



Illinois Department of Financial and Professional Regulation

Division of Financial Institutions

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STATEMENT REGARDING THIRD-PARTY PAYMENT PROCESSORS AND THE TRANSMITTER OF MONEY ACT

The Department of Financial and Professional Regulation, Division of Financial Institutions (the "Department") has revisited the previous requirement for third-party payment processors to obtain a license under the Illinois Transmitter of Money Act, 205 ILCS 657 *et seq.* ("TOMA"). Upon review, the Department has determined that any third-party payment processor as defined below will not require a TOMA license and the Department will not seek disciplinary action for any past unlicensed activity.

"Third-party payment processors" are defined as any third party who acts as a payment processor by accepting and transferring a payment in connection with facilitating a purchase via an agreement with the seller of the goods or services. This definition does not include bill payment services as defined by TOMA and bill payment services will need to continue to gain licensure. The Department has determined that the third-party payment processor is acting as the agent for the merchant in accepting and processing funds. As such, there is no transaction that would fall under the definition of transmitting money as specified in TOMA.

The Department recognizes that technological innovation takes many forms and that every payment processor may function differently. The key elements in determining if a company falls under the third-party payment processor definition is if the company is acting as an agent for a merchant and has a signed agreement with said merchant.

Given the position of the parties and the ability of the merchant to seek contractual recourse, the Department decided the consumer protection policy justifications for enforcing TOMA do not apply in this situation. There is essentially no risk of customer harm because the customer will always leave the transaction with the goods or services bargained for, and only the merchant would bear the risk of nonperformance. However, due to the contractual relationship with the third-party payment processor, the merchant will always have a method to address any issues with the third-party payment processor.