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MEMORANDUM

October 15, 2018

To Our Clients and Friends

Re: Money Transmitter Regulators Association Conference

The Money Transmitter Regulators Association recently hosted its annual conference in Jackson, Wyoming. The following are highlights from the conference sessions:

- **FinCEN Update.** Deputy Director Jamal El-Hindi of the Financial Crimes Enforcement Network (FinCEN) stated that FinCEN will continue to issue guidance to clarify the applicability of the Bank Secrecy Act (BSA) to cryptocurrency as well as consider a pilot program related to BSA compliance in the cryptocurrency space.
 - He also indicated that although the Interagency Statement on Sharing BSA Resources released by FinCEN and the federal banking agencies is tailored for banks, money transmitters should review the guidance and provide feedback to FinCEN if they believe similar guidance would be useful for the money transmission industry.
- **CSBS Update.** The Conference of State Bank Supervisors is continuing its Vision 2020 initiative to modernize state regulation of non-bank financial companies. The CSBS also presented a session on forthcoming updates to the NMLS and is still soliciting feedback on changes the industry would like to see.
- **Regulation Reduction.**
 - Regulatory “sandboxes” to facilitate testing of innovative products with reduced regulation continued to be a hot topic.
 - The Washington Department of Financial Institutions and 18 other states recently conducted a pilot program that tested a 25-day application process for money transmitter applicants. Four companies participated in the program, with two receiving 16 state licenses within four months. The states are also working on a uniform checklist of requirements common to all states.
 - Arizona established a regulatory “sandbox” to assist FinTech companies licensed under Arizona law, including money transmitters, in launching

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financial products and services on a limited basis. Products and services tested through the sandbox are limited to \$2,500 per individual transaction, and \$25,000 total per consumer.

- Industry members discussed the following opportunities for states' consideration to harmonize the requirements for money transmitter licensees: (1) a uniform methodology for defining, calculating, and maintaining permissible investments, (2) a uniform net worth requirement, and (3) a uniform surety bond requirement.
 - Industry members advised that their regulatory burden could be reduced significantly if the states adopted an annual examination schedule and a common request list, as well as communicated examination expectations prior to an examination.
- **Application of Money Transmission Laws to Cryptocurrency Companies.** Eleven states now expressly include cryptocurrency sale, exchange, or issuance as an activity requiring a money transmitter or similar license (AL, CT, GA, HI, ID, IL, KS, NC, NY, TX, WA).
- **Privacy and Cybersecurity.** Privacy and cybersecurity were hot topics, given the recent data breaches in financial services industries, and recently enacted amendments to the California Consumer Privacy Act. The Act is effective on January 1, 2020 and the California Attorney General is to enforce the Act by July 1, 2020. The Act provides consumers the right to know how their information is being used, the right to delete their personal information, the right to be free from discrimination, and the right to sue in connection with their personal information.
 - The difficulty of reconciling a customer's "right to be forgotten" under privacy laws with the increasing use of blockchain technology was also discussed.
- **Cyberthreat Update.** FinCEN and the FBI provided an update on the cyber threat landscape through a law enforcement lens, providing case studies on "dark web" marketplaces and attempts to monetize fraudulent activity on the internet.
- **Use of Artificial Intelligence in Compliance Programs.** Several presentations focused on the increasing use of artificial intelligence in compliance programs and transaction monitoring. Discussion points included when to use such technology, how to integrate it with existing systems, and when human oversight is appropriate. State regulators were focused on understanding how this new technology is used by licensees and how compliance challenges presented can be solved by such technology.

If you have any questions, please call Gilbert Schwartz, Robert Ballen, Heidi Wicker, or Victor Razon at (202) 776-0700.