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Illinois Department of Financial and Professional Regulation

Division of Financial Institutions

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JB PRITZKER
Governor

MARIO TRETO, JR.
Acting Secretary

FRANCISCO MENCHACA
Director

May 10, 2022

McCarter & English
Attn: Michael M. Horn
100 Mulberry Street
Newark, NJ
mhorn@mccarter.com

Re: Zencorn, LLC

VIA ELECTRONIC MAIL

Non-Binding Statement Request 2022-4

Dear Mr. Horn:

Thank you for your letter and supplemental responses. You requested a non-binding opinion pursuant to Title 38, Section 200.310 of the Illinois Administrative Code addressing whether Zencorn LL, is required to obtain a license under the Illinois Transmitters of Money Act (“TOMA”). You have not requested confidential treatment.

Please be advised that consistent with governing law, the Illinois Department of Professional and Financial Regulation, Division of Financial Institutions (“Division”) does not render formal legal opinions or interpretations, and non-binding statements do not have precedent value. In addition, facts or conditions different than those presented will require different conclusions, and persons other than those requesting the statement should not rely on this statement. In reaching its opinion, the Division has not independently verified any represented facts, and instead has relied upon the statements and representations contained in your correspondence.

FACTS

Zencorn represents that it seeks to provide a digital platform called “Zenco” to facilitate consumer payments to merchants in Illinois. Zenco would be used by a merchant to receive payments from its customers for goods and services through the Automated Clearing House (“ACH”) network.

Zencorn represents their business model will work as follows:

- Zencorn will utilize a decoupled ACH based payment system for each transaction.
- Each consumer and merchant is enrolled in their Zenco payment platform with their bank account information stored by a third party.

- Zencorn will maintain an agreement with a state-chartered credit union to act as an Originating Depository Financial Institution (“ODFI”) for all ACH transactions.
- The merchant’s financial institution will originate a request for a transfer of funds from the consumer’s bank account through the ODFI.
- The consumer’s bank account is the Receiving Depository Financial Institution (“RDFI”).
- The transaction funds are pulled from the RDFI and credited to the ODFI.
- The merchant pays Zenorn a fee for facilitating the financial transaction.

Zencorn represents that it does not hold the consumer’s funds at any point in the transaction settlement process and simply acts as a conduit.

LAW

Pursuant to Section 5 of TOMA a money transmitter is:

[A] person who is located in or doing business in this State and who directly or through authorized sellers does any of the following in this State:

- (1) Sells or issues payment instruments.
- (2) Engages in the business of receiving money for transmission or transmitting money.
- (3) Engages in the business of exchanging, for compensation, money of the United States Government or a foreign government to or from money of another government.¹

TOMA applies to the “transmission of money by any means, including transmissions to or from locations within the United States or to and from locations outside of the United States by payment instrument, facsimile or electronic transfer, or otherwise, and includes bill payment services.”² TOMA defines money as “a medium of exchange that is authorized or adopted by a domestic or foreign government as a part of its currency and that is customarily used and accepted as a medium of exchange in the country of issuance.”³

¹ 205 ILCS 657/5

² *Id.*

³ *Id.*

CONCLUSION

If all of the facts provided by Zencorn to the Division are true and correct, the Division would not recommend that enforcement action be initiated against Zencorn if it commenced the described activities without a TOMA license.

This non-binding statement applies only to Zencorn and not to any other person or entity referenced above. Furthermore, the Division expressly disclaims any obligation to advise you of any changes in the circumstances, laws or events that may occur after this date or otherwise update this response. This letter does not address the applicability of any law except TOMA.

Sincerely,

Francisco Menchaca
Director, Division of Financial Institutions

By,

s/ David Berland
David Berland
Deputy General Counsel