



IDAHO
DEPARTMENT OF FINANCE

BRAD LITTLE
Governor

PATRICIA R. PERKINS
Director

May 21, 2020

RE: Idaho Money Transmitter License Request for No-Action Position

Dear _____ :

We are in receipt of your correspondence of March 30, 2020 and the subsequent follow-up information provided on April 29, 2020, wherein _____ (“_____”) requests determination regarding an “agent of the payee” exemption from the licensing requirements of the Idaho Money Transmitters Act (“IMTA”). Because there is no corresponding exemption for an “agent of the payee” in Idaho, we consider this as a request for a no-action position in this matter.

Based on our review of the information provided in your correspondence, _____’s Terms and Condition for Payment Processing, and the Terms of Use for Payment Recipients, the Department has determined to take a no-action position as it pertains to the licensing provisions of the IMTA. This determination is based on our understanding that _____ will be operating pursuant to formal agreements with institutions and consumers in which an agent relationship is created and provide that payments to _____ satisfy the obligation of the sender.

This decision is based solely on the circumstances of the activities described. Different circumstances may result in a different answer. This letter should not be construed as a finding that licensure is not required in other jurisdictions.

If you require further assistance with respect to this matter, please contact the undersigned at Jeff.Flora@finance.idaho.gov or at (208)332-8045.

Sincerely,

Jeff Flora
Financial Examiner/Investigator
Idaho Department of Finance

SECURITIES BUREAU
Bureau Chief – Patricia Highley
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>

Mary Harper

From: >
Sent: Wednesday, April 29, 2020 9:48 AM
To: Jeff Flora
Cc:
Subject:
Attachments: Terms and Conditions for Payment Recipients v2.pdf; Terms and Conditions for Payment Recipients v2 (marked).pdf
Follow Up Flag: Follow up
Flag Status: Completed

Dear Mr. Flora,

I am [redacted]'s attorney. [redacted] has asked that I respond on his behalf to the e-mail you sent him this morning. First, let me say that we appreciate your response and understand the challenges your department is facing during the COVID-19 crisis.

In light of comments that we have received, and in consultation with our partners, [redacted] has implemented a modified process for contracting with recipients of intended payments from U.S. educational institutions. In that regard, we have modified our Terms of Use for Payment Recipients, and provide a revised copy for your consideration, along with a redlined copy which highlights the changes that were made and which have been implemented. We have also modified the process for payment recipients to accept our terms of service, as noted below.

Specifically, you will see that the following modification was made to the section of the Terms of Use for Payment Recipients titled "Acceptance of the Terms of Use for Payment Recipients" (revised language is in blue):

*In processing payments initiated by educational institutions to Payment Recipients we act in the capacity of the agent of payee for the Payment Recipient. This means that we act as your agent to receive funds that a U.S. educational institution wants to pay to you. We receive those funds from the Institution in U.S. currency and convert them into the currency that you select, then transmit the funds to you to a bank account that you designate. **By approving the transfer and providing personal and bank data to us to facilitate the transfer, you, as the Payment Recipient, do the following:***

(1) Authorize [redacted] to act as your agent for the limited purpose of holding, receiving and disbursing funds to you that are sent by a U.S. educational institution; and

(2) Acknowledge and agree that [redacted]'s processing of a transaction and subsequent receipt of funds intended for you from the U.S. educational institution in connection with a transaction on your behalf satisfies the educational institution's obligation to make payment to you. This means that the receipt of funds by [redacted] from the educational institution is treated the same as if the educational institution had paid the funds directly to you.

If you do not agree to the foregoing, you are advised not to upload any information to us.

As noted above, [redacted] has further modified its procedures with regard to communications with the intended recipient of a transfer from a U.S. educational institution. As previously noted, when a transaction is initiated by the institution by contacting [redacted], [redacted] will then contact the intended recipient. The recipient will receive information as to how to provide [redacted] with banking and other data needed to carry out the transaction and a link to Terms of Use for Payment Recipients. In addition, the following statement will appear on their screen that the recipient would need to agree to by clicking on a box:

“I understand and acknowledge that by providing the personal information on this form and authorizing the payment of funds to my designated bank account via the Group payment processing platform I designate Group as my “agent of payee” for the purpose of holding, receiving and disbursing funds to me sent by a U.S. educational institution. I further understand and acknowledge that ’s processing of a payment transaction and receipt of funds from the educational institution satisfies the educational institution’s obligation to make payment to me. I further acknowledge that I have reviewed and accept the Group Term of Use for Payees”.

If the intended payment recipient does not click the box to accept the Terms of Use and designate as its agent of payee for the transaction, then the transaction will not be completed.

