

April 13, 2012

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VIA OVERNIGHT MAIL

Mr. Wayne Davis
Project Manager
Little Hoover Commission
725 L Street, Suite 805
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Re: Comments of The Money Services Round Table on the Governor's Reorganization Plan – DFI Consolidation

Dear Mr. Davis:

The Money Services Round Table (“TMSRT”) submits these comments with regard to the Governor’s Reorganization Plan (“GRP”) and the invitation for comment of 9 April 2012 from the Little Hoover Commission (“LHC”) concerning the proposal, incorporated in the GRP, to downgrade the status of the Department of Financial Institutions (“DFI”) and combine it with the Department of Corporations (“DOC”) within a new Department of Business Oversight (“DBO”). TMSRT represents the large, national non-bank money transmitters, all licensed and supervised by the DFI. These companies include American Express, MoneyGram, Western Union, RIA, Sigue and Integrated Payment Systems.

- **The Proposed Reorganization of DFI Will Not Promote Regulatory Efficiency**

The purported justification for the elimination of DFI will be “improved service, consistency and efficiency...” apparently due to the elimination of certain overhead

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and administrative costs. However, TMSRT is not convinced that the elimination of DFI as a stand alone agency will result in efficiencies, and, more likely will have the unintended effect of undercutting DFI's efficient and effective supervision of the financial services industry.

DFI regulates, among other categories of entities, non-bank money transmitters under the recently enacted Money Transmission Act (Chapter 1 of Division 1.2 of the Financial Code), which replaced long-standing but obsolete licensing laws. The entities required to be licensed include those that sell and issue payment instruments (e.g., checks, drafts, money orders, travelers checks), stored value or conduct money transmission by any means. The law is modern safety and soundness legislation and pursuant to that law DFI has extensive oversight responsibilities over its licensees, including but not limited to, assuring and monitoring adequate net worth, sufficient levels of eligible securities, overall financial condition and consumer protection. In short, DFI does not merely license these entities – as in the case of state chartered banks, DFI actively and continuously supervises the licensees' activities, management and financial condition.

DFI, in the view of TMRST is in the top tier of the 48 state (and 3 territorial) prudential regulators of non-bank money transmitters. Under the leadership of respected Commissioners over the past many years, DFI has earned a well deserved reputation as a tough, but fair regulator, accessible and reasonable, responsive and expert.

TMSRT fears that demotion of the DFI into a mere division within the new DBO risks an inherent lack of focus in the financial services regulatory function, while

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needlessly adding a new and costly level of bureaucratic supervision. That is, DFI's depth of expertise in the regulation of banks, credit unions and money transmitters should not be compromised to achieve dubious savings in "automated systems, investigative practices and licensing and legal processes" – all of which, if real, could be accomplished without eliminating DFI's autonomy. Moreover, traditionally the DFI Commissioner has had prominence, as well as a major substantive role, in such national organizations as the Conference of State Bank Supervisors. However, a "Deputy Commissioner" with the DFI portfolio under the new scheme, will not have the same prestige and influence currently accorded on the national regulatory scene to DFI.

- **It Must be Clear that Fees Paid to DFI by Applicants and Licensees Under the Transmitters Act Must Only be Used for Administering that Act**

Currently, fees and assessments paid by license applicants and licensees to DFI are used only to support DFI's regulatory programs including licensee supervision, DFI overhead, etc. The GRP is vague as to whether the proposed consolidation will allow such fees and assessments to be shared with other elements of the new DBO. It is neither equitable nor consistent with existing statutory authority for fees and assessments paid by the regulated industry to be used for other than the support and maintenance of the pertinent regulatory program; in the case of money transmitters, Chapter 1 of Division 1.2 of the Financial Code.¹ TMSRT requests that the LHC recommend inclusion of specific language to restrict the use of fees and assessments only for administration of the pertinent Financial Code provisions.

¹ Under section 2042(a) of the Transmission Law, current DFI assessments are to be used only to meet DFI's "expenses in administering the provisions of this chapter..." (Chapter 1, Division 1.2, Financial Code).

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- **There is Little Commonality Between DFI and DOC**

DOC and DFI both issue licenses and that is where the similarity ends. Therefore, the combination of the two agencies based solely on the existence of a licensing function makes as much sense as combining DFI with the Alcoholic Beverage Control agency which also issues licenses.

The purported justification in the GRP that both DOC and DFI regulate “financial business” is far too simplistic. In short, DOC merely licenses or registers entities within its jurisdiction, rather than providing prudential regulation and on-going, in depth safety and soundness supervision of these licensees. DFI on the other hand, engages in all facets of complex “bank regulation” focusing on the continued safety and soundness of its depository and non-depository licensees which provide a broad range of financial services. The DFI’s in depth supervision involves significant periodic analysis of call reports, financial statements, etc., as well as on-site examinations of licensee books and records and compliance by licensees with the anti-money laundering and anti terrorist financing rules of the U.S. Bank Secrecy Act. In sum, DFI performs traditional prudential “bank regulation” for both banks and non-bank transmitters, dissimilar from the functions of DOC or any other state agency.

- **DFI Should Not be Singled Out for Downgrading**

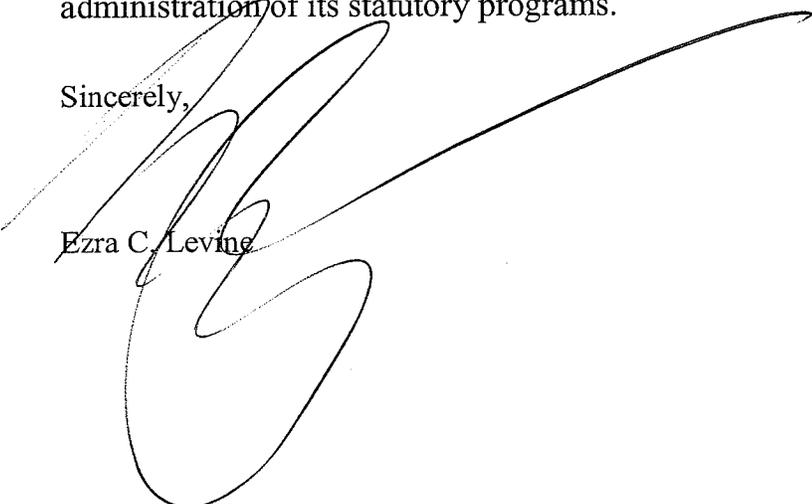
It seems particularly odd, in light of DFI’s superb reputation, that it is being signaled out and downgraded, along with the DOC, as the only entities, now autonomous under Business Transportation and Housing (“BT&H”), to be consolidated and

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housed in DBO, with the imposition of an unneeded additional bureaucratic layer, unneeded supervision and unneeded additional administrative costs.

For these reasons, TMSRT recommends that DFI not be consolidated with DOC, that if DFI is placed under DBO, it remain as a separate stand-alone agency with a DFI Commissioner, and that all licensee fees and assessments be used only for DFI's administration of its statutory programs.

Sincerely,



Ezra C. Levine