

DIRK KEMPTHORNE  
GOVERNOR



GAVIN M. GEE  
DIRECTOR

STATE OF IDAHO  
DEPARTMENT OF FINANCE  
700 W. STATE STREET, 2ND FLOOR  
P.O. BOX 83720  
BOISE, IDAHO 83720-0031  
Website: [finance.state.id.us](http://finance.state.id.us)

October 11, 2002

Re:

Dear :

Thank you for your letter asking for the Department's opinion as to whether licensing is required under the Idaho Money Transmitters Act (Act) for credit unions to offer the service.

According to your letter, is a cost-effective means for people in the United States to transfer funds to people in other countries. Credit unions contract with which in turn has a relationship with ). A credit union takes information from a customer wishing to transmit funds, and at the same time, the customer provides either the funds or has his account debited in the required amount. The credit union provides a receipt to the customer that indicates the credit union is the obligor on the transaction. The credit union uses technology to accomplish the transmission of the funds.

It is our understanding from your letter that the credit unions will bear ultimate responsibility and liability for these transactions. The receipts will bear the credit union's name, and not As far as a customer is concerned, the money transmission service is being conducted by the credit union, and not the credit union as an agent of another entity. The credit union is for all intents and purposes the transmitter of the funds.

In our view the credit union is exempt from the provisions of the Act pursuant to Idaho Code 26-2904(d). This section provides that the Act does not apply to "... credit unions ... organized under the laws of any state ... provided that they do

Banks & Savings Banks (208) 332-8005  
Credit Unions (208) 332-8003  
Securities (208) 332-8004  
Money Transmitters (208) 332-8004

PHONE: (208) 332-8000  
FAX: (208) 332-8098  
Director's Fax: (208) 332-8097  
Securities Fax: (208) 332-8099

Supporting Services (208) 332-8001  
Mortgage Companies (208) 332-8002  
Finance Companies (208) 332-8002  
Collection Agencies (208) 332-8002

not issue or sell payment instruments through authorized delegates who are not banks, credit unions, savings and loan associations, savings banks or mutual banks”.

The other issue your letter raises is whether \_\_\_\_\_ are money transmitters. Idaho Code 26-2902(11) defines “money transmission as:

the sale or issuance of payment instruments or engaging in the business of receiving money for transmission or the business of transmitting money within the United States or to locations outside the United States by any and all means including, but not limited to, payment instrument, wire, facsimile or electronic transfer.

While the activities of both entities arguably fall within this definition, given the circumstances of this particular case, our Department will take a no enforcement action position with respect to licensing under the Act for \_\_\_\_\_. This position is limited to \_\_\_\_\_ participation in the \_\_\_\_\_ program with Idaho credit unions. However, \_\_\_\_\_ should consult their own counsel as to the need for compliance with federal requirements relating to money services businesses for these transactions.

I hope this information is helpful to you. Please let me know if you have further questions.

Sincerely,



Marilyn T. Chastain  
Securities Bureau Chief

mtc/

September 4, 2002

RECEIVED

SEP 05 2002

DEPARTMENT OF FINANCE

Ms. Marilyn T. Chastain  
Securities Bureau Chief  
Department of Finance  
700 West State Street, 2nd Floor  
Boise, ID 83720-0031

Dear Marilyn:

It was nice speaking with you the other day regarding the interest of Idaho credit unions in offering the \_\_\_\_\_ service. It is our hope that you will agree that credit unions do not need additional licensing to begin offering the \_\_\_\_\_ service in Idaho.

As I mentioned, the \_\_\_\_\_ has been working this year to implement an effort to provide financial literacy education to our Hispanic population through the U.S. Treasury Department's "First Accounts" program. In May we were awarded a small grant by the Treasury Department to enable us to hire a person to provide this training. As an adjunct to this effort, we hope to encourage Idaho credit unions to offer the services of the \_\_\_\_\_

The intent of this important service is to provide individuals in this country with the ability to transfer funds to people in other countries at an affordable rate through credit unions. The realization of this dream was achieved in July 2000 when \_\_\_\_\_ corporation and wholly owned subsidiary of \_\_\_\_\_ selected \_\_\_\_\_ to provide back office services for the credit union remittance network.

Prior to selecting \_\_\_\_\_ over others which were evaluated to provide these services, \_\_\_\_\_ performed thorough due diligence on the company. This included meeting with industry participants to review \_\_\_\_\_ reputation, meetings with \_\_\_\_\_ executives and principal owner at its headquarters, a review of pricing and policies, and a financial/background check on \_\_\_\_\_. Over the past 18 months of working with \_\_\_\_\_ and credit unions throughout the United States and Central America have been and continue to be pleased with the partnership.

Ms Marilyn Chastain  
September 4, 2002  
Page 2 of 3

The service is pretty straightforward. Credit unions contract directly with to offer the service. I have enclosed a copy of the standard credit union for your review. provides the credit union with all required forms and software. Under the agreement, serves as the credit union's statutory agent for transmission of money through

Money can be sent to the following countries: Argentina, Australia, Bangladesh, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Germany, Ghana, Guatemala, Haiti, Honduras, India, Italy, Ivory Coast, Jamaica, Mexico, Morocco, Nicaragua, Nigeria, Panama, Paraguay, Peru, Philippines, Poland, Puerto Rico, Senegal, Sierra Leone, Spain, Switzerland, Ukraine, United Kingdom, United States, Uruguay and Venezuela. Domestically, money can be received at over 2,100 locations in 33 states. In Mexico alone, funds can be received at over 4,000 combined locations of Banmex, Bancomer, Bancrecer and more.

As an example of pricing, credit union members can send up to \$1,000 to Mexico for only US \$10. The receiver is not charged any fees for receiving the money and does not have to be a member of the paying credit union. While exchange rates vary daily from country to country, offers competitive exchange rates on wire transfers - only about 3.5% below interbank rates.

When an individual wishes to transfer funds overseas through a credit union, they provide the credit union with their address and their beneficiary's name, address and telephone number. The individual then either provides the funds to be sent or has their account debited in the required amount. The credit union enters this information into the software provided by and gives the member a receipt. This receipt will include the exchange rate at which the funds will be delivered and the total amount of funds that will be received by the recipient in local currency. Normally these funds are available to the recipient by the next business day.

The credit union is responsible for transmitting this payment information to over the Internet. then transmits the payment request to the appropriate paying institution abroad that will make payment to the recipient. Payment will take the form of cash, deposit into an account or home delivery of a draft in the foreign country, depending on the service available in the local area. Settlement of transactions occurs on a next day basis whereby provides to a single automated settlement file and debits the credit union's clearing account. then makes a single credit payment to account at Bank.

Ms Marilyn Chastain  
September 4, 2002  
Page 3 of 3

The credit union's name appears clearly marked as obligor on the receipts given to transferors. As such, no instrument will be sold by participating credit unions and ultimate responsibility to the member or potential member rests with the credit union that handled the transaction. It is therefore our interpretation that [redacted] would not need to be licensed in Idaho if working exclusively with credit unions or other regulated financial institutions. Regulators in Utah, Ohio, Colorado and Wisconsin have agreed with this approach, recognizing that because their money transmission laws exempt credit unions and banks from the requirement to be separately licensed as a money transmitter, they do not need additional licensing to offer the [redacted] service and [redacted] does not need to be licensed in the state as a money transmitter as long as it is only working as the statutory agent of credit unions (or banks).

As in other states, we look forward to receiving your confirmation of this interpretation. Thank you for helping us to ensure that thousands of immigrants in Idaho have affordable access to financial services. If you would like further information, you will find a wealth of it on the [redacted] of the [redacted] website at [http://\[redacted\]](http://[redacted]). Please contact me at [redacted] if you have any questions or need additional clarification.

Best regards,