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California Regulator Seeking Comments on "Agent of the Payee" Exemption to Money Transmission Law

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Several states exempt from their money transmission law, either through statute or regulatory guidance, an "agent of the payee." California is one such state. In general, the exemption applies to a party that a payor has appointed as its agent for purposes of receiving payment from a payee. The Department of Business Oversight ("DBO"), the agency that enforces California's money transmitter law, has invited comments on a proposed rule making regarding the scope of the exemption. Comments are due by April 9, 2019.

In the [Invitation for Comments](#), the DBO noted that the statutory exemption "operates, at a minimum, to exempt online marketplace platforms like Amazon and Airbnb." As Internet-based commerce has expanded, the document explains, "payment chain shave become longer and more convoluted." The DBO has received numerous inquiries about the scope of the exemption, such as who qualifies as a payor or payee.

The DBO outlines three key topics for potential commenters to address, although it welcomes comments on any potential area for rule making. The topics (each of which have numerous subtopics) are:

1. The exemption makes the agent-of-payee exemption available for transactions in "goods or services." What items do and do not fall within the term "goods or services"?
2. The exemption defines "payor" as a "recipient" of "goods." What does it mean to "receive" goods?
3. The exemption also defines "payor" as a "recipient" of "services." What does it mean to "receive" services?

Our payments team works with many clients that rely on or consider relying on the agent of the payee exemption. We also have substantial experience working with the DBO on money transmission questions. If you would like to submit comments, or discuss whether to submit comments, please do not hesitate to reach out.

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