I hope this additional information is sufficient for you to render a favorable determination to application for an exemption. Please do not hesitate to contact me if I can provide any further information or clarification. You can reach me via this e-mail address, or on my mobile phone,

Sincerely,

Mary Harper

From: Jeff Flora
Sent: Wednesday, April 29, 2020 8:46 AM
To:
Subject: Receipt of your Agent of Payee Exemption Request

Good morning – hopefully this email finds you well and virus free.

The State of Idaho Department of Finance is in receipt of your correspondence requesting the eligibility for an exemption from the Idaho Money Transmitter Act. The Department apologizes for the delayed response, as Covid 19 has created many unforeseen issues in the department's workflow.

After carefully reading through the correspondence, one item is requested to complete our review and render an opinion. Is there any consumer agreement/contact for the handling of the outgoing payment transfer? The institution is transferring funds on behalf of a student, so does the student sign an agreement on how the funds will be handled etc....

If such an agreement exists will you please forward a copy to me via email, so the department may complete the review of this request.

Regards,

Jeff

Jeff Flora – CFE & CAMS
Investigator & Examiner
State of Idaho – Dept of Finance
800 Park Blvd. Suite 200
Boise, ID 83712
Jeff.flora@finance.idaho.gov

Mary Harper

From: Jennifer Biretz
Sent: Tuesday, March 31, 2020 1:16 PM
To: Jeff Flora
Subject: FW: Request for "Agent of the Payee" Exemption in Idaho
Attachments: Idaho_Agent of the Payee Exemption Letter.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Jeff do you have capacity to take on this request for opinion?

Jennifer Biretz, Investigations Supervisor
Securities Bureau
Phone: (208) 332-8081



From: Finance Internet Mail <Finance.InternetMail@finance.idaho.gov>
Sent: Tuesday, March 31, 2020 11:48 AM
To: Jennifer Biretz <Jennifer.Biretz@finance.idaho.gov>
Subject: FW: Request for "Agent of the Payee" Exemption in Idaho

Hi Jennifer,
Would you arrange for a response to this email, please?
Thanks,
Lisa

From:
Sent: Tuesday, March 31, 2020 10:42 AM
To: Finance Internet Mail <Finance.InternetMail@finance.idaho.gov>
Cc: >
Subject: Request for "Agent of the Payee" Exemption in Idaho

Hello Mr. Bergquist,

I am writing this email on behalf of .

As an introduction, Group has grown to be one of the largest and most respected foreign exchange and global payment solution providers in Canada. In USA, is actively engaged in the business of processing the payment of deposits, application and tuition fees by international students to educational institutions located in the United States at which they are matriculating. In this regard, we are looking to expand our operations in the State of Idaho.

We hereby request for a determination and confirmation from your office that our organization qualifies for the "agent of the payee" exemption offered by your State and that we are not required to obtain a money transmitter license to conduct business in your state.

We attach the exemption letter here for your perusal. The letter also includes various appendices to show incoming and outgoing flow of funds and a sample payment processing agreement with the Institution.

A hard copy of this letter has been despatched to your office as well.

Please do let us know the next steps for us to follow through on this.

We look forward to hearing from you.

Thank you and

The highest compliment you can give us is to recommend us to a colleague, business associate, friend or even family member. If you know of anyone that could benefit from our services I would appreciate it if you would let me know.

March 30, 2020

Brad Bergquist
Financial Institutions Bureau
Idaho Department of Finance
800 Park Blvd, Suite 200
P.O. Box 83720
Boise, ID 83720-0031

Re: .
Request for “Agent of the Payee” Exemption

Dear Mr. Bergquist,

I write to you in my capacity as CEO of . This letter constitutes our request for a determination and confirmation from your office that our organization qualifies for the “agent of the payee” exemption offered by your State and that we are not required to obtain a money transmitter license to conduct business in your state. We do not currently conduct business in the State of Idaho and will not do so until we receive your determination that we are eligible for the exemption or that we are required to obtain a money transmitter license to provide our services.

BACKGROUND INFORMATION

is engaged in the business of processing the payment of deposits, application and tuition fees by international students to educational institutions located in the United States at which they are matriculating. *None of those students are residents of Idaho.* Our incoming payment processing services for students are offered through our website www.paymtuition.com. We also process outgoing payments by U.S. educational institutions for tuition refunds, agency payments and other vendor payments to persons, businesses and organizations outside the United States.

In processing payments, acts as the agent of the payee. All funds received by from payors are designated as the named recipient’s funds and are not co-mingled with any other funds. holds no legal or equitable interest in any funds received from users of its service and holds those funds solely for the benefit of the named recipient. By delivering funds to us for processing, the payor satisfies its payment obligation to the payee.

For both incoming and outgoing payment processing, works exclusively through written contracts with the relevant educational institutions that establishes the rights and obligations of each party, and specifically designates as the agent of the payee. Through the contract, the payee specifically grants to the authority to accept payments on its behalf. assumes full responsibility for the

money being transmitted from the moment it receives funds until the intended recipient receives the transmitted money. does not engage in money transmission services outside the scope of the activities permitted by our contracts.

To support our request, we provide the following information that details the process we use to facilitate payments, the markets we serve, descriptions of the flow of funds processes for both our incoming and outgoing payment processing service, and samples of the contracts that we use with U.S. educational institutions.

MARKETS SERVED

's market for payment processing services are educational institutions in the United States. This includes colleges, universities and other post-secondary educational institutions.

INCOMING PAYMENTS - FLOW OF FUNDS (See Diagrams Attached)

The following describes the process through which processes payments from persons outside of the United States to educational institutions in the United States.

Step One:	The student logs into their school’s student information system (SIS), selects outstanding balances and enters in the amount they would like to pay. The student then selects the “international payment option” directly on the school’s student information system at which point they are redirected to the payment portal where outstanding balances are prepopulated through API integration directly from the schools SIS. allows students to pay from virtually any country in any currency with over 200 payment options at great exchange rates including bank transfers, credit cards or eWallets.
Step Two:	responds to the user and informs the user of the amount in local currency that is required to cover the payment and confirms the amount in U.S. dollars to be sent to the intended recipient. Instructions for payment to an international collection account are provided.
Step Three:	The user transfers funds in his or her local currency to an international account. While funds are in ’s possession, takes steps to ensure that the funds intended for a particular institution are not co-mingled with any other funds.
Step Four:	Upon receipt of funds from the user, converts the funds to U.S. dollars and transfers payment to the U.S. educational institution designated by the user. Funds are transferred to the institution by ACH payments or bank transfers as agreed upon with the Institution. Collected funds are transferred to the Institution on a daily basis unless otherwise agreed. Upon transfer of funds directly to the Institution’s account,

	posts the payments in real time directly to the school’s SIS systems updating student balances and creating receipt vouchers for the school to reconcile against.
Step Five:	The user is advised by _____ that the transfer to his or her school has been initiated. The user receives a personal _____ dashboard in which he or she can track the status of the payment through to completion. Tracking of payments can be done via SMS or email alerts.

Appendix A provides a high-level flow of funds for incoming payments.

Please refer to this link that provides a 2-minute video on our incoming international payment processes:

OUTGOING PAYMENTS - FLOW OF FUNDS

The following describes the process through which _____ processes payments from U.S. educational institutions to persons, businesses and organizations outside of the United States.

Step One:	The institution logs into its _____ account and (1) identifies the person, business or organization to whom funds are to be transferred to and the country into which the transfer is being made, (2) identifies the amount in foreign currency that is to be transferred, (3) provides wire transfer instructions for the recipient’s bank account, and (4) selects a payment method for transferring funds, which can be an ACH payment or a bank transfer.
Step Two:	_____ responds to the institution and informs it as to the amount in U.S. dollars required for the payment and confirms the amount in local currency to be sent to the intended international recipient. Instructions for payment to an _____ account are provided.
Step Three:	The institution transfers funds in U.S. dollars to its _____ account. While funds are in _____’s possession, _____ takes steps to ensure that the funds are not co-mingled with any other _____ funds.
Step Four:	Upon receipt of payment in U.S. dollars from the institution _____ converts the funds to the designated local currency and transfers payment to the recipient designated by the institution. Funds are transferred to the recipient by the method designated by the institution. Transactions are processed by _____ on a daily basis.

Step Four:	The institution is advised by _____ when the transfer has been initiated. The institution can track payments through a real time payments dashboard that is specific to the institution. The dashboard includes a ledger of all payments, foreign exchange rates, beneficiary templates and various administration tools that offer complete transparency for all outgoing payments.
-------------------	--

Appendix B provides a high-level flow of funds for outgoing payments.

SAMPLE AGREEMENTS

Attached as Appendix C is a sample of a Payment Processing Agreement that _____ enters into with U.S. educational institutions for incoming payments. Under this agreement, the institution agrees to allow _____ to provide payment processing services for its students or other persons that pay tuition on the students’ behalf. There is no charge to institutions for incoming payments. As noted earlier, the agreement provides that _____ acts as the agent of payee for the institution.

Attached as Appendix D is a sample of a Payment Processing Agreement that _____ enters into with U.S. educational institutions for outgoing payments. Under this agreement, _____ processes foreign currency payments for U.S. educational institutions for goods and services to persons, businesses and organizations outside the United States. The agreement provides that _____ acts as the agent of payee for the recipient of the payment.

I trust that I have provided sufficient information for you to assess and grant approval to our request for pre-determination that _____ qualifies for the agent of the payee exemption in your State. Please do not hesitate to contact us if we can provide any additional information. I can be reached by e-mail at _____

Sincerely,

Enclosures