinics, pursuant to its contracts with those veterinary clinics. will not be acting on behalf of the veterinary clinic's clients. processing of payments from veterinary clients to veterinary clinics will be ancillary to its primary business, which is assisting veterinary clinics in offering wellness programs to their clients. As described above, will provide proprietary software to facilitate veterinary clinics' creation, selling and management of annual wellness service contracts to the veterinary clinic's clients. The website cannot be used to pay for anything other than a wellness plan offered by a veterinary clinic. Payments cannot be made to any other parties, or even to a veterinary clinic for anything other than the wellness plan.

As you may know, the Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Department of the Treasury, recently revised its regulations implementing the Bank Secrecy Act regarding money services businesses (MSBs). (See *Amendment to the Bank Secrecy Act Regulations – Definitions and Other Regulations Relating to Money Services Businesses*, published on July 21, 2011 at 76 Fed. Reg. 43585.)

The definition of MSB includes money transmitters, who are "persons that provide money transmission services" as well as "any other person engaged in the transfer of funds." However, FinCEN now excludes from the definition of money transmitter a person that only "Acts as a payment processor to facilitate the purchase of, or payment of a bill for, a good or service through a clearance and settlement system by agreement with the creditor or seller." (31 CFR 1010.100(ff)(5)(ii)(B).)

FinCEN explains this change as follows:

Although payment processors may provide a money transmission service, the service is ancillary to their primary business of coordinating payments either from a debtor to a creditor or, if operating at the point of sale, from a purchaser to a merchant.[] A payment processor could not provide the primary service of coordination without providing ancillary money transmission services, but because the money transmission services are ancillary, and because they are generally low risk, it is appropriate for entities engaged in this activity to be excluded from the definition. Note, however, that this limitation only applies to transmission services by payment processors on behalf of the creditor or seller and not the debtor or buyer. ... (76 Fed. Reg. 43593.)

***Confidential Treatment Requested***

As explained above, processing of payments from veterinary clients to veterinary clinics will be a small ancillary part of its primary business, which is assisting veterinary clinics in offering wellness programs to their clients, pursuant to contracts between and the veterinary clinics.

We understand that FinCEN's regulations impose different requirements than the licensing laws in your state. However, given these recent changes, we want to confirm that does not need a money transmitter or other license to operate in your state.

Please do not hesitate to contact me if you have any questions.

Compliance Manager

Emailed on 8/15/11 to [finance@finance.idaho.gov](mailto:finance@finance.idaho.gov